

Guidelines for Identifying Human Trafficking in the Norwegian Correctional Service

ROSA



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FOREWORD

In 2017, ROSA gave a lecture on human trafficking to the newly opened ward for foreign women in Kongsvinger Prison. At that time, it was unclear what could be done to help victims of human trafficking serving a sentence.

As the department's staff found signs of human trafficking among an increasing number of inmates, ROSA and the Norwegian Correctional Service for Innlandet entered into a collaboration to identify and follow up potential victims of human trafficking. Gradually, we gained a better understanding of their situation and found ways to assist them.

It became particularly clear that employees play a crucial role in identifying victims of compelled crime. Correctional service staff members work to ensure that "convicts choose a crime-free life after completing their sentence", but victims of human trafficking may not have had the opportunity to choose. Many return to exploitation and crime after serving their sentences. If they are identified in prison, this circle can be broken.

The aim of this guide is therefore to give employees in the Norwegian Correctional Service an understanding of what human trafficking is and what can be done if it is suspected. Part 1 explains the phenomenon of human trafficking, compelled crime and some important characteristics. Part 2 describes practical approaches and tools for identifying human trafficking in prisons.

Victims of human trafficking are entitled to protection and assistance, even when they are in prison. By working together to uncover human trafficking in the criminal justice system, human rights violations can be avoided and victims can be given a way out of exploitation.

We hope you find the guide useful!

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PART 1: HUMAN TRAFFICKING AND COMPELLED CRIMINALITY

WHAT IS HUMAN TRAFFICKING?

Human trafficking is a serious human rights violation that hits the victims very hard. Human trafficking involves someone exploiting another human being for profit or other benefit. People are kept in exploitative situations by traffickers subjecting them to violence, abusing their vulnerable situation or using other means of coercion. Victims are often unaware of their rights and the possibility of help.


The most common form of human trafficking in Norway is exploitation for prostitution. In recent years, an increasing number of forced labour cases have also been uncovered. In many cases, particularly those uncovered in prisons, individuals have been subjected to a combination of several forms of exploitation. Examples include prostitution and forced labour in car washing, or forced labour in agriculture and drug production. Some may also have been subjected to intimate partner violence or other abuse in addition to human trafficking.

Who is exposed to human trafficking?

Most of those identified as victims of human trafficking in Norway have a foreign background. However, human trafficking does not necessarily mean that the victim crosses a national border. Norwegian citizens may also be affected.

Human trafficking uncovered in Norway follows global migration patterns and political and economic conditions. For a long time, women from Nigeria were the largest group of identified victims of human trafficking in Norway. In recent years, the majority have come from Eastern European countries. Women and children are considered to be particularly vulnerable, especially to prostitution. Even if human trafficking has taken place in another country, the person is entitled to assistance in the country where they are identified.

Moreover, victims of human trafficking come from a wide variety of backgrounds: women, men and non-binary people, of all ages, from all parts of the world. Some may be highly educated, while others have no schooling. Many are exploited by organised criminal networks, but family members or partners can also be behind human trafficking.



A man was smuggled to Europe in a container. His family had gone into debt to finance the trip. After working in a restaurant kitchen in a Central European country without earning enough to repay the debt, the traffickers demanded that he move on to another country and work growing tomatoes. He was transported to Norway in the boot of a car, and eventually taken to a farm where it became clear that he was going to produce drugs. He spoke neither Norwegian nor English, was subjected to severe violence if he did something wrong and his family in his home country received threats. When the drug production was uncovered, the man was arrested and prosecuted.

Definitions of human trafficking

In Norway, human trafficking is defined in Sections 257 and 258 of the Penal Code (see the legal text on page 21). These penal codes were introduced in 2003 as a result of Norway joining the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children. The UN protocol states that for a situation to be considered human trafficking, it must consist of three elements: a specific set of acts, combined with a means of coercion, for the purpose of exploitation. This is often portrayed like this:

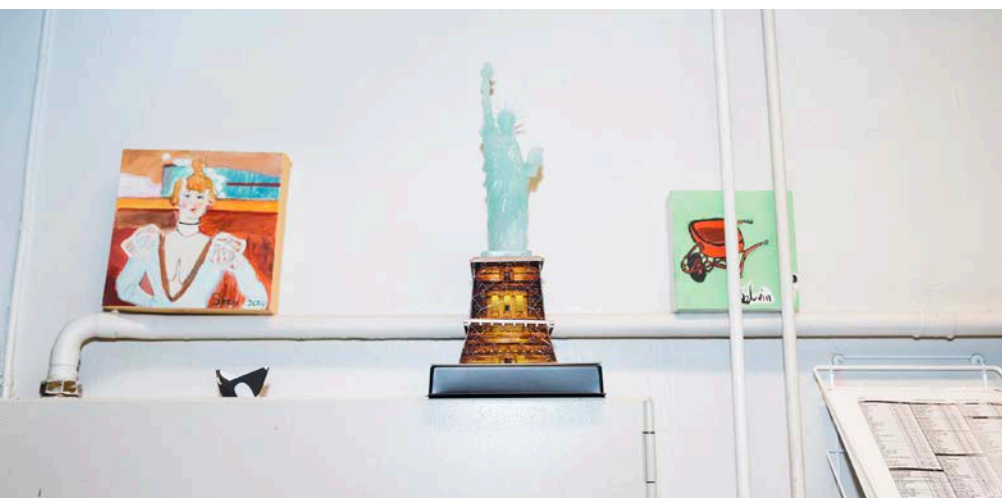


Minors

Exploitation of minors is considered human trafficking, regardless of whether coercive means have been used. In other words, only one act and one purpose of exploitation is required to constitute human trafficking of children under the age of 18. If there is a suspicion of human trafficking of minors, it is mandatory to report this to the child welfare service. The Norwegian Directorate for Children, Youth and Family Affairs (*Bufdir*) operates a national guidance function for cases of under-age victims of human trafficking (see page 22). Although very few minors serve time in Norwegian prisons, employees in the Norwegian Correctional Service may encounter people who were victims of human trafficking when they were under 18 years of age. They may also be entitled to assistance, even if they are not serving time for actions they were forced to do.

International commitments

Human trafficking is a global challenge, and the underlying causes are often poverty and conflict. Therefore, the work against human trafficking in Norway is regulated by two important international agreements: The UN protocol mentioned above and the Council of Europe Convention on Action against Trafficking in Human Beings. By signing these, Norway has committed itself to assisting and protecting victims of human trafficking. This includes a duty to identify potential victims of human trafficking.



HUMAN TRAFFICKING AND COMPELLED CRIMINALITY

Victims of human trafficking can be forced to commit criminal acts. In many cases, people have gone through the legal system without the prosecution, defence counsel or the court uncovering human trafficking. Therefore, employees in the correctional services can play an important role in identifying people exposed to compelled criminality.

There are two ways in which crime can be committed as a result of human trafficking. In some cases, the actual purpose of exploitation is a criminal act, for example by forcing someone to commit a profit-related crime or preparation of narcotics/drugs. This form of human trafficking is covered by the exploitation purpose of 'forced services' in the Penal Code (see page 21).

People can also be subjected to human trafficking for another purpose and commit offences as a result of being in an exploitative situation. For example, people exploited for prostitution may be in breach of the Immigration Act because their traffickers have brought them into the country illegally and kept them in exploitation. Perpetrators may also force victims to commit crimes in order to increase their control over them. The aim will then be to make it more difficult for vulnerable people to contact the authorities.

There are also people in prison who may have been victims of human trafficking, for example earlier in life, but who are serving time for criminal acts they have committed that are unrelated to human trafficking. These may also be entitled to receive assistance.

NON-PUNISHMENT PROVISION

Victims of human trafficking have special rights. These are intended to enable victims to break out of a trafficking situation, prevent re-exploitation and provide them with redress and rehabilitation. The rights are described in more detail on page 19. Victims who have committed crimes as a result of human trafficking also have the right to be considered for exemption from punishment:

Article 26 Non-punishment provision

Each Party shall, in accordance with the basic principles of its legal system, provide for the possibility of not imposing penalties on victims for their involvement in unlawful activities, to the extent that they have been compelled to do so.

The Council of Europe Convention on Action against Trafficking in Human Beings

Human trafficking means that the victims are in a situation where they do not act freely. The provision is therefore intended to ensure that exemption from punishment is considered where the victim has committed criminal acts as a result of human trafficking. The principle of impunity is recognised by the UN as an important human rights tool. The provision obliges all actors in the justice sector to investigate, where there is evidence to do so, whether the criminal act was committed as a result of human trafficking. This also applies during and after imprisonment. It is the courts and the prosecuting authority that decide whether to grant immunity from prosecution.

By identifying victims of compelled criminality and realising their rights, including the right to be considered exempt from punishment, both new exploitation and new crimes committed by the victim can be prevented. After having been through a trial and been convicted, many express that it would be too much of a strain to retry the case, or that they do not want the case to be reopened for fear of the traffickers. Then it will be important with other measures that facilitate a good reintegration.

Where people are in custody and the case has not yet been decided, it may still be possible to avoid wrongful prosecution. It is therefore particularly important to be aware of the possibility of human trafficking among pre-trial detainees, so that the courts have the opportunity to fulfil Norway's human rights obligations to vulnerable persons.



A woman was lured to Norway with promises of a job and then forced into prostitution. She was present when the perpetrators committed a robbery in a customer's apartment, was arrested and charged with complicity. While she was in custody, she was identified, and the district court revoked her detention. The ruling states:

"The court further refers to the fact that it was prison staff who first suspected that the accused was a victim of human trafficking. They put her in contact with ROSA ... who have assessed her and believe it is likely that she is a victim of human trafficking. The UDI has ... granted the accused temporary residence in Norway because there is evidence that she is a victim of human trafficking ... Based on this, the court believes that it is likely that the accused is a victim of human trafficking and that this was the reason why she was in the robbery victim's apartment when the robbery was committed."

CHARACTERISTICS OF HUMAN TRAFFICKING

Human trafficking is a complex and ever-changing form of crime. It can be difficult to distinguish human trafficking from similar situations such as social dumping, abuse of power or pimping. The key is to get an overview of the person's power relations and which coercive measures have been used to maintain the exploitation.

Coercion and Control

Whether the person has been subject to a control regime will be decisive. This does not have to mean locked doors and chains, but can include everything from others having control of ID documents, to requiring the vulnerable to work until they have paid off the debt they have accumulated. Many people are subjected to various forms of violence – physical, psychological, sexual or financial.

Psychological control mechanisms are common. Where there is a close relationship between the victim and the trafficker, loyalty can play a major role. Threats and fear of reprisals, against themselves or their family in their home country, make many people reluctant to talk about exploitation, even when it happened in the past. Victims are often threatened with being reported to the authorities for criminal acts they were forced to commit or because they are staying in the country illegally.

Even if someone has voluntarily entered into prostitution or an exploitative working relationship, this does not rule out human trafficking. Forced labour is defined in Norway as "the person has not voluntarily entered into the employment relationship and/or cannot voluntarily leave it." Sometimes a bad situation evolves into human trafficking through increasing levels of control and coercion over time. Victims of human trafficking may also have been lured with promises of jobs, good conditions or romantic relationships.

Vulnerability Factors

Secondly, it is important to understand the factors that may have made the person vulnerable to exploitation. In most human trafficking cases, the question of whether the person has been in a vulnerable situation and whether this has been exploited is pivotal. Aspects of a person's background or current situation will be relevant to this assessment.



Past experiences or other individual factors can increase vulnerability. Victims of human trafficking may have experienced neglect, abuse or violence in their upbringing, which makes offers from traffickers seem attractive. Vulnerability as a result of mental illness or substance abuse problems can also be exploited by traffickers. Poverty is considered a key driver of human trafficking.

Vulnerability factors resulting from a person's current situation may be that they do not have legal residence and are therefore unable to work, and thus end up in exploitative situations in order to make a living. Lack of language skills and social networks in the country they are staying in, or dependence on traffickers for housing, are other examples.

Indicator Lists

The Coordination Unit for Victims of Trafficking has developed an identification guide with indicator lists (see page 23). This can be a useful tool. However, it is important to remember that a situation can tick many indicators without it being human trafficking, while a few ticks do not rule it out. Many inmates will have similar challenges to those described here.



PART 2: IDENTIFICATION IN PRISONS – A PRACTICAL APPROACH

WHAT IS MEANT BY IDENTIFICATION?

Identification means uncovering whether someone may be a possible victim of human trafficking. Victims of human trafficking have a right to be identified. Identification is also crucial to safeguard the rights of victims and thus to prevent and avoid human trafficking.

In Norway, anyone who, through their work, becomes concerned that a person may be in a human trafficking situation has a responsibility to identify the person and put them in contact with the responsible authorities and assistance measures. There is also a general duty to prevent aggravated human trafficking (see page 21 for the legal text).

Correctional service staff members must therefore be able to recognise the signs of human trafficking and know where to seek advice or refer for help if they have concerns.



AWARENESS AND RELATIONSHIP BUILDING

In all departments of the Norwegian Correctional Service, employees may come into contact with victims of human trafficking.

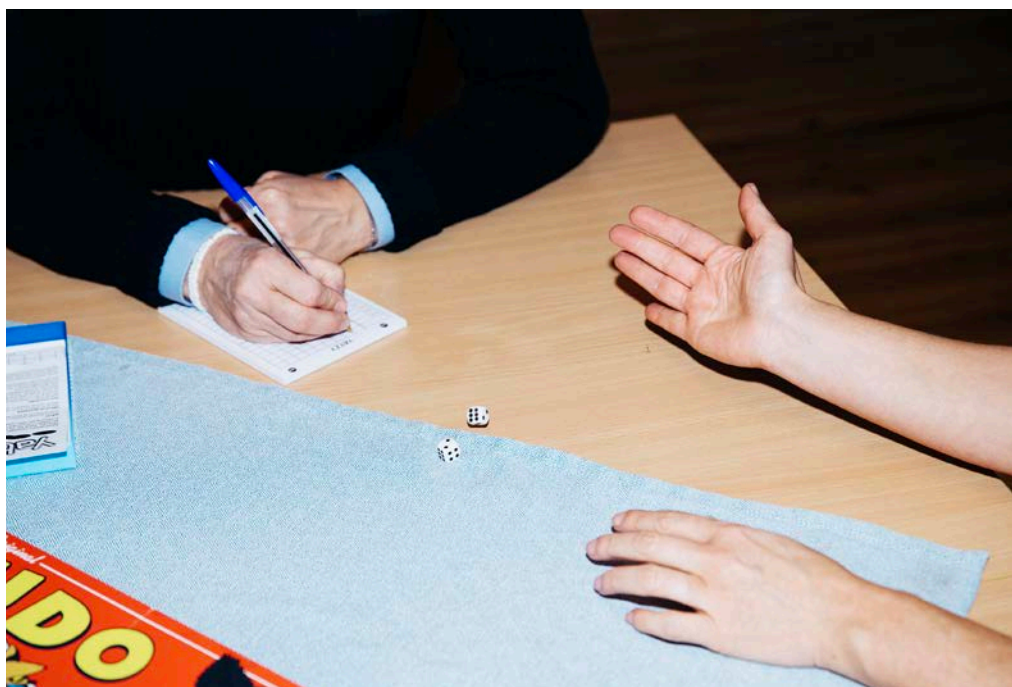
The most important factor in uncovering human trafficking in prisons is for prison staff to be aware that human trafficking may be behind crimes committed by inmates. This does not necessarily mean major changes in working methods, but rather that the human trafficking perspective is incorporated into the daily work in the departments: in reception situations, in follow-up during imprisonment and in connection with reintegration.

Experience from the Norwegian Correctional Service for Innlandet has shown that it is particularly useful to combine awareness of human trafficking with a focus on relationship building. In the prison service, dynamic security – interpersonal relationships and systematic forms of interaction between inmates and staff – is an important method. The goal of relationship building is to reduce the perceived power imbalance between staff and inmates to prevent risk situations.

The method is also suitable for building trust and therefore has great potential to give victims of human trafficking the space to talk about their experiences. Many vulnerable people may distrust government officials. These are familiar challenges in the work of the Norwegian Correctional Service. On the one hand, employees in the prison service are supposed to be "guards", while on the other hand they are supposed to try to create trust. This requires patience, empathy and understanding.

It will often take several conversations before victims feels safe enough to open up about what they have experienced. It may be useful to emphasise that employees have a duty of confidentiality. Many victims of human trafficking do not see themselves as victims, do not necessarily know that what they have been subjected to is criminal or that they have rights as a result.

Interaction between inmates and staff is often informal, by doing activities together or simply having short conversations in passing. These can be built on to strengthen the relationship with the inmate.



CONVERSATIONS WITH INMATES ABOUT HUMAN TRAFFICKING

When conducting conversations where human trafficking is a topic, or when evidence of human trafficking emerges in a conversation, there are several things that are important to consider:

- Is it the right time for the conversation? When and where is it most suitable for the inmate – what time of day, when in the course of the sentence? Will other tasks interfere with the conversation, does the employee have enough time?
- Is this the right place? In several cases, perpetrators have served time in the same unit as the victim. It is therefore important that the conversation take place in a sheltered environment, also to safeguard confidentiality.
- Are you the right person? What kind of relationship do you have with the inmate? Should the contact officer hold the conversation, or is external guidance needed? Take into account gender and the inmate's wishes, and contact the national helpline if in doubt (see page 17).

Being a victim of human trafficking can involve serious violations, shame and stigmatisation. Conversations about the topic can be difficult. During conversations, it can be useful to be aware of the following:

- Information about rights and help must be provided by specialised actors or lawyers; do not make promises that cannot be kept.
- Use an interpreter if necessary. If there is a concrete suspicion of human trafficking and the employee and the person do not speak the same language, an interpreter must always be used, cf. the Interpreting Act.
- Communicate calmly and clearly. Be curious, ask open questions and be prepared for unexpected reactions. Use conversation tools in line with the Norwegian Correctional Service's routines.
- Acknowledge and believe what the person has to say. Be aware of your choice of words and body language, and strive for a trauma-informed approach during conversations.

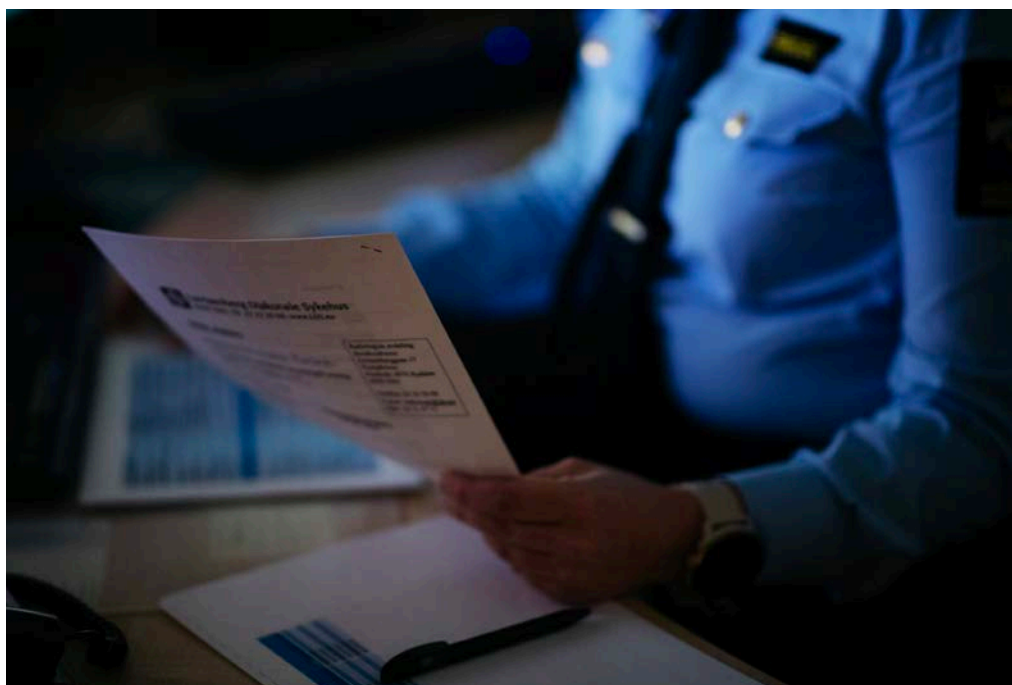
Trauma Reactions and Trauma-informed Approach

Many victims of human trafficking have experienced traumatic events before, during or after the trafficking situation. In addition to physical injuries caused by violence, victims can develop traumatic reactions and trauma disorders such as PTSD.

This can be expressed in the form of high levels of vigilance and avoidance related to what they have experienced, re-experiences in the form of flashbacks and nightmares, aggressive responses and distrust, or numbness and shut-down. Talking about difficult experiences can trigger such reactions, and it is therefore important to adopt a trauma-informed approach when talking to victims of human trafficking.

Trauma awareness involves an understanding of the impact of trauma on a person's daily functioning and a way of relating to them that recognises and provides safety. The circumstances in prisons can make this challenging, but it will often be crucial to gaining trust.

See RVTS' web portal utnyttelse.no for more information about a trauma-aware approach when working with victims of human trafficking.



MAPPING AND CASE DOCUMENTS

All inmates undergo a comprehensive assessment on arrival in prison and in connection with their return. These can be important tools for uncovering human trafficking and can also confirm or elaborate on things that have come up in conversation.

Use the Norwegian Correctional Service's various mapping tools to get an overview of the person's situation and the reason for the sentence. Employees also have access to many relevant documents, such as rulings, judgements, previous deportation decisions and health information. These can shed light on a possible human trafficking history.

The information can then be included in new conversations with the inmate. If something seems odd, bring it up. It is common for inmates' responses to change as they gain more trust in prison staff.

In order to assess whether something may be human trafficking, it will be important to gather information at an early stage. In cases of doubt, the issue can be discussed with managers or colleagues.

IS HUMAN TRAFFICKING SUSPECTED?

If you suspect that someone may have been a victim of human trafficking, you can contact the national helpline – ROSA. Other support services, particularly the Salvation Army, which has a presence in a number of prisons, can assist in assessing whether something may be human trafficking.

When contacting the national helpline, we will first discuss the case and provide guidance if necessary. This can be done on a general basis. It will be necessary to obtain informed consent from the inmate to share specific details with ROSA.

It is important to inform the inmate that ROSA is a non-governmental, independent initiative that can facilitate identification and access to rights. Everything the inmate chooses to share with ROSA is confidential.

If necessary, and if the inmate so wishes, ROSA will conduct an identification interview together with a lawyer. Potential victims of human trafficking are entitled to free legal aid to consider filing a complaint.

Not all cases where there is suspicion will be human trafficking. ROSA is a low-threshold service, and it is better to call too often than too rarely. After the identification interview, action will be taken depending on the conclusion and the wishes of the person concerned.

ABOUT ROSA

ROSA operates the national helpline against human trafficking and coordinates assistance and protection for victims of human trafficking over the age of 18. Assistance from ROSA includes access to safe housing, qualified legal advice, health services, qualifying measures and activities.

The helpline is a 24-hour, low-threshold service for victims, but can also be used by anyone who wants information or wants to discuss a specific concern. Everything shared is confidential and the caller can remain anonymous.

**NATIONAL HELPLINE
AGAINST HUMAN
TRAFFICKING**

22 33 11 60





A woman was serving a sentence for actions she was forced to do. In prison, she was reclusive and spoke neither English nor Norwegian. She had grown up in an orphanage, had been forcibly married at a young age and had been subjected to abuse and exploitation over several decades. After correctional services staff had spent time building a relationship and getting an overview of her background, she was identified as a victim of human trafficking. She did not want to report it for fear of the traffickers, but in prison she could now use the time until her release to build herself up to avoid exploitation in the future. She took a forklift driver course and learned English. After completing her sentence, she received assisted return to her home country with IOM, in addition to follow-up and financial support after returning home.

AFTER IDENTIFICATION: RIGHTS AND RESTITUTION

If an inmate is identified as a potential victim of human trafficking, they have certain rights. These are intended to enable people to break out of a trafficking situation, prevent new exploitation and ensure redress and rehabilitation. For people who are forced to commit criminal acts, the rights are important in order to prevent exploitation and new crime after serving their sentence. The main rights that potential victims may be entitled to are:

- Information and legal assistance to consider reporting
- Temporary residence permit, so-called reflection period
- Subsistence allowance and health care, including psychological care
- Redress and compensation
- Assisted return
- Penalty exemption

After identification, ROSA will cooperate with the prison and other relevant actors in the further follow-up of the victim's case. It happens on their terms. The goal will be to find ways to give the person tools that reduce the risk of falling back into human trafficking. This can range from a focus on self-care to skills development and language training. Many victims have expressed that receiving recognition for what they have experienced has an intrinsic value that can contribute to their rehabilitation.

If the person is in custody, it is, as mentioned, important to identify the case early on so that the immunity from prosecution provision is considered in the trial. Some convicted persons will be transferred to their home country to serve their sentence. In this case, it will be very important that the person be identified and have access to legal assistance before this is carried out. If the trafficked person is a convicted foreign citizen, there are two post-sentencing procedures:

Assisted return. IOM operates a return program intended to provide a dignified return and reintegration in the home country. When victims of human trafficking receive financial support and are followed up with guidance from IOM after their return, the risk of further exploitation and new offences is reduced. The Salvation Army also offers assistance with repatriation, practical help, reintegration and follow-up through its Safe Way Home program.

Follow-up of a human trafficking case in Norway. For some victims, it may be appropriate to apply for a reflection period and consider reporting human trafficking to the police. ROSA will then ensure safe residence after release and assist throughout the entire process.

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HUMAN TRAFFICKING IN THE NORWEGIAN PENAL CODE

Section 257. Human Trafficking

Any person who by violence, threats, taking advantage of a vulnerable situation or other improper conduct forces, exploits or deceives another person into/for

- a. prostitution or other sexual services,
- b. labour or services, including begging,
- c. active military service in a foreign country, or
- d. consenting to the removal of one of the person's internal organs,

shall be punished for human trafficking with imprisonment for a term not exceeding six years.

The same penalty shall be applied to any person who

- a. facilitates such force, exploitation or deception as specified in the first paragraph by procuring, transporting or receiving the person,
- b. otherwise contributes to the force, exploitation or deception, or
- c. provides payment or any other advantage to obtain consent for such a course of action from a person who has authority over the aggrieved person, or who receives such payment or advantage.

Any person who commits an act as specified in the first or second paragraph against a person who is under 18 years of age shall be subject to punishment regardless of whether the act involved violence, threats, taking advantage of a vulnerable situation or other improper conduct. Any person who was ignorant of the fact that the aggrieved person was under 18 years of age shall be subject to a penalty if he/she may be held to blame in any way for such ignorance.

Section 258. Aggravated human trafficking

Aggravated human trafficking is punishable by imprisonment for a term not exceeding 10 years.

In determining whether the violation is aggravated, particular weight shall be given to whether the person subjected to the act was under 18 years of age, whether severe violence or force was used and whether the act generated significant proceeds. Any person who was ignorant of the fact that the aggrieved person was under 18 years of age shall be punished if he/she may be held to blame in any way for such ignorance.

ORGANISATION OF THE WORK AGAINST HUMAN TRAFFICKING

A number of public and non-profit actors have different areas of responsibility and tasks in the field of human trafficking in Norway. Here are the most important ones for identifying human trafficking in the correctional services:

ROSA, the national helpline against human trafficking, coordinates assistance to adult victims of human trafficking of all genders. ROSA works closely with the country's 43 shelters and other specialised accommodation for victims of human trafficking. ☎ 22 33 11 60

The Salvation Army runs the Safe Way Home program for foreign inmates in prisons. Where the Salvation Army has a presence in prisons, it can assist in assessing whether something is human trafficking. It also runs the Safe House Filemon residential facility for men who have been subjected to forced labour. ☎ 47 46 69 21

The International Organization for Migration (IOM) offers assisted return for vulnerable migrants, including trafficking victims. ☎ 23 10 53 20

The police are responsible for preventing, detecting and prosecuting human trafficking in each police district. ☎ 02800

The overall function of the Coordinating Unit for Victims of Trafficking (KOM) is to be a driving force for inter-agency and interdisciplinary cooperation. KOM is administratively subordinate to the Norwegian Police Directorate and has a separate mandate from the Ministry of Justice and Public Security. The Coordinating Unit for Victims of Trafficking shall be an instrument for coordination between authorities and organisations and contribute with information exchange, knowledge dissemination and competence enhancement.

The Norwegian Directorate of Immigration (UDI) processes applications for a reflection period, limited residence permits following a report and protection (including assessment of residence permits for witnesses in human trafficking cases and on strong humanitarian grounds). The UDI also processes applications for assisted return and reintegration grants for victims of human trafficking and other vulnerable people. ☎ 23 35 16 00

Regional resource centres on violence, traumatic stress and suicide prevention (RVTS) are responsible for competence development for service providers in the health and social sector, and have developed an on-line resource on human trafficking for health and social workers.

The Norwegian Directorate for Children, Youth and Family Affairs (Bufdir) in its national counselling function for cases involving under-age victims of human trafficking is intended to help increase expertise about under-age victims of human trafficking so that more victims are identified and receive assistance and protection. The function also provides advice and guidance to the services in individual cases. ☎ 466 15 000

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**NATIONAL HELPLINE AGAINST
HUMAN TRAFFICKING**



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www.rosa-help.no