



ECPAT International Contribution to UN HLD on Migration and Development

Protecting Children from Commercial Sexual Exploitation in the Context of Migration

Introduction:

There are an estimated 214 million international migrants worldwide and 740 million reported internal migrants.¹ 15% of the total migrant population is comprised of youth under the age of 20 years; in the least developed countries, children and adolescents make up around 29% of the total migrant flow.² The majority of child migrants travel with their families, although there are still significant numbers of children moving independently. In the majority of cases, families and migrant children cross borders without legal documents.³ Children (especially those moving on their own) who are undocumented or irregular migrants are particularly vulnerable to coercion, deception and violence through child labour or commercial sexual exploitation.⁴

Until fairly recently, the discourse on migration has been primarily focused on adult populations. When states have given attention to human trafficking it has not always explicitly included child trafficking and the related vulnerabilities to sexual exploitation. Furthermore, the varied motivations and experiences of children on the move have received even less attention.⁵ Children who are migrating can have many different experiences and can actually move back and forth between positive and negative occurrences in varying contexts.⁶ Nevertheless, the UN Special Rapporteur on the human rights of migrants has advised that 'states should recognise that migrant children, especially those unaccompanied, are most exposed to the worst forms of child labour,' including commercial sexual exploitation of children (CSEC).⁷ Furthermore, structural abuse and power differentials have resulted in children being targeted

¹ UNDP, 2009, *Human Development Report 2009, Overcoming barriers: Human mobility and development*, UN, New York.

² Committee on the Rights of the Child 2012, *The Rights of All Children in the Context of International Migration*, Background Paper, 2012 Day of General Discussion.

³ Van de Glind, H 2010, *Migration and child labour: Exploiting child migrant vulnerabilities and those of children left-behind*, *ILO Working Paper*, ILO, Geneva.

⁴ International Organisation for Migration, 2013, *Children on the Move*, IOM, Geneva.

⁵ Ibid.

⁶ Punch, S 2007, *Migration Projects: Children on the Move for Work and Education*, paper presented at Workshop on Independent Migrants: Policy Debates and Dilemmas, London. 12 September, 2007.

⁷ UN General Assembly, 2009, *The Report of the Special Rapporteur on the human rights of migrants*, (A/HRC/11/7), p. 22.



by police, immigration and other local officials and denied their rights, exposing them to increased forms of abuse and exploitation.⁸

The UN High Level Dialogue on International Migration and Development offers an important mechanism to acknowledge not only the development benefits that can come from child mobility (such as improved economic or educational opportunities, social empowerment or greater security), but also the risks and challenges faced by millions of children who have their rights violated and end up experiencing exploitation and abuse during or after the migratory journey. This paper specifically outlines the vulnerabilities of migrant children to sexual exploitation and identifies key recommendations for the UN HLD (in particular, in relation to Thematic Focus of Roundtable 2 which specifically references the rights of women and children⁹) so as to promote greater coherence between migration, child protection and the rights of children on the move.

Child Migration and the Vulnerability to CSEC:

Many children are expected to financially contribute to their families and support themselves, and therefore seek to enter the labour market at a young age. The overwhelming reason for child migration is due to a lack of job employment opportunities for children in their home areas and a perception of better livelihood opportunities elsewhere.¹⁰ Filial responsibilities and child-parent reciprocity is widespread across cultures in many developing countries around the world.¹¹ Strong traditional gendered norms may mean that girls in particular drop out of school and seek work to support their parents and younger siblings. Children's vulnerabilities, coupled with the pressure to earn money, place them at high risk of being tricked and lured into abusive situations such as commercial sexual exploitation.¹²

Recommendations: The UN HLD should promote:

- *the investment in communities in sending countries of child migrants for job creation for youth and families at home, as well as relevant and quality education, training and social protection measures.*

⁸ ECPAT International and Mahidol University, 2013, Regional Research on the Rights and Needs of Unaccompanied and Separated Children, Bangkok, ECPAT International (publication forthcoming).

⁹ UN HLD on International Migration and Development Thematic Focus of Roundtable 2: 'Measures to ensure respect for and protection of the human rights of all migrants, with particular reference to women and children, as well as to prevent and combat the smuggling of migrants and trafficking in persons and to ensure orderly, regular and safe migration'.

¹⁰ World Bank, 2007, *World Development Report 2007, Development and the Next Generation*, World Bank, Washington.

¹¹ West, A 2008, *Children on the Move in South-East Asia: Why child protection systems are needed*, Save the Children UK, London.

¹² ECPAT International, 2008, *Exploitation of Children in Prostitution*, Thematic Paper prepared for the World Congress III on Sexual Exploitation of Children and Adolescents.



- *anti-poverty strategies that are targeted at the most risky forms of migration and worst forms of child labour.*
- *public information multi-media campaigns that can increase awareness of the dangers of child trafficking including for sexual exploitation, given the close connection between child trafficking and migration.*
- *the establishment of helplines that can provide counselling and information to ensure that young people are aware of safe and legal options for migration, foreign legislation, visa processes, legal possibilities of employment, advice on vetting job opportunities and support on how to access mechanisms for justice and redress when their rights have been violated.*

Conflicts and natural disasters push children to leave home and migrate, although these events can also propel children into adopting dangerous survival strategies such as selling sex in order to secure basic needs such as food, water and shelter.¹³ Many children, living or working on the streets around the world are victims of violence and abuse at home or school. Often these children survive by moving between different forms of informal work such as portering, shoe shining, scavenging/rubbish collecting, etc. Such precarious conditions make them particularly vulnerable to victimisation since they often lack responsible adult care and support and can be lured into commercial sex and other exploitative situations by the promise of a higher income to meet their needs.¹⁴ Discrimination, language barriers, fear of the authorities, a lack of local knowledge or experience to anticipate danger, involvement in criminal activities and isolation from family and a care system renders them easily exploitable.¹⁵

Recommendations: The UN HLD should endorse:

- *strengthened referral mechanisms to ensure that children vulnerable to or victimised by violence can receive the protection and assistance to which they are entitled; such mechanisms should be available in languages common to child migrants.*
- *resource allocation on national child protection systems in both sending and receiving countries that equally address the needs and rights of both national and foreign children.*
- *the protection of all children against all forms of violence as a key goal with indicators in the post 2015 framework.*

States have attempted to deal with the issues of irregular and undocumented migration through a variety of increasingly restrictive migration laws. Despite obligations under the Convention on the Rights of the Child to protect all children irrespective of their status, irregular child migrants are generally

¹³ ECPAT International, 2012, Protecting children from sexual violence during armed conflicts, Journal Series No. 3.

¹⁴ ECPAT International, 2013, The Worst Forms of Child Labour: Street work and the vulnerabilities to CSEC, Journal Series No. 8 (to be published).

¹⁵ ECPAT International, 2008, Child Trafficking for Sexual Purposes, Thematic Paper prepared for the World Congress III on Sexual Exploitation of Children and Adolescents.



denied international protection and usually have limited access to basic social services, such as education and health care. As a result, the only legal outcomes for irregular migrants in many states – including children – are arrest, detention and deportation. This only exacerbates the vulnerabilities and risk taking options that child migrants will take, further entrenching them in exploitative situations.¹⁶ Children are more susceptible to the pressures of their situation and can be more easily manipulated, tricked and lured into sexual exploitation during migration or upon arrival at their destination. As a result, particularly vulnerable groups are refugee seeking children, separated children and independent child migrants (i.e. minors who are outside their country of origin and separated from both parents, or their legal/customary primary caregiver).¹⁷

Recommendations: The UN HLD should advance:

- *policy reform resulting from a more open and child-centred policy debate about the different forms of child migration and children’s rights within countries of origin, transit and destination.*
- *child migrants’ rights to basic services and protection from criminalisation and detention because of their irregular status or involvement in illegal activities such as prostitution.*
- *a child rights focus to migration policies and programmes on recovery, reintegration and repatriation of child migrants and/or victims of CSEC that reflects the best interest of the child and are in-line with the principles of the UN CRC (including the child’s right to be heard) and General Comment No. 6 issued by the UN CRC Committee on the Treatment of Unaccompanied and Separated Children Outside their Country of Origin.*
- *recognition that child migrants of employable age should be allowed to enjoy their rights in full, including their entitlement to a safe and healthy workplace.*

Certain categories of migrant workers, such as those in domestic work or the informal sector (where the potential for child labour and exploitation may be seen as high due to the lack of regulation) are often excluded from national labour laws and regulations.¹⁸ Furthermore, new economic development policies in various sectors (such as in tourism, large scale infrastructure development projects, etc.) often result in the unfortunate side effect of an increase in the sex trafficking of children and women from neighbouring countries.¹⁹ Those involved in the trafficking of children for commercial sexual

¹⁶ Wetzler, J 2012, Irregular Migration in Thailand: New Possibilities for Anti-Trafficking and Development Programs, *Human Security: Securing East Asia’s Future*, Spinger Science+Business Media B.V.

¹⁷ ECPAT International and Mahidol University, 2013, Regional Research on the Rights and Needs of Unaccompanied and Separated Children, Bangkok, ECPAT International (publication forthcoming).

¹⁸ Committee on the Rights of the Child 2012, *The Rights of All Children in the Context of International Migration*, Background Paper, 2012 Day of General Discussion.

¹⁹ UNICEF, 2009, Independent Child Migrants in Developing Countries: Unexplored links in migration and development, Innocenti Working Paper, UNICEF Innocenti Research Centre.



exploitation, capitalise on the general lack of regulations and legislation, corruption and poor enforcement of the law often found in these contexts.²⁰

Recommendations: the UN HLD should:

- *call on all governments to ratify and implement the core international conventions related to children and child migrants' rights such as ILO 138 Minimum Age Convention, ILO 182 Worst Forms of Child Labour Convention and the UN CRC Optional Protocol on the Sale of children, child prostitution and child pornography, in order to prevent and protect children from becoming ensnared in child labour and sexual exploitation.*
- *acknowledge that children who are over the legal age for employment require support in finding work that is not hazardous and in accessing vocational training to improve their prospects of finding better employment.*
- *highlight the importance of children and their families being provided with more regular, non-discriminatory and safe migration channels.*

The movement of children is significant but has been largely invisible in migration discussions to date. The lack of research from the perspective of the child migrant has led to the over simplification of the causes, experiences and outcomes of children's migratory movement. Data collection is generally poor and rarely disaggregated by domestic versus international migration, independent versus family migration or differentiated between positive or negative outcomes. While increased efforts to address trafficking and exploitation at a global level have been paramount in preventing and addressing violations, the lack of a child rights focus and differentiated data sources for capturing children's migration experience has resulted in increasing the vulnerability of children. For example, the oversimplification of the child trafficking discourse can end up diluting anti-child trafficking initiatives and ignoring children's agency, their rights (including the right to work) and the structural and institutional capacities needed to best support them.²¹ There has been a neglect in mainstream research of migration to explore the migration-development links to child migration so that the prevention of child trafficking is viewed comprehensively and more effectively within a rights-based migration framework that also recognises the rights of independent child migrants.²²

Recommendations: The UN HLD needs to promote actions to:

- *build and improve data collection and analysis to identify and mitigate against the vulnerability points and social threats that augment the negative effects of migration on children that can lead to child trafficking and exploitation.*

²⁰ ECPAT International, 2013, Analysis of Legal Frameworks Surrounding the Sexual Exploitation of Children, Journal Series No. 5.

²¹ Howard, N 2011, Protecting Children from Trafficking in Benin: In Need of Politics and Participation.

²² UNICEF, 2009, Independent Child Migrants in Developing Countries: Unexplored links in migration and development, Innocenti Working Paper, UNICEF Innocenti Research Centre.



- *develop specialised tools and provide training for relevant personnel to enable application of a child rights approach that can distinguish between trafficked children and other children on the move to ensure that the application and responses of policies and programmes are more targeted and, therefore, ultimately more effective.*
- *encourage the participation of child migrants and the greater engagement of civil society in the policy discourse to ensure that children who migrate are consulted and listened to and have their views taken into account.*

Conclusion:

Millions of children are migrating for a multitude of reasons and the number is only likely to increase in the decades to come. However, to date, child migrants have remained largely invisible to policy makers and limited attention has been paid to their international rights. Moreover, policies intended to prevent or control migration often lead to increasing the vulnerability of child migrants to varied negative consequences of abuse and violence, including sexual exploitation. Child migrants are frequently denied their rights due to their irregular status and may be held in detention or criminalised for involvement in illegal activities such as commercial sexual exploitation.

It is imperative that the UN HLD urges governments to introduce national child protection systems for *all* children that are responsive to the needs and rights of the different categories of migrant children. States need to address gaps in legislation, policies and services to protect children who are vulnerable or victimised as a result of migration. Child migration needs to be better researched and understood so that both migration and child protection policies and programmes can be better targeted and take into account the reasons why children migrate, the risks and hazards they are vulnerable to, the best interests of the child in determining responses; and in certain cases, their legitimate right to have decent and safe work.