

A CHILD-RIGHTS APPROACH ON INTERNATIONAL MIGRATION AND CHILD TRAFFICKING: A UNICEF PERSPECTIVE

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International migration and child trafficking affect a significant number of women and children. Women and children are the majority of the global refugee population; they form the majority of trafficking victims; and as migrants or the children of migrant workers they are also particularly vulnerable to abuse and exploitation.

The Convention on the Rights of the Child (CRC) protects every child, regardless of nationality or immigration status. States have obligations to adopt principles outlined in the Convention towards each and every child within their jurisdiction. These principles include, among others, the right to a nationality, to physical integrity, the highest attainable standard of health, education, and the right to be free from discrimination, exploitation, and abuse. Although the rights of migrant children are not addressed specifically, there are several provisions relevant to migrant children, including Article 10 on family reunification, Article 36 on protection from all forms of exploitation, and Article 37 on protection from torture or other cruel, inhuman or degrading treatment or punishment, and from unlawful and arbitrary deprivation of liberty. The International Convention on the Protection of the Rights of All Migrant Workers reaffirms the rights set forth in the CRC.

A. THE IMPACT OF MIGRATION AND TRAFFICKING ON CHILDREN

In the following, three issues will be discussed: (a) children of migrant workers, (b) child migrants, focussing on aspects such as violence, detention and repatriation, and (c) the trafficking of children, including in armed conflict. Many of the problems encountered and abuses experienced by child migrants, particularly those whose status is illegal or unclear, and trafficked children are the same, including lack of documentation and/or access to birth registration, lack of access to services, confrontation with the law and law enforcement agents, and increased risk of exploitation. In general, children left in care other than parental care are at increased risk.

1. Children of migrant workers

Migration is often undertaken in an effort to improve economic or social prospects. However, by leaving the safety net of their villages or hometowns, where neighbours and family members contribute to the care of each other's children, families face greater social seclusion in unfamiliar urban or rural areas, whether in their home country or abroad. Children of migrant workers – whether they migrated with their parents or were born in the host country – run the risk of being denied access to basic services, including schools and health services. Language difficulties are a serious impediment to the schooling of a child as well. Children who are not in school – whether due to denial of access or the result of pressure to contribute to family earnings – turn to the labour market, and are also vulnerable to the worst forms of child labour, including the sex industry.¹

This vulnerability is exacerbated by weak legal protection. In the absence of statistical research on the birth registration of migrants, it is safe to assume that these children have some of the same characteristics as other children with lower rates of birth registration, such as poverty.² Children born abroad, particularly to undocumented migrants, may not have access to birth registration. Consequently, many children of migrant workers are not registered and may be stateless. Without proper documents, they can experience problems in access to basic services, and problems with the law. Children may be separated from their parent(s) in the event of arrest and detention; in some cases, children have been repatriated without adults.

In many cases, one parent - often the father or husband - migrates leaving the family behind. While a parent working abroad may send remittances which provide significant benefit to the family at home, there are documented correlations between poverty and female-headed households.³ Care by the extended family, or community or institutional care, also ensures less protection from abuse and exploitation than does parental care. Families under stress may tend to transfer adult burdens to their oldest children—especially to girls. Adolescent girls may be required to leave school or work for wages, sometimes in unsafe ways and away from their homes. In addition, fragmented and marginalized groups, such as migrant labourers and their families, are at the heart of the AIDS pandemic.⁴

2. Child migrants

Children may migrate alone to join family members or to seek employment. They face a range of risks, beginning with the journey itself. Adult migrants—particularly those who are poor, inexperienced, or undocumented—and even more so child migrants, are targets for violence, theft, and exploitation. In many situations they cannot count on assistance from local authorities. Entering the country without authorisation or proper documentation may be a criminal offence punishable under national law. As a result, undocumented child migrants risk detention, including with adults who are not related to them and who may include violent offenders. Children in detention often suffer egregious violations of their basic rights, including a lack of basic medical care. Frequently, the conditions under which they live are deplorable and inhumane; physical abuse is common and may include sexual abuse. Restrictions on immigration, as well as fears in the wake of the event on 11 September 2001, have led to differential treatment of certain migrants and migrant groups and to rights abuses in the course of processing undocumented migrants.

Children who migrate and have no support system at their destination may end up living and working on the street. They are particularly exposed to violence and exploitation, and are likely to lack access to basic services, including health services, to education, and to adequate nutrition. The absence of adult protection, or their lack of identity documents, can lead to their harassment by authorities. These children are also exposed to drug abuse.

3. Child trafficking

The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation is regarded as trafficking, regardless of whether or not force, abduction, fraud or other means are used.⁵ The Palermo Protocol calls upon governments to adopt or strengthen measures that alleviate factors that make persons vulnerable to trafficking, including migration policies. The trafficking of children is included among the worst forms of child labour in ILO Convention 182, which had been ratified by 150 States as of May 2004.

Trafficking of children is on the increase. According to ILO statistics, 200,000 to 250,000 women and children are trafficked annually in South-eastern Asia alone.⁶ An estimated 1.2 million children are affected globally every year.⁷ In South-eastern Europe, 90 per cent of foreign women working in prostitution are alleged victims of trafficking and 10-15 per cent of these women are girls under the age of 18. Younger children, both boys and girls, are being trafficked for forced labour.⁸

Trafficking in children is a global phenomenon which “involves the movement of people in complex patterns”.⁹ It takes place for many purposes, including sexual exploitation, domestic labour, agricultural and mine work, as well as for sport and for adoption. Both girls and boys are trafficked. Even where children are not destined for the sex industry, they are at risk of physical abuse, including sexual abuse. The root causes of sale and trafficking are multiple and complex, and include poverty, lack of employment opportunities, low social status of the girl child, impunity from prosecution, and a general lack of education and awareness. Children from minority groups or who are undocumented are particularly vulnerable to being trafficked.

Children are often trafficked for domestic labour or to work in service industries, construction, agriculture, fishing and begging. Various patterns of trafficking have been documented in different parts of the world. Trafficking for purposes of child labour is largely demand-driven, and is part of a large unmet demand for labour that is cheap and malleable. Child labour is attractive not because it is cheap, but rather because children are easier to abuse, less assertive and less able to claim their rights than adults; they can be made to work longer hours with less food, poor accommodation and no benefits. Victims of trafficking for child labour often work in conditions hazardous to their physical and mental health.

The criminalization of victims of trafficking is also of concern. Rather than receiving assistance and protection, people who have been trafficked may be prosecuted or imprisoned. They may be subjected to humiliating and intimidating treatment at the hands of police, border control and other law enforcement agents. This can occur in both the sending and receiving countries. Children and women who have been in the sex industry and are repatriated are especially vulnerable to further abuse on their return. Returnees may also face serious difficulties reintegrating in their community or family if they are regarded as dishonoured or as failing to reap the benefits of their travel.

In conflict and post-conflict situations, lawlessness, family separation, displacement, subsistence needs and other factors lead to high child vulnerability to abuse and exploitation, including trafficking. Families may also believe that children sent away from the conflict zones have the prospect of a better life. Family tracing efforts are part of many post conflict programmes, and the importance of thorough tracing is reflected in the Declaration to the Hague Convention on Intercountry Adoption.¹⁰ Sexual exploitation and trafficking are also linked to demand, by relatively wealthy actors (national or international) during or after conflict.

B. BUILDING A PROTECTIVE ENVIRONMENT FOR CHILDREN

UNICEF's actions to increase the protection of children are based on the principles enshrined in the Convention on the Rights of the Child. The Convention, ratified by all but two countries, establishes the right of every child to a name and nationality, the highest attainable standard of health and education, and to protection from violence, abuse and exploitation, among other things. These rights apply to all children, regardless of residency status.

UNICEF aims to build a protective environment for children, focussing on systemic factors at all levels—from government to community to family—that should protect children but do not always do so. In its efforts to strengthen protection at several levels, UNICEF seeks both the prevention of abuse and adequate responses where abuse has occurred. These efforts will normally include some or all of the following: strengthened government commitment to child protection; improved legislation and its implementation; a change in customs or practices that do not adequately protect children; more open discussion of the issue; strengthening the capacity of children and adolescents for their own protection, through greater awareness and participation; strengthening the capacity of those closest to the child; improved services; and adequate monitoring and reporting mechanisms.

The examples below illustrate these elements in the context of child trafficking. Strong government commitment is needed to combat and prevent trafficking, including to put the necessary legislation in place to punish traffickers and make resources available for police and other officials. In 2000, the Governments of Mali and Cote d'Ivoire signed a groundbreaking Cooperation Agreement on Combating Transborder Trafficking of Children, which is built on the best interests of the child and the definition and enumeration of minimum standards.

Cross-border international agreements seek to prevent trafficking and to facilitate the safe return of trafficked children. Laws should not penalise trafficked children. Recently, there has been an increase in unaccompanied minors clandestinely migrating to Spain from or via Morocco. Agreements are being developed between the two Governments to respond to the situation. UNICEF will support the training of

personnel, promote reception facilities, and help create a commission at the ministerial level on repatriation and reintegration issues.

As far as customs and practices are concerned, beliefs about the role of girls, particularly with regard to education, can lead families to put girls at risk. In Turkey, UNICEF will assist migrant families with birth registration particularly for girls and will offer financial assistance for schooling (books, uniforms, compensation for loss of income from child labour), health care and legal protection.

Media attention can be an important element in the fight against trafficking, by raising awareness as well as opening up formerly taboo issues for discussion. Many families and children are dependent on the media to inform and educate them about the dangers of trafficking. In El Salvador, UNICEF works with partners on a radio campaign to raise awareness among parents about the risks of hiring smugglers to take their children illegally to the US, involving young people who have been deported.

Children need to be aware of the dangers of trafficking so that they can protect themselves. Ideally, they should be and remain in school; UNICEF recognises that early interventions are the most effective, and works closely with Ministries of Education to ensure that children are enrolled and continue in school. In the Republic of Moldova, a UNICEF project specifically targets children and young people from institutions after they graduate from boarding schools. Activities include long-term training of trainers in life skills education, life skills education activities with students, a summer school for students on life skills, and the development of a Facilitator's Guide on life skills education.

Caregivers, families and community members also need the capacity and knowledge to play a role in the fight against trafficking. Teachers, social workers, and policemen have important roles to play. In Cambodia, a Child Protection Network is being established in Poipet, the border town that is the main gateway to Thailand. It will inform children and families about child rights and encourage communities to look for early warning signs of children at risk.

Children who have been trafficked need services to help them to leave their situation, to return home and to resume normal life. This might include hotlines to ask for help, safe shelters, medical services, and counselling. UNICEF's efforts in partnership with the Stability Pact Task Force (for South-eastern Europe) have resulted in specific guidelines for the provision of services to child victims. Hotlines have also been established to enable individuals to report suspicious employment agencies or a missing family member or inquire for more information, for instance in Albania or the Former Yugoslav Republic of Macedonia.

Adequate monitoring and reporting mechanisms need to be in place to register disappearances, returns, and other key indicators. Community committees in Benin raise awareness, report cases of sexual or other abuse of children, and keep a close count on the number of children in the villages. The Committee contacts the police immediately when a child is discovered to be missing and monitors the re-integration of children who return.

C. CONCLUSION

Reducing migration-related risks to children, as well as addressing the scourge of trafficking, requires concerted efforts on many levels. Poverty reduction and real opportunities for children and young people, including education, are anchors which can help reduce pressures on children to move. Children who suffer as the result of global forces which lead to the migration of their parents or families, by themselves, or as victims of trafficking, should be assisted to resume their lives with their rights as children fully respected.

UNICEF strongly encourages governments to ratify international legislation, including the Palermo Protocol, the Optional Protocol on the sale of children, child prostitution and pornography¹¹, and ILO Convention 182. Countries should review their legislation in the light of the principles recognized by these

international instruments. Legal requirements and procedures that criminalize trafficked children or other categories of migrant children should be eliminated as far as possible, and children should be detained only as a last resort and for the shortest possible period of time. Technical support should be available for mechanisms to monitor the situation of child migrants. Law enforcement officials must ensure the safety and security of every child and their treatment in a manner consistent with the promotion of their sense of dignity and worth.

Notes

¹ The Worst Forms of Child Labour Convention (ILO Convention no. 182) defines the worst forms of child labour as all forms of slavery and practices similar to slavery, such as the sale and trafficking of children; debt bondage and serfdom; forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; and the use, procurement or offering of a child for illicit activities, in particular for the production and trafficking of drugs.

² Draft, UNICEF 2004, *The “rights” start to life, a statistical analysis of birth registration*.

³ Secretary General’s *Report on the Review and Appraisal of the Implementation of the Beijing Platform for Action*, E/CN.6/2000/PC/2, para. 153-158.

⁴ Report of the Secretary General’s Task Force on Women, Girls and HIV/AIDS in Southern Africa, *Facing the Future Together*, UNAIDS/04.33, 2004, p 13.

⁵ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children supplementing the United Nations Convention Against Transnational Organized Crime 2000, Article 3(a) Trafficking in persons has been defined as “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

⁶ International Labour Organization, *Unbearable to the Human Heart*, 2000, p.19.

⁷ International Labour Organization, *A Future Without Child Labour*, 2002, p.32.

⁸ UNICEF, UNOHCHR, OSCE ODIHR, *Trafficking in Human Beings in South Eastern Europe*, 2003, p. XIII.

⁹ UNICEF Innocenti Research Centre, *Trafficking in Human Beings, Especially Women and Children, in Africa*, 2003, p.5.

¹⁰ Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, May 1993.

¹¹ Protocol to the Convention on the Rights of the Child, entered into force on 18 January 2002. It applies to the sale of children for purposes of sexual exploitation, child labour or adoption, and covers prevention, prohibition, and assistance to victims.