

Trafficked children

Article 5.3 of the *Council of Europe Convention on Action against Trafficking in Human Beings* requires State Parties to promote *inter alia* 'a child-sensitive approach in the development, implementation and assessment of all policies and programmes'. In addition, the Convention states:

Each Party shall take specific measures to reduce children's vulnerability to trafficking, notably by creating a protective environment for them. (Article 5.5)

When the age of a 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. (Article 10.3)

As soon as an unaccompanied child is identified as a victim, each Party shall:

- a provide for representation of the child by a legal guardian, organisation or authority which shall act in the best interests of that child;
- b take the necessary steps to establish his/her identity and nationality;
- c make every effort to locate his/her family when this is in the best interests of the child. (Article 10.4)

Child victims shall not be returned to a State if there is indication, following a risk and security assessment, that such return would not be in the best interests of the child. (Article 16.7)

The special measures for children contained in the Convention provide its added value to law, policy and practice across the UK. This is where the Convention could have made a significant difference to the treatment of trafficked children, augmenting their existing rights and safeguards. The relevant provisions are specific to children and confirm that procedures concerning children (or young people who might be children) must be different to those that concern adults.

Of the 527 people referred to the NRM in 2009, either 141 or 143 were recorded as under 18 (27 per cent). Of those, 85 were girls (59 per cent) and 58 were boys (41 per cent). Forty-nine per cent were younger than 16, and 51 per cent were aged 16 or 17.

Identification

A strong and mature framework exists across the devolved administrations in the UK to safeguard and protect children and the British authorities have clearly stated that they view child trafficking as a form of child abuse. However, in setting up the NRM, the British authorities decided to bypass the existing system and not task local authority children's services with the

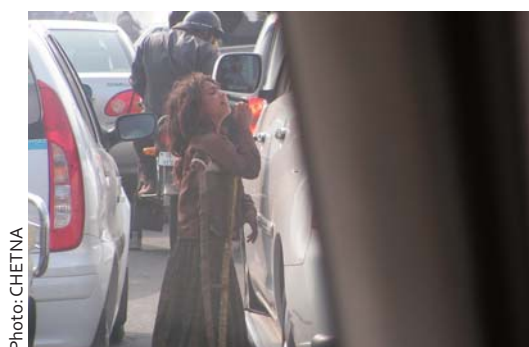


Photo: CHETNA

The Anti-Trafficking Monitoring Group is a coalition comprising Anti-Slavery International, Amnesty International UK, ECPAT UK, the Helen Bamber Foundation, the Poppy Project, Immigration Law Practitioners' Association, Kalayaan, TARA Project and UNICEF UK. The coalition was set up in May 2009 to monitor the UK government's compliance with the *Council of Europe Convention on Action against Trafficking in Human Beings* ('the Convention'), which the UK ratified in December 2008 and which came into force in the UK on 1 April 2009.

Between September 2009 and April 2010, the Anti-Trafficking Monitoring Group consulted information from public sources, conducted 90 interviews with professionals engaged in anti-trafficking work, and reviewed the cases of 390 trafficked persons. In June 2010 the Group published *Wrong kind of victim? One year on... an analysis of UK measures to protect trafficked persons*.

identification of trafficked children, despite their expertise in child protection and their statutory duty to safeguard children. Instead, they are required to refer the cases to NRM decision-makers (or 'competent authorities'), who are viewed by a number of professionals as having insufficient expertise in relation to children. Several research respondents told the Monitoring Group they felt it was not appropriate for the Home Office to be the government department with lead responsibility for trafficked children; rather, its place should be taken by the relevant government departments already responsible for children.

Protection

Responsibility for child protection lies with local authority children's services throughout the UK, including for children who have been trafficked. For children under 16, the local authority children's service usually allocates a social worker to manage the case. For children aged 16 and over in England and Wales, the local authority may assign a key worker whose contact with the child depends on the particular local service and tends to be more limited. However, the role of these workers is distinct from

Hillingdon's example

Following reports that unaccompanied Chinese children were going missing, Hillingdon Borough Council improved its multi-agency working practice. This local authority now provides 24-hour support at Heathrow airport and has developed a system of personal advisers for children. A qualified social worker is allocated to each unaccompanied or separated child when there are specific concerns about the child's welfare. Children are interviewed before they formally enter the UK (i.e. airside) and are warned about the risk that they might be in the process of being trafficked. Their mobile phones are confiscated and they are not permitted to contact any adults unless it is through a member of staff. Although this system has not yet been evaluated, anecdotal evidence suggests it has proved effective and reduced the number of children going missing.

that of a legal guardian and does not carry with it the same responsibilities for representing the child's best interests. In Scotland, young people aged 16 or 17 who are not unaccompanied asylum-seeking children and who have had no previous involvement with social services are expected to access adult services.

There have been suggestions that there is some confusion within the UKHTC and UKBA as to whether the staff in these agencies can refer the cases of children directly to their colleagues working as 'competent authorities' without also referring the case to a local authority children's service. This is particularly relevant where children are identified at a border point by UKBA staff. There is a need for the UK authorities to ensure that a referral to a local authority is made in every case, even if the young person's age is in doubt.

Many separated children who are placed in local authority care in the UK go missing. There is evidence that some respond to pre-arranged orders to rejoin their traffickers (or others) who subsequently exploit them. The same patterns are repeated in numerous other European countries. By January 2010, 153 children had been



Photo: Tim Carter, GLA

referred into the NRM, 12 per cent of whom subsequently went missing.¹ As these data are not broken down by region, however, it is hard to get a clear picture of where this is happening.

Legal guardians

The Scottish government and Big Lottery Scotland are funding the Scottish Refugee Council and Aberlour to pilot a Scottish Guardianship Service for all separated children in Scotland, including those who may have been trafficked. However, other UK authorities have so far not taken action to appoint legal guardians for trafficked children, as required by Article 10.4a of the Convention; in doing so they have not followed the recommendations of the Committee on the Rights of the Child, and have ignored calls from ECPAT UK, ILPA and others.

The result of the UK authorities' not appointing a guardian for every child suspected of being trafficked is that no one individual is necessarily responsible for accompanying the child through all the legal and other administrative procedures the child faces. None of the professionals the child encounters as a result of having been trafficked (e.g. social worker, police officer, immigration official) has responsibility solely for upholding the child's best interests or ensuring that decisions affecting the child make the child's best interests the primary consideration. While it is appropriate that the child's views should be taken into consideration in accordance with their age and maturity, it is also vital that one person gives absolute priority to the child's best interests.

A guardian should be appointed at the very earliest stage and accompany a trafficked child during forensic interviews with the police. The guardian should consider with the child whether it is in his or her best interests to give testimony for use in criminal or civil judicial proceedings.² He or she should also think ahead and, for example, take timely action to seek compensation for a child who has been exploited.

The Anti-Trafficking Monitoring Group is calling on the government to:

- In cases of children, embed the identification and referral process into the existing child protection system and give services responsible for child protection the authority to make decisions;
- Strictly apply the requirement of the benefit of the doubt in cases where the age of a young person is disputed;
- Uphold the best interests of the child in all decisions and introduce a system of guardianship for children.

Notes

¹ Freedom of Information request 20100222, submitted by UNICEF.

² UNICEF, 'Check list for guardians: roles and responsibilities', *Reference Guide on Protecting the Rights of Child Victims of Trafficking in Europe*, Geneva, 2006.