

Chapter 4 Identification of Children Who Have Been Trafficked

4.1 General principles

Statutory agencies have a responsibility to take proactive measures to identify child victims of trafficking.

Pro-active identification measures

- States shall take all necessary measures to establish effective procedures for the rapid identification of child victims.
- Efforts should be made to coordinate information sharing between agencies and individuals (including law enforcement, health, education, social welfare agencies and NGOs) so that child victims are identified and assisted as early as possible.
- Immigration, border and law enforcement authorities shall put in place procedures to identify child victims at ports of entry and in other locations.
- Social service, health or education authorities should contact the relevant law enforcement authority where there is knowledge or suspicion that a child is exploited or trafficked or is at risk of exploitation and trafficking.
- NGOs and civil society organizations should contact relevant law enforcement authorities and/or social service authorities where there is knowledge or suspicion that a child is exploited or trafficked or is at risk of exploitation and trafficking.

Presumption of age

- Where the age of the victim is uncertain and there are reasons to believe that the victim is a child, the presumption shall be that the victim is a child.
- Pending verification of the victim's age, the victim will be treated as a child and will be accorded all special protection measures stipulated in these guidelines.

4.2 Implications of the principles

Identifying trafficked children is often a challenge. Government officials responsible for policy, as well as a wide range of law enforcement and child welfare agencies, have a duty to adopt procedures, which will allow them to identify trafficked children as rapidly and efficiently as possible.

Trafficked children may be identified at different points in the trafficking process: when accompanied by traffickers away from their usual place of residence; when leaving their own country; when crossing a border into a foreign country; or while being exploited. Different institutions, both governmental and non-governmental, also have a role to play in identifying children at these different phases of the trafficking process.

4.2.1 Information sharing

Sharing information usually requires standard methods of recording and retrieving information about children who have been trafficked or are believed to be at risk, for example by creating a common data-base to which relevant agencies have access. The confidentiality of this data-base must be ensured, so that the privacy of all those about whom personal information is recorded is guaranteed. Experience shows that it is not sufficient simply to record a name and other personal details about a child, as these may be forged or changed by traffickers. It is consequently important to have a photograph of the child concerned and may be helpful to adopt some other procedures which are described in this chapter.

4.2.2 Presumption of age

Whenever a young person is identified as a possible victim of trafficking and it is unclear whether she or he is still a child or in fact a young adult (i.e. is 17 or below, or 18 or above), the authorities must act on the assumption that the young person concerned is a child and is entitled to the additional protection which that entails.

In the case of older adolescents, part of the challenge in identifying a child as a victim of trafficking is establishing whether they are indeed children who are under 18, or in fact older (and therefore adults). Immigration officials are likely to be familiar with the cases of adults who pretend to be aged less than 18 in order to benefit from the protection available to children. In trafficking cases, the opposite may occur: young people aged under 18 are given identity documents (e.g. a passport) which has been forged or altered to suggest that they are already adult. This enables them to cross borders without immigration officials checking whether they are accompanied by a parent or if they have their parent's permission to be travelling abroad. It also enables them to engage in certain forms of employment or income-generating activities which are not open to children (for example, activities which are considered likely to harm the health, safety or morals of children).

In addition to distinguishing between those aged 18 and older and those under 18, it is sometimes desirable to identify which children are particularly young, for example children who are still of compulsory school age or too young to be employed, as this may help identify them as victims of trafficking. For more details, see section (4.5.1.).

4.3 Who has responsibility to take action?

4.3.1 Ensuring that policies and procedures are appropriate

Government officials who are responsible for policy as well as a wide range of law enforcement and child welfare agencies, among others, have a duty to adopt procedures that allow them to identify trafficked children as quickly as possible. Government agencies that are responsible for immigration and for controlling border points have a special responsibility to have appropriate procedures and systems in place. They need to be able to identify children when they enter a country and assess whether children who pass through border points may have been trafficked.

4.3.2 Immigration service

If a child who is accompanied by an adult arrives at a border point and is not able to demonstrate through valid identity and travel documents that the accompanying adult is an immediate relative or has a *bona fide* reason for accompanying the child (such as a school trip or a sporting visit), the immigration official should try to establish what the relationship between the child and the adult is and whether the child is being trafficked.

CHECK LIST FOR IMMIGRATION OFFICERS (BORDER OFFICIALS) TO ASSESS WHETHER A CHILD IS 'AT RISK' OF BEING TRAFFICKED



4.3.3 Social services (including child welfare or child protection agencies), health and education authorities

Social services, health and education authorities can all play a role in identifying children who are being exploited and possibly trafficked, both in their country of origin or in a foreign country. They can be aware of and alert to signs that children are being exploited, e.g., not attending school regularly or being too exhausted to learn anything. Social services have a special role to play in checking on the welfare of children who have been identified at a border point as possible victims of trafficking (or at risk of abuse for other reasons) and referred by the immigration service or police.

Social services, health workers and education authorities can also be active in children's places of origin, identifying those who are vulnerable to being trafficked. For example, children that drop out of school before finishing their compulsory education in circumstances where there is reason to suspect that they may be trafficked.

4.3.4 Police and other law enforcement officials

Law enforcement officials come into contact with trafficked children both when the children involved come into conflict with the law (for example when begging on the streets or carrying out petty crime under orders of a trafficker or other controller) and in the course of operations to detect traffickers and to withdraw children from their control (sometimes described as ‘rescuing’ them). Whatever the circumstances law enforcement officials are under an obligation to give priority to protecting the children involved (as they must make the child’s best interests a primary consideration and protect children who are at risk of harm). They should not treat children as criminals, but as victims.

4.3.5 Labour inspectors

In some circumstances labour inspectors may identify children in a workplace who should not be working (because they are too young) or should not be involved in the work they are doing, or who might be victims of forced labour. In any of these cases, the children concerned might have been trafficked, and labour inspectors should contact the responsible social services and police authorities.

4.4 Who else may take action?

Alongside statutory agencies and official bodies, many NGOs and civil society organizations have been involved in identifying trafficked children. Some have a legal entitlement to look after unaccompanied or abused children. Others may come across children who they suspect to have been trafficked in the course of work which is not directly linked to trafficking: for example, providing services or assistance to street children or to sex workers. Their responsibility is usually to alert law enforcement officials or child protection officials to the presence of children who they suspect have been trafficked, rather than playing a direct role in withdrawing the child from the control of traffickers. It may be necessary for members of such organizations to accompany law enforcement officials during raids on the premises where trafficked children are believed to be kept, in order to identify them. In some particular circumstances it is also easier for NGO staff to get the confidence of trafficked children than law enforcement officials, for example by contacting children who are begging or working on the streets in an informal way and talking to them in their own language. Drop-in centres run by NGOs have been an important contact point for both trafficked child beggars in Europe and trafficked child domestics in parts of sub-Saharan Africa.

In some countries, once children have crossed the border and are being exploited in the country to which they have been trafficked, it is more frequent for NGOs to identify the children involved than law enforcement officials. For example:

1. In the case of teenagers involved in commercial sexual exploitation, NGOs providing services to adult sex workers (such as advice on issues of sexual health or reproductive health) may come into contact with such children;
2. In the case of children employed as domestic servants, NGOs providing services to street children (for example, running drop-in centres) may learn of their predicament.

As the NGOs involved might not have been set up in either of these cases specifically to identify trafficked children, it is important that their paid and voluntary staff should be aware that they may come across indications that a child has been trafficked, and be aware in advance of how they should respond.

4.5 Key challenges and examples of good/bad practices

4.5.1 Age determination

UNHCR Guidelines on Policies and Procedures in dealing with Unaccompanied Children Seeking Asylum state the following:⁴⁴

5.11 If an assessment of the child's age is necessary, the following considerations should be noted:

- a) Such an assessment should take into account not only the physical appearance of the child but also his/her psychological maturity.
- b) When scientific procedures are used in order to determine the age of the child, margins of error should be allowed. Such methods must be safe and respect human dignity.
- c) The child should be given the benefit of the doubt if the exact age is uncertain.

Where possible, the legal consequences or significance of the age criteria should be reduced or downplayed. It is not desirable that too many legal advantages and disadvantages are known to flow from the criteria because this may be an incentive for misrepresentation. The guiding principle is whether an individual demonstrates an 'immaturity' and vulnerability that may require more sensitive treatment.

To assess age, initial indicators would include:

1. the physical appearance of the young person concerned
2. his/her psychological maturity;
3. the young person's statements; and
4. the documentation she or he carries, or lack of a passport or other documentation.

If the young person's age is still in doubt, the next two checks could be:

5. a medical examination – *only* with the consent of the subject – and the opinion of a professional health worker.
6. check with an embassy or other authorities in the young person's apparent country of origin – but *only* if it is absolutely clear the young person has no intention to seek asylum. Under *no* circumstances should such contact be made if the child is seeking asylum.

Before proceeding with these checks, a guardian should be appointed for the young person involved, precisely because she or he may be a child and, as a child, is entitled to the presence of an adult whose responsibility is to ensure that the best interests of the child are upheld. (The chapter five comments on the process for appointing a guardian.)

While there are various methods for estimating a young person's age, these only produce 'estimates'. They are not precise; so, a considerable margin of error is called for. In Sweden the authorities consider that the following leeway must be allowed for discrepancies:⁴⁵

- 0–2 years of age – 6 months' discrepancy;
- 2–9 years of age – 12 months' discrepancy;
- 9–18 years of age – 24 months' discrepancy.

This means that in the absence of convincing proof of age a young person who is actually close to 20 years old could end up being considered a child. This practice basically errs in favour of protecting children.

⁴⁴ United Nations High Commissioner for Refugees (UNHCR), "Guidelines on Policies and Procedures in dealing with Unaccompanied Children Seeking Asylum," February 1997.

⁴⁵ SOSFS Recommendations: Socialstyrelsens författningssamling, 1986:26 and 1993:11, Sweden, quoted in Separated Children in Europe Programme. Workshop on Age Assessment and Identification. Bucharest, 20-22 March 2003. Report by Kate Halvorsen.

Age assessment includes physical, developmental, psychological and cultural factors. If an age assessment is thought to be necessary, independent professionals with appropriate expertise and familiarity with the child's ethnic/cultural background should carry it out. Examinations should never be forced or culturally inappropriate.⁴⁶

4.5.2 Identification procedures at border points

The experience in the United Kingdom suggests that it is good practice to allocate a unique identification number (reference number) to every child who is 'assessed to be at risk' by immigration officials.⁴⁷

The police designed a special form with a title such as "Notification of Unaccompanied Minor Arrival at XX Airport/border post." This form is used to record basic information about the child and details about her or his journey and identity document. The form is also used to record details about anyone who meets the child and anyone else who is scheduled to receive them (referred to in the UK as 'meeters and greeters' and 'sponsors'). A copy of the form is then forwarded (e.g., faxed) to the relevant child welfare or social services department in the area where the child is scheduled to be going so that she or he can receive a follow-up visit and assessment by a social worker.

This system allows the authorities to track migrant children once they leave an airport, port or other border point and keep an eye on their progress and keep in contact if they move between local authority areas.

Experience elsewhere suggests that it is particularly important to include a photo of a child who is considered to be 'at risk' in the record about her or him. This makes it feasible to identify a trafficked child even if their name is changed and identity documents forged.

In Sweden, for example, detailed information is collected at border points on children considered to be 'at risk' of trafficking and/or exploitation. During the first contact with the child, certain basic information is collected and the child is photographed and fingerprinted if he or she is over 14 years of age. Case workers are primarily interested in determining the identity of the child, the travel route and necessary information about the child's family and family situation both in Sweden and in the country of origin. This information is collected over a period of time (several weeks). The Swedish Immigration Board's guidelines are based on UNHCR guidelines.⁴⁸

4.5.3 Identifying victims of trafficking by police

The police in one EU country have developed a list of indicators to assess whether an individual may have been trafficked for sexual exploitation and whether personal details about the individual should be recorded on a police data-base. The indicators were developed principally to apply to adult women. This example offers some useful lessons. Rather than depending on a single indicator, police question possible victims and collect evidence about some 30 different criteria. These are attributed different weights (by giving each criterion a different number of points) when making an overall assessment of whether a particular individual is likely to have been trafficked. Secondly, some indicators that were expected to be good and relatively easy to find out about (for example, whether an employee working in a bar had a relatively high debt to the bar owner – and was in debt bondage) were found not to work and were dropped.

In principle, simple indicators such as whether a child has any documents, speaks the local language, is living in substandard and guarded accommodation, is not living with parents or relatives or is involved in criminal or illegal activity or has visible marks of harm and abuse, may be the first signs that

⁴⁶ Separated Children In Europe Programme. Statement of Good Practice. Save the Children and UNHCR. Third Edition, 2004.

⁴⁷ Conclusions from Operation Paladin, London, UK, May 2004.

⁴⁸ Separated Children in Europe Programme, Workshop on Age Assessment and Identification, Bucharest, 20-22 March 2003. Report by Kate Halvorsen, pages 12 and 13.

the child might be trafficked. These indicators may be improved by further exploring indicators related to travel arrangements (whether their travel and visa was arranged and paid for by a third party or whether they possess a forged or fake passport), the individual's working conditions (whether they have to work disproportionately long hours, are they escorted to work, etc...) or the health status (bruises, scars, signs of sexual abuse, etc...).

4.5.4 Identifying trafficked children who are being exploited

Many trafficked children are exploited in locations that have restricted access or are closed to the public, such as private residences (in the case of children trafficked to work as unpaid domestic servants in Western Europe) and private houses that are being used secretly as brothels (in the case of both children and women trafficked for sexual exploitation in many different destinations).

Without prior intelligence about the presence of trafficked children or a suspicion that they might be present, law enforcement officials and labour inspectors are unlikely to come across these particular children. However, they may come across young people who are working without a work permit, have no residency permit or legal entitlement to be in the country or earning money through illegal activities. While none of these circumstances is a clear indicator that the young person concerned has been trafficked, any of them can suggest they *may* have been trafficked. This possibility must be taken into account when deciding what should happen to the child and what sort of protection she or he should be given.

Some forms of exploitation, such as begging, do take place in public. The difficulty for both ordinary members of the public whom the children ask for money and child welfare agencies is to establish whether such children are earning money for themselves or operating under someone else's control (in which case they may have been trafficked).

4.5.5 Operations to withdraw children from the control of traffickers or others exploiting them

Law enforcement officials are sometimes accompanied by others on operations to locate children who are being exploited and to withdraw them from the control of traffickers or others who are exploiting them. For example, they may be accompanied by members of NGOs who know where the children concerned are located; or journalists who have asked to accompany the police on a 'raid'.

Whoever is involved, they must be instructed to give priority to protecting the children and ensuring they are not subjected to further trauma in the course of an operation to rescue them.

For example, in one country an NGO involved in counter-trafficking work informed the police of a brothel where teenage girls were involved in commercial sexual exploitation. The NGO offered to accompany the police and invited a journalist making a film about child prostitution to accompany the raid in order to film the children being rescued. The police burst into the unlit brothel and rushed through the halls and rooms in an effort to prevent the brothel owners from hiding children or escaping with them. The police waved their flashlights around, catching terrified children in their beams. The cameraman followed the police, turning on a powerful light to enable him to film. He filmed some girls close up, cowering in the corner of a room, obviously unsure what was happening and very scared. These images were incorporated into a film that was shown publicly – without any effort to hide the girls' identities.

It is possible that the police knew of no other way of securing the property and that the trauma they and their flashlights caused was unavoidable. However, while better preparation might have helped, it was unacceptable that the journalist involved added to the children's trauma by pointing a large camera with a powerful light at them. It was also unacceptable that he (or his editor) showed these images publicly, both showing the children in a degrading situation and revealing their identities to many people.

4.5.6 The challenge of keeping up-to-date with traffickers' techniques

The various agencies involved in trying to identify victims of trafficking must constantly update their knowledge of techniques and patterns in trafficking. This means that a research component must be built into operations and programmes, so those involved in combating trafficking can be updated quickly and regularly. It also requires an emphasis on information exchange between specialist agencies in neighbouring countries, as well as with independent investigators (such as academics, NGO researchers and specialists collecting information for intergovernmental organizations).

Box 12

The Story of 'Jane': a Nigerian girl in the UK

"They left the flat and drove to a port. The man made her wear a big coat, to make her look bigger and older. She only had light summer clothes on. The man went to buy the tickets, and left Jane in the car. Jane saw a police car. When the man came back he was stopped by the police, who questioned him. The man said that he didn't know Jane, but was just giving her a lift. They looked at Jane's passport and asked her name. She couldn't remember the name in the passport, but told them that she was 28. They didn't believe her, and said she was a child. They asked her if she knew the man. Previously, the man had told her to say that he is her boyfriend, but now he denied knowing her so she became confused. She told the police that she didn't know the man because that was the truth, she didn't know who he was."

"The police let the man go and took her to the police station."

Following her arrival at the police station, Jane told the British police everything that had happened to her, but they did not believe that she was under 18 and kept her in detention.

"The man, who was taking Jane to Germany, was known by the police for suspected trafficking cases. When they typed in his name they spelt it wrong, which is why he was allowed to go when Jane was taken to the police station. He left the country the next day. He returned two days later and Dover [border control] alerted the police and he was picked up, and his passport was taken from him. The police asked to inspect his flat and he agreed. They found photos of Nigerian girls, phone numbers in Nigeria, UK and Italy, addresses and evidence of voodoo. The case was sent to the Crown Prosecution, who said all the evidence was circumstantial and the case never made it to court. Again the suspected trafficker left the country, using a second passport, but the social worker thinks that he will have returned and will be trafficking girls again."

Source: Carron Somerset, "What the Professionals Know: The trafficking of children into, and through, the UK (United Kingdom) for sexual purposes," ECPAT-UK, November 2001.

