

UNICEF perspectives on Prevention of Child Trafficking and Protection of Child Victims of Trafficking

The Convention on the Rights of the Child provides the necessary standards for the protection of all children under 18 against trafficking (prevention of trafficking) and for special protection measures for those children who end up being trafficked. Special protection measures for child victims are necessary because of the age of the victim and the severity of the human rights violation that the child has suffered – a child victim of trafficking should be treated as a child and as a victim. This importance has also been recognized by all those states that have ratified the CRC. The Palermo Protocol¹ defines trafficking in human beings and refers to the special needs, as opposed to the rights, of children.²

1 - Trafficking in Europe

Whereas there is no hard data on the number of child victims being trafficked within or into European countries, research and reports from agencies working in various countries indicate that trafficking is taking many different forms – both transnational and internal. Accumulated knowledge from field work in South Eastern Europe shows that child victims (in SEE) generally fall into 2 categories:

- Adolescent girls between 15 and 17 years of age for sexual exploitation;
- Children under 13 years of age for forced labor, begging and, exceptionally, for the sale of organs;

Trafficking is a dynamic process - routes and “supply-” and “demand” flows change all the time. What we know, however, is that many of the victims who are being returned to their countries of origin have similar vulnerability profiles:

- Children who grew up in institutions;
- Children from families where domestic violence or abuse was taking place;
- Children who come from poor, disadvantaged and often dysfunctional families.

More knowledge on the links between social vulnerability and trafficking, as well as the demand factor, is needed to guide policy interventions!

2 - Special protection measures for child victims of trafficking:

In the context of the Stability Pact Task Force on trafficking for SEE, UNICEF developed a set of Guidelines to set out minimum standards for protection and assistance of child victims of trafficking. SEE governments formally endorsed them at the SPTF Regional Ministerial Forum in Sofia on 10th December 2003.

¹ One could argue that the CRC has all that is needed for the prevention and protection of child victims – particularly Articles 35 and 39. The Palermo Protocol is particularly clear as far as children are concerned. The Protocol defines a ‘child’ as anyone under eighteen years of age and states that consent is irrelevant in the case of child victims of trafficking, but not much more.

² The Palermo protocol defines trafficking as:

- Recruitment, transportation, transfer, harboring or receipt of persons for the purpose of exploitation.
- ‘Exploitation’ includes prostitution or other forms of sexual exploitation, forced labor, slavery or practices similar to slavery, servitude or the removal of organs.
- ‘Child’ shall mean any person under eighteen years of age

Since then, the use of the Guidelines has spread to practitioners in the field of trafficking and is widely used as a benchmark for minimum standards for protection of child victims of trafficking in order to ensure that the best interests of the child is respected in all situations from identification of the child as a victim to victim/witness security and protection. Prevention of child trafficking is not included as a topic in the Guidelines.

The Guidelines focus on protection of child victims of trafficking and encourage:

- **Pro-active identification measures of child victims.**
- **Positive presumption of age:** *When the age of the victim is uncertain and there are reasons to believe that the victim is a child, he or she shall be presumed to be a child and shall be accorded special protection measures pending verification of his/her age. Many child victims will carry false documents saying that they are older than they are.*
- **Appointment of a Guardian** *who is legally mandated to accompany the child throughout the entire assistance process, provide the link between the child and the different agencies providing services and make sure that decisions are taken in the best interests of the child until a durable solution has been identified.*
- **Special measures during questioning and initial action** *to ensure that the child, who is already traumatized by the experience, is not put under further undue pressure. The child should be questioned in a child-friendly manner and by trained personnel. This initial questioning should not take place in the location where the exploitation took place and the child should be asked to provide only biographical data and information on social history (e.g. nationality, languages spoken). Immediate transfer to appropriate accommodation should be arranged and guardian services contacted, if this has not already been done.*
- **Referral and coordination** *to and between appropriate services should be arranged.*
- **Interim care and protection** *for child victims should include security, food, safe and appropriate shelter, health, psychosocial, legal, social services, and education. The child should never be placed in a law enforcement detention facility and appropriate standards for their care should be in place.*
- **A Temporary Humanitarian Visa** *or equivalent should be granted to the child victim automatically pending the decision on next steps (finding a durable solution and/or the decision of the child to testify in court proceedings against the trafficker). This should be provided without any conditions attached to it.*
- **Individual case assessment and identification of a durable solution:** *Each case needs to be assessed based on its specificity. The Guardian should begin the process of conducting a risk and security assessment prior to the return of any child to its country of origin or a third country. Child victims shall not be returned to any country if there is an indication, following a risk and security assessment, that such return would not be in*

the best interests of the child. Family reunification should be encouraged only if this is in the best interests of the child.

- **Ensuring implementation of a long term durable solution:** *This could be either local integration in country of destination, third country settlement or return to the country of origin – whatever is in the best interests of the child.*

The Guidelines also provides for special protection in the case the child decides to testify against traffickers in criminal proceedings. The new European Convention on Action against Trafficking in Human Beings has included a number of provisions from the Guidelines and with that, translates them into hard law.³

3 - Finding a durable solution for child victims – the paradox:

One of the most important measures to protect children who have become victims of trafficking is to ensure that the final settlement is durable and does not re-victimize the child. However, this is often not done and today there are not any agreed upon conditions or criteria for what should be considered a durable solution. In most cases children are returned to the countries of origin without a proper assessment of whether the country of origin has sufficient infrastructure to guarantee a durable solution.

The paradox is that the social system that has to take care of returned child victims of trafficking and make sure that the child is safe, properly cared for and not stigmatized, is the same social system that could have protected vulnerable children at risk of being trafficked, had the social protection system existed in the first place.

4 – Conclusion: Need for investment and reforms of social protection systems for prevention and protection!

Strengthening the social protection system therefore becomes a priority – both in order to prevent vulnerable children of becoming victims of trafficking and to ensure that the rights of child victims are guaranteed in the search for a durable solution. The following would both help prevent trafficking and assist in enabling a durable solution for child victims in countries of origin:

- **Early identification, reporting and referral of children** *who live families with domestic violence and abuse;*
- **Knowledge on social vulnerability and provision of appropriate social support** *(both social services and cash assistance) to families with children at risk of being institutionalized, ending up in the street etc.;*
- **A reform of the present social service models** *in Eastern Europe and Central Asia to favor long term solutions, community- and family based care alternatives for those children whose best interests is to not stay in the biological family. Such care options need to be guided by national standards for care and also to protect the child against stigma;*

³ UNICEF should advocate for the ratification of this Convention as soon as it has been formally adopted by the Council of Ministers of the CoE.

- **Individual case assessment** for all children who come in contact with the social protection system, either as risk groups or as victims;
- **Responsive and inclusive health and education systems** that provide life skills-based education for all children (including those residing in institutional care settings), encourage young people to stay in school and allow mainstreaming of risk groups (to prevent stigmatization, institutionalization etc.) and reintegrating of child victims of trafficking in school (if in this age group) or providing catch-up education or vocational training as needed.
- **Regular monitoring of quality and quantity** of social services be it care services, education, health or social work services and/or cash assistance.

Investing in the social protection systems in countries of origin to provide broad protection for children - through both preventive and protective measures - is crucial and in the best interests of children.⁴

Other preventive measures include:

- General poverty reduction;
- Promotion of youth employment opportunities;
- Ensuring safe migration.⁵

The Way Forward - Opportunities and Challenges for UNICEF

- Continued work on strengthening social protection systems in CEE/CIS so that the response to child trafficking is placed firmly within a child protection, rather than a law enforcement or migration, framework;
- Partnerships with National committees to advocate for the adoption of the Guidelines in western European countries;
- Strategic partnerships with OSCE, ILO, Terre des Hommes and ECPAT on the prevention of child trafficking.

⁴ At present, the gaps in protection and prevention are different in countries of origin and countries of destination. Countries of destination would need to make concerted efforts to improve protection of children who are victims but there is still resistance to provide, for example, Temporary Residence Permits. In countries of origin, the gaps are mainly related to prevention.

⁵ Among practitioners working in the area of trafficking there is an agreement that efforts to control and limit migration create a good recruitment ground for traffickers. If there are no opportunities to migrate safely and legally, people will use irregular methods and become easy targets for traffickers.