

## **A Broader Perspective to Protect the Rights of Children on the Move – Applying Lessons Learnt from Child Trafficking Research**

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Conceptual clarity is still a major challenge in the differentiation of child trafficking and migration. This is the case despite the fact that there is an agreed upon international definition of child trafficking, as articulated in the Palermo Protocol and other international and regional instruments. The lack of clarity is partly due to the complexity of the trafficking phenomenon itself and the diversity of legal and operational definitions in use at the national level, and partly due to different, at times conflicting, agendas and interests of the numerous actors engaged in addressing child trafficking.

I hope that my comments here today will contribute, even in a modest way, to conceptual clarity in the contexts of child migration and child trafficking. Drawing from lessons learnt in child trafficking research at the UNICEF Innocenti Centre, I would further like to stimulate discussion of a broader perspective to overcome the conceptual divide of closely related child rights issues.

### *Trafficking and migration – revisiting existing (mis-)perceptions*

Child trafficking is a violation of the human rights of a child. It is a criminal offence under international law, and under national law in nearly all European countries. Child trafficking is not a form of migration. It is a form of deliberate child exploitation that involves the movement of children to render them more exploitable.

Even though trafficking and migration are two distinct phenomena, it is nevertheless important to acknowledge and understand links that do exist between the two. Migration or the wish to migrate can increase children's vulnerability to exploitation and abuse, including recruitment into trafficking. Migration and trafficking routes often coincide, and traffickers operate along these routes.

The aspect of movement, organised by a trafficker, is an integral component of the concept of child trafficking and distinguishes child trafficking from other forms of exploitation of children. Movement can occur within a country or across international borders. In the latter case, border crossing may be arranged illegally, but very often it does take place on the basis of legal travel documents. In fact, this is confirmed where disaggregated data on the form of border crossing exists, as e.g. by the criminal statistics of the German Federal Criminal Office and by IOM statistics.

Nonetheless, in many cases child trafficking is misperceived as a form of illegal migration and anti-trafficking initiatives are shaped accordingly to prevent, detect and restrict this form of movement. Government responses to trafficking over many years have focused on law enforcement, border control and visa regime, with a view to protecting national security and combating organised crime. In the light of these interests, 'the fight against trafficking' has been pushed relatively high on the agenda of governments, and more generally of the international

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community. Victim assistance has often led to prioritising the repatriation of foreign victims to their home countries. As the 'human rights discourse' entered the trafficking debate, 'anti-trafficking initiatives' have also been 'instrumentalised' to implement migration control measures under the human rights agenda.

The criminal aspects of the trafficking process, i.e. the exploitation and abuse of children, are critical and need to be addressed effectively. However, anti-trafficking responses have to go beyond, to address the broader socio-economic contexts in which child trafficking takes place.

### *A growing attention to trafficking: but has it benefited children?*

Even after a decade of intensive and growing attention to the trafficking phenomenon, the real nature and extent of child trafficking in Europe is still unknown. There is no real way to set child trafficking in a quantitative relation to other child protection concerns – i.e. to compare the magnitude or frequency of child trafficking to other child protection concerns, and thereby to justify the amount of resources and activities invested in the 'fight against trafficking', as opposed to resources allocated to other child rights issues.

This question is particularly pertinent when one considers the violations of the rights of children in other settings, where resources are scarce indeed. To illustrate this, research in South Eastern Europe has shown that shelters for victims of trafficking are nearly empty in some countries, while in the same countries shelters for victims of domestic violence are overcrowded and severely under-funded. We also know that in this region domestic violence is a factor that enhances the vulnerability to trafficking of women and children.

I am certainly not suggesting that anti-trafficking programming should be less intense. There is much commendable work going on in the field. However it is important to reflect on what is being done, how effective the efforts really are, and whether something is being 'missed' along the way.

We see few programmes in the field, for example, that target the identification of trafficked children. Identification is a major challenge in sites of exploitation, especially if exploitation takes place in hidden circumstances or in private houses – trafficked child domestic workers and farm labourers coming immediately to mind. Moreover, UNICEF IRC research reveals that even when trafficked children are identified, their rights as victims of crime are not always safeguarded. They are often treated as illegal migrants or as criminally complicit in their exploitation. In our European trafficking study, for example, we found that not even a third of the countries under review have legislation in place to protect children who have been trafficked from being treated as criminals. In addition, trafficked children may also find themselves in situations where they have to claim their rights and can do so only in the asylum-seeking procedure.

Apart from the risk of criminalisation and prosecution, there are numerous other reasons why trafficked children may not want to be identified, including threats from traffickers and fear of stigmatisation. The best interests of the child and the child's right to have his or her views heard and taken into account are rarely given any consideration in practice.

As identification of trafficked children is difficult due to the clandestine nature of trafficking, and children may not want to be identified since this can lead to situations that are not in their best interest, it is appropriate to ask to which degree the focus on trafficking has really benefited children so far.

The attention being paid the world over to trafficking can be considered an opportunity and a challenge at the same time. How is it an opportunity? If governments have the political will to prevent and address child trafficking and to allocate resources to it then the opportunity presented is clear. Another opportunity is that the 'child rights approach' has become a standard wording when strategies and programmes on child trafficking are designed nowadays.

It is a challenge, however, to use these opportunities effectively and to make sure that the political will, the resources, and the 'child rights rhetoric' are translated into good practice, giving due consideration to the best interests of the child, recognising that children in all circumstances have agency, capacity, and rights. A major challenge in this regard is to broaden the perspective of the child trafficking debate by recognising trafficking as a broad child protection concern and looking beyond the narrow target group of children identified as victims of trafficking according to different legal and operational definitions, varying from one country to another.

### *A broader perspective to child protection*

If we adopt a broader perspective on these issues, we have to acknowledge that child trafficking, child migration, livelihood opportunities for children, and violence against children are all related.

A broader perspective means to consider how activities under the 'anti-trafficking' agenda can benefit a broader group of children, including children that are still often marginalised in the international debate and by Government services, such as victims of trafficking who are not identified or recognised as such, children who are victims of exploitation and abuse other than trafficking or who may be at risk of such. The CRC in its article 35 and 36 clearly affirms the right of the child to be protected from trafficking for any purpose or in any form, and from all other forms of exploitation. While many standards and guidelines, institutions and services have been developed to provide assistance to children identified as victims of trafficking, it is obvious that many of them are also directly relevant for these other groups of children. Such services include referral mechanisms, shelter, counselling and health care, guardianship, access to education, legal advice, etc.

Making services for children conditional on identification and 'classification' according to a narrowly defined group of victims clearly does not represent a human rights approach to child trafficking. A broadening of the perspective is needed in order to avoid the perpetuation of a dichotomy between 'deserving' or 'undeserving' children, between a child identified and recognised as a 'victim of trafficking' who might receive assistance as opposed to a child identified as an 'illegal migrant' or 'failed asylum seeker' or as a juvenile delinquent who might be subjected to criminal prosecution, detention or unsafe repatriation. Access to services has to be de-linked also from the ability and willingness of a child to cooperate with law enforcement.

Some European countries have started to develop services that primarily aim at assisting victims of trafficking but are open to a broader group of migrants, including undocumented migrants. This approach is laudable as it seeks to reach also those persons who may not be willing or able to self-identify as a victim of trafficking – and identification as victim of trafficking is still often a precondition to accessing services. At the same time such services can empower migrants and help prevent their recruitment into trafficking or other forms of exploitation. An example is health care services for trafficked persons that are accessible for all persons in need independently of their legal status in the country. Such services are accessible also to undocumented migrants, and in cases specifically targeted at children. These and other

services merit better documentation and evaluation of the ways in which and how children use them and what effect they have on children. In this respect, it would be important to learn more from service providers on what else is needed and works effectively to provide assistance and protection to children on the move, independently of their immigration status and whether or not they have been identified as victims of trafficking, asylum seeking children, or other.

A broader approach also implies addressing the socio-economic context in which trafficking occurs. The international debate on trafficking has so far focused on the vulnerability of the child in the trafficking process, in particular the aspect of exploitation. In order to better understand the complexity of trafficking and how children get into it, it is important to relate the vulnerability of the child in the trafficking process to other challenges confronting children's rights.

Our research has underscored the presence of a range of challenges to the well-being and rights of children and young people – in their homes, as they migrate, as well as in schools and in working situations. Concerning children who migrate, evidence suggests that the implementation of certain migration laws and the type and quality of services available for migrating and trafficked children in destination countries do not always give due consideration to the best interests of the child and can in fact lead to violations of children's rights and perpetuate their risk of exploitation.

A broader perspective therefore has to begin with effective prevention, protecting children from exploitation and abuse, and working for the empowerment of children. Children need to be aware of their rights and acquire life skills that enable them to take better informed decisions and avoid exploitative situations. In the debate on child migration, the objective cannot be to determine one solution that fits all, neither to prevent nor to encourage child migration categorically, but to create safe alternatives, including safe labour and migration opportunities for young people.

Due to the close links between violence against children, migration, and trafficking, these issues cannot be efficiently addressed in an isolated way. There is a need for better cooperation and information exchange between researchers, service providers, practitioners and policy makers focusing on these and related child protection issues. Researchers need to communicate their findings more effectively beyond the academia, and enhance cooperation with policy makers by providing evidence based analysis. Cooperation must not stop here but follow through to implementation in order to evaluate the impact on children, and supporting children in their right to participation.

Most importantly, cooperation also has to involve children's own experiences, recommendations and actions. Children need to be given the opportunity to contribute actively to the development of studies, programmes and policies on trafficking and migration. The consideration of children's views and their best interests should be given primary consideration in all measures and by all actors involved.

I will conclude here with one final observation. Given the focus of our research on child trafficking, we firmly believe that many of the lessons learnt can be of value to the emerging attention afforded to child migration, to raise awareness of differing interests and political agendas, and to encourage researchers, service providers and policy makers to prioritise rigorously the best interests of the child.