

Cross-cutting issues: Ensuring a victim-centered approach and addressing demand.

Early efforts to combat human trafficking and migrant smuggling focused almost exclusively on criminal prosecutions, with little, if any, attention paid to the needs or rights of victims, inadvertently causing secondary victimization to already traumatized persons. After years of hard lessons learned, best practice now places **victims at the centre of the process**. Attention to the specific needs of victims due to their gender, age or ethnicity precludes discriminatory treatment, whether or not intentional. Only when victims' rights are properly safeguarded and their immediate needs addressed can they effectively face the challenges inherent in their participation in criminal proceedings, which too frequently depend upon their testimony.

The **Protocols to the UN Convention on Transnational Organized Crime**¹ establish a framework for ensuring victim protection and rights from their identification throughout the criminal justice process. The non-imposition of criminal liability on victims of migrant smuggling and human trafficking is of fundamental importance, and encompasses charges for related crimes, such as prostitution or begging, in the case of trafficking victims.

Upon identification, sufficient resources and facilities must be available to secure

the **victim's physical and psychological integrity** and to prevent further trauma, including basic necessities such as food, shelter, medical care, a means of income and psychological counselling. Victims may also have urgent legal or administrative needs, such as: obtaining necessary documentation, such as residency permits, for themselves and possibly for family members; family reunification and/or separation or divorce; and, the best interests of their children under the current circumstances.

Victims have a right to information on the types of services and support available to them, their role in connection with criminal proceedings and how to obtain protection. Victims further have the right to a reflection-delay period, enabling them to make autonomous decisions concerning their potential cooperation with the police and participation as a witness in criminal proceedings, considering the implications of their decision in terms of their personal anonymity, physical safety, and safety of their families. Confidentiality and in-court protective measures, such as in camera hearings and being accompanied by a support person are among best practices for victims during legal proceedings. Victims have a right to a remedy, including compensation.

1. https://www.unodc.org/documents/middleeastandnorthafrica/organised-crime/UNITED_NATIONS_CONVENTION_AGAINST_TRANSNATIONAL_ORGANIZED_CRIME_AND_THE_PROTOCOLS_THEREO.pdf

In many countries, existing assistance and services for victims are provided by civil society organizations (CSOs) with little support from the national budget, and which may or may not have strong cooperative ties with the criminal justice system. The establishment of **national coordination and referral mechanisms**, and the elaboration of protocols and standard operating procedures to effectively provide for the rights and needs of victims are crucial tools for ensuring a victim-centred approach to combating migrant smuggling and human trafficking, including to prevent the phenomena of re-trafficking.

Attempts have increasingly been made to **address the issue of demand** as a means of diminishing migrant smuggling and human trafficking. Actions that turn these crimes from low-risk, high-profit, to high-risk, low-profit are necessary. States could further consider legal interventions criminalizing the use of services that are the object of exploitation as well as media campaigns to discourage demand as well.

This session will provide an opportunity for participants to discuss how victims' needs and rights become sidelined in the criminal justice process and the diverse facets of, and mechanisms for, applying a victim-centred approach in efforts to combat human trafficking and migrant smuggling, including through the use of a national referral mechanism. It will also explore the issue of tackling the underlying demand that drives the phenomena of migrant smuggling and human trafficking.

Participants will be invited to reflect on the following questions:

Who profits and benefits from the exploitation of others?

How do we sufficiently target the criminals and profit makers?

Who buys the services of the victims, especially children?

Is the failure to effectively combat diverse forms of violence and abuse, especially gender-based and family violence, in countries of origin exacerbating push factors trafficking and migrant smuggling?

To what extent do criminal investigations and prosecutions rely on victim/witness testimony? What are other lines of investigatory focus?

Are there protocols or other guidance to ensure specific protections for child and other particularly vulnerable victims? Have staff been trained on gender-sensitivity and in working with children?

How has the application of a victim-centred approach enhanced investigation and prosecution efforts? What have been the deleterious effects of its absence?

Are victims being successfully identified? Is the failure to identify victims resulting in further denial their rights?

Does a national referral mechanism exist? How can coordination with CSOs be improved to foster the dual goals of a victim-centred approach and effective prosecutions?

The discussion will identify strategies and best practices for improved coordination in victim identification and assistance and working with victims to prevent secondary victimization in the criminal justice process, fostering their effective participation in investigations and judicial proceedings.