

# OUT OF THE SHADOWS



Addressing the Dynamics of Trafficking in Persons  
Belonging to Minorities, Including National Minorities

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# Acronyms and Abbreviations

<b>APIHTTF</b>	(U.S.) Asian Pacific Islander Human Trafficking Task Force
<b>BIPOC</b>	Black, Indigenous or People of Color
<b>CEDAW</b>	Committee on the Elimination of Discrimination against Women
<b>CIS</b>	Commonwealth of Independent States
<b>CSO</b>	civil society organization
<b>CTHB</b>	combating trafficking in human beings
<b>ERRC</b>	European Roma Rights Centre
<b>EU</b>	European Union
<b>HCNM</b>	(OSCE) High Commissioner on National Minorities
<b>IS</b>	Islamic State
<b>ISTAC</b>	(OSCE/ODIHR) International Survivors of Trafficking Advisory Council
<b>NGO</b>	non-governmental organization
<b>NAP</b>	national action plan
<b>NRM</b>	national referral mechanism
<b>ODIHR</b>	(OSCE) Office for Democratic Institutions and Human Rights
<b>OCEEA</b>	(OSCE) Office of the Co-ordinator of OSCE Economic and Environmental Activities
<b>OHCHR</b>	(UN) Office of the High Commissioner for Human Rights
<b>OSR/CTHB</b>	(OSCE) Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings
<b>OSCE</b>	Organization for Security and Co-operation in Europe
<b>PiN</b>	(NGO) People in Need
<b>pSs</b>	(OSCE) participating States
<b>REF</b>	Roma Education Fund
<b>THB</b>	trafficking in human beings
<b>UN</b>	United Nations
<b>VoT</b>	victim of trafficking

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# FOREWORD

Although recognized in the OSCE region for nearly two decades,<sup>1</sup> the nexus between trafficking in human beings (THB) and racial and ethnic discrimination has rarely been analysed or addressed. The link between THB and discrimination due to race<sup>2</sup> and ethnicity is a multifaceted and complex issue, and the failure to recognise the disproportionate risk of trafficking in persons belonging to minorities results in insufficient protection for victims and inadequate prevention strategies. Addressing the dynamics of trafficking in persons belonging to minorities, including national minorities, requires not only targeted interventions, but also a nuanced understanding of the myriad intersecting factors that perpetuate its grip on minority communities. The aim of this publication is to help illuminate that complex relationship.

Non-discrimination and equality principles, commitments and international obligations are enshrined in a range of instruments across the OSCE region. Nonetheless, adequate application in this context is hindered by a long-standing legacy of discrimination, societal stereotypes, cultural barriers and lack of access to information, all of which compound to exacerbate the vulnerability of those who are often already most marginalized in society. Once subject to exploitation, minorities may continue to be more likely to suffer from discrimination within law enforcement and protection systems in comparison to other groups. Adequate prevention and assistance, as well as enhanced access to justice for vic-

tims, can only be realized when we take the time to truly understand and address these minority-related aspects of vulnerabilities and hindrances to protection.

Our respective offices have joined forces to carry out this study and bring together experts on minority and anti-trafficking issues in order to offer insights and recommendations in line with OSCE commitments to effectively tackle trafficking in persons belonging to minorities, including national minorities, and to protect them through comprehensive services and access to justice. We would like to thank all the participating States who contributed to the survey, as well as the survivors, NGOs, and independent experts who contributed their expertise and knowledge. Our hope is that this will aid OSCE participating States and the wider anti-trafficking community to think more holistically about this nexus and shape targeted interventions and strategies that consider the specific vulnerabilities of these groups, protecting those who need it most, in line with OSCE commitments. By amplifying the voices of the most vulnerable, addressing systemic barriers and fostering inclusive approaches to prevention, protection, prosecution and partnerships, we can work towards a future where all individuals, regardless of their background, are empowered to reclaim their freedom and live in a world free from deeply-rooted abuse, exploitation and trafficking. This will not be a simple process, but we stand fully ready to support that journey.



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<sup>1</sup> OSCE Ministerial Council (2003), MC.DEC/2/03, *OSCE Action Plan to Combat Trafficking in Human Beings*, December 2003. The Action Plan highlights the "root causes of trafficking in human beings, occurring both in countries of origin and destination [...] in particular causes such as poverty, weak social and economic structures, lack of employment opportunities and equal opportunities in general, violence against women and children, discrimination based on sex, race and ethnicity." Participating States thereby recognized the significance of "identifying the most vulnerable segments of the population"; "addressing all forms of discrimination against minorities"; and awareness-raising campaigns targeting "the most vulnerable groups, including persons belonging to national minorities, children, migrants and internally displaced persons".

<sup>2</sup> The use of the term 'race' in this publication shall not imply endorsement by the authors of any theory based on the existence of different races. It is a term widely used in international human rights standards, as well as in national legislation. This publication uses the term to ensure that people who are misperceived as belonging to another 'race' are protected against hate crimes.

# Executive Summary



Through this publication, the Office of the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings (OSR/CTHB) and the OSCE Office for Democratic Institutions and Human Rights (ODIHR) suggest that more attention should be paid to and action undertaken for persons belonging to minorities, including national minorities, who are insufficiently protected from the risks of THB.

Despite the lack of recorded statistics on race and ethnicity in most OSCE participating States (pSs), there are a number of data points indicating that persons belonging to minorities are represented at higher rates among victims of trafficking (VoTs) when compared to total populations, suggesting they are disproportionately at risk of THB. For example, in a number of countries, more than half of the VoTs are Roma and Sinti, while these groups represent less than 10 per cent of the population. In the United States, Black girls make up nearly 50 per cent of the child sex trafficking victims in the state of Louisiana, but less than 20 per cent of the total youth population.

Based on qualitative information collected through surveys with OSCE pSs relating specifically to national minorities, as well as desk research and expert consultations with civil society organizations (CSOs) and survivors of THB, this publication aims to highlight the lived experiences of marginalized and under-represented communities whom traffickers target and who are at higher risk of THB. It focuses on deepening understanding of the intricate relationship between THB and discrimination against persons belonging to minorities, including national minorities. The publication not only provides an analysis of the dynamics of the crime of trafficking in persons belonging to minorities, but also looks into the impact of racial and ethnic discrimination on the response to this crime.

In this publication, the term ‘minorities’ is understood as a wide range of minority groups often marked by high levels of social and economic marginalization as a result of discrimination based on race and ethnicity. The type and degree of discrimination that persons belonging to minorities are exposed to may vary, depending on their levels of access to resources and sense of inclusion or exclusion vis-à-vis the rest of the population.

Discrimination based on structural, personal and situational characteristics contributes to the vulnerability of minorities to THB. Poverty, social exclusion, previous experience of other forms of violence such as sexual abuse or domestic violence, prior involvement in the juvenile justice or child welfare system, lack of access to education, employment and housing are well-established factors of vulnerability that traffickers recognize and exploit. Many of the challenges faced by VoTs belonging to minorities are not unique and are faced by all VoTs. However, the general failure to address the legacy of deep-rooted racial and ethnic discrimination, as well as the lack of political representation to voice their needs and promote their rights, makes persons belonging to minorities more vulnerable to THB.

While international legal and policy frameworks guarantee the enjoyment of individual rights without discrimination on any grounds, persons belonging to minorities are sometimes treated less favourably simply because of a particular characteristic such as their racial or ethnic origin. Moreover, the misconceived notion that non-discrimination requires everyone to be treated exactly the same can result in policies which fail to account for specific vulnerabilities, thereby hampering authorities’ ability to identify and assist VoTs belonging to minorities. In fact, non-discrimination emphasizes the importance of recognizing diversity to address specific barriers to equal rights.

Systemic racial and ethnic discrimination against persons belonging to minorities — compounded by other factors such as age and gender — are therefore contributing factors that increase their vulnerability to THB by denying the core of a person's dignity, as a result of racist or discriminatory attitudes, prejudices and social hierarchies, which traffickers exploit. Furthermore, they are also an impediment that hinders access to protection services and justice. As a result, the treatment received by VoTs belonging to minorities is characterized by identification and protection gaps. Those gaps are often due to law enforcement officials and service providers lacking language competence or cultural understanding, coupled with prejudice, stigma and structural discrimination. For example, while most pS respondents underlined the principle of non-discrimination and equal rights for all VoTs, cases of trafficking for the purpose of child marriage or forced begging are often dismissed as so-called cultural practices. In some pSs, VoTs who belong to minorities are disproportionately penalized by authorities, such as being arrested or prosecuted for criminal acts related to their having been trafficked. While there is no available disaggregated data on how many VoTs belonging to minorities have a criminal record as a result of their victimization, accounts from survivors and anti-trafficking experts reveal that people in trafficking situations often first come into contact with law enforcement as suspected criminals, not as victims. They are frequently arrested, detained, prosecuted and convicted for prostitution, possession of weapons, drug trafficking or cultivation, pick-pocketing, identity theft and other crimes.<sup>3</sup>

Another challenge identified by the research done for this study is the scarcity of combined expertise on combating trafficking in human beings (CTHB) and minority issues. The lack of such in-depth expertise may lead to gaps in both anti-trafficking and minority inclusion strategies to adequately respond to trafficking in persons belonging to minorities. In

that context, policies and practices in the OSCE region often fail to fully take into account the disproportionate impact of THB on persons belonging to minorities, including national minorities, as well as the specific vulnerabilities that traffickers target. As a result, pSs rarely specifically address the diverse issues related to persons belonging to minorities but rather aggregate all victims together under the pretext of serving them without discrimination. Moreover, anti-trafficking National Action Plans (NAPs) and minority issues strategies failed to ensure the consistency and complementarity of efforts to effectively address the trafficking of persons belonging to minorities. In 2022, only 29 per cent of anti-trafficking NAPs in the OSCE region addressed specific issues related to minorities.

Finally, this publication promotes tools to better protect persons belonging to minorities and enhance their access to justice and care. Among the good practices included in this publication are: targeted prevention campaigns in at-risk communities in a language they understand, the use of cultural mediators to improve communication between victims and service providers, the meaningful inclusion of expertise from minority community leaders and survivors to develop anti-trafficking responses, and the alignment of provisions in the National Action Plans and strategies on CTHB and minorities. Unfortunately, such interventions have been limited in scale and number. In this regard, this publication seeks to generate political will to further reduce the risks of THB and better respond to the needs of VoTs belonging to minorities. This includes raising awareness among decision makers, policymakers, lawmakers, and government officials about the links between trafficking in persons belonging to minorities and discrimination based on race and ethnicity, but also encouraging a society- and system-wide approach as opposed to framing THB as a 'minority issue', an approach that leads to further stigmatization and victimization.

“ This publication promotes tools to better protect persons belonging to minorities and enhance their access to justice and care.”

<sup>3</sup> In 2021–2022, the National Survivor Survey run by Polaris found that roughly 40 per cent of survivor respondents reported some kind of criminal records and of those, 90 per cent reported that all or some of their arrests were related to their exploitation. Polaris, *In Harm's Way: How systems fail human trafficking survivors*, Survey Results from the First National Survivor Study, January 2023.





## Purpose and structure of this study

A series of closed online consultations were organized with THB experts and experts on minorities. Those consultations brought together a total of 40 practitioners from civil society, representatives of international organizations and academia, community leaders and survivor leaders from ODIHR's International Survivors of Trafficking Advisory Council (ISTAC).

The participants discussed existing research, policies and practices that recognize and examine the nexus between the vulnerabilities leading to THB and the vulnerabilities of persons belonging to national minorities to THB. To conclude the round of consultations, OSR/CTHB and ODIHR organized an NGO roundtable in the margins of the 2022 Warsaw Human Dimension Conference.<sup>7</sup> The event provided an opportunity to directly engage with CSOs and to gather insights into trafficking patterns and racial and ethnic discrimination against persons belonging to minorities in the OSCE region.

One main conclusion from the expert discussions was that the focus on 'national minorities' did not fully capture the scope of the discrimination based on race and ethnicity that leads to THB and its impact on the most vulnerable segments of the population in the OSCE region. It was therefore decided to gain additional insights into the broader dynamics of trafficking in persons belonging to minorities, including national minorities. The consultations also revealed that experts had either THB expertise or expertise related to one specific minority group; combined expertise into THB and minorities was rare. This scarcity of expertise could explain why trafficking of individuals belonging to minorities is rarely addressed in anti-trafficking policies.

Within the OSCE region and beyond, persons belonging to minority groups, including national minorities, are subjected to various forms of THB, including for forced labour, sexual exploitation, forced begging, and forced and child marriages.<sup>8</sup> The vulnerability of persons belonging to minorities, combined with demand that fosters trafficking targeting specific minority groups, results in higher rates of THB in these communities in comparison to overall population. Although the data is not definitive due to a lack of recorded statistics on race and ethnicity, there are a number of data points indicating that persons belonging to minorities are over-represented among victims of trafficking (VoTs) when compared to total populations. For example, in Albania, a 2022 review of trafficking cases involving children in ten municipalities revealed that 28 per cent of the identified victims were of Roma–Egyptian ethnicity, a population which represents only approximately ten per cent of the total Albanian population.<sup>9</sup> Data collected by the European Roma Rights Centre (ERRC) and the NGO People in Need (PiN) in 2010 in Bulgaria, the Czech Republic, Romania and Slovakia also indicated that the majority of VoTs are Roma.<sup>10</sup> In the United States, Black girls make up nearly 50 per cent of the child sex trafficking victims in the state of Louisiana, but only 19 per cent of the total youth population.<sup>11</sup> Despite the lack of large datasets, we can learn from these samples that provide indications of the disproportionate impact of THB on minorities. The present research seeks to understand the dynamics behind those figures by shedding light on the interlocking and intersecting vulnerabilities and heightened risks faced by individuals from those marginalized communities.

7 For more information, see: <https://www.osce.org/chairmanship/warsaw-human-dimension-conference>

8 United Nations (2022), *Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences*, A/HRC/51/26: Contemporary forms of slavery affecting persons belonging to ethnic, religious and linguistic minority communities.

9 Internal report by the OSCE Presence in Albania on "strengthening Albanian anti-trafficking response", June 2023, not published.

10 European Roma Rights Centre and People in Need, *Breaking the Silence: Trafficking in Romani Communities*, March 2011, p. 11: Table 1: Estimated Representation of Roma by Trafficking Purpose and Target Country. Although relevant official data does not exist, anti-trafficking professionals interviewed as part of the ERRC/PiN study agreed that THB is an issue that disproportionately affects persons belonging to national minorities. For example, the estimates provided about the perceived representation of Roma among trafficked persons are several times higher than the proportion of Roma in the general population. While Roma constitute between 3 per cent and 10 per cent of the population in the targeted countries, the research indicated that Roma represent 50–80 per cent of victims in Bulgaria, up to 70 per cent in parts of the Czech Republic, at least 40 per cent in Hungary, around 50 per cent in Romania, and at least 60 per cent in Slovakia.

11 *Racial Disparities, Covid-19, and Human Trafficking*, Polaris Project. For comparative data on racial and gender disparities in the United States, see *Rights4Girls, Racial & Gender Disparities in the Sex Trade*. In Cook County, Illinois, between 2012 and 2016, Black women made up 66 per cent of VoTs for the purpose of sexual exploitation, and yet comprise only 13 per cent of the county's population. In King County, Washington, 52 per cent of all child sex trafficking victims are Black and 84 per cent of those victims are girls, although Black girls only comprise 1.1 per cent of the general population. In South Dakota, Native American women make up 40 per cent of VoTs for the purpose of sexual exploitation, but only 8 per cent of the total population. See also, Jamaal Bell (2011), *Race and Human Trafficking in the U.S.: Unclear but Undeniable*. The Kirwan Institute for the Study of Race and Ethnicity at Ohio State University reports that the majority of VoTs – about 77 per cent – in the United States are people of colour.

## Terminology

Chapter I analyses existing legal and policy frameworks for tackling the trafficking in persons belonging to minorities. Chapters II and III look into THB risks and patterns that affect persons belonging to minorities, including national minorities. Based on the survey findings and additional desk research, the paper argues that racial and ethnic discrimination is not only a risk factor leading to marginalization and greater vulnerability to trafficking, but it is also a determinant in the treatment received by VoTs belonging to minorities, treatment that is often characterized by identification and protection failures. Finally, Chapter IV offers policy recommendations for improving participating States' responses to prevent and prosecute trafficking in persons belonging to minorities and for ensuring non-discriminatory approaches to identification, protection, assistance and support of victims and survivors of trafficking.

During the consultations for the preparation of this report, several experts called for the adoption of a clear definition of the term 'minority', whereas others remained in favour of a broad definition allowing the flexibility to include the diversity of circumstances faced by victims and survivors. While there is no uniform definition agreed upon by all OSCE pSs, this paper looks into a wide range of minority groups, including ethnic, cultural, linguistic and religious communities, regardless of whether these groups are recognized as such by pSs, where they reside and irrespective of the designation applied to or claimed by them.<sup>12</sup> To quote former OSCE High Commissioner on National Minorities, Max van der Stoep, "the existence of a minority is a question of fact and not [of] definition."<sup>13</sup>

By recognizing the multitude of perspectives regarding the term 'minorities', as well as the related diverse cultural and historical contexts, this paper focuses on the lived experiences of marginalized and under-represented communities that are at higher risk of THB as a result of discrimination based on race or ethnicity. The experiences of persons belonging to minorities may also vary in relation to the type and degree of the disadvantages they have been exposed to, including levels of access to resources and sense of inclusion or exclusion. This implies that the research findings and policy recommendations presented in this paper do not necessarily apply to every situation in the same way. While basic human rights are inherent to all, effective anti-trafficking policies will need to be tailored to meet the specific challenges and needs of different minority groups.

<sup>12</sup> OSCE High Commissioner on National Minorities (HCNM), *The Ljubljana Guidelines on Integration of Diverse Societies*, 7 November 2012.

<sup>13</sup> See: Curtis Budden, OSCE (2010), "Living up to the legacy? Key OSCE human rights document turns 20".



# CHAPTER 1

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# Legal and Policy Framework

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The legal and policy framework for addressing the trafficking in persons belonging to minorities in the OSCE region cuts across a broad range of instruments at the international and regional level, involving hard (binding) and soft (guidance) law instruments. Although specific references to the intersection between THB and minorities are limited, the non-discrimination and equality principles have long been a foundation of the rule of law.

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## International and regional instruments to tackle trafficking in persons belonging to minorities

The principle of non-discrimination implies that every individual is entitled to the enjoyment of their rights without discrimination on any grounds and should not be treated less favourably simply because of a particular characteristic such as their racial or ethnic origin. The International Covenant on Civil and Political Rights,<sup>14</sup> the International Covenant on Economic, Social and Cultural Rights<sup>15</sup> and the Universal Declaration of Human Rights<sup>16</sup> establish fundamental human rights without distinction or discrimination “of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”. The United Nations Convention on the Rights of the Child<sup>17</sup> also recalls the obligation to ensure the rights of the child “without discrimination of any kind, irrespective of the child’s or his or her parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status” (Art. 2).

The International Convention on the Elimination of All Forms of Racial Discrimination is another internationally binding instrument that strengthens these provisions, especially in the context of decent work and education. The obligation to respect these rights, as outlined in Art. 5, prohibits racial discrimination in all its forms, guaranteeing the right of everyone to work (5(e)i) and the right to education and training (5(e)v).<sup>18</sup> Art. 7 complements this, guaranteeing the adoption of effective measures in the field of teaching, education, culture and information to tackle prejudices that lead to racial discrimination.<sup>19</sup>

Furthermore, the General Comments No. 18 (2006) and No. 23 (2016) adopted by the UN Committee on Economic, Social and Cultural Rights provide further guidance on the right to work (Art. 6) and the right to just and favourable conditions of work (Art. 7) contained in the International Covenant on Economic, Social and Cultural Rights. The Committee speci-

fies that “States parties are under the obligation to respect the right to work by, inter alia, prohibiting forced or compulsory labour and refraining from denying or limiting equal access to decent work for all persons, especially disadvantaged and marginalized individuals and groups, including (...) members of minorities” (para. 23).<sup>20</sup> Furthermore, “the right to just and favourable conditions of work is a right of everyone, without distinction of any kind.”<sup>21</sup>

The UN Committee on the Elimination of Discrimination against Women also issued the General Recommendation No. 38 (2020) on trafficking in women and girls in the context of global migration.<sup>22</sup> In this document, the Committee sets forth a number of recommendations to combat trafficking in women and girls, particularly those belonging to indigenous<sup>23</sup> and ethnic minority communities. The Committee recalls that “the women and girls who are most vulnerable to being trafficked are those belonging to marginalized groups, such as women and girls living in rural and remote areas, those belonging to indigenous and ethnic minority communities (...)”. It adds that “members of certain ethnic or racial groups may be targeted for trafficking-related exploitation on the basis of (...) racist or culturally discriminatory assumptions as those relating to their sexuality, servility or work capacity”.

At the regional level, the European Convention for the Protection of Human Rights and Fundamental Freedoms reaffirms the prohibition of discrimination on any grounds, such as association with a national minority, in the enjoyment of the rights and freedoms (Art. 14), including the prohibition of slavery and forced labour (Art. 4).<sup>24</sup> The Commonwealth of Independent States (CIS) has also adopted a Convention on human rights and fundamental freedoms<sup>25</sup> as well as a Convention on providing the rights of persons belonging to ethnic minorities.<sup>26</sup> By becoming parties to these different international treaties, pSs have obligations to respect, to protect and

14 United Nations (1966) *International Covenant on Civil and Political Rights*. Art. 2.1 “Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

15 United Nations (1966), *International Covenant on Economic, Social and Cultural Rights*. Art. 2.2 “The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

16 United Nations (1948), *Universal Declaration of Human Rights* (10 December 1948), Art. 2 affirms the respect for human rights and fundamental freedoms for all “without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

17 United Nations (1990), *Convention of the Rights of the Child*.

18 United Nations (1965), *International Convention on the Elimination of All Forms of Racial Discrimination*, (21 December 1965), Art. 5.

19 United Nations (1965), *International Convention on the Elimination of All Forms of Racial Discrimination*, (21 December 1965), Art. 7.

20 UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 18: The Right to Work (Art. 6 of the Covenant), 6 February 2006, E/C.12/GC/18.

21 UN Committee on Economic, Social and Cultural Rights (CESCR), *General comment No. 23 (2016) on the right to just and favourable conditions of work*, 7 April 2016, E/C.12/GC/23.

“The reference to ‘everyone’ highlights the fact that the right applies to all people in all settings, regardless of gender, as well as (...) those from ethnic and other minorities (...). The reference to ‘everyone’ reinforces the general prohibition on discrimination in article 2.2 and the equality provision in article 3 of the Covenant, and is supplemented by the various references to equality and freedom from distinctions of any kind in sub-articles 7 (a) (i) and (c).”

22 CEDAW (2020), *General Recommendation No. 38 on trafficking in women and girls in the context of global migration*.

23 For the purpose of this paper, the terms Native Americans, Indians, Indigenous, First Nations, Tribes are used interchangeably in accordance to the document or report cited in relation to the situation of indigenous populations in Canada and the United States. Indigenous and minorities are distinct groups but they experience similar problems when it comes to trafficking risks. Indigenous populations are more likely to live in poverty than the ethnic majority of a given country and they are often victims of discrimination as well as social and economic marginalization.

24 Council of Europe (1950), *Convention for the Protection of Human Rights and Fundamental Freedoms*.

25 Commonwealth of Independent States (1995), *Convention on the rights and fundamental freedoms of the person*

26 Commonwealth of Independent States (1994), *Convention on providing the rights of persons belonging to ethnic minorities*

to fulfil those human rights. With regard to the obligation to respect, States must refrain from interfering with or curtailing the enjoyment of human rights. Furthermore, the obligation to protect requires States to protect individuals and groups against human rights abuses. Lastly, States have an obligation to fulfil by taking positive action to facilitate the enjoyment of those rights by everyone, including persons belonging to minorities.

Closely related to the principle of non-discrimination is the principle of equality in law and equal protection of the law. In the 1990s, the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious, and Linguistic Minorities<sup>27</sup> and the Council of Europe's Framework Convention for the Protection of National Minorities<sup>28</sup> were adopted to specifically address the rights of minorities. They both emphasize the need to guarantee to persons belonging to minorities the right to equality before the law and to equal protection under the law without any discrimination. In the early 2000s, the Durban Declaration and Programme of Action was adopted as the UN blueprint to globally combat racism, racial discrimination, xenophobia and related intolerance. Although the Durban Declaration was a political commitment that is not legally binding, it marked a fundamental development with specific references to THB serving as a basis for advocacy efforts by pSs and relevant partners.<sup>29</sup>

**“ We affirm the urgent need to prevent, combat and eliminate all forms of trafficking in persons, in particular women and children, and recognize that victims of trafficking are particularly exposed to racism, racial discrimination, xenophobia and related intolerance”.**

*Durban Declaration, para. 30 (2001)*

With regard to international and regional anti-trafficking legal instruments, references to persons belonging to minorities are also limited. Article 9(4) of the Protocol to Prevent, Suppress and Punish trafficking in persons, especially Women and Children, supplementing the UN Convention against Transnational Organized Crime, only mentions the obligation to take or strengthen measures “to alleviate the factors that make persons (...) vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity.”<sup>30</sup> High levels of poverty and inequitable access to resources and opportunities are key markers linked to racial and ethnic minorities, and are therefore relevant for addressing trafficking in persons belonging to national minorities.<sup>31</sup> Art. 3 of the Council of Europe's Convention on Action against Trafficking in Human Beings further states that victims' rights shall be secured “without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”<sup>32</sup>

Although the above-mentioned provisions only indirectly address the dynamics relating to THB and minorities, they are particularly reflective of issues inherent to discrimination and prejudices against racial and ethnic groups. In fact, the lack of equal opportunities and of access to quality education, training and employment are all contributing factors that can increase the vulnerabilities of national minorities to the crime of trafficking; it is vulnerabilities like these that traffickers exploit when targeting victims. In this context, there is a dual obligation to prevent indirect discrimination<sup>33</sup> by taking positive measures to facilitate access to justice, and not to discriminate against persons belonging to national minorities seeking such access, which is critical to ending and preventing THB. This must also include intentional efforts by States to apply the non-punishment principle toward VoTs who are members of minorities.

27 United Nations (1992), Declaration on the Rights of Persons Belonging to National or Ethnic, Religious, and Linguistic Minorities, Art. 4(1).

28 Council of Europe (1995), Framework Convention for the Protection of National Minorities, Art. 4.

29 United Nations (2001), Durban Declaration and Programme of Action.

30 United Nations (2000), Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

31 United Nations (2022), Thematic study by the Expert Mechanism on the Right to Development, A/HRC/51/37; UN Special Rapporteur on contemporary forms of racism, Poverty inextricably linked to discrimination and racism, press statement, 4 November 2013; OHCHR, “There is indeed a relationship between race and poverty”, web story, 21 November 2022.

32 Council of Europe, Convention on Action against Trafficking in Human Beings, CETS No. 197 (16 May 2005).

33 Indirect discrimination based on race and ethnicity is understood as discrimination that occurs when an apparently neutral provision, criterion or practice puts persons of one ethnicity or race at a particular disadvantage compared with persons of another race or ethnicity, unless that provision, criterion or practice is objectively justified by a legitimate aim, and the means for achieving that aim are appropriate and necessary. See ODIHR (2019), Note on the anti-discrimination legislation and good practices in the OSCE region.

## OSCE commitments

The principle of non-discrimination and the rights of persons belonging to national minorities before the law are also enshrined in the documents adopted by the Conference on Security and Co-operation in Europe (CSCE) as early as 1975 in the Helsinki Final Act,<sup>34</sup> followed by the 1990 Copenhagen Document<sup>35</sup> and the 1992 Helsinki Document.<sup>36</sup> Moreover, the CSCE/OSCE has developed a solid political framework for addressing discrimination, starting with the Moscow (1991)<sup>37</sup> and Budapest (1994)<sup>38</sup> Documents, the 2003 Maastricht Final Document,<sup>39</sup> the 2005 Ministerial Council Decision on Tolerance and Non-Discrimination<sup>40</sup> and the 2009 Ministerial Council Decision on Combating Hate Crimes.<sup>41</sup> Through the adoption of these documents, OSCE pSs have firmly condemned violations of human rights and fundamental freedoms related to national minorities and have rejected any form of racial or ethnic discrimination and hatred. Moreover, they have committed to stepping up their efforts to protect and promote the rights of persons belonging to national minorities, including by taking effective measures to ensure equality of opportunity, which is essential for preventing and ending THB.

With the adoption of specific commitments to prevent and combat THB, the OSCE pSs have also recognized the nexus between THB and racial and ethnic discrimination. In this regard, the 2003 OSCE Action Plan to Combat Trafficking in Human Beings (Action Plan) highlights the “root causes of trafficking in human beings, occurring both in countries of origin and destination (...) such as poverty, weak social and economic structures, lack of employment opportunities and equal opportunities in general, violence against women and children, discrimination based on sex, race and ethnicity”.<sup>42</sup> The pSs further recognize the significance of “identifying the most vulnerable segments of the population” and “addressing all forms of discrimination against minorities”.<sup>43</sup> Under the recommended economic and social policies aimed at addressing the root causes of THB at the national level, the Action Plan highlights the need to improve children’s access to education, in particular children belonging to minority groups.<sup>44</sup> It also recommends the development of targeted awareness-raising campaigns focusing on

the most vulnerable groups, including persons belonging to national minorities. Lastly, it tasks the Office of the Co-ordinator of OSCE Economic and Environmental Activities (OCEEA) with developing “programmes to tackle economic factors that increase the vulnerability of women and minorities to trafficking”, as well as ODIHR’s Contact Point on Roma and Sinti with gathering data regarding THB.

The 2013 Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings further recommends enlarging multi-disciplinary partnerships to facilitate dialogue and co-operation with members of ethnic, national and religious minorities in order to contribute to the identification of trafficked persons and advance the protection of the rights of potential, presumed and actual VoTs.<sup>45</sup>

These provisions attest to the recognition by the OSCE pSs of the need to address trafficking that affects persons belonging to minorities, including national minorities. Specific references to the trafficking of Roma and Sinti communities also appear in the 2003 OSCE Action Plan to Combat THB,<sup>46</sup> the 2003 OSCE Action Plan on Improving the Situation of Roma and Sinti,<sup>47</sup> and the 2013 Ministerial Council Decision on enhancing OSCE efforts to implement the Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area, with a particular focus on Roma and Sinti Women, Youth and Children.<sup>48</sup> Moreover, the 2015 Ministerial Council Decision on Preventing and Combating Violence against Women explicitly highlights concerns regarding the particular targeting or vulnerability to violence and hence the need for protection of girls and certain groups of women, such as women belonging to minority groups and indigenous women.<sup>49</sup>

Through the adoption of those commitments and declarations, the OSCE pSs have long recognized the heightened vulnerability of persons belonging to minority groups and the need to develop specific measures to prevent and end the trafficking of individuals belonging to such groups.

34 CSCE (1975), Helsinki Final Act.

35 CSCE (1990), Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE. The Copenhagen Document outlines a number of human rights and fundamental freedoms, and introduces far-reaching provisions regarding national minorities.

36 CSCE (1992), Third CSCE Summit of Heads of State or Government, Helsinki, 9–10 July 1992. The Challenges of Change. Para. 12.

37 CSCE (1991), Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE. Para. 38.1.

38 CSCE (1994), Fourth CSCE Summit of Heads of State or Government, Budapest, 5–6 December 1994. Towards a Genuine Partnership in a New Era. Para. 7, 25, 26 and 30.

39 OSCE (2003), Final Document of the Eleventh Meeting of the OSCE Ministerial Council, Maastricht, 1–2 December 2003. Para. 38.

40 OSCE Ministerial Council (2005), MC.DEC/10/05.

41 OSCE Ministerial Council (2009), MC.DEC/9/09.

42 OSCE Ministerial Council (2003), MC.DEC/2/03. OSCE Action Plan to Combat Trafficking in Human Beings.

43 Supra IV Prevention of THB, Recommended action at the national level, 1.2 and 3.1.

44 Supra IV Prevention of THB, Recommended action at the national level, 3.3.

45 OSCE Permanent Council (2013), Decision No. 1107, “Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings: One Decade Later”, 6 December 2013.

46 OSCE Ministerial Council (2003), Decision No. 2/03, “Combating Trafficking in Human Beings”, Maastricht, 3 December 2003, MC.DEC/2/03. IV. Prevention of trafficking in human beings, para. 6.2. “Tasking ODIHR’s Contact Point on Roma and Sinti with continuing to gather data regarding trafficking in human beings, especially children, and its effects on Roma and Sinti communities.”

47 OSCE (2003), Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area, PC.DEC/566. Para. 132. “In co-operation with relevant OSCE institutions and structures, the ODIHR will develop appropriate action aimed at tackling the root causes of trafficking in human beings, especially in children, and raise awareness of its consequences among Roma and Sinti communities.”

48 OSCE Ministerial Council (2013), Decision No. 4/13 on the enhancing OSCE efforts to implement the Action Plan on Improving the Situation of Roma and Sinti Within the OSCE Area, With a Particular Focus on Roma and Sinti Women, Youth and Children, Kyiv, 5–6 December 2013. Para. 2. “Prevent further marginalization and exclusion of Roma and Sinti and address the rise of discrimination and violent manifestations of intolerance against Roma and Sinti, including against Roma and Sinti migrants, by: (...) Taking measures to ensure the security, well-being and health of Roma and Sinti women, youth and children, including by addressing domestic violence, early marriages and trafficking in human beings, including, where necessary, by providing access to rehabilitative support.”

49 OSCE Ministerial Council (2015), MC.DEC/15/05.

## CHAPTER 2

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# Minority-Related Factors of Vulnerability to THB

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The surveys and research carried out to prepare this report revealed several types of minority-related factors of vulnerability to THB. Persons belonging to minorities experience structural, personal and environmental factors of vulnerability. Traffickers specifically target and exploit those vulnerabilities, leading to a greater risk of trafficking among minority groups.

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## Structural vulnerabilities: A legacy of discrimination

The lasting impact of historical patterns of prejudice, bias and unequal treatment based on specific characteristics, such as a person's presumed race, skin colour, descent or national or ethnic origin can manifest in various ways. Throughout history and across regions, minority groups have been systematically discriminated against, resulting in significant social and economic disparities. Across generations, persons belonging to minorities, including national minorities, may have had limited political rights and fewer opportunities to access education,<sup>50</sup> decent employment<sup>51</sup> and healthcare. Historical housing segregation has also contributed to the marginalization of communities concentrated in certain areas characterized by high levels of poverty, restricted social mobility and criminality, with limited access to resources and opportunities.<sup>52</sup>

“ [Minorities] are bound by their inherited status and subjected to dehumanizing discourses that refer to ‘pollution’ or ‘untouchability’, with no respect for human dignity and equality.” The completion rate is lower and the drop-out rate is higher among minority students. A lack of adequate, accessible and affordable education among minorities and migrant workers means that their chances of accessing decent work, particularly in the formal economy, remain limited. (...) The unemployment rate is higher among minorities, and children who have dropped out of school are often encouraged or forced to work, including in the worst forms of child labour, and subjected to criminal exploitation.”<sup>53</sup>

*UN Special Rapporteur on contemporary forms of slavery, including its causes and consequences*

50 According to a survey conducted on Roma in 2017 by the Government Office of Human Rights and Rights of National Minorities of Croatia, only 30 per cent of Roma children actually attend school. See Report by the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings following the official visit to Croatia 3–5 September 2019, para. 59. See also Report by the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Valiant Richey, following the country visit to Bulgaria 22–24 June 2021, OSCE. Reportedly, 22 per cent of Roma people in Bulgaria are illiterate, and 91 per cent have not received any secondary education. See: Report by the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings following the official visit to Croatia 3–5 September 2019, para. 59. According to Montenegro's Ministry of Education from 2018, only 56 per cent of Roma and Egyptian children completed primary school compared to a 96 per cent completion rate among non-minority children. The high school graduation rate is only 3 per cent for Roma and Egyptian children, while the high school graduation rate for the majority population is 86 per cent. Government of Montenegro Ministry for Human and Minority Rights, Strategy For Social Inclusion of Roma and Egyptians, 2021–2025, p. 47.

A number of the experts who contributed to the consultations also highlighted the contemporary manifestation of the historical dimensions of the vulnerability of minority populations to THB. According to them, in OSCE pSs, the lingering impact of structural discrimination is one of the fundamental challenges in addressing trafficking in persons belonging to minorities. Systems of colonialism and chattel slavery have their foundation in the exploitation of other human beings for financial and personal profit. The ‘other’ is systematically dehumanized, humiliated, considered less worthy and inferior and is denied equal rights. Today's prevalence of THB in communities affected by a history of enslavement clearly demonstrates the long-term intergenerational impact of discrimination and societal marginalization.

The legacy of discrimination persists because the effects of past discrimination often create cycles of exclusion, marginalization and disadvantage engrained in state and societal structures. Discriminatory attitudes allow a cultural and social substratum to develop, contributing to various types of normalization or justification of violence against and exploitation of persons belonging to minorities. In a 2021 survey of more than 80 survivors of trafficking in the United States, more than 60 per cent of the respondents stated that racism made them more vulnerable to THB. Of these respondents, 93 per cent identified as Black, Indigenous or People of Colour (BIPOC).<sup>54</sup>

51 For example, unemployment among Roma communities in Bulgaria is estimated to be up to 70–90 per cent, compared to the national average of 8–10 per cent. See para. 62 of the Report by the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Valiant Richey, following the country visit to Bulgaria 22–24 June 2021, OSCE.

52 OSCE Parliamentary Assembly, 2012, Gender Balance Report: Women as National, Ethnic, Linguistic, Racial and Religious Minorities. The report notes that minority women are more likely to live in segregated low-income and overcrowded housing and neighbourhoods, often with limited access to basic services, therefore exposing them to higher risks of THB. See also European Union Agency for Fundamental Rights (2019), “Being Black in the EU: Second European Union Minorities and Discrimination Survey” and European Commission (2020), “A synthesis of civil society's reports on the implementation of national Roma integration strategies in the European Union – Identifying blind spots in Roma inclusion policy,” Center for Policy Studies, Central European University.

53 United Nations, 2022, Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, A/HRC/51/26: Contemporary forms of slavery affecting persons belonging to ethnic, religious and linguistic minority communities, para. 12 and para. 16–17.

54 Black, Indigenous, People of Color (BIPOC) project, Human Trafficking Legal Center, 2021.

Despite discriminatory practices or laws having been formally reformed or repealed, negative stereotypes and biases stemming from historical discrimination often persist in societal attitudes and impact how individuals from marginalized groups are perceived and treated. The survey respondents and consulted experts highlighted that systemic discrimination and historical injustice against minorities, including national minorities, create inequities that weaken anti-trafficking efforts and embolden traffickers. Imbalances of opportunity and support help perpetuate housing instability, food insecurity, lack of economic opportunity, substance abuse and involvement in institutional care or in the justice system.<sup>55</sup> This, in turn, creates socioeconomic and emotional vulnerabilities that traffickers target and exploit.

“ In examining THB for the purpose of sexual exploitation of women and girls from minorities, it is crucial to address the root causes such as patriarchy, colonialism, class and demand.”

*Hema Sibi, CAP international*

On the other hand, the demand fuelling trafficking tends to target individuals from certain ethnic or racial minorities on the basis of discriminatory assumptions related to their sexuality, servility or work capacity.<sup>56</sup> With regard to sexual exploitation for example, while 40 per cent of VoTs identified in the United States were Black compared with 13 per cent of the general population,<sup>57</sup> 85 per cent of online sex buyers were White, highlighting racial disparities between buyers and victims.<sup>58</sup>

It is important to note that traffickers respond to demand, but also target vulnerable communities whose abuse and exploitation will not trigger a strong social or criminal justice response. The exploitation of people from such communities, whether in commercial sexual exploitation, labour exploitation or criminal activities, is often socially accepted or disregarded because such people are perceived as a substratum with less rights. With interventions of criminal justice systems limited or distrusted as a result of systematic racial profiling and discrimination, such people have a greater risk of being trafficked.

“ Racism and racial discrimination attack the core of a person’s dignity, for they seek to divide the human family, to which all people and individuals belong, into categories, some of which are considered more worthy than others. History has proved time and again that, when allowed to take root, discrimination, racism and intolerance shatter the very foundations of societies and damage them for generations.”<sup>59</sup>

*Navi Pillay, Former UN High Commissioner for Human Rights*

Failure to address the legacy of discrimination against those groups makes persons belonging to minorities more vulnerable to THB. The consulted experts emphasized the need for OSCE pSs to acknowledge the historical roots of lingering discriminatory attitudes against minorities, whether displayed prior to, during or after a person’s trafficking experience.

Acknowledgement of the dynamics at play requires collecting data on VoTs belonging to minorities as well as on their perpetrators. Yet in most OSCE pSs, while the citizenship of VoTs may be recorded, their ethnicity is rarely documented. The data collection issue is further exacerbated when traffickers have the same minority background or are even from the same families as the VoTs. In those situations, concerned communities fear that highlighting THB cases might result in further discrimination, stigmatization or acts of punitive criminal justice. Official mechanisms to monitor cases of individual or structural racism and discrimination against minorities that lead to THB are also lacking. One organization that is undertaking such work is the NGO Rights4Girls, whose key task is to collect data from various jurisdictions to highlight racial disparities and promote gender-responsive and culturally-appropriate prevention policies in the United States. Their data offers evidence of the legacy of racialized discrimination, highlighting the disproportionate impact of THB for sexual exploitation on women and girls of colour, with sex buyers mostly white middle class men.<sup>60</sup>

55 Discriminatory policing, sentencing, and incarceration practices disproportionately affect certain racial and ethnic groups. See United Nations Committee on the Elimination of Racial Discrimination, (2020) *General recommendation No. 36 on preventing and combating racial profiling by law enforcement officials*.

56 OSCE OSR/CTHB (2021), *Discouraging the demand that fosters trafficking for the purpose of sexual exploitation*. See also: CEDAW (2020), *General Recommendation No.38 on trafficking in women and girls in the context of global migration*, paras. 61 and 62.

57 U.S. Department of Justice, *Characteristics of Suspected Human Trafficking Incidents, 2008–2010* (Washington, D.C.: U.S. Department of Justice, April 2011), Table 5.

58 Christine Milrod and Martin A. Monto, *The Hobbyist and the Girlfriend Experience: Behaviors and Preferences of Male Customers of Internet Sexual Service Providers* (*Deviant Behavior*, Volume 33, 2012), p. 799.

59 United Nations (2012), *Foreword by UN High Commissioner for Human Rights, United against Racism, Racial Discrimination, Xenophobia and Related Intolerance Scourge of racism, Durban Declaration and Programme of Action (2001) Durban Review Conference (2009) Outcome Document 10th Anniversary of the Durban Declaration and Programme of Action (2011) Political Declaration*, United Nations Department of Public Information, New York.

60 Rights4Girls, 2018, *Racial & Gender Disparities in the Sex Trade*.

## The intersectionality of personal vulnerabilities

The consulted experts also pointed to the lack of political will to address these issues. Acknowledging and addressing the legacy of discrimination involves implementing far-reaching policies and initiatives aimed at promoting equality and social justice. Several experts advocated for well-resourced policy and social changes and highlighted the risk of “window dressing” measures: measures that do not lead to a comprehensive response to the vulnerabilities of persons belonging to national minorities.<sup>61</sup>

“Not centring chattel slavery’s legacy as the pipeline for the over-representation of Black, Brown, and Indigenous bodies as victims, but co-opting the word ‘slavery’ for shock value is another way that anti-trafficking movements perpetuate racism.”<sup>62</sup>

*Survivor, BIPOC Project*

An intersectionality perspective is crucial for ensuring that attention is paid to and action undertaken for persons belonging to minorities who are insufficiently protected from the risks of THB. Any potential, presumed or actual trafficked person carries multiple layered identities based on gender, nationality, race, ethnicity, age, possible disabilities, language, religion, etc. Although an individual personal trait should not be considered a vulnerability in and of itself, these identities can form barriers to THB prevention, identification, assistance, criminal justice, redress and social inclusion.<sup>63</sup> In both the pS and CSO surveys, the most commonly-reported forms of discrimination which led to increased vulnerability to THB involved the intersection between belonging to a national minority and being female, having an uncertain legal status (such as lack of identification documentation, birth registration, citizenship, etc.) and being a child.

“Race intersects with other forms of subordination including gender, class, and age to push people of color disproportionately into prostitution and keep them trapped in the commercial sex industry. Its intersectional oppression is fueled by the persistence of myths about minority teen sexuality, which in turn encourages risky sexual behavior.”<sup>64</sup>

*Cheryl Nelson Butler*

61 See also European Roma Grassroots Organisations Network (2023), “European Commission releases Spring Package – What’s in it for Europe’s Roma?”

62 Black, Indigenous, People of Color (BIPOC) project, Human Trafficking Legal Center, 2021.

63 For a thorough analysis of gender-based barriers to prevention, identification, assistance and justice, see OSCE OSR/CTHB (2021), *Applying gender-sensitive approaches in combating trafficking in human beings*.

64 Butler C. N. (2015), *The Racial Roots of Human Trafficking*, UCLA Law Review 1464.

## Gender

Women and girls from certain racial or ethnic groups across the OSCE region are often the target of discriminatory attitudes based on race, ethnicity and gender, attitudes that are used to justify violence and exploitation.<sup>65</sup> Even when familial trafficking for the purposes of sexual exploitation or forced marriage are formally criminalized, the legislative and administrative frameworks for the protection of women and girls are not fully implemented. According to several pS survey respondents, these harmful practices are rarely reported or investigated because of the prevalence of customs and traditions and the impervious nature of minority communities.

Another prevalent form of THB that affects women belonging to minorities is forced marriage for the purpose of document fraud, or exploitative sham marriages. In most cases of this type, women with a history of social exclusion and marginalization, financial difficulties, low education and limited language skills are induced to travel to a foreign country with the intention of concluding a marriage with a third-country national for financial reward. The purpose of the marriage is usually for the groom to receive a residence permit. This phenomenon is very gendered in nature and thus requires a gender-specific response empowering and protecting women and girls in communities at risk.<sup>66</sup>

“Women of color...[e]xperience double-discrimination – the combined effects of practices which discriminate on the basis of race, and on the basis of sex. And sometimes, they experience discrimination as Black women – not the sum of race and sex discrimination, but as Black women.”<sup>67</sup>

*Professor Kimberlé Crenshaw*

65 Extensively highlighted in both research and literature have been the colonial roots of risks of THB for the purpose of sexual exploitation among Aboriginal women and girls in British Columbia, Canada. See Lynne, Jackie 1998 “Colonialism and the Sexual Exploitation of Canada’s First Nations women”; Farley, M., Lynne, J., Cotton, A.J., 2005, Prostitution in Vancouver: Violence and the colonization of First Nations women; Hunt, Sarah, 2011, Colonial Roots, Contemporary Risk Factors: A cautionary exploration of the domestic trafficking of Aboriginal girls and women in British Columbia, Canada; Hunt, Sarah, 2016, Colonial Representing Colonial Violence: Trafficking, Sex Work, and the Violence of Law; Bourgeois, Robyn, 2015, Colonial Exploitation: The Canadian State and the Trafficking of Indigenous Women and Girls in Canada; Koebel, Nina, 2014, Domestic Sex Trafficking and Exploitation of Aboriginal Women and Girls: Exploring the legacy of colonialism in Canada. See also “Stolen Sisters: Discrimination and Violence Against Indigenous Women in Canada”, Amnesty International, 2009; Ontario Native Women’s Association Report prepared for consideration by the Standing Committee on Justice and Human Rights study on Human Trafficking in Canada, Heather Cameron and Courtney Skye, June 2018. A racist, sexist and classist history of sexual exploitation is however not limited to Canada. See Farley, M., et al., Garden of Truth: The Prostitution and Trafficking of Native Women in Minnesota, Minnesota Indian Women’s Sexual Assault Coalition and Prostitution Research & Education, 27 October 2011 “[...] Native women are at exceptionally high risk for poverty, homelessness, and sexual violence which are elements in the trafficking of women (...) 62 per cent of the respondents saw a connection between prostitution and colonization, and explained that the devaluation of women in prostitution was identical to the colonizing devaluation of Native people. It is crucial to understand the sexual exploitation of Native women in prostitution today in its historical context of colonial violence against nations.” See also: Roe-Sepowitz, D., K. Jabola-Carolus, 2019, “Sex Trafficking in Hawai’i: The Stories of Survivors,” Arizona State University, Office of Sex Trafficking Intervention Research, Hawai’i State Commission on the Status of Women.

## Age

Children belonging to minorities are at risk of various forms of trafficking, including for exploitation in criminal activities (or forced criminality), sex trafficking, forced begging, forced marriage and labour exploitation, often with the participation of parents or relatives. Cases involving children belonging to minorities, in particular Roma and Sinti children, are frequently disregarded by law enforcement and social workers as “traditional cultural practices and customs” and are therefore not investigated for evidence of trafficking.<sup>68</sup>

“Minority families are not necessarily dysfunctional; they are rather in a dysfunctional situation. Research on child protection mechanisms for Roma minority children has not been successful in the past 30 years and authorities show more interest in prosecution than prevention. Child protection institutions must play a much stronger role to protect children’s needs on the ground rather than worrying about their legal status as a minority in the country”.

*Kevin Byrne, Independent expert on child rights and child protection*

The consulted experts and survey respondents indicated the need for additional resources to address issues of childhood poverty and adverse childhood experiences, including in the context of family-based care and residential care that present particularly high risks of THB. These compounded vulnerabilities were also highlighted by the UN Special Rapporteur on the sale, sexual exploitation and sexual abuse of children. In her reports, the Special Rapporteur raised concerns about children belonging to minority and indigenous communities, especially those placed in institutional and alternative care settings, who face heightened vulnerabilities to THB for the purpose of sexual exploitation and illegal adoption.<sup>69</sup> Children from minority and indigenous groups are found to be over-represented in

66 Viuhko, M., Lietonen, A. and Jokinen, A., “Happily Ever After? From Sham Marriages to Human Trafficking”, Exploitative Sham Marriages: Exploring the Links between Human Trafficking and Sham Marriages in Estonia, Ireland, Latvia, Lithuania and Slovakia, Viuhko, M., Lietonen, A., Jokinen, A. and Joutsen, M. eds., HEUNI Report Series 82 (Helsinki, 2016). See also UNODC, 2020, Interlinkages between Trafficking in Persons and Marriage, Issue Paper, Vienna.

67 Crenshaw, K., Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics, 1989 U. CHI. LEGAL F. 139 (1989).

68 See information regarding Albania, Bulgaria, Bosnia Herzegovina, Montenegro, Romania, Serbia, and Kosovo\* in United States Office to Monitor and Combat Trafficking in Persons (2023), Trafficking in Persons Report (All references to Kosovo in this text shall be understood in full compliance with United Nations Security Council Resolution 1244)

69 UN Report of the Special Rapporteur of the Human Rights Council on the sale, sexual exploitation and sexual abuse of children, A/77/140 (2022) and A/78/137 (2023); CRC/C/CZE/CO/5–6, para. 45; and E/C.19/2010/CRP.8, p. 11.

institutional care and as candidates for international adoption. Physical and psychological effects, as well as social isolation put those children at higher risks of trafficking. Traffickers often take advantage of such children's need for emotional support and bonding that is not fulfilled in institutional care settings and in the absence of stable parental figures.<sup>70</sup>

Another age-specific concern is child marriage. According to EU research data, around 2 per cent of Roma girls aged 10–15 are reported to be “traditionally married” or cohabiting with a partner. On average, around 16 per cent of Roma boys and girls aged 16–17 are legally or traditionally married or cohabiting. Child marriage affects education patterns for women and girls, exposing them to higher risks of exploitation. For example, only 6 per cent of Roma girls aged 16–17 who are married or cohabiting are in education, compared with 36 per cent of all Roma girls in this age group.<sup>71</sup> The consulted experts also highlighted that the high-school dropout rates among girls from minorities makes them particularly vulnerable to THB, in particular for the purpose of child marriage.<sup>72</sup> The main challenge is that child marriage may be assessed differently by courts based on the ethnic background of the perpetrators. Authorities may turn a blind eye to this practice due to the fear of imposing their own cultural norms and values onto a specific minority community.<sup>73</sup>

“Although child marriages are often formally criminalized, they take place under customary laws and as a part of traditional practices. For example, in Serbia, thousands of child marriages are recorded annually, regardless of the fact that it has been criminalized. Experts in Serbia mentioned that these marriages primarily affect girls and are most commonly identified among the Roma community, noting that child marriages among the Roma population is a habit, a rule and a custom or tradition from the past.”<sup>74</sup>

*Interlinkages between Trafficking in Persons and Marriage, UNODC*

70 United States Office to Monitor and Combat Trafficking in Persons (2018), *Child institutionalization and Human Trafficking*.

71 The survey was conducted in 11 EU Member States: Bulgaria, the Czech Republic, France, Greece, Italy, Hungary, Poland, Portugal, Romania, Slovakia and Spain. European Union Agency for Fundamental Rights (2013), *Analysis of FRA Roma survey results by gender*, Working Paper. See also European Union Agency for Fundamental Rights (2014), *Addressing forced marriage in the EU: legal provisions and promising practices*.

72 Council of Europe, *Strategy on the Advancement of Romani Women and Girls (2014–2020)*. See also UNICEF, 2013, *The status of Roma children and families in Bosnia and Herzegovina*, and UNICEF, 2017, *Child marriage among the Roma population in Serbia: ethnographic research*.

73 UNFPA, *Child marriage in Eastern Europe and Central Asia: regional overview*, p.8.

74 UNODC, 2020, *Interlinkages between Trafficking in Persons and Marriage*, Issue Paper, Vienna, p. 24.

## Legal status

The legal status of potential VoTs belonging to minorities, in particular national minorities, represents an additional contributing factor to THB since many such persons do not have access to birth registration, citizenship or identity documents. This prevents them from accessing basic public services or legal rights and protections.<sup>75</sup> The UN Committee on the Rights of the Child has expressed great concern over the large number of people who are not registered at birth, in particular among Roma and Sinti, since it leads to limited access to the enjoyment of basic rights, including to health care, education and social protection.<sup>76</sup> The lack of civil registration not only makes it easier for traffickers to recruit victims, it also obstructs state authorities in their attempts to detect the true identity of children who are being transported or to determine if the person accompanying a child is his/her parent or guardian. This hinders access to services.<sup>77</sup>

## Religion

Persons belonging to religious minorities may have a heightened vulnerability to trafficking since they may face discrimination impeding their access to employment as well as access to public services and protection if they do not convert or conceal their religious affiliation.<sup>78</sup> Traffickers may also target women and girls for religious conversion through forced marriage combined with domestic servitude and sexual exploitation.<sup>79</sup> Trafficking as a result of intersecting discrimination based on gender, ethnicity and religion is illustrated in the trafficking cases of Coptic Christian girls and young women<sup>80</sup> as well as of Yazidi women and girls. In a 2021 judgment in Germany against an Islamic State (IS) fighter for genocide and crimes against humanity, including one count of crime against humanity of enslavement and trafficking in human beings, the Higher Regional Court in Frankfurt underlined that the IS defamed members of the Yazidi religion as devil worshippers who had to be destroyed.<sup>81</sup> Thousands of Yazidis who did not manage to escape were either executed en masse, forced to convert to Islam and into labour, and were sold or offered as rewards to fighters. The IS held Yazidi girls and women captive, with girls and young women kept and abused by IS members as sex slaves, and older women used in private homes as domestic slaves.

75 United Nations, 2022, *Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences*, A/HRC/51/26: Contemporary forms of slavery affecting persons belonging to ethnic, religious and linguistic minority communities. See also CRC/C/SRB/CO/2–3: Concluding observations on the combined second and third periodic reports of Serbia, para. 30: “(...) there are currently approximately 8,500 persons who were not registered at birth, with the vast majority declaring themselves as Roma. The Committee is concerned that those people have limited access to the enjoyment of basic rights, including to health care, education and social protection.”

76 *Concluding observations on the combined second and third periodic reports of Serbia*, CRC/C/SRB/CO/2–3, para. 30.

77 Center for the Study of Democracy (2015), *Child Trafficking Among Vulnerable Roma Communities: Results of Country Studies in Austria, Bulgaria, Greece, Italy, Hungary, Romania and Slovakia*.

78 United States Office to Monitor and Combat Trafficking in Persons (2016), *Trafficking in Persons Report*.

79 Tadros, M., 2020, *Invisible Targets of Hatred: Socioeconomically Excluded Women from Religious Minority Backgrounds*, Coalition for Religious Equality and Inclusive Development (CREID) Working Paper 2, Brighton: Institute of Development Studies (IDS).

80 *Hear her Cries*, Comboni Missions Magazine winter 2021–22. See also *Aid to the Church in Need*, 2021, *Hear her cries: The kidnapping, forced conversion and sexual victimisation of Christian women and girls*.

81 OLG Frankfurt am Main, Urteil vom 30.11.2021, 5–3 SIE 1/20.

## The disproportionate impact of environmental and contextual vulnerabilities

The widespread human, material and economic losses caused by natural disasters or armed conflicts seriously impedes the ability of many families and communities around the world to provide for their basic needs.<sup>82</sup> For those affected by a humanitarian crisis, if there are limited options to safely and regularly seek domestic or international protection, this contributes to heightened risks of THB. Environmental and contextual vulnerability factors often have a disproportionate impact on minority communities. The higher levels of social, economic and political marginalization of such communities exacerbate their vulnerability to the negative consequences of crises, including THB.

The majority of the pS survey respondents reported that COVID-19 did not result in a change in the vulnerabilities of national minorities to THB. In contrast, the majority of the CSO survey respondents reported that the COVID-19 pandemic had resulted in significantly more or somewhat more vulnerability of national minorities to THB. In the absence of systematic monitoring of the vulnerabilities of national minorities, it is difficult to draw conclusions from this data. However, one pS reported that, since certain sectors like agriculture and domestic work remain excluded from worker protection frameworks, people employed in these sectors, in particular minorities, were somewhat more vulnerable to THB during the pandemic. Lockdowns during the COVID-19 pandemic and the subsequent economic decline have also disproportionately affected minority communities, since their members are more likely to work in low-wage or informal sectors without the option of remote work, which has led to job losses. ODIHR research indicates that the increased extreme poverty, unemployment, social exclusion and isolation triggered by the COVID-19 pandemic had disproportionate consequences for the most vulnerable groups, including increased risk of THB and exploitation.<sup>83</sup> Other studies docu-

mented increased levels of discrimination, stigmatization and scapegoating of minority groups, who were blamed for spreading disease.<sup>84</sup> This has also exacerbated the impact of the crisis by leading to further social isolation, reduced access to support services and even violence.

Similarly to global health emergencies or natural disasters related to climate change, armed conflict can increase vulnerabilities to THB, particularly in minority communities that were marginalized before the conflict, because their members experience the impact of economic disruption and erosion of social structures more severely.<sup>85</sup> As part of national workshops organized by the OSR/CTHB to address THB risks for people fleeing Ukraine as a result of the war, information was collected on the disproportionate impact of the conflict on persons belonging to national minorities.<sup>86</sup> Anti-trafficking stakeholders in countries hosting Ukrainian refugees noted the heightened THB risks of displaced Roma communities from Ukraine due to their challenges in accessing protection and services. Members of this community often lacked identity documents, had language barriers and thus less access to information about the support available to the displaced population from Ukraine, and experienced discrimination in access to housing and education.<sup>87</sup>

Those concerns are echoed in the report *Trafficking in Human Beings and Exploitation in the Context of the Ukraine War*, published in December 2022 by the German NGO Network against Trafficking in Human Beings.<sup>88</sup> The report highlights that an estimated 10 to 20 per cent of Roma people from Ukraine are stateless and thus without access to the international protection afforded in the EU to Ukrainian citizens. Since they have no identity papers, they are unable to register as refugees from Ukraine. Discrimination has also been documented in terms of access to services, including housing.<sup>89</sup> A

82 ICAT (2022), *Addressing vulnerability to trafficking in persons*, Issue brief 12; ICAT (2017), *Trafficking in Persons in Humanitarian Crises*, Issue Brief 2.

83 OSCE/ODIHR and UN Women (2020), *Guidance: Addressing Emerging Human Trafficking Trends and Consequences of the COVID-19 Pandemic*.

84 Human Rights Watch, "COVID-19 Fuelling Anti-Asian Racism and Xenophobia Worldwide: National Action Plans Needed to Counter Intolerance," 12 May 2020. See also OSCE/ODIHR, "Inclusion and not hatred needed to overcome the common crisis we face, OSCE human rights head says", 17 April 2020; OSCE ODIHR, "Persistent Roma Inequality Increases COVID-19 Risk, Human Rights Heads Say", 7 April 2020; Statement by Dunja Mijatović, Council of Europe Commissioner for Human Rights, "Governments must ensure equal protection and care for Roma and Travellers during the COVID-19 crisis", 7 April 2020; European Roma Rights Center, "Roma Quarantined at the Border to North Macedonia", 19 March 2020; EU observer, "Inequality, anti-Roma racism, and the coronavirus", 19 March 2020.

85 UNODC (2018), *Global Report on Trafficking in Persons*, Booklet 2: *Trafficking in persons in the context of armed conflict*, p. 17.

86 OSR/CTHB workshops organized between January and July 2023 in Bulgaria, Estonia, Germany, Greece, Hungary, Romania and Slovakia.

87 See also ODIHR, *Solutions to multiple challenges faced by Roma women urgently needed*, OSCE human rights head says, 6 April 2023.

88 German NGO Network against Trafficking in Human Beings (KOK), 2022, *Trafficking in Human Beings and Exploitation in the Context of the Ukraine War – An Investigation from the Perspective of Specialised Counselling Centres on the Situation in Germany*.

89 See: ODIHR, *The human rights situation of displaced Ukrainian Roma raises concerns amidst continuing prejudice*, 12 October 2023.

## Examples of effective measures to address the vulnerability of national minorities to THB

number of Roma people fleeing Ukraine reported that administrative authorities accused them of not being “real” war refugees and of wanting to receive benefits illegitimately.<sup>90</sup> It was also reported that Roma people were often housed separately from other refugees in temporary accommodation or were even refused accommodation.<sup>91</sup>

An aggravating factor is that minority groups frequently lack political representation. During crises, this can hinder the ability of such groups to advocate for their specific needs, resulting in insufficient resource allocation or policy decisions that do not effectively address their concerns. Moreover, humanitarian aid and relief efforts may not adequately respond to the needs of minority communities as a result of limited representation in decision-making processes or due to language barriers. All of these factors can lead to further marginalization and greater vulnerability to THB.

The action most commonly reported by pS survey respondents as a measure employed to address the THB vulnerability of persons belonging to national minorities was awareness or educational campaigns. The least used measure was training for local authorities on the trafficking of national minorities. Examples of awareness-raising and educational initiatives included door-to-door campaigns in Montenegro involving representatives from minority communities and institutions. In Serbia, workshops on the prevention of trafficking in girls for secondary school pupils were jointly organized by women’s organizations and Roma organizations. Among the tools used in North Macedonia to prevent the trafficking of Roma and Balkan Egyptian children were information materials and videos in the Roma language targeting primary school children at high risk of THB and illustrated brochures for primary and secondary school children and parents.

Critical for the protection of particularly vulnerable groups such as minority groups is comprehensive training and awareness-raising for all relevant stakeholders in social support systems. A few pS respondents reported training initiatives for community mediators in localities populated by Roma in Moldova, for Roma school assistants in Poland and for legal and social service providers in Serbia.<sup>92</sup> The online training Stop. Observe. Ask. Respond (SOAR) for Native communities and for healthcare providers serving American Indians, Alaska Natives, Native Hawaiians and Pacific Islanders is offered in the United States to address THB and its effect on these communities.<sup>93</sup>

Collaboration with organizations representing minority communities was also highlighted as a positive practice for effectively addressing the vulnerability of persons belonging to national minorities to THB. For example, the Not Invisible Act of 2019 in the United States increases intergovernmental co-ordination to identify and combat violent crimes against American Indians and within Indian lands. It also partners with Tribes to support and sustain safer tribal communities. In Montenegro, emphasis is put on the co-operation and joint actions with representatives from the NGO sector and the Red Cross of Montenegro who have good relations with

90 German NGO Network against Trafficking in Human Beings (KOK), 2022, op. cit., note 89. See also Zentralrat Deutscher Sinti und Roma (2022): *Melde- und Informationsstelle Antiziganismus (MIA) verurteilt die Diskriminierung geflüchteter ukrainischer Roma*.

91 German NGO Network against Trafficking in Human Beings (KOK), 2022, Ibid. See also Mirga-Wójtowicz, E., Talewicz, J., and Kołaczek, M. (2022), *Human rights, needs and discrimination - the situation of Roma refugees from Ukraine in Poland. Report on research and intervention activities*, Central Council of German Sinti and Roma. In this report, the authors documented acts of discrimination against Roma refugees from Ukraine in Poland. The authors also noted that in the flood of information noise about the refugee crisis, it escaped the public’s notice that Ukraine is an ethnically and culturally diverse country. At the start of the war, the attention to Roma fleeing the war was non-existent but slowly increased as a result of advocacy by Roma women and leaders in the media and public space. Rising tensions between Roma and non-Roma refugees from Ukraine in reception centres and places of residence also made it impossible to ignore any longer the vulnerability of Roma refugees.

92 For more information about Roma mediators, see Council of Europe (2006), *The situation of Roma School Mediators and Assistants in Europe* and Open Society Foundations (2011), *Roma Health Mediators: Successes and Challenges*.

93 SOAR for Native Communities online module through the National Human Trafficking Training and Technical Assistance Center (NHTTAC).

minority communities or come from those communities. Another example is the collaboration in Slovenia between the Government, NGOs and humanitarian agencies on school programmes to raise THB awareness in areas where members of the Roma community reside, with a specific focus on forced and arranged marriages.<sup>94</sup> With regard to funding, the Office on Trafficking in Persons at the U.S. Department of Health and Human Services offers grant opportunities for the provision of services to underserved populations, including those aimed at strengthening the response to VoTs in Native communities.

Several pSs emphasized the role of National Roma Inclusion Strategies as having a protective effect, in particular on children in relation to access to education systems.<sup>95</sup> Specific initiatives aimed at improving access to education and empowerment of persons belonging to national minorities were also highlighted by pSs, CSOs and the consulted experts. Among them is the Roma Education Fund (REF), an international foundation dedicated to closing the gap in educational outcomes between Roma and non-Roma.<sup>96</sup> Another example is an education project carried out by ODIHR between 2007 and 2011 that targeted Roma and Egyptian communities in two Albanian cities. Peer education was used in this project as an effective tool for protecting and empowering marginalized groups vulnerable to THB. Through the project, hundreds of families were contacted and assisted by peer educators, resulting in increased numbers of registered children, children attending school, children attending recreational and educational classes, children and family members in need receiving medical care and social assistance, and young people being assisted in attending vocational training courses and finding employment. The peer education work helped to better inform marginalized Roma and Egyptian communities about their rights and entitlements, as well as how to navigate an institutional climate that may be hostile and discriminatory. Particular attention was paid to the needs of girls and their families to prevent school dropout and early marriages.<sup>97</sup>

Several pS survey respondents underlined the importance of embedding specific and cross-referencing provisions in their national action plans against THB as well as in their national strategies for national minorities and other minorities, in order to thoroughly address the vulnerabilities of minorities to THB. Provisions included support measures aimed at improving the social and economic situation of persons belonging to minorities and reducing vulnerability to THB through anti-discrimination interventions regarding housing, education, health care, employment, legal status and social and family protection.<sup>98</sup> Regardless of the tools used to address the vulnerability factors of persons belonging to minorities, the consulted experts insisted on the need not to frame the question as a “minority issue” as this may lead to further stigmatization. They called for society- and system-wide approaches highlighting inequalities, discrimination and failures in institutional responses.

“It is important to emphasize the extent to which it is largely women and girls from minority backgrounds who are most at risk of being trafficked; the data is often not available, but the signs are indisputable. The most vulnerable minority women and girls come from Roma communities, Africa, and of African descent. By knowing who the main victims are and which community they come from, we can develop targeted measures to reach them more effectively.”

*Fernand de Varennes, former UN Special Rapporteur on minorities issues*

94 OSR/CTHB Survey Report 2021 of Efforts to Implement OSCE Commitments and Recommended Actions to Combat Trafficking in Human Beings, p. 53.

95 OSR/CTHB Survey Report 2021 of Efforts to Implement OSCE Commitments and Recommended Actions to Combat Trafficking in Human Beings, p. 52.

96 With a network of representative offices across Central, Eastern, South-Eastern Europe and Türkiye, REF provides grants and scholarships to entities and individuals who share its belief in quality, inclusive education and desegregated schools and classrooms. See: Home - Roma Education Fund [accessed 5 October 2023].

97 Keynote Address by J. Lenarčič at the OSCE Alliance Conference “An Agenda for Prevention: Non-Discrimination and Empowerment,” Vienna, 11–12 October 2012.

98 For more, see Kimmo Granqvist (2021), “Critical evaluation of Romani inclusion strategies in Finland and Sweden,” *Journal of Contemporary European Studies* 29:1, 33–44; European Commission (2023), *Assessment report of the Member States’ national Roma strategic frameworks, Communication taking stock of national Roma strategic frameworks and assessing the commitments made by Member States*.





## CHAPTER 3

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# From Identification to Access to Justice

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Discrimination based on race and ethnicity not only leads to higher risks of trafficking for persons belonging to minorities, including national minorities. It also hampers the identification phase, access to protection services, assistance and legal remedies. Although all victims of trafficking should be treated impartially and without discrimination, the information collected through surveys, consultations and desk research indicate that victims belonging to minorities are more likely to face barriers to accessing protection and justice.

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## Identification as a victim of trafficking

Proper identification of victims of trafficking is an essential pillar of the response to THB. Unfortunately, racial and ethnic stereotypes may hinder this process.

While most of the pS survey respondents reported that victim identification processes are implemented impartially and without discrimination against minorities, less than a third of the CSO survey respondents reported the same. The discrepancy between the pS and CSO responses mirrors the lack of research and understanding about the extent to which discrimination based on race and ethnicity impacts identification processes. The survey answers were based on each stakeholder's experiences and perceptions rather than empirical data.

Several pS respondents emphasized that the principle of non-discrimination in the context of identification translates into uniform and equal treatment for all VoTs. Only one pS acknowledged that presumed VoTs may face discrimination based on race and ethnicity during the identification process, whether as a result of conscious or unconscious bias. Moreover, they reported that some VoTs were charged with crimes that their traffickers compelled them to perform in the course of being trafficked, in contravention of the non-punishment principle.<sup>99</sup> These charges may have resulted from discriminatory assumptions about who is a perpetrator and who is a victim. Law enforcement authorities are also more likely to perceive persons belonging to minorities as criminals rather than as VoTs, inhibiting proper identification. An NGO in the United States reported that 29 per cent of the survivors it served in 2022 had been compelled to commit a crime as a direct result of being trafficked, and 67 per cent of those identified as Black.<sup>100</sup> Another study on the identification of children trafficked for exploitation in criminal activities in the Netherlands also highlighted an "ethnic tunnel vision".<sup>101</sup> The study underlined the stereotypical perceptions held by front-line actors on "the Roma" as one unified group, leading to the recognition of Roma children as "usual" victims, but not always acknowledged as "deserving" victims.

The consulted experts noted that factors hindering identification, such as the non-punishment principle not being applied, lack of awareness about or understanding of the THB elements, distrust in public authorities, or physical and social isolation, are not specific to persons belonging to minorities. These barriers to identification feature among other VoTs. However, half of the CSO survey respondents reported that VoTs belonging to national minorities are less likely to be detected due to language barriers as well as racial and ethnic stereotypes held by police officers, prosecutors, judges and service providers, often combined with assumptions about gender roles. CSO respondents further identified lack of cultural competency as a key challenge among all anti-trafficking stakeholders, including in law enforcement organizations. Cultural competency is the ability to understand and address cultural and identity barriers for people with lived experience of trafficking.

When proactive identification mechanisms are not functioning properly and practitioners are not able to identify VoTs in the course of their work, identification may be reactive. However, individuals rarely self-identify as VoTs and seek assistance due to lack of knowledge about THB or available services, or the normalization of violence and abuse.

In addition, low trust in public authorities, particularly in the police and justice systems, may hamper self-identification processes. While these barriers may not be specific to minorities, the consulted experts highlighted the prevalence of fear of public authorities among VoTs from minority populations due to systemic racism and victim-blaming practices. In this context, VoTs are even more reluctant to self-identify and approach police or victim protection services for fear of dismissal or prosecution, especially if they have been involved in criminal activities. In this context, minorities who experience racial profiling by the police may have greater barriers to being identified due to the central role of police in victim identification and the lack of alternative identification paths; they thus may be more likely to be punished for criminal acts related to being trafficked than other victims.<sup>102</sup>

99 The principle of non-punishment can be described as trafficked persons not being subject to arrest, charge, detention, prosecution or being penalized or otherwise punished for illegal conduct that they committed as a direct consequence of being trafficked. See ICAT (2020), *Non-Punishment of Victims of Trafficking*, Issue Brief 8. See also OSR/CTHB (2013), *Policy and legislative recommendations towards the effective implementation of the non-punishment provision with regard to victims of trafficking*.

100 United States Office to Monitor and Combat Trafficking in Persons (2023).

101 Oude Breuil B (2021), "Little Rascals" or Not-So-Ideal Victims: Dealing with minors trafficked for exploitation in criminal activities in the Netherlands, *Anti-Trafficking Review*, issue 16, pp. 86–103.

102 "Racial profiling practices influence daily routines of law enforcement and undermine, whether through conscious or unconscious actions, the capacity to support victims of crimes belonging to the affected communities. A sense of injustice and humiliation, the loss of trust in law enforcement, secondary victimization, fear of reprisals and limited access to information about legal rights or assistance may result in reduced reporting of crimes and reduced information for intelligence purposes." United Nations Committee on the Elimination of Racial Discrimination, *General recommendation No. 36 (2020) on preventing and combating racial profiling by law enforcement officials*.

In addition to distrust and fear of public authorities, VoTs might not report their situation or reach out for help due to fear of retaliation or exclusion from their own communities.<sup>103</sup> Traffickers benefit from and nurture such fears, since they lead victims to remain silent or have low expectations regarding the willingness of the police or others to help them. The survey respondents and consulted experts also highlighted identification failures when VoTs are recruited and exploited by traffickers from their own community. When the trafficker is a family or community member whom the VoT trusts, victims may internalize and normalize the violence they experience.

“It is important to recognize that indigenous peoples are oftentimes victims of traffickers coming from the same community; the cultural connections and bonds that people from indigenous communities have is a key factor of being used by traffickers against their victims and their family as well.”

*Suamhirs Piraino-Guzman, PsyD, Survivor leader, Chair, and Member of the Board of Trustees for the United Nations Voluntary Fund for Victims of Contemporary Forms of Slavery, United States*

“I was persuaded by my villager to work for her in Florida. She was nice and said it is a great opportunity to make money as they have an influx of customers. I know nothing about Florida but I trusted her as she is from my village in China.”<sup>104</sup>

*Unseen and Unforgiving: Massage Brothels and the Sex Trafficking of Chinese Women*

Other survey respondents underlined the “hermetic” character of certain ethnic communities that have their own customs and traditions, making identification of VoTs more challenging, especially when cultural or family ties binding the victim to the traffickers are very strong. If families are involved as perpetrators/facilitators in the exploitation of children, this makes the identification of children as VoTs more difficult. For example, one pS survey respondent reported that whole Roma family units are sometimes trafficked together and exploited by criminal gangs. Due to poverty and lack of economic alternatives, some Roma parents may fall into the trap of debt bondage and are forced to “lend” their children as a way of paying off debts.

Another challenge reported by pSs was the difficulty of labour inspectorates to access and monitor workplaces in remote country areas, such as farms and other agricultural businesses where members of minority groups are often employed. Even when they gain access, labour inspectors can face additional barriers, such as language, lack of trust or personal bias. The identification of VoTs in these sectors is therefore very low.

<sup>103</sup> See Clawson H.J. et al. (2006), *Law Enforcement Response to Human Trafficking and the Implications for Victims: Current Practices and Lessons Learned*. Survey respondents were asked for their opinions on why they believed victims were apprehensive when working with law enforcement, as shown in Figure 23. The most common reasons given for victim apprehension included fear of deportation (66%), lack of trust in the U.S. criminal justice system (48%), and fear of retaliation against self or family (46%).

<sup>104</sup> Li, Angela (2020). *Unseen and Unforgiving: Massage Brothels and the Sex Trafficking of Chinese Women*. Aleph, UCLA Undergraduate Research Journal for the Humanities and Social Sciences 17.

## Victims' rights and access to services

The above-mentioned barriers may not only hamper the identification phase, but also access to protection, assistance and legal remedies. The survey respondents and consulted experts were asked about service provision to VoTs belonging to national minorities and the rights of such victims. The pS respondents reported that, in theory, victim rights are observed and services are available to all VoTs without discrimination. Over 60 per cent of the surveyed CSOs reported that VoTs belonging to national minorities had access to shelter, legal assistance, psycho-social care and medical care. Nonetheless, little disaggregated data is collected about persons belonging to minorities. It is therefore difficult to monitor whether VoTs belonging to minorities, including national minorities, are falling outside the protection system. Another aspect to consider is whether VoTs belonging to minorities who access services or shelters experience discrimination from other victims displaying discriminatory or racist behaviour. Such situations are often not reported or addressed.

The main gap noted by both pS and CSO survey respondents was the lack of access to competent cultural mediators for adult and child VoTs belonging to national minorities. Only 10 per cent of the pS respondents and 18 per cent of the CSO respondents stated that this form of assistance is offered to adults and children belonging to national minorities. In addition, only 10 per cent of the CSO survey respondents reported that victim service providers are required to receive training in cultural competence. Several CSO respondents reported the use of volunteers who are native to the language or live in the community of the VoTs belonging to national minorities. However, caution was expressed in those situations due to the lack of professionalism or trauma-informed training, as well as potential conflict of interest when the volunteer is related to the victim and/or the perpetrator. It was also highlighted by pS respondents that the primary challenges in service provision are low levels of awareness among persons belonging to national minorities about their rights, language barriers, cultural differences and lack of identity documents.

**“ Racism, xenophobia, and discrimination against minority groups and indigenous peoples are root causes of trafficking in persons and lead to egregious failures of protection.”<sup>105</sup>**

*UN Special Rapporteur on trafficking in persons, especially women and children*

<sup>105</sup> Statement by Siobhán Mullally, UN special rapporteur on trafficking in persons, especially women and children, 2021, *Racism and xenophobia put human rights of human trafficking victims at risk – UN expert, OHCHR*.

<sup>106</sup> See Fukushima, Annie Isabel, et al. (2020), “Multiplicity of stigma: Cultural barriers in anti-trafficking response,” *International Journal of Human Rights in Healthcare*.

<sup>107</sup> Black, Indigenous, People of Color (BIPOC) project. Op. cit., note 63.

While VoTs in general face hurdles in any attempt to access services due to bias, shaming, shunning, othering, misidentification and mislabelling, few VoTs belonging to national minorities contact victim support services.<sup>106</sup> For example, in a survey of survivors in the United States, 45 per cent stated that racism made it more difficult for them to access services such as housing, case management or legal representation.<sup>107</sup> Of these respondents, 90 per cent identified as Black, Indigenous or People of Color (BIPOC). Among the VoTs interviewed for another study on THB in Roma communities, only 14 per cent had contacted a service provider while being trafficked, and only 8 per cent had been identified as VoTs and given assistance.<sup>108</sup> Only two Roma respondents had been in contact with healthcare providers while in a trafficking situation, and only one was identified as a VoT. The report concluded that:

*“The overwhelming lack of support available to Romani trafficked persons means that many are not able to re-integrate and are highly vulnerable to re-trafficking. The impact of widespread negative prejudice and discrimination against Roma on the provision of effective prevention and protection services in Romani communities in each of the target countries cannot be ignored if these services are to be made effective for members of this highly vulnerable group.”<sup>109</sup>*

With regard to social inclusion and reintegration services, the consulted experts highlighted the need to redefine trauma-informed approaches by including historical and environmental trauma.<sup>110</sup> To address risks of re-trafficking, structural vulnerabilities must be addressed so that minority communities can access economic opportunities ensuring their basic needs, including health care, food, housing and education.

<sup>108</sup> European Roma Rights Centre and People in Need, *Breaking the Silence: Trafficking in Romani Communities*, March 2011, p. 77

<sup>109</sup> Ibid.

<sup>110</sup> For more, see OSCE/ODIHR (2023), *Guidance on Trauma-Informed National Referral Mechanisms and Responses to Human Trafficking*.

## Access to justice

In both the pS and CSO surveys, the most commonly reported services provided by the criminal justice system were access to free legal assistance and representation (71%–100%) and access to qualified and vetted interpreters (51%–96%). The least commonly reported service was access to cultural mediators (16%–39%). While both interpreters and cultural mediators can assist with communication between VoTs and criminal justice practitioners, cultural mediators have the additional task of explaining and interpreting VoT’s particular background, behaviours, feelings and emotions in order to bridge gaps in the understanding of complex socio-cultural frameworks.<sup>111</sup>

### Criminal justice services reported by pSs and CSOs as available to VoTs belonging to national minorities

Criminal justice services	Percentage of pS respondents	Percentage of CSO respondents
Access to free legal assistance and representation	100%	71%
Qualified and vetted interpreters	96%	51%
Witness protection	87%	49%
Trauma-informed interview procedures	78%	41%
Application of non-punishment	78%	38%
Culturally competent interview procedures	69%	36%
Access to compensation	82%	36%
Cultural mediators	39%	16%

Several pS respondents noted that VoTs are provided with all the rights and services guaranteed by international and national standards, without discrimination on any grounds. While 82 per cent of the pS respondents reported that VoTs belonging to national minorities had access to compensation, only 36 per cent of the CSOs respondents reported that this right is available. In the absence of systematic data collection about national minorities, it is difficult to draw conclusions. An analysis of the challenges reported by the survey respondents and consulted experts is nevertheless informative.

Issues reported as impeding the access to justice by VoTs belonging to national minorities included: implicit and explicit biases pre-judging the reliability and credibility of victims, language barriers, fear of public authorities, criminalization of VoTs, and lack of application of the non-punishment principle. One pS survey respondent stated that racial biases and stereotypes may negatively influence outcomes in the criminal justice system as a result of discriminatory assumptions about ‘ideal’ victims and trafficker profiles<sup>112</sup>. Several CSO survey respondents also noted the lack of opportunity to expunge or clear criminal records for VoTs belonging to national minorities.<sup>113</sup> In this regard, the consulted experts emphasized the need to address the systemic penalization of victimized women and girls, who are disproportionately from minority groups. In the context of an emerging discourse focused on the criminalization of boys who were trafficked for the purpose of exploitation in criminal activities (or forced criminality), experts urged that the harm and trauma experienced by women and girls when in contact with the law also be recognized as a THB vulnerability factor, in particular those belonging to minorities who struggle with social integration and acceptance after time spent in prison.<sup>114</sup>

111 OSCE/ODIHR, 2022, *National Referral Mechanisms – Joining efforts to protect the rights of trafficked persons, Practical Handbook – 2nd edition*, 24 January 2022, p. 97.

112 The terms ‘ideal victim’ or ‘ideal trafficker’ are used to refer to the image of an individual who is readily afforded victimhood or offender status because of perceived adherence to certain socially constructed criteria. The ideal victim is often viewed as being female, vulnerable and weak, while the ideal trafficker is often viewed as being male, big and bad. For more, see OSCE OSR/CTHB (2021), [HYPERLINK "https://www.osce.org/cthb/486700"](https://www.osce.org/cthb/486700) Applying gender-sensitive approaches in combating trafficking in human beings.

113 See also European Roma Rights Centre and People in Need, *Breaking the Silence: Trafficking in Romani Communities*, March 2011. This study revealed that many Roma trafficked persons did not want to be in contact with the police due to fear of reprisal from their traffickers, or because they had committed illegal acts while in the trafficking situation and feared prosecution.

114 Human Rights Project for Girls, Georgetown Law Center on Poverty and Inequality, Ms. Foundation for Women, 2015, *Sexual Abuse to Prison Pipeline: The Girls’ Story – The Center on Gender Justice & Opportunity at Georgetown Law*. See also: Epstein, R. et al., *Girlhood Interrupted: The Erasure of Black Girls’ Childhood* (2017).

## Examples of effective measures to reduce the risk of discrimination in service provision and access to justice

During the expert consultations, the reported experiences of VoTs belonging to minorities included the feeling of not being listened to, not being treated as a victim but rather as a criminal, and not being understood, especially in legal systems where cultural competence and minority languages were not accommodated. Experts noted that all of these challenges speak to deeper problems of fear, distrust and broader societal discrimination. CSO survey respondents also saw an obstacle to effective THB response in the low frequency of open dialogue between minority groups and law enforcement regarding their response to THB. Indigenous groups face similar challenges.

“Due to the prejudice and indifference indigenous women experience from law enforcement institutions, many of the crimes of which they are victims, including rape, domestic violence, and murder, are not investigated or taken to trial. In many cases, law enforcement does not respond effectively to indigenous women because they pre-judge the reliability and credibility of these women as witnesses due to the fact they are indigenous, often discounting legitimate reports of violence and other crimes. As well, their over-representation in the criminal justice system and their high levels of interactions with law enforcement generate indifference within the criminal justice system.”<sup>115</sup>

*Dr. Hedy Fry, Special Representative on Gender Issues of the OSCE Parliamentary Assembly*

The consulted experts and survey respondents were asked about effective practices and policies to reduce discrimination against persons belonging to minorities in service provision and access to justice. Several respondents referred to their respective NAPs to combat THB, to combat hate crimes, or national strategies to include the Roma population in society. For example, Bulgaria's National Strategy for Roma Equality, Inclusion and Participation (2021–2030) includes provision to protect VoTs belonging to ethnic minorities and prevent specific forms of THB in areas with a concentration of poverty.<sup>116</sup> Another example is the involvement of the Plenipotentiary of the Government of the Slovak Republic for Roma Communities in the drafting of a NAP as part of the Expert Group for the Fight against Trafficking in Human Beings. The consulted experts underlined the importance of finding synergies and aligning anti-trafficking NAPs with existing minority issues strategies to ensure the consistency and complementarity of efforts and to effectively address THB. And yet in 2022, only 29 per cent of anti-trafficking NAPs in the OSCE region addressed specific issues related to national minorities.<sup>117</sup>

Experts also highlighted the need to strengthen the implementation of existing legislation and protection frameworks such as NRMs and national action plans (NAPs), which already provide elements to ensure the protection of VoTs belonging to minorities, including national minorities. For example, Executive Order 13985 on Advancing Racial Equity and Support for Underserved Communities in the United States directs the U.S. Federal Government to pursue a comprehensive approach to advancing equity for all, including people of colour and others who have been historically underserved, marginalized and adversely affected by persistent poverty and inequality. The Executive Order also calls upon federal agencies to participate in a study assessing equity with respect to race, ethnicity, religion, income, geography, gender identity, sexual orientation and disability to identify potential barriers that underserved communities face in accessing services and benefits.

Several pSs reported that the lack of knowledge or misinformation about protection systems or support packages available to VoTs leads to low levels of engagement with VoTs belonging to national minorities. To address this issue in North Macedonia, the country's 2021–2025 National Strategy and Action plan against THB and illegal migration included the dissemination of information to vulnerable groups in different minority languages, including Romani, to inform such groups about the role of mobile teams in identifying and assisting VoTs.

115 OSCE PA (2012), *Women as National, Ethnic, Linguistic, Racial and Religious Minorities*, p.12.

116 See Report by the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings following the official visit to Croatia 3–5 September 2019, para. 62.  
117 OSCE OSR/CTHB (2023), *Modernizing National Action Plans to Strengthen States' Anti-trafficking Efforts*.

Partnerships between minority representative groups and anti-trafficking actors were also highlighted as an effective measure to increase victim engagement with protection services and criminal justice systems, as well as to improve cultural intelligence among professionals in contact with VoTs. For example, the Asian Pacific Islander Human Trafficking Task Force (APIHTTF) in the United States hosts a collaboration between ethnic community-based service providers and various law enforcement agencies. The APIHTTF trains both law enforcement and other organizations on cultural competencies to best serve victims from Asia and the Pacific Islands.<sup>118</sup>

VoTs belonging to minorities are negatively impacted by implicit and explicit racial and ethnic biases that shape how professionals view, identify and assist VoTs. In this regard, the consulted experts highlighted the importance of equipping all officials likely to encounter a trafficking victim or potential victim, including representatives of criminal justice systems, with sufficient cultural awareness and understanding so that the protection needs of VoTs belonging to national minorities are met. In this regard, many pSs have implemented awareness-raising and training measures for their law enforcement authorities. An example of this is a course delivered in Croatia to equip border police officers with knowledge about cultural differences, notions of culture, cultural standards, intercultural

relations, multiculturalism, nation, ethnic affiliation, multicultural differences, xenophobia, ethnocentrism, hate crime and issues relating to THB. In 2021, three such courses were organized.<sup>119</sup> CSO respondents also highlighted survivor-centred, trauma-informed and culturally nuanced initiatives, such as the Moving Ahead Positively (MAP) Model, which is designed to enhance cultural competency when addressing gender-based violence within Asian communities.<sup>120</sup> Furthermore, experts emphasized that to determine how best to adapt practices and combat THB effectively, survivor-led organizations should be consulted to acquire a wide range of feedback on anti-trafficking action.

Other examples to improve the access of VoTs to services and justice included initiatives aimed at understanding how, in certain cultures, adults and children can be stigmatized and outcast by communities because of beliefs related to witchcraft, supernatural forces or folklore.<sup>121</sup> The involvement of cultural mediators was highlighted as a good practice. For example, in Austria, the LEFÖ-Interventionsstelle für Betroffene des Frauenhandels (Intervention Centre for Victims of Trafficking in Women) that provides support to female VoTs of Roma ethnicity works with socio-cultural mediators to decrease discrimination and language barriers.

“Cultural intelligence means being able to navigate different cultures and work successfully across cultural boundaries. Training on cultural intelligence should be mandatory for all practitioners working in areas with a high or growing population of people from diverse communities. All services for victims of trafficking should be bold in developing and implementing action plans to increase the number of staff and trustees in their organizations to reflect the ethnic make-up of their service users, and seek out individuals from ethnic communities with the requisite expertise and skills to recruit into senior management positions. Staff working directly with survivors should be trained in cultural intelligence and how to work successfully across cultural boundaries. This will ensure they build the capacity to intervene successfully with individual service users.”<sup>122</sup>

*ODIHR NRM handbook (2022)*

118 Another example is the work of the Ontario Native Women's Association, such as its Indigenous Anti-Human Trafficking Liaison Program and the Aakwa'ode'ewin (Courage for Change) Program. These programmes provide survivor-focused and targeted responses to THB informed by culture-based practices and models. Ontario Native Women's Association, *Human Trafficking*.

119 Council of Europe, *Sixth Periodical Report of the Republic of Croatia on the Implementation of the Framework Convention for the Protection of National Minorities*.

120 *Womankind, Moving Ahead Positively: Trauma-Informed Culturally-Specific Models*.

121 See Nagle, L. E., and Owasanoye, B. (2016), "Fearing the Dark: The Use of Witchcraft to Control Human Trafficking Victims and Sustain Vulnerability," *Southwestern Law Review* 45, 561. 5.

122 OSCE/ODIHR (2022) *National Referral Mechanisms: Joining efforts to protect the rights of trafficked persons, Practical Handbook – 2nd edition*.



In its NRM handbook, ODIHR also promotes the application of the Schim Cultural Model based on four components to guide the interventions of social workers, mental health professionals, nurses and other healthcare workers who look after diverse populations of patients, families and communities. These four components are: cultural diversity, cultural awareness, cultural sensitivity and cultural competency behaviours.<sup>123</sup>

Enhancing minority representation, recruitment and retention within law enforcement and social services is also a way to improve engagement and increase trust and cultural sensitivity. Targeted outreach and retention strategies are needed in order to attract a more diverse pool of frontline responders. Research has shown that people from minority groups are not less likely to be interested in a career in law enforcement, but they perceive more barriers.<sup>124</sup> The most common recommendation for addressing such barriers is multicultural training for law enforcement officers and greater diversification of law enforcement agencies by hiring more police officers from under-represented racial and ethnic minority groups. For example, the 2015 Final Report of the President's Task Force on 21st Century Policing in the United States recommended the creation of a diverse workforce "to improve understanding and effectiveness in dealing with all communities". It also stated that police officer training should include, "implicit bias, fair and impartial policing, historical trauma, and other topics that address capacity to build trust and legitimacy in diverse communities".<sup>125</sup>

“Organizations have largely failed to reap the benefits of diversity because they do not leverage the insights of individuals from different backgrounds, and that increasing the number of traditionally underrepresented people in your workforce does not automatically produce benefits.”<sup>126</sup>

*Recruiting for Diversity in Law Enforcement (2021)*

The consulted experts highlighted that despite the existing international frameworks aimed at protecting victims of ethnic and racial background from THB, implementation and accountability mechanisms on the ground are lacking. Survey respondents were asked about the existence of complaint mechanisms to address discriminatory practices and ensure accountability in the case of grievances caused by governmental or civil society organizations. While over 30 per cent of the surveyed pSs reported that special complaint mechanisms do not apply to their countries, the rest of the surveyed pSs responded that they had either a specific complaint mechanism for VoTs or national legal frameworks to ensure equality and combat discrimination. In these cases, victims of discrimination can file complaints with the designated ministries or other state authorities. However, the consulted experts noted that, in practical terms, most VoTs belonging to national minorities do not have the resources, knowledge or trust to pursue complaint mechanisms.

#### → **Availability**

That services are free and provided by professionals trained in anti-discrimination matters;

#### → **Accessibility**

That services are accessible to all, including the most marginalized, as well as persons speaking minority languages;

#### → **Acceptability**

That services are non-discriminatory and culturally appropriate;

#### → **Adaptability**

That services respond to the needs of the assisted persons and are adapted locally to suit the specific context.

<sup>123</sup> See Schim, S. M., and Doorenbos, A. Z. (2010), A Three-Dimensional Model of Cultural Congruence: Framework for Intervention, *Journal of Social Work in End-of-Life & Palliative Care* 6:3–4, pp. 256–270; and OSCE/ODIHR (2022) *National Referral Mechanisms, Joining efforts to protect the rights of trafficked persons, Practical Handbook – 2nd edition*, pp. 77–78.

<sup>124</sup> Wiseman, J. (2021) *Recruiting for Diversity in Law Enforcement: Selected Recent Research Insights*, Institute for Excellence in Government.

<sup>125</sup> President's Task Force on 21st Century Policing (2015), *Final Report of the President's Task Force on 21st Century Policing*. Washington, D.C.: Office of Community Oriented Policing Services.

<sup>126</sup> Wiseman, J. (2021), op. cit., note 124.

## CHAPTER 4

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# Addressing Victims' Rights and Needs: Policy Recommendations

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The OSCE pSs, under the 2003 OSCE Action Plan to Combat Trafficking in Human Beings and its 2003 and 2015 addenda, have each committed to combat THB in their countries, regionally and globally through a framework known as the “4Ps”, namely, prevention, prosecution, protection and partnerships. In an effort to enhance the response to trafficking in persons belonging to minorities, including national minorities, and address the challenges described in this paper, in line with the commitments stemming from the 2003 OSCE Action Plan on Improving the Situation of Roma and Sinti and the Kiev 2013 Ministerial Council Decision No. 4/13, the OSR/CTHB and ODIHR offer the following recommendations for participating States, based on a comprehensive application of the “4Ps” framework.

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## Prevention

### Addressing minority-related factors of vulnerability to THB

Although the following recommendations focus specifically on measures that are directly related to THB, broader societal efforts are needed to prevent trafficking in historically marginalized and underserved communities and to deconstruct racial and ethnic biases and stereotypes that are ingrained in societies. This includes addressing legacies of discrimination and historic systems of oppression of persons belonging to minorities, including national minorities, by ensuring their equal access to quality education, as well as housing, employment, health care and birth and civil registration. Fostering an inclusive environment is also essential to combat societal stereotypes and discrimination against persons belonging to minorities through the involvement and empowerment of minority community representatives and young leaders in the design, planning and implementation of anti-trafficking strategies, as well as through the implementation of legislation prohibiting ethnic, racial or religious hatred that constitutes incitement to discrimination, hostility or violence against minorities, which heightens vulnerabilities to THB.

#### 1. Facilitate access to information by persons belonging to minorities about their rights and risks of THB by:

- Ensuring that necessary information materials are translated and provided to persons speaking minority languages;
- Developing information tools, including using graphics in informational documentation, for people who have limited literacy capacities; and
- Conducting targeted sensitization and awareness-raising information campaigns related to the prevention of trafficking persons belonging to minorities in communities at risk, including schools, community centres, healthcare facilities, government and civil society services and public transportation, as well as online.

#### 2. Improve data collection on persons belonging to minorities by:

- Providing a framework for national authorities, with specific provisions in national action plans to co-ordinate and harmonize methodologies for collecting updated, comprehensive and disaggregated data on direct or indirect discrimination against persons belonging to minorities that increases trafficking vulnerabilities;
- Collecting and analysing quantitative and qualitative information on the trafficking risks and vulnerabilities of identified VoTs belonging to minorities, to gain a better understanding of the scale and means of their exploitation, in compliance with existing data protection standards; and
- Ensuring a focus on data related to the institutional response to minority-related factors of vulnerability, rather than data on personal vulnerabilities.

#### 3. In light of the disproportionate impact of THB on minorities, develop prevention initiatives with a focus on racial and gender equality to discourage the demand that fosters sexual exploitation, including online.



## Protection

### Improving the identification of and assistance to VoTs belonging to minorities, including national minorities

#### 1. Strengthen NRMs or equivalent systems that are essential to the functioning of national anti-trafficking frameworks, including in ensuring proactive identification and responses to victims and survivors of trafficking belonging to minorities.<sup>127</sup>

- Through the NRMs, promote access to assistance and support services for VoTs belonging to minorities and ensure that comprehensive efforts and inter-governmental agencies are in place to ensure access to medical, educational, housing, employment opportunities and other services necessary to ensure social inclusion and prevent re-trafficking and other forms of exploitation and abuse.

#### 2. Ensure that pathways to victim identification and assistance independent of criminal justice systems are available to VoTs in order to address distrust in law enforcement.<sup>128</sup>

- This can be achieved by expanding the pool of NRM frontline responders who are legally habilitated and trained to conduct presumed and conclusive identification procedures, including representatives from CSOs and other non-criminal justice actors.

#### 3. Address discrimination in identification procedures and ensure that access to services is available, user-friendly, acceptable and adaptable to persons belonging to minorities, including by:

- Recruiting social service providers and law enforcement with knowledge of the languages spoken by VoTs belonging to minorities, as well as the customary practices of the minorities to which VoTs belong;
- Developing culturally and linguistically appropriate interviewing protocols for appropriate screening for THB indicators;
- Equipping all professionals in contact with VoTs with cultural competence and congruence skills through compulsory training and capacity-building programmes to address bias and stereotypes among frontline responders and promote the application of culturally-sensitive and trauma-informed approaches that take into account historical and environmental trauma;
- Training government officials and first responders in identifying ethnic-neutral indicators of trafficking among

criminal activity to increase implementation of the non-punishment principle and prevent the penalization of VoTs from minorities;

- Involving cultural mediators to enhance the understanding of specific backgrounds of VoTs, as well as how they express trauma;
- Providing the free assistance of a competent interpreter to guarantee VoTs' rights to be duly informed in a language they understand;
- Ensuring that VoTs belonging to minorities who are wrongfully detained can exercise their rights to be informed promptly and in detail in a language they understand of the nature and cause of the charges against them, and to be offered adequate time and tools to prepare a defence and to communicate with a counsel of the VoT's own choosing. In cases where VoTs have records for crimes committed as a result of being subjected to trafficking, such records should be vacated or expunged.

#### 4. Ensure that NRMs or equivalent systems include specific mechanisms to address any form of discrimination in access by persons belonging to minorities, including:

- Monitoring mechanisms to detect discriminatory practices or biases against actual or potential VoTs belonging to minorities;
- Complaint procedures and redress mechanisms to report and address the discriminatory practices of governmental or civil society organizations;
- Research activities to examine the causes of non-reporting of crimes and discrimination incidents related to THB belonging to minorities.

#### 5. Promoting police–public partnerships, with officers operating regularly in the same area in order to build stronger bonds with individual communities and prevent crime from happening rather than only responding to incidents after they occur.<sup>129</sup>

#### 6. Appoint an independent national rapporteur or equivalent mechanism, including ombudsperson offices and human rights commissions, to monitor and report on the implementation of state obligations regarding the response to THB, including of persons belonging to minorities.<sup>130</sup>



## Prosecution

**Improving access to justice for VoTs belonging to minorities, including national minorities and holding perpetrators accountable**

1. Ensure that the composition of law enforcement, especially the police, at local, regional and national levels reflects the diversity of the population and includes a proportionate percentage of the State's minorities. It is equally important to secure diversity in the recruitment of senior leadership and management positions to steer organizational changes.
2. Train law enforcement officers, labour inspectors, judges, prosecutors and their offices to enhance racial sensitivity and counter systemic discrimination and prejudices, as well as implicit or explicit cultural, gender or other biases in the course of addressing the trafficking in persons belonging to minorities.
3. Apply the non-punishment principle to ensure that VoTs belonging to national minorities are not arbitrarily arrested, abused or falsely charged by developing and implementing policies and measures that end the prosecution of VoTs for reported crimes they were compelled to commit by their traffickers.



## Partnership

**Promoting cultural congruency throughout the anti-trafficking response**

1. Establish forms of dialogue among institutions tasked with minority rights, gender issues, racial discrimination and children's issues to foster understanding, dialogue and co-operation.
2. Promote the systematic inclusion and participation of survivor leaders,<sup>131</sup> survivor-led CSOs and community leaders in developing and implementing legislative, policy and programmatic measures to prevent THB and protect VoTs belonging to minorities, including in the training of social services, law enforcement and government agencies to promote trauma-centred and culturally-congruent services and assistance.
3. Provide fair and reasonable compensation for the participation of survivors of THB belonging to minorities for their input in developing policies, programmes and training related to combating THB.
4. Enhance collaboration between public authorities and CSOs specialized in gender-based violence and discrimination to understand and address harmful practices that can lead to trafficking in persons belonging to minorities.

<sup>127</sup> NRMs or equivalent systems should be based on a human rights, non-discriminatory, gender-sensitive, trauma-informed and victim and survivor-centred approaches and implemented in all States to include, at a minimum, the following: an independent national rapporteur and a national co-ordinator, interagency councils, multi-disciplinary co-operation across government institutions and with civil society, and survivor advisory councils. For further guidance, see OSCE/ODIHR, 2022, *National Referral Mechanisms: Joining efforts to protect the rights of trafficked persons*, Practical Handbook – 2nd edition.

<sup>128</sup> See OSCE OSR/CTHB (2023), *Putting victims first: The 'social path' to identification and assistance*.

<sup>129</sup> HCNM, 2006, *Recommendations on Policing in Multi-Ethnic Societies*.

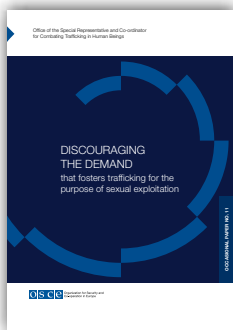
<sup>130</sup> OSCE OSR/CTHB (2021), *Issue Brief – The role of independent National Rapporteurs or equivalent mechanisms in enhancing States' anti-trafficking responses*.

<sup>131</sup> For more, see OSCE ODIHR (2023), *Code of Practice for Ensuring the Rights of Victims and Survivors of Human Trafficking*.

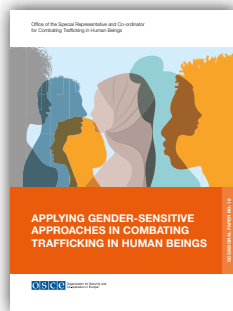
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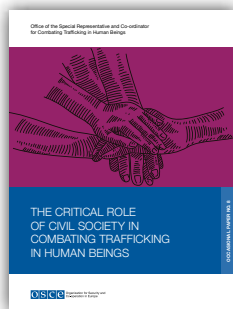
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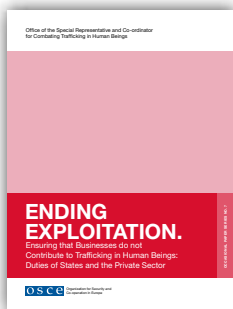
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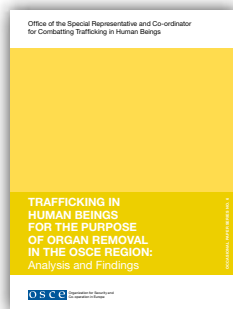
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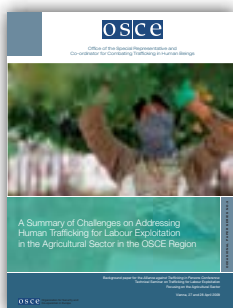
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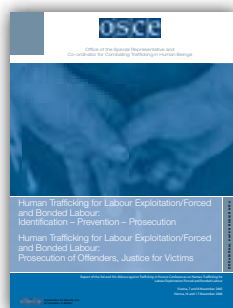
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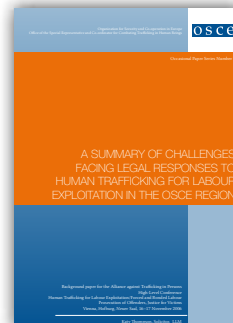
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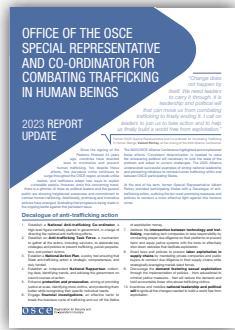


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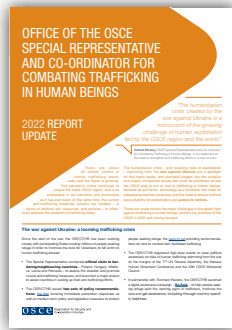


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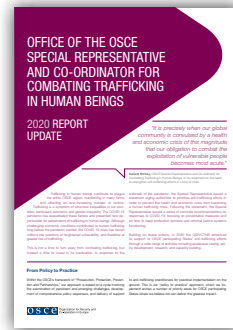
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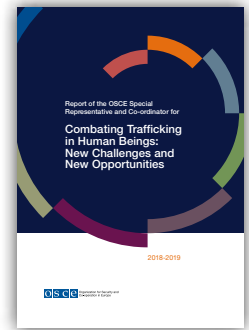
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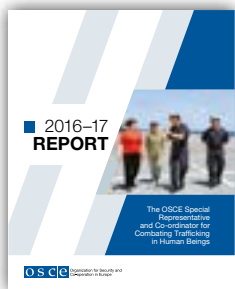
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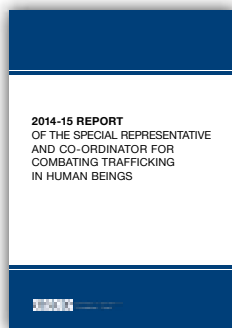
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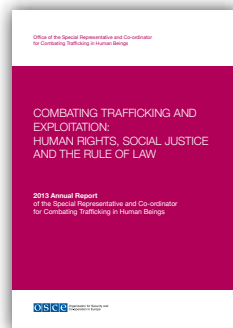
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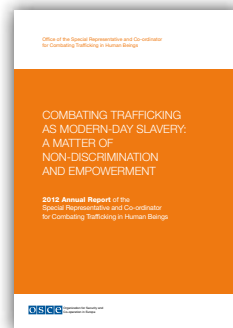
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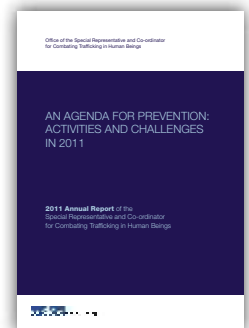
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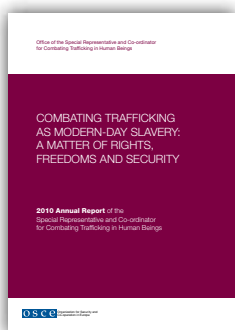
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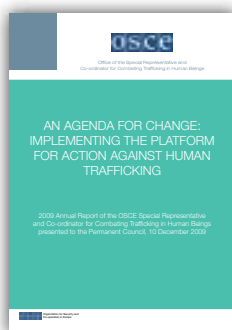
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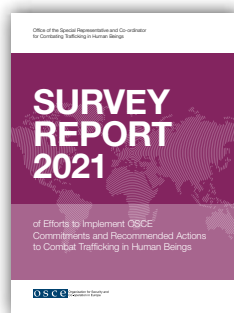
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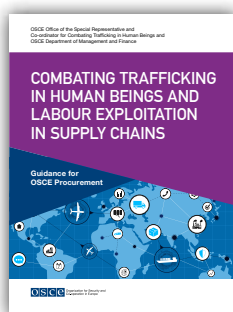
**2022**  
Survey Report 2021 of Efforts to Implement OSCE Commitments and Recommended Actions to Combat Trafficking in Human Beings  
<https://www.osce.org/cthb/522934>



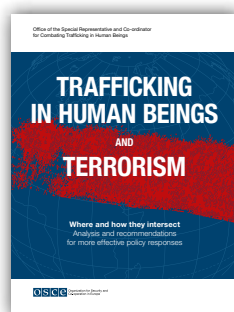
**2022**  
Policy Responses to Technology-facilitated Trafficking in Human Beings: Analysis of Current Approaches and Considerations for Moving Forward  
<https://www.osce.org/cthb/514141>



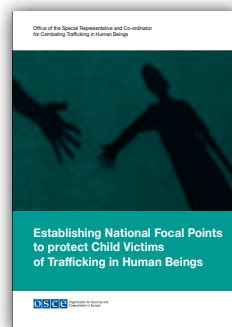
**2022**  
Three Action Areas for Parliaments to Combat Trafficking in Human Beings  
<https://www.osce.org/cthb/513025>



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Combating Trafficking in Human Beings and Labour Exploitation in Supply Chains Guidance for OSCE Procurement  
<https://www.osce.org/cthb/502383>



**2021**  
Trafficking in Human Beings and Terrorism: Where and How They Intersect  
Analysis and recommendations for more effective policy responses  
<https://www.osce.org/cthb/491983>



**2020**  
Establishing National Focal Points to Protect Child Victims of Trafficking in Human Beings  
<https://www.osce.org/cthb/472305>

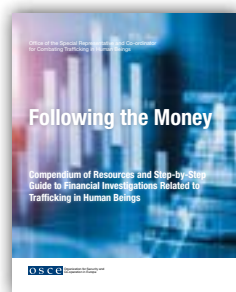


**2020**  
Leveraging innovation to fight trafficking in human beings: A comprehensive analysis of technology tools  
<https://www.osce.org/cthb/455206>

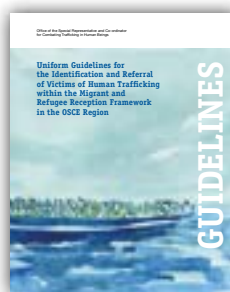




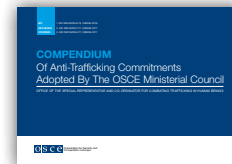
**2020**  
Compendium of relevant reference materials and resources on ethical sourcing and prevention of trafficking in human beings for labour exploitation in supply chains  
<https://www.osce.org/cthb/450769>



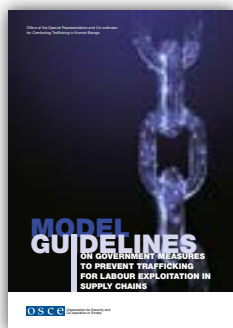
**2019**  
Following the Money  
Compendium of Resources and Step-by-Step Guide to Financial Investigations Related to Trafficking in Human Beings  
<https://www.osce.org/cthb/438323>



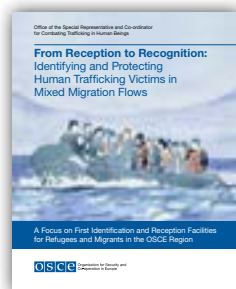
**2019**  
Uniform Guidelines for the Identification and Referral of Victims of Human Trafficking within the Migrant and Refugee Reception Framework in the OSCE Region  
<https://www.osce.org/cthb/413123>



**2019**  
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**2018**  
Model Guidelines on Government Measures to Prevent Trafficking for Labour Exploitation in Supply Chains  
<https://www.osce.org/cthb/371771>



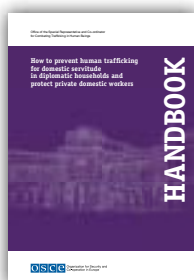
**2017**  
From Reception to Recognition: Identifying and Protecting Human Trafficking Victims in Mixed Migration Flows  
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**2014**  
Handbook: How to Prevent Human Trafficking for Domestic Servitude in Diplomatic Households and Protect Private Domestic Workers (EN/FR/ES)  
<https://www.osce.org/handbook/domesticservitude>



**2013**  
Policy and legislative recommendations towards the effective implementation of the non-punishment provision with regard to victims of trafficking  
<https://www.osce.org/secretariat/101002>

# Notes



The Organization for Security and Co-operation in Europe works for stability, prosperity and democracy in 57 States through political dialogue about shared values and through practical work that makes a lasting difference.

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