

CHILDREN ON THE MOVE

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14_13

CONTENTS

Preface
The rights of all children in the context of international migration 1
By Professor François Crépeau

Introduction to six articles by members of the research subgroup of the Inter-Agency Working Group on Children on the Move 5
by Mike Dottridge

Children on the move: A different voice..... 13
by Moussa Harouna Sambo and Fabrizio Terenzio

Migrant children in child labour: A vulnerable group in need of attention 27
by Hans van de Glind and Anne Kou

Unaccompanied migrant children and legal guardianship in the context of returns: The missing links between host countries and countries of origin 45
by Ana Fonseca, Anna Hardy and Christine Adam

Protecting and supporting children on the move: Translating principles into practice..... 63
by Daniela Reale

Challenges faced in protecting children on the move: An NGO perspective..... 81
by Mirela Shuteriqi

Children's migration: Towards a multidimensional child protection perspective..... 95
by Susu Thatun and Karin Heissler

PREFACE

THE RIGHTS OF ALL CHILDREN IN THE CONTEXT OF INTERNATIONAL MIGRATION[1]

By Professor François Crépeau
United Nations Special Rapporteur on the human rights of migrants

The outcome document of the special session of the General Assembly on children, *A World Fit for Children*, pledged to build "a world in which all girls and boys can enjoy childhood… where their safety and well-being are paramount and where they can develop in health, peace and dignity." For migrant children, especially those in irregular situations, this goal often remains illusory. Migrant children are often overlooked in the development of national laws and policies addressing migration and child welfare. The situation is even direr for migrant children in irregular situations, who are often treated as criminals. Despite the existence of international laws designed to respect, protect and fulfil all children's rights, States have yet to fully implement these rights for the migrant child, as they often overlook the migrant child as a **distinct rights-holder** in developing migration laws and policies.

At the core of this issue is the fact that States often see migration as a 'problem' which needs to be overcome and migrants as potential law-breakers who must be prevented from 'abusing the system.' In this context, the rights of migrants are often viewed within very narrow parameters, that is, migrants are 'legitimate' only where the migration is a result of specific circumstances. This includes migration as a reaction to an emergency situation, for instance, the movements of asylum-seekers and refugees; other circumstances of forced migration, such as during natural disasters ; and migration that is related to exploitation, as is the case of victims of trafficking. While these emergency situations are of great importance, it is important to recall that the migration of children – and migration in general – takes place in a range of circumstances broader than these contexts. Child migration has multidimensional root causes. On the one hand, factors that compel children to migrate may include persecution of the child and/or his parents; a post-conflict or post-natural-disaster humanitarian crisis; and trafficking in any of various contexts and forms, including the sale of the child by the parents. Yet beyond these reactive circumstances, migration may also be a way for children to seek a better future for themselves, either with their parents or alone. Migration is often seen as a way to escape poverty and discrimination and better access fundamental rights and basic services. Focus should thus be on ensuring the **best interests of the child as a primary consideration** during all stages of the migratory process, notwithstanding the reasons for migration or the child's immigration status in the host country.

In light of the various situations described above, there is no one homogenous profile of the migrant child. Migrant children may be accompanied by their parents or guardians, by other adults (separated children) or alone (unaccompanied children), and children may migrate in regular or irregular ways. Irregular migration may involve irregular entry by children into a third country,

1 This text was first presented as the introductory statement by the United Nations Special Rapporteur on the Human Rights of Migrants, Professor François Crépeau, to the 2012 Day of General Discussion, organized in Geneva, on 28 September 2012, by the Committee on the Rights of the Child, on the rights of all children in the context of international migration.

but also includes those children who enter a country regularly but overstay their visa or end up in an irregular situation in other ways. Migrant children also include those children born in host countries to migrant parents. Children left behind by parents who migrate are likewise affected by migration and may in turn end up as migrants themselves, seeking to reunite with their families. The framework of the *Convention on the Rights of the Child* requires us to recognize and celebrate the agency of children, who, as is the case for any moral being, are never and should never be treated *only* as victims of circumstances, but always *also* as **agents of their own future**. We must understand and celebrate the agency of migrant children, many of whom have independent migration projects of their own.

Sometimes, the absence of opportunities for children to migrate safely and through regular channels leads them to embark on dangerous journeys, including through the use of smugglers, in order to reach their country of destination. Especially when unaccompanied, these children are highly vulnerable to becoming victims of violence and abuse during their migratory journeys. Opening up more **regular migration channels**, particularly in relation to family reunification, will go a long way towards protecting these children.

Irregular migrant children face numerous obstacles and challenges during and after the migration process and are in a situation for which they should not be held responsible, either morally or legally. As one of the most vulnerable groups in society, these children need respect, protection and fulfilment of their fundamental rights. To begin to achieve this, all persons under the age of 18 must be recognized as children in the eyes of the State, regardless of their immigration status. States can begin to protect migrant children and uphold their fundamental human rights by bringing this perspective to the forefront in law and policy development. Immigration policies should never be enforced at the expense of a child's best interests and that assessment should always be done by a decision-maker specializing in child protection, not by immigration authorities. In this respect, **regularization processes** are an important tool to enhance the respect for the human rights of migrant children in irregular situations.

The world appears to be facing an increasing number of children in migratory situations. However, the statistical **data** available is scattered and problematic. States should thus considerably strengthen their data-collecting and -analysing capacity regarding migrant children in all phases of the migratory process, in order to formulate and implement child-sensitive migration policies.

The lack of awareness and training of relevant authorities is a contributing factor to the massive human rights violations committed against migrant children. Migration authorities in many countries seem to lack basic awareness and sensitivity towards children's rights. **Capacity building** is, therefore, an important measure to enhance the protection of the human rights of migrant children, particularly those in irregular situations. Further, **inter-agency coordination** should be made a priority to ensure an adequate level of respect for and protection of children rights. In particular, it is important for national immigration authorities to systematically defer to national child welfare agencies when migrant children's rights are at stake.

Several international treaties afford children's rights that are, or can be, affected during or after the migration process. At the foundation of the international framework for human and children's rights is the *Convention on the Rights of the Child* (CRC), which prescribes minimum standards that States must adhere to regarding the treatment of children in their respective territories. The CRC is the most widely ratified human rights treaty and provides, in Article 2, that all rights it contains apply to all children within the jurisdiction of the States Parties, without **discrimination** of any kind. Article 3 provides that the best interests of the child shall be a primary consideration in all actions concerning children. Article 6 sets out the right to **life**, **survival** and **development** of the

child. Article 12 provides that children have the right to **express their views and the opportunity to be heard** in judicial and administrative proceedings affecting them. The effective application of these four general principles of the CRC will go a long way in ensuring the respect for the human rights of all children in the context of migration.

In practice, however, children's rights are often unfortunately violated, and there is a broad range of human rights challenges affecting children in the context of migration. One example is the extensive **criminalization** of irregular migrants, including children. This can lead to serious restrictions on their human rights, including restricted access to services such as **education**, **housing** and **health care**. An example of this is where countries require registration with a government authority to access certain public services, thus inhibiting access for individuals not regularly residing within the state. Migrant children may also experience restricted access beyond express prohibition, for example, through informal barriers due to financial costs, lack of information, discrimination and a climate of fear of discovery and detention/deportation. Migrants may also be reluctant to use public services, or allow their children to access these services, because of state policies which formally criminalize irregular migration.

A related consequence of the phenomenon of criminalization of migration is that it promotes the use of **inappropriate terminology** – referring to migrants in irregular situations as 'illegal,' such as in 'illegal aliens.' Using incorrect terminology that negatively depicts individuals as 'illegal' contributes to the negative discourses on migration and further reinforces negative stereotypes against migrants. Moreover, such language is used in discourses to justify the criminalization of migration, which in turn contributes to the further marginalization, alienation and discrimination of and **xenophobia and violence** against migrants, including migrant children. However, **no child is illegal**, and all children have rights, regardless of their migratory status.

The lack of a **best-interests determination procedure** may also lead to a number of human rights violations, including the detention of children and their deportation, as well as the separation of children from their parents, disrespecting the principle of **family unity**, provided for in the Preamble and Articles 9 and 10 of the Convention on the Rights of the Child.

The **detention** of migrant children should be avoided as a matter of principle. As noted in my report to the Human Rights Council in June 2012, the detention of a migrant child together with his or her parents when the latter are found to be in an irregular situation, justified on the basis of maintaining family unity, may not only violate the principle of the best interests of the child and the right of the child to be detained only as a measure of last resort, but also his or her right not be punished for the acts of his or her parents. This does not mean that the best interests of the child are served through splitting up the family by detaining the parents and transferring their children to an alternative care system. The detention of parents has a detrimental effect on children and may violate children's right not to be separated from their parents against their will, as well as the right to protection of the family provided by both the ICCPR and ICESCR. The decision to detain migrants who are accompanied by their children should therefore only be taken in very exceptional circumstances. States must carefully evaluate the need for detention in these cases and, rather, preserve family unity by applying **alternatives to detention** to the entire family.

Unaccompanied or separated children are particularly vulnerable to becoming victims of human rights violations, such as sexual and economic exploitation and human trafficking, so their situation requires special attention. In its General Comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their countries of origin, the Committee on the Rights of the Child stated that unaccompanied and separated children should not, as a general rule, be detained, and detention cannot be justified solely on the basis of their migratory or residence status, or lack

thereof, nor should children be criminalized solely for reasons of irregular entry or presence in the country. States should instead appoint a guardian as soon as the unaccompanied or separated child is identified and maintain such guardianship arrangements until the child has either reached the age of majority or has permanently left the territory and/or jurisdiction of the state.

States must mainstream a **child's rights-based approach to migration** into national legislation, plans, programs, policies and practices, and consider the impact of migration on children in the elaboration and implementation of national development frameworks, including those with respect to poverty reduction, rights protection and access to public services. Making sure that national human rights institutions have the mandate, the training and the means to oversee the treatment of migrant children is one element of such a strategy. States should also make sure that they establish transnational networks of child welfare agencies and other stakeholders in the protection of children's rights, so as to ensure that no child remains trapped in the administrative 'in-betweens' that are so often the fate of migrants. A comprehensive child's rights-based approach to domestic and transnational law, policy and practice would utilize the best interests of the child as a key evaluation tool in the decision-making process and ensure that the minimum obligations under the CRC are met.

We should always devise a treatment for migrant children that we would consider appropriate for 'our' own children. As I have said, migrant children should always be treated as **children first**.

Introduction to six articles by members of the research subgroup of the Inter-Agency Working Group on Children on the Move

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The article was written in the author's personal capacity and the views expressed in this article are those of the author's only and not necessarily those of their respective organizations.

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This publication is the result of efforts by a number of specialists and practitioners belonging to different international organizations – intergovernmental and non-governmental – who have been sharing their thinking over the past two years about how best to engage with the needs of 'children on the move'. Just over two years ago, these organizations and others – including one representing West African working children, many of whom had migrated from rural areas to cities – met in Barcelona in October 2010 for an international conference about children on the move (entitled the International Conference on Protecting and Supporting Children on the Move, organized by the Global Movement for Children and supported by the Generalitat de Catalunya, together with the Oak Foundation and Intervida). They subsequently agreed to go on sharing their ideas in an Inter-Agency Working Group on Children on the Move.

Shortly before the conference in Barcelona, the conference organizers issued an explanation as to why the conference was needed and what it would try to achieve. They observed that:

> "Children have become an important part of large-scale population movements currently involving millions of people and are likely to be increasingly affected in the next decades as a result of globalisation, socioeconomic change and climate change. Yet, in debates on both child protection and migration, children who move or are left behind are largely invisible. As a result, policy responses to support these vulnerable children are fragmented and inconsistent" (Conference concept paper issued in May 2010).

During and following the conference, there were discussions about which children should be regarded as being 'on the move,' for this was intended to be a broad concept, encompassing children from diverse backgrounds and with different experiences. Eventually, the working group formed to follow up the conference agreed on the following definition:

> Those children moving for a variety of reasons, voluntarily or involuntarily, within or between countries, with or without their parents or other primary caregivers, and whose movement, while it may open up opportunities, might also place them at risk (or at an increased risk) of economic or sexual exploitation, abuse, neglect and violence.

Many of the organizations represented at the Barcelona conference were the ones whose mandates led them to focus on children who experience particular risks as a result of migration, rather than children who did well out of moving. One of the lessons learned at the conference, however, was that even unaccompanied children who migrate to earn a living away from their families, and who are at higher risk of abuse and exploitation than children who live with their families, sometimes gain a great deal from their experience. A related lesson was that while the main preoccupation of most international organizations was the prevention of abuse, violence and exploitation, they should recognize the potential benefits of migration to children and factor these into their responses.

The concept of children on the move intends to capture not only all the difficulties that children experience when they change their place of residence, but also all the opportunities they may come across. The contribution of organizations that have previously viewed their roles solely in terms of protecting young people from harm could potentially be modified to include measures to enable young people to make the best use of the opportunities open to them.

An important feature of the conference in Barcelona was the agreement that the children involved were in a unique position to comment on which among the array of initiatives taken in the name of 'protecting' them had a positive impact from their point of view and which did not. However, conference participants received reports that while government agencies and intergovernmental and non-governmental organizations (NGOs) intending to protect children (who leave home) from a variety of forms of exploitation invariably have good intentions, in many cases they do not make it a priority to listen closely to the children concerned, either to find out what the specific impact on children of the organization's interventions had been, or to identify the children's own priorities as far as their needs were concerned. This new focus on listening to children's views reflected the priority given to *The right of the child to be heard*, the subject of a General Comment issued the previous year by the Committee on the Rights of the Child (the international body established to monitor the implementation of the United Nations Convention on the Rights of the Child). It signalled that there was some recognition that organizations seeking to protect children could be out of touch with the very young people whom they intend to protect and support with their activities, and some realization that, without consistent feedback from the children concerned, there is every likelihood that actions taken in the name of protecting children may be unhelpful or even counterproductive for precisely the young people who are expected to benefit from them.

The conference participants also received evidence that the governments of numerous countries around the world – both developing and industrialized ones – act as if children on the move were invisible. They appear deeply ambivalent about whether they really want to take action to protect the rights of children 'who don't belong.' This ambivalence is often manifested in the lack of protection and services provided by government agencies to this group of children, even though, at the policy level, it is routinely claimed that governments protect the rights of all children.

Following the conference, a working group was established which eventually became the Inter-Agency Working Group on Children on the Move. Its intention was to see how best to proceed with efforts to improve the methods used to protect and support children on the move and, also, whether steps could be taken, without jeopardizing protection measures, to maximize the benefits of migration for them. The working group included some United Nations organizations, international NGOs and individual members. Among the various subgroups that were established, the one on research were responsible for the articles in this publication. The members of the subgroup represent various organizations, but wrote these articles in their personal capacities, so the articles should not be construed as representing the official views of any organization. Neither do the articles represent the collective conclusions or positions of the Inter-Agency Group on Children on the Move. This publication can be seen to be part of a learning process, rather than presenting any definitive conclusions. The authors are:

1. Moussa Harouna Sambou and Fabrizio Terenzio of the African Movement for Working Children and Youth/Mouvement Africain des Enfants et Jeunes Travailleurs (MAEJT);
2. Hans van de Glind and Anne Kou of the International Labour Office's International Programme on the Elimination of Child Labour (ILO-IPEC);
3. Ana Fonseca, Anna Hardy and Christine Adam of the International Organization for Migration (IOM);
4. Daniela Reale of Save the Children UK;
5. Mirela Shuteriqi of the Terre des hommes Foundation; and
6. Susu Thatun and Karin Heissler of UNICEF.

The articles are quite varied, with half of them presenting information intended to enable others to replicate particular methods for finding out about the experiences of children on the move or for assessing what course of action in the future is likely to be in their best interests. The article by Moussa Harouna Sambou and Fabrizio Terenzio ('Children on the move: A different voice') notes the wealth of information that children themselves are capable of collecting from other young people about their experiences while migrating, and the relevance of this for both government policies and the approaches taken by intergovernmental organizations and NGOs. It also cites examples of how the same West African children who were involved in collecting information were also in a position to respond immediately to the problems experienced by children on the move. The other articles all focus primarily on methods to protect children on the move. So, while the Barcelona conference emphasized the need to focus on more than just protecting children from harm, it is evident that a gap still needs to be bridged between organizations promoting the interests of migrant children (and encouraging others to listen to their experience and opinions and to take these into account when designing their policies and programmes) and those who focus on protection, particularly ones that interpret the interests of children so narrowly that they reckon that children should be stopped from moving in the first place, in order to stop them from being exploited or coming to harm.

For some, the focus is on children's experiences while in transit, when there is relatively high potential for those who make a journey by themselves (or who are accompanied by other adults rather than by their own parents) to be spotted by crooks who want to exploit them. The article by Daniela Reale ('Protecting and supporting children on the move: Translating principles into practice') looks specifically at how to find out about children's experiences and to make decisions with them and on their behalf, which explicitly make the best interests of the child concerned a primary consideration in the decision. The article by Ana Fonseca, Anna Hardy and Christine Adam ('Unaccompanied migrant children and legal guardianship in the context of returns: The missing links between host countries and countries of origin') also focuses on decisions made about children from one country who arrive in another. Both these articles focus on children from one country in the global 'South' who move across an international border into a neighbouring country: they do not simply add to the existing, voluminous literature about children from the global South who migrate to industrialized countries (mainly into the European Union and the United States). Rebalancing the literature will take a long time, but the available data about children who migrate makes it clear that the majority of children who move are doing so within and between countries of the global South, rather than into richer, industrialized countries.

For other authors, the focus is on the phases before or after children are in transit, that is, on how best to prepare children to face what might be an ordeal and negotiate the maze of risks and opportunities in the place of destination.

The article by Hans van de Glind and Anne Kou ('Migrant children in child labour: A vulnerable group in need of attention') notes that migrant children in the global South are poorly protected by their governments and have limited access to services. Consequently, according to the authors, they are "worse off in terms of working conditions compared to local child labourers, and are thus in need of focused attention". This emphasis on the risks faced by children on the move, particularly once they reach their destination, is by no means new, but the article presents compelling information that such unaccompanied children face unacceptable levels of discrimination at their destinations. The article's review of data already published by the ILO about migrant child workers concludes that they "are among the least visible and least politically enfranchised, such that employers have no incentive to provide proper working and living conditions," confirming the need to give attention to listening to their views, finding out about their experiences and bringing these to the attention of policymakers. It also underlines the need for future research on a range of social issues

(including child labour) to include a focus on migration systematically – with data disaggregated by internal versus external migration, independent versus family migration, and birth registration. At the same time, research on migration should give attention to children more systematically, whatever their age.

The article by Mirela Shuteriqi ('Challenges faced in protecting children on the move: An NGO perspective') takes a different point of view from the others and explores the factors that hinder NGOs from assisting and protecting children on the move. She describes the reluctance of some NGOs to engage in public advocacy on behalf of children on the move and identifies two very different causes for this. The first is linked to a series of threats that NGOs anticipate if they become advocates for children on the move, mainly from the authorities in industrialized countries that fund or otherwise facilitate the work of such NGOs, but also from members of the public who donate money to NGOs and who are perceived to have little sympathy for child migrants arriving in their country. The second seems more substantial, related to the complexity behind the children's movements and the technical challenges in working out how best to respond to this complexity.

The article by Susu Thatun and Karin Heissler ('Children's migration: Towards a multidimensional child protection perspective') advocates a 'child protection approach to migration' that focuses on a variety of vulnerabilities, but also urges that attention be given to 'children's resiliency' and the positive outcomes that may result from children moving. The authors demonstrate that they are well aware of the disadvantages to children of numerous migration policies and measures that are nominally supposed to protect children. They argue that policymakers should avoid simplistic analyses and "a binary approach or categorization of a migrant child as 'forced' or 'voluntary', moving under parental pressure or independently, regular or irregular, is unhelpful because children move in and out of categories depending on the situation that prevails on the ground." Not surprisingly, they conclude that a wide range of factors affecting children's decisions to migrate and their subsequent experience need to be taken into account by policymakers. The article reinforces the message given by Moussa Harouna Sambou and Fabrizio Terenzio: that children who have migrated to cities or other places in their own country, or to other countries, have acquired in-depth experience of something like a game of snakes and ladders – and sometimes have rather more relevant experience than many specialists working for governmental or international organizations on the topic of migration. Not to seek out their voices and listen to their experience consequently seems to amount to a form of negligence.

Not surprisingly, most of the focus in the articles is on unaccompanied or separated children, rather than on children who move or migrate as part of a family, who are seen to exercise less agency (and to have less influence about what happens to them) because they are accompanied by others who generally make decisions on their behalf. They are also perceived to be less likely to come to harm, although there is plenty of evidence that children who migrate with their families face significantly more challenges than local children.

Children who move from one country to another have remained a priority topic for discussion by others. In September 2012, the Committee on the Rights of the Child dedicated its annual day of general discussion to the rights of all children in the context of international migration. Not surprisingly, international organizations give more attention to children who move internationally, although these articles demonstrate that children who migrate within their own countries also deserve substantial attention.

Taken together, the articles contain a host of suggestions about the ways in which children can be protected more effectively when they move away from home and migrate. These start with an emphasis on how we can learn from young people who have relevant experiences. They continue

by identifying some of the measures that help children prepare themselves before leaving home and potentially make them more resilient. The articles also cover a wide range of methods deployed by organizations which provide basic services to children on the move and which make decisions that have a major impact on children.

The methods for protecting or supporting children on the move are diverse, and the extent to which the children involved can both express their views on what interventions they like (and do not like) and influence those interventions is also very different. When it comes to migration, whether internal or international, ways to ensure that the comments or feedback made by the adults and children who feel the effects of governments' migration policies need to be put in place. Collectively, the articles in this publication express the need for everyone to listen more carefully to the voices of children: diplomats and government officials, intergovernmental organizations and NGOs.

Children on the move:
A different voice

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The article was written in the authors' personal capacity and the views expressed in this article are those of the authors' only and not necessarily those of their respective organizations.

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ABSTRACT

The African Movement of Working Children and Youth (AMWCY) is an important voice today. With more than 550,000 members and friends in 24 African countries and organized to promote working children's rights, it makes a constructive contribution to the African Union and to the Regional Platform on Children's Mobility, which consists of seven international and non-governmental organizations (NGOs).

Having conducted several studies involving hundreds of children and young people – studies supported by two African sociologists – AMWCY first demonstrated that the terms used in combating child trafficking were poorly adapted to the realities of young people in the region and that in many villages there were serious conflicts between the generations, obstructing good communication. AMWCY offered an alternative approach to villagers, particularly on the issue of mobility, seeking to turn victims into actors.

AMWCY focused on understanding the experiences of children who move. Their routes are not chosen at random and are influenced by the particular activities in which children want to get involved. But there are pitfalls to avoid on the way that require a lot of effort to avoid. Finally, the findings revealed a series of actors alongside children who travel, raising questions about their status: are they friends or supporters who play a protective role rather than enemies, traffickers and profiteers?

A lesson-learning exercise made it possible to make the experience of 'being protected,' as perceived and practiced by AMWCY, available to others. This includes information about individual cases and the measures the organization can take to help resolve difficulties and make life safer and less harsh for children on the move.

The article lists seven points of consensus agreed upon by the Regional Platform, along with the Platform's belief that children's mobility involves risk and vulnerability, as well as opportunities and personal development. The heart of the problem is not the fact in itself that children move but the vulnerability of children involved in moving.

INTRODUCTION TO AMWCY AND ITS STUDIES

With more than 550,000 members and supporters, organized in 2,411 groups in 24 African countries, the African Movement of Working Children and Youth (AMWCY) is an example of the awareness of and commitment to African children. Consisting of domestic workers, apprentices, farmers and young people working in thousands of jobs in the informal urban economy, AMWCY is also a structure that allows them, day after day, to make progress in their lives and to look forward to the future with hope.[1]

Founded in 1994 to promote 12 specific rights that are particular to child workers, the Movement has been involved in a series of actions to promote children's right to remain in the village, not to migrate. Since 2004, AMWCY has been involved even more actively in opposing the early or

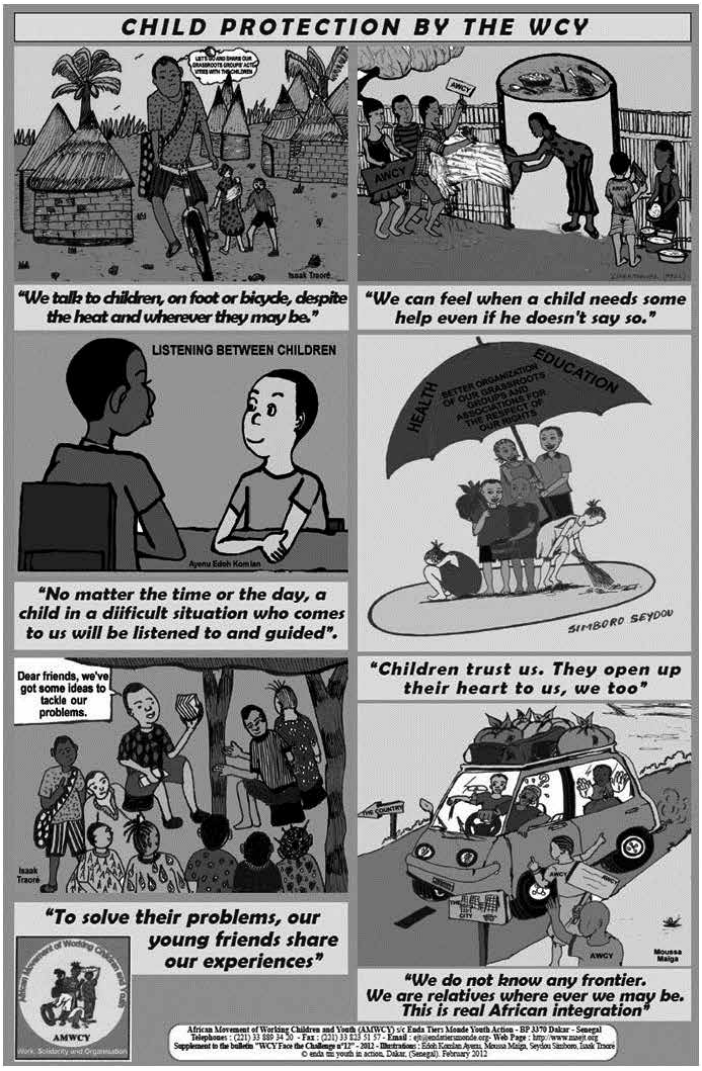
1 General information on AMWCY (*Mouvement Africain des Enfants et Jeunes Travailleurs, MAEJT, in French*) can be accessed in French and English at www.maejt.org.

premature migration of children from rural areas to cities and towns. Its region-wide programme involves not only prevention activities at village level, but also finding out what can be done to support children who do migrate (as migration often seems unavoidable), to make such children less isolated and therefore less vulnerable to abuse.

Its involvement in a Regional Platform on Children's Mobility brought AMWCY together with Environnement et développement du Tiers Monde [Environmental Development Action in the Third World] (ENDA Third World), a Dakar-based international NGO, the International Labour Office (ILO), the International Organization for Migration (IOM), Plan International, Save the Children, Terre des Hommes and UNICEF to reflect and exchange information on this topic.

AMWCY carried out several research studies. The investigations' main characteristic was that, from start to finish, they were conducted by groups of children and young people, assisted by three adult 'facilitators' (in particular two sociologists/social anthropologists, Dominique Gomis and Aboubacry Imorou, and Moussa Harouna, who had the role of working children and youth [WCYs] facilitator). The research essentially consisted of interviews carried out in local languages, which were recorded and later translated. The studies involved numerous meetings to share and check on data. These meetings took place in the presence of support teams, which were responsible for preparing final reports for publication.

Figure 1: Child protection by organized WCYs



THE FIRST STUDY CAME UP WITH WHAT SOUNDED LIKE A STRANGE HYPOTHESIS – "CHILDREN SHOULD NOT BE SEEN AS VICTIMS, BUT RATHER AS ACTORS."

The study (AMWCY, 2008) focused on five countries (Benin, Burkina Faso, Côte d'Ivoire, Mali and Niger) and was carried out in 2008. It involved more than 600 children and young people, including 115 as researchers and workshop participants. Several methods were used to check the information provided, complete the data and coordinate all those involved.

Methods used

The study involved a qualitative and participatory approach, involving hundreds of actors, mainly WCYs themselves, in the collection of information and its analysis, country by country, followed by a final regional workshop. This approach was chosen in the hope of gathering information in a way that would allow informants to express their points of view freely (in their local language), and would permit the analysis of that information according to the precise meaning of the terms they used (in their native tongue). The collection of this information was made through approximately 500 interviews and stories, recorded in local languages, based on a standard format agreed upon at the project's launch meeting. The information obtained was transcribed into French.[2]

A. The three phases of the research

A regional workshop of 25 participants was held in Cotonou, Benin from 10 to 15 June 2007, to launch the research. It was intended: (1) to clearly explain and share information about the objectives and the organization of the project; and (2) to strengthen the capacities and to train AWCY in the methodology of collecting information from young people and their communities.

Oral information was collected (recorded during interviews), transcribed and translated into French between 20 June and 31 July 2007. This was followed by the participatory analysis of that information during a series of workshops at national level, held between 3 August and 16 September 2007, in each of the five selected countries.

A regional meeting of WCYs and their partners was held to assess the overall research findings from 15 to 19 October 2007 in Bamako, Mali. It was attended by more than 30 working children and youth from the five countries involved in the study, along with some participants from Guinea (Conakry), Senegal and Togo. Following this, the final report was drafted.

2 This initiative was inspired by an experience of the 'Most Significant Change – MSC' led in 2006, in collaboration with Plan (a branch of Plan International) in Burkina Faso, Mali and Niger.

B. Collection of information and supervision plan

The research team included:

- in each of the five countries, a national-level focal point for the teams involved in collecting information;
- two facilitators (a social anthropologist and an AMWCY coordinator) who travelled from one country to another during the national workshops;
- one AMWCY assistant supported by the personnel of the NGO ENDA Third World in Dakar, Senegal; and
- another 'distant assistant,' who was in charge of report follow-up.

C. Sources of information

At the outset it was decided that, in each country, information would be collected in five villages and five cities (chosen by each national team of collection according to criteria that they have decided on). In particular, the following people were contacted to ask them for information:

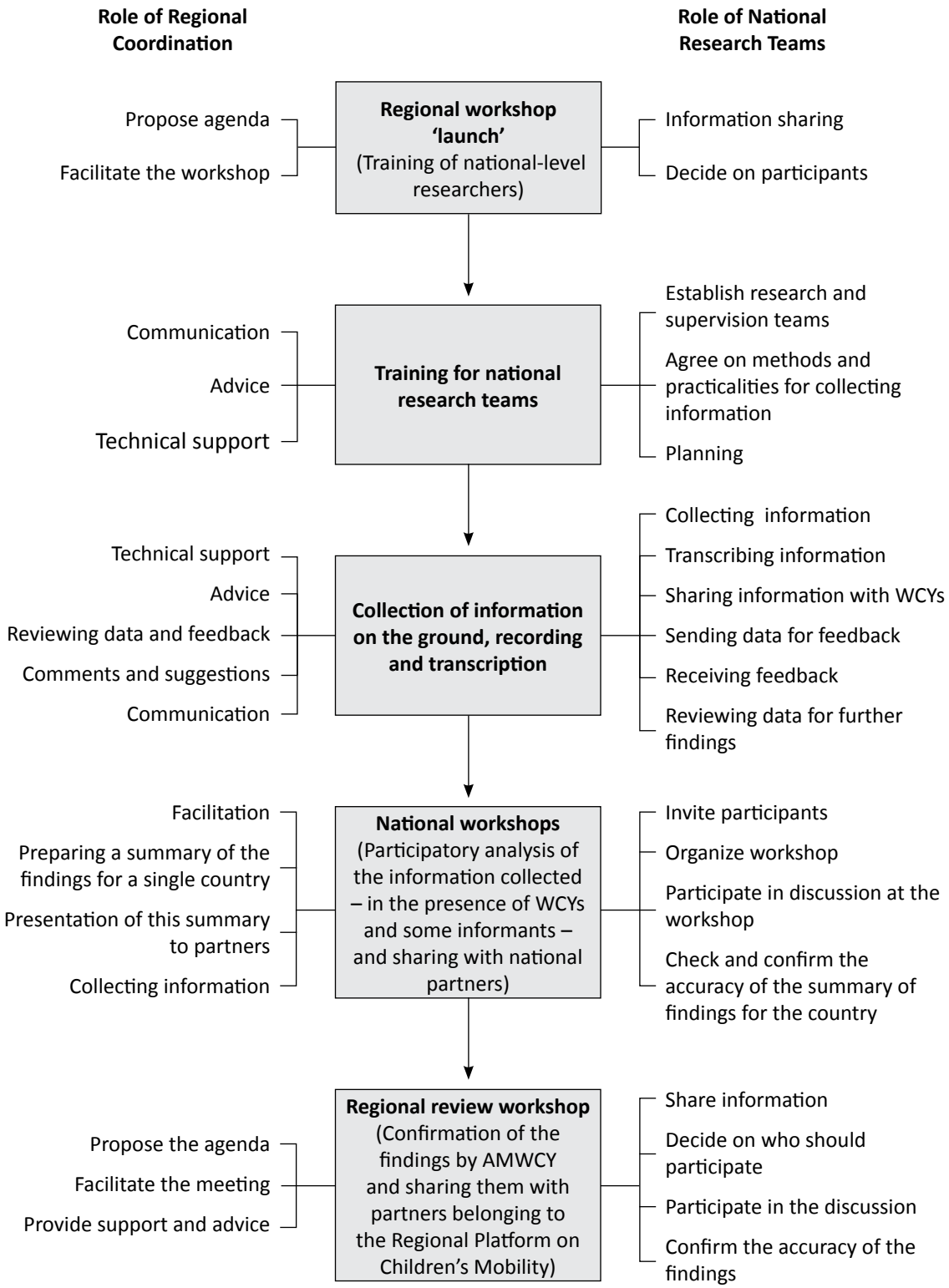
- WCYs;
- Other children, who were not WCYs, who had lived or were living in similar situations;
- Members of the community, such as parents, employers/trainers, traditional leaders, religious leaders, individuals providing transport in which children travelled, among others;
- Those regarded as partners of AMWCY and WCYs in general, including the local authorities and other actors working on the issues of early migration and child trafficking.

In all, the number of people who provided information was 605.

The process for implementing the project can be summarized by the following details:

- The total duration was four months.
- About 115 WCYs participated. Others were active in collecting information and participated in the national workshops to analyse the findings.
- The regional coordination was composed of two facilitators (former WCYs) working with ENDA Third World.
- Overall facilitation was provided by one social anthropologist and by Moussa Harouna.

Figure 1: The process for collecting and analysing information



It is important to note that, during this research, an ethnolinguistic approach was used to identify as objectively as possible the different concepts used in different languages to refer to the phenomena of migration and trafficking in children. In light of recent intensive media coverage about African migration to Europe, those who were interviewed tended to simply repeat general slogans that they had heard, hostile to migration, forgetting the realities of their sociocultural context in relation to the migration of children and youth. Thus, to bring people to talk about realities, the facilitators of this research asked informants to translate in their native languages the words they use for migration, trafficking, exploitation and abuse and to give definitions for these words. This led to very different views being expressed.

Findings of the first study

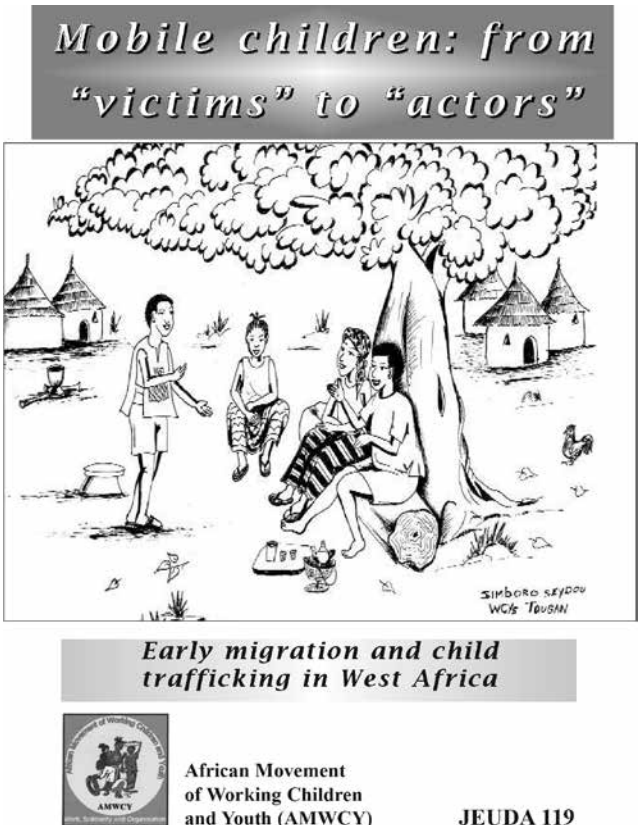
The study highlighted, in particular, **the absence or near absence of suitable terms in the 13 local languages** used to translate the concepts of child trafficking and related exploitation, while the languages did have terms to describe (in detail) various situations related to migration and ill-treatment. In light of these findings, what should be said about the utility of the many slogans against child trafficking that are widely disseminated at village level?

The study also served to identify **the conflict at village level between different generations**. These took the form of radically different visions held by children on the one side and adults on the other, notably as far as emigration and living and working away from home were concerned. The differences caused children to leave home without telling anyone about their departure beforehand, or sometimes to suddenly disappear, as they felt unable to face the criticism and bullying they experienced at the hands of adults or to make their case in front of adults, in view of what they felt was the inability of adults to listen to them properly.

These conflicts tended to fade away when children and young people (supported by other WCYs) **started organizing promotional events and development initiatives in their villages**. New dialogue started and the different generations found new ways of communicating.

The study describes **the complexity of a situation** in which young people see emigration and mobility as a solution to their problems, sometimes the lesser of two evils, faced by situations that they regard as a 'dead end' in their home villages. The young people were aware to some extent of the risks involved in moving away from home – at least of the fact that their coming 'adventure' would involve hardship. Their understanding of this is limited or obscured by the rather idyllic description of experiences elsewhere that returning migrants usually recount.

Figure 2: Mobile children: from 'victims' to 'actors'



THE SECOND STUDY DESCRIBED THE ROUTES TAKEN BY YOUNG PEOPLE IN THREE COUNTRIES AND THE NETWORKS THAT PROTECTED THEM IN THE COURSE OF THEIR JOURNEYS

Starting off from the information available about flows of children on the move and destinations, children shared information on the routes they had used to travel and identified the places which many children leave and those where large numbers of young people end up. In the second study (AMWCY, 2011a), this information helped map the different routes used by children on the move within three countries and when they travel further afield (the map is reproduced in AMWCY, 2011a:24). The analysis of the information provided showed that children who left home aimed chiefly to get involved in activities in agriculture or other aspects of the rural economy, trading, providing services or local manufacturing in traditional crafts. The choice of a particular route to get to their destination is generally determined by the young person's objectives and in what sort of economic activity they want to get involved.

The information that was collected shows that **children do not move in a random fashion**. Their intended move is the subject of a period of planning, decision-making and preparation, even if some preparations are more summary than others. Before each departure, there is a moment when a decision is made, either voluntarily by the child, or proposed and negotiated by the child's parents.

In cases where the child makes the decision to leave and tells his or her parents, whether or not they approve, the parents face a dilemma, although the outcome is usually that the child ends up leaving (sometimes secretly, as found in the first study). If the initiative comes from parents, the child's departure is seen more or less to be a way for the family to improve its standard of living, hoping to receive some financial support from the child.

Another scenario involves people coming to children's places of origin, to request or negotiate the children's departure. They often succeed in leaving with children, with or without the consent of their parents (in the event that children keep their departure secret from their parents).

Illusion and evasion are arts that children on the move need to learn quickly to be able to complete their journeys. Borders are generally considered to be areas of high risk and are best avoided. There are two ways to get past them: by pretending that a relative has died in a nearby village, or to claim that the journey has something to do with a religious activities, such as the visit of a Muslim teacher (*marabout*). It is by creating illusions, perhaps supplemented by a little gesture (e.g., producing cash out of a pocket), that young people are able to move more easily.

The other way to get across borders is to go around them, using covert and winding paths, where there are no border checkpoints, but where there are other dangers to encounter.

In implementing their plans to move, various actors have an important part to play:

- Agents living in the areas where children live before they migrate know the environment well. They get into contact with people who are in need of a child and carry out negotiations with them on the child's behalf.

- Lorry drivers and their mates, including apprentice drivers, are approached by children and their parents in places of origin and by potential employers at destinations. These actors play a very important role in the phase between departure and arrival. They know the situation at both ends.
- Recruiters and employers represent the demand for manual labour at destinations.
- The *Oga*, consisting of older children, mothers employing child domestics, landlords (who organize initial accommodation at destinations and keep children in the city in contact with relatives at home) and various other intermediaries, are involved in welcoming children upon their arrival. They have a great influence on them.

These actors represent a chain which is typical of community attitudes and standard behaviour that is able to accompany and protect children for the duration of their journey. Taking initiatives to influence the way this chain functions looks like an interesting way to improve matters, rather than stigmatizing those in the chain as accomplices or traffickers.

Figure 3: The route to success?



AMWCY INVOLVEMENT IN THE REGIONAL PLATFORM ON CHILDREN'S MOBILITY

AMWCY made a significant contribution to this Platform by reporting on various realities from the perspective of those on the ground, as well as drawing lessons from the information supplied.

Looking at these studies, among others, and supplementing the research with a lesson-learning exercise led the Regional Platform on Children's Mobility to conclude that the movement of children involves risks and vulnerability, at the same time offering opportunities and personal development; therefore, the heart of the problem is not the fact in itself that children move, but the extreme vulnerability of children involved in moving.

This conclusion essentially sets the context for the activities organized by AMWCY for a number of years.

This collective exchange and assessment of the information available led in 2011 to the drafting of a report entitled 'What sort of protection [is appropriate] for children involved in moving in West Africa?' This report (Joint Regional Study Project on the Mobility of Children and Youths in West Africa, 2011) was the subject of consensus among the eight organizations belonging to the Platform, as were the seven positions or joint recommendations listed below.

1. All children involved in moving are entitled to protection, taking into account their best interests.
2. Child trafficking must be opposed, but not all children involved in moving are trafficked.
3. When children move, protection measures must be taken at local, national and regional (or transnational) levels to reduce their vulnerability and promote their personal development.
4. The needs of children involved in moving need to be taken into account by national child protection systems, by implementing protection measures wherever the children are situated, as they move and arrive in new places.
5. Community-based mechanisms for supporting and protecting children are an integral part of the ways of keeping children safe.
6. The effective participation of children and their organizations is an essential element to include alongside other protection measures.
7. The protection of children involved in moving makes it essential to reconcile possible contradictions between local social norms, national laws and international standards.

LESSONS LEARNED: CHILDREN PROTECT CHILDREN

The most recent lesson-learning exercise carried out by AMWCY focused on 20 initiatives that involved listening to and protecting children on the move in nine different African countries (AMWCY, 2011). In simple language, it describes a variety of experiences encountered by children, including how they faced and resolved their problems. This document consequently illustrates the ways in which children can respond to the challenges of mobility.

It is difficult to make a choice among all the stories recounted and the actions taken by young people as they are so different from each other. With 11,999 children contributing information in 2011 to organized WCYs in nine West African countries, there is a rich set of data to draw from.

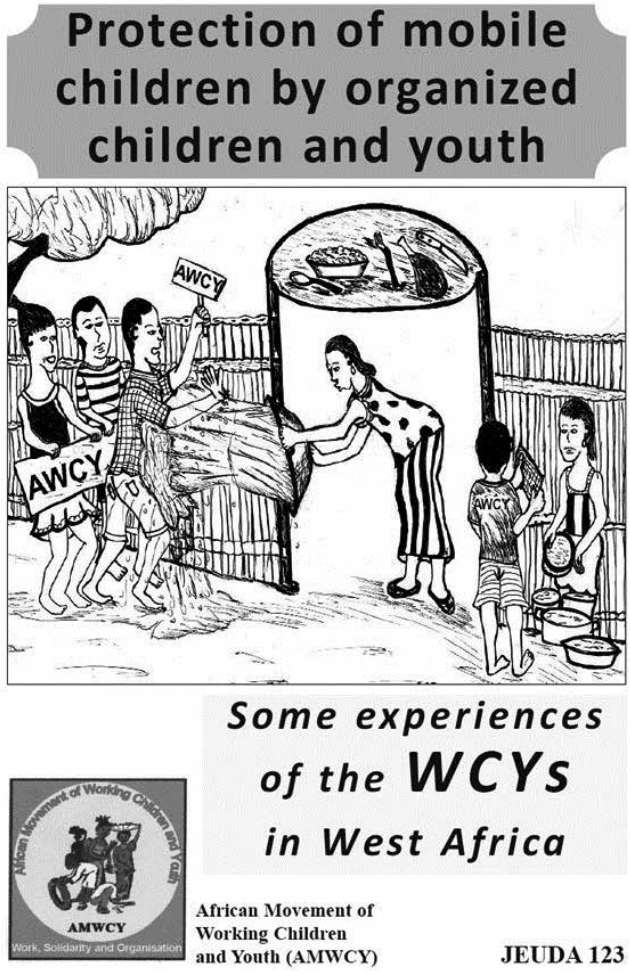
A young Guinean girl crying on a street corner is not wearing any sandals. A working child approaches her and, after calming her down, persuades her to tell her story. The girl sells coconuts, but in a scuffle with other children she lost her tray of coconuts. It was the person who had given her the coconuts to sell who had confiscated her shoes in payment for the lost fruits. There followed a lengthy process of negotiations with the gentleman concerned, who finally admitted he had done something wrong. The girl's de facto guardian (i.e., the adult woman she was living with in the town), who collects the profits from the sale of coconuts, finally agrees to let the girl attend some training sessions. She transfers both this girl and two others to AMWCY. In reality, the adult woman is a reception point for a lot of girls coming from elsewhere and finds jobs for them in the city.

The establishment of a mobile phone network in Benin greatly improved links between those based in places of origin and those in the places to which children migrate. Contact is maintained between origin and destination and everyone involved is kept informed of the situation of the child who has moved away from home. All this was made possible by negotiating with a local telephone company that agreed to a flat rate subscription for all the telephones involved in this particular network. Otherwise, the cost of phone calls would have been an obstacle to this way of staying in contact.

For many children in Niger, **possession of an AMWCY membership card** means being protected. Children who have this card are not empty-handed as far as identification documents are concerned, which is usually the case for other young people in Niger. They present their membership cards to police checks, and the police, who are aware of the card and what it signifies, tend to have a friendlier attitude towards the cardholder, conscious that thousands of children are involved. In some places, the membership card is even a way of getting access to a national identity card, thanks to successful negotiations with the local authorities.

In a neighbourhood on the outskirts of Dakar, the capital of Senegal, **boys attending Koranic school** (aged 7 to 12 years and known locally as *talibés*), who come from rural areas have found some 'big sisters.' The girls adopted them one by one, washing their laundry, sharing meals with them, and offering them what the boys miss most – affection. These children are lucky, as otherwise they beg and learn the Koran without anyone to take care of them except the Koranic teacher, who is there to teach them religion and check that they all survive on their meagre income from begging. Stories about this first experience of WCYs girls adopting *talibés* soon reached other cities and even other countries, for the practice is now found in neighbouring Mauritania and Gambia.

Figure 4: Protection of mobile children by organized children and youth



This article and the examples of the studies and lesson-learning exercises conducted by AMWCY show several things:

- Research is not just for academics. Many others can do it. Studies need to be strongly determined, very well organized and also require some resources to be undertaken.
- For hundreds of children and young people – most of whom had little school education – this research provided an opportunity for some basic training. They have special strengths, however, notably the fact that they speak the languages that enable them to talk to the children concerned.
- The results of this research are undoubtedly interesting and convey a different message from conventional studies, because the people who undertook them are at the heart of the problem they are dealing with, namely, that of children and young people who have experienced mobility.

- The studies should therefore be considered an important and original contribution and as one of the basic elements of knowledge in this field.

This was the reaction of the West African Regional Platform on Children's Mobility, which welcomed AMWCY from the start, listening to its voice and benefiting from the practical and different experiences it brought and its ways of conceptualizing children's experiences differently.

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Migrant children in child labour:

A vulnerable group in need of attention

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The article was written in the authors' personal capacity and the views expressed in this article are those of the authors' only and not necessarily those of their respective organizations.

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ABSTRACT

This article sheds light on the underreported issue of the significant number of children on the move who end up in child labour. It builds on insights and conclusions drawn in a comprehensive literature review undertaken in 2010 (ILO-IPEC, 2010a). It follows from a recommendation made by the Inter-Agency Working Group on Children on the Move (in 2011) to analyse existing data and information from various disciplines – including child labour – for information on migrant children.

This article finds that the trajectory of the migration of children in the South is highly precarious. Without protection from the government or access to services, these children are at high risk of child labour.

The article finds further that migrant child labourers are worse off in terms of working conditions compared to local child labourers and are, thus, in need of focused attention. Migrant child labourers are among the least visible and least politically enfranchised human groups, such that employers have no incentive to provide them with proper working and living conditions. This lack of legal protection also generally translates to lower levels of health and education.

To protect migrant children, this article recommends ensuring governments' compliance with conventions, access to education, accessibility of low-interest loans, birth registration of all children and investment in preparation for migration. Furthermore, governments can improve their monitoring of migration movements, the monitoring of working conditions and the governance of migration for decent jobs with decent pay (for youth of working age).

INTRODUCTION

An estimated 214 million persons worldwide – or 3.1 per cent of the world's population – are *international migrants* (UN, S. Zukang, 2009). This figure is dwarfed by the number of *internal* migrants, which is estimated to be 740 million (UNDP, 2009). Youth make up a disproportionate share of the world's migrants; about a third of the migrant flow from all developing countries is in the age range of 12 to 24 years (World Bank, 2006).

In addition, an estimated 215 million boys and girls around the world are engaged in child labour (ILO, 2010b) as defined in ILO Convention No. 138[1] and the United Nations Convention on the Rights of the Child.[2]

This article recognizes the desire of many children of working age to migrate legitimately. In many locations, staying in rural areas connotes some sort of unskilled agricultural labour such that, even if children are able to get jobs, they would never be able to rise from poverty. Urban centres, in comparison, offer a greater supply of jobs and relatively higher wages. In places where migration is an established way of life, success stories are real and tangible. In Thailand, older migrants return

1 ILO Convention No. 138 defines child labour as comprising regular work undertaken by children under the age of completion of compulsory education, which shall not be less than 15 (14 in exceptional situations), hazardous work undertaken by children under 18 (16 under exceptional situations) and light work undertaken by children under 13 (12 in exceptional situations).

2 Article 32 of the United Nations Convention on the Rights of the Child spells out the right to be free from economic exploitation and further refers to 'relevant international instruments' (that is, ILO C138) for the minimum age for admission to employment.

home with extra money for their parents and better clothes (ILO-IPEC, 2002a). Migrant girl workers in Tanzania report being able to have independence and material possessions because of their jobs (ILO-IPEC, 2001a). In Ecuador, girls migrate for employment because, simply, 'the work is better' (ILO-IPEC, 2005a).

These examples from various contexts and continents somehow indicate a relationship between migration and child labour; however, the correlation between the two has hitherto hardly been explored.

A working paper published in 2010 by the International Labour Office (ILO) pioneered the examination of the effect of internal and international migration on children's involvement in child labour. It investigated the association between migration and child labour from the standpoints of children who migrate with their parents, independent child migrants and children left behind by migrant parents. Based on these findings, it concluded that certain forms of seasonal family migration and independent child migration tended to increase the risk of child labour and offered policy implications for the way forward. In addition, the paper also identified critical knowledge gaps and stressed the need for further analysis.

This article builds on insights and conclusions drawn in the Working Paper of 2010. It is based on a systematic review of child labour literature covering migrant-prone sectors such as agriculture, domestic work, commercial sexual exploitation, hazardous occupations and the urban informal economy. The article also includes a review of literature on indigenous children in child labour. Although all of the more-than-300 identified documents included some information on child migration, the focus of the analysis and corresponding text was the various types of child labour, while the migration angle was mostly neglected.

This review of secondary information was undertaken to better understand the plight of migrant children among child labourers in various types of work and determine possible patterns. While the wish of many children to migrate and their perceived benefits of migration are acknowledged, this article puts forward the following hypotheses: 1) Even though migration may offer opportunities to many, the conditions under which children in the South migrate render them particularly vulnerable to child labour; and 2) Migrant child labourers are, in terms of conditions of work, education and health, generally worse off than local child labourers. The typical profile of these migrant child labourers is also explored with special attention paid to agency, vulnerabilities to exploitation and possible protection mechanisms.

TYPICAL REASONS WHY CHILDREN MIGRATE

Children migrate for a myriad of reasons. This desk review came across five main groups of reasons, as follows: economic push factors, education, gender and cultural reasons, personal push factors and emergencies.

Economic push factors

Migration is most commonly undertaken due to a lack of local job opportunities for adults, which may be caused by a multitude of economic circumstances. These include the failure of

a principal industry, such as in the Philippines, where the collapse of the sugar industry forced families to migrate in search of job prospects (ILO-IPEC, 2004a); the dense concentration of the working population in certain areas, which is the case in Thailand, where 72 per cent of workers are concentrated in northeastern provinces (ILO-IPEC, 2002a); and destabilization caused by the introduction of liberal economic practices, a phenomenon which has occurred across the globe, particularly in countries like Albania (ILO-IPEC, 2007a), Bolivia (Plurinational State of), Chile, and Mongolia (ILO-IPEC, 2008).

For migrant workers in the agricultural sector (seasonal migrants), the agency of the child labourer is less deterministic than that of his or her parents. It is most regularly the case that parents make the choice to migrate in search of employment, necessitating the upheaval of the entire family. However, even though the parents are the ones purportedly moving for work, it is an inevitable consequence that children work as well. The idea of a 'working family' is deeply entrenched in agriculture insofar as, usually, only the head of household is officially employed and paid (ILO-IPEC, 2007b). Children are informally enlisted as 'helpers,' but without their labour, it is impossible for their parents to meet their harvest quotas (ILO-IPEC, 2003a). Since entire families migrate and live and work on plantations, the ILO has observed a cycle in which 'migrant workers reproduce themselves' (ILO-IPEC, 2001a).

When children decide to migrate unaccompanied, it is commonly marked by movement from rural communities to urban areas because cities are seen as cosmopolitan and flush with opportunity. Because of this idealized vision, unaccompanied child migrants tend to relocate to the city without first securing a job. The lack of preparation and dependable income exacerbate the risks already inherent to migration, and it is a common occurrence that these children end up being exploited for their labour.

Education

Although education is seen as a means to avoid child labour, its costs – including uniforms, books, fees and daily transportation – are often so prohibitive that it forces children to work. As such, many children in Latin America migrate during the summer months to work in hazardous environments, such as mines, or take up temporary jobs in the informal sector (ILO-IPEC, 2001b). In Peru, for instance, migration for work during the summer months is described as 'massive' (ILO-IPEC, 2007c).

Many children also migrate from rural areas to cities because of increased educational opportunities; however, in order to afford to live there, these children often must work. In villages in rural Thailand, secondary schools were rare until quite recently, compelling children to migrate to cities in order to continue their studies (ILO-IPEC, 2002a). The link between migration, education and child labour also holds in Mongolia and Cambodia, where the majority of surveyed boy domestic workers had migrated from rural areas for the purpose and hope of a better education (ILO, 2006a) and later became lured into child labour.

Gender and culture

Migration and child labour also appear to be intertwined as a cultural fact. Even if a child purportedly migrates voluntarily, there are underlying cultural pressures at work. For instance, the capacity to work and to provide for oneself is tied to a child's worth. In Ghana, migrant work,

which gives the ability to buy basic necessities for oneself, is seen as a 'rite of passage' for girls: "A girl who has nothing is considered a disgrace and will be ridiculed" (ILO-IPEC, 2004a). In Kenya, children between the ages of 10 to 15 are 'expected' to leave their communities in order to start building their own livelihoods (ILO-IPEC, 2006b). Agency in these instances is difficult to pinpoint.

Migration is also a consequence of a contracted view of viable vocations. In particular, domestic work is seen as the only 'acceptable' career for girls or the only one that they have sufficient skills to engage in, considering that their education is prioritized below that of boys. In Ecuador, domestic work in large cities is one of the only reliable labour options available to girls (ILO-IPEC, 2004a). In the commercial sexual exploitation industry in Sri Lanka, which draws many of its workers from rural areas, most girls felt that they had less of a choice in their vocation, whereas the majority of boys engaged in this type of work were doing it voluntarily (ILO, 2005).

Jobs requiring low skills and with poor compensation are also seen as an inevitable future for many child migrants. The lack of options is particularly a problem for migrant children from indigenous groups who, by and large, have low levels of education. Migratory push factors for indigenous communities are compounded by land dispossession due to external resource extraction or commercial development (ILO-IPEC, 2007d). As such, migrant child labour in its worst forms is not only resorted to, but is, rather, 'accustomed' to (ILO-IPEC, 2010b). For indigenous migrant children in Latin America, the lack of alternatives makes hazardous work the 'fate' of their adult lives (ILO-IPEC, 2010b).

Personal push factors

When children voluntarily migrate unaccompanied, it is in many cases the result of a traumatic family experience. When following the path that leads children to work in the commercial sex industry, one finds that the source is often physical or sexual maltreatment at home. The main concern of these children is to escape their bad family situations and leave their homes, often without support and frequently without prospects. A report from Ghana reported girls between the ages of 12 and 16 who ran away from arranged marriages and ended up working as bar assistants or sex workers (ILO-IPEC, 2004a). Likewise, in Ethiopia, 25 per cent of girls interviewed in the slum areas of Addis Ababa migrated due to the threat of forced marriage (Bartlett, 2010). In Viet Nam, of the children surveyed who migrated to a city and ended up in sexual exploitation, 40 per cent experienced family trauma at a young age (ILO-IPEC, 2002b).

Emergencies

The 2010 Working Paper by ILO listed conflict, natural disaster and the resulting search for safety and better opportunities as a main reason why children migrate. It pointed out that internal displacement disproportionately affects children, as half of the world's 27 million internally-displaced persons are children (Internal Displacement Monitoring Center, 2010). A study in Nepal by Save the Children pointed out that migration to cities and entry into the urban labour force is, for many, the only alternative to the risks of remaining in areas of conflict. As a consequence of working in cities, these children become highly susceptible to exploitation (Save the Children et al., 2006). Given the number of children affected by emergencies and the relative scarcity of information on the link between emergencies and child migration, it is recommended that future research on, for instance, children in armed conflict include attention to the migration dimension.

THE CONDITIONS UNDER WHICH CHILDREN IN THE SOUTH TEND TO MIGRATE RENDER THEM VULNERABLE TO HARM, EXPLOITATION AND CHILD LABOUR

At the outset of migration

The ILO Minimum Age of Employment Convention No. 138 (1973) spells out that children under 15 should not be in regular employment. Regardless, many countries in the South, particularly in Africa, are faced with the migration of children under the minimum working age, and often see them end up in child labour. As a rule, these children are without proper (or have falsified) travel documents, making them easy targets for exploitation or extortion. Due to their illegal status, these children might not dare to contact the police to report offences.

When children travel without their parents, they are much more vulnerable to harm and exploitation at all stages of migration. Parents or individuals look to recruitment agencies as a safer alternative to unaccompanied migration. The truth, however, is that recruitment, which intends to connect migrant labourers with jobs, is not always a safe choice, as it often revolves around informal networks and profit making and tends to occur at the expense of the child. It is too often the case that recruitment agencies promise a conduit to domestic work but actually siphon young girls into sex work; once in transit, falsely lured recruits do not have enough information or any means of recourse to avoid exploitation (ILO-IPEC, 2004a).

The alternative – unaccompanied migration without the assistance of a recruitment agency – renders children just as exposed to exploitation and child labour. When children migrate without proper preparation, they are at risk of trafficking or 'disappearing' during the journey due to poor information sharing and feedback mechanisms between urban and rural authorities (ILO-IPEC, 2009). It is also a common occurrence that children run out of money because they are ignorant about expenses and/or the hardships they would incur (Catholic Relief Services, 2009); in order to survive, these children must often resort to prostitution (ILO-IPEC, 2003b).

Another problem in preparing for migration is that the majority of migrants cannot afford the cost of migration and, consequently, look to procure funds from extremely problematic sources: Some children indenture themselves into debt-bondage situations to raise enough money to migrate (ILO-IPEC, 2003c). Loans are another source of funding for migrants; however, moneylenders often offer them at exorbitant interest rates that may reach more than 50 per cent (United Nations Resident and Humanitarian Coordinator's Office Nepal, 2010).

During migration

The actions involved in migration also tend to heighten the risk of exploitation and of becoming victims of trafficking. Border crossings and transport hubs such as bus and railway stations, ferry terminals and airports are recognized points of risk for trafficking into exploitation (ILO, UNICEF, UN.GIFT, 2009). In order to avoid checkpoints and immigration officials because they lack proper documentation, migrant children frequently travel at night, increasing the risk of exploitation, (ILO, UNICEF, UN.GIFT, 2009). During the migration process, intermediaries like recruitment agencies often take advantage of migrants to the extent that they provide counterfeit visas. Previously agreed-upon jobs are also replaced with ones that offer lower pay and/or are more hazardous (United Nations Resident and Humanitarian Coordinator's Office Nepal, 2010). In situations of dependency and desperation, many children are forced to accept such unfair treatment.

After migration

Migrating children remain at risk even after reaching their points of destination. For children who migrate alone without a pre-arranged job, finding work or housing is extremely difficult. With few resources, many migrant children end up living in the streets. In Nepal in the early 2000, the vast majority of street children in the capital city were migrants and; more than half of those migrant children left home before the age of nine (ILO-IPEC, 2002c).

Even if migrant children do manage to find work at their points of destination, their lack of local connections, improper identity documentation and general state of vulnerability make it easy for employers to take advantage of them. Because of the lack of oversight by labour inspectors in the domestic and informal labour sectors, where many urban migrant child labourers are found, it is easy for employers to abuse their positions of authority.

In summary, the trajectory of the migration of children in the South is highly precarious from the outset and continues even after children have reached their destinations. Without protection by the government and without access to services (see below), child migrants in the South have no available course of action *but* child labour.

IMPACT OF THE LACK OF ACCESS TO SERVICES AND PROTECTION ON THE RISK OF CHILD LABOUR AMONG MIGRANT CHILDREN

The lack of accessible education after migration

Children who migrate with their parents, who, in turn, work on seasonal agricultural plantations, are at risk of child labour because of their removal from accessible and/or free education. Even where children are not required to work, the dearth of affordable day care services gives parents no choice but to bring them to work and, consequently, expose them to the same hazardous conditions (ILO-IPEC, 2007b). If they are deemed old enough, it is inevitable for these children to work with their parents (ILO-IPEC, 2003a). Even when a government offers universal free education, migrant children often do not have access to schools without proper identity cards. For instance, in Beijing, China, the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) notes that school budgets are based on the number of officially registered local students. Because of this, even when children of migrant workers are admitted, they must pay an additional fee to compensate for the lack of government funds (ILO CEACR, 2011). As a result, only two thirds of Beijing's 370,000 migrant children were enrolled in school (ILO CEACR, 2011). Similarly in Turkey, free education is guaranteed by the Constitution, but educational opportunities were, for a long time, unavailable to migrant children at their temporary sites because they were not permanent residents (ILO-IPEC, 2003a). Education for only permanent residents is likewise the case in Mongolia (ILO-IPEC, 2008), where, until 2004, the scores of children who had migrated from Kyrgyzstan to Kazakhstan with their parents to work in cotton fields were prohibited from attending local schools (ILO-IPEC, 2006c).

A related issue is that in rural areas, where there is simply no access to higher education, the natural track after primary school leads to entering the workforce. In Latin America and Asia, secondary schools often do not exist in rural villages, such that children must either migrate for higher schooling or – the more likely alternative – to start working, often away from home (ILO-IPEC, 2001b; ILO-IPEC, 2002a).

The quality of education offered in schools also has a large impact on keeping children in school. Indigenous children, in particular, suffer when schools are not sensitive to their needs. In Guatemala, indigenous children reported that 'discrimination and marginalization' by teachers and peers prompted them to drop out of school to look for work elsewhere (ILO-IPEC, 2005a). In addition, children must habitually make the trade-off between school and work, and repeated failure in school unsurprisingly leads to the idea that work is the more viable option for their future. Aside from constraints related to financing and geographical location, indigenous children are also less likely to have community or parental support for their continued educational attainment and are less likely to speak the language of instruction at school (ILO-IPEC, 2010c).

The lack of government protection from exploitation

Non-permanent resident status and a lack of identity documents cause governments to overlook migrant children in their promulgation of work standards and protections. As a result, child migrants are more likely to be engaged in child labour.

The problem of birth registration is particularly salient for migrant child labourers. In many rural areas and some entire countries, registration at birth is not the norm. Consequently, the majority of migrant child labourers are politically invisible and powerless. Because migrant child labourers without identity documents have limited access to public services, they are often heavily dependent on their employers. That and their helplessness and ignorance about administrative procedures put them at risk of being trapped in a cycle of slave-like working conditions. Debt bondage, which ties child labourers to production, is an increasingly widespread practice in commercial agriculture; in many cases, however, these 'debts' are falsely imposed without any written contracts and include inflated costs of transport, food, lodging, work tools, etc. (ILO-IPEC, 2006d).

Even when migrant workers have identity cards or working papers, it is a common practice for employers to retain those documents in order to prevent them from quitting (ILO-IPEC, 2006e). In certain sectors where migrant child labourers are highly concentrated (such as domestic work and the informal economy), government protection is severely lacking due to the lack of regulation and monitoring. Another reason why few protections are provided is that child labour in the informal economy, which includes petty trading, begging, portering, etc., is not always categorized as 'work' (ILO and SZW, 2010). Accordingly, migrant children continue to toil unnoticed in child labour.

When governments do pay attention to migrant children, these children are often treated as illegal immigrants and are deported by force. Fear, uncertainty and a lack of recourse characterize these children's lives.

In summary, the restriction of access to educational services leaves migrant children with no choice but to work. However, the causes for their lack of access to education render these child workers more vulnerable to exploitation in their jobs. This maintains the state of poverty that make it necessary to migrate in the first place. A lack of access to both education and government protections perpetuate the plight of child migrants in child labour.

MIGRANT CHILD LABOURERS ARE WORSE OFF THAN LOCAL CHILD LABOURERS

In addition to the evidence presented that shows that the conditions under which children in the South migrate make them vulnerable to child labour, there is preliminary evidence to support the argument that the conditions in which they work are worse than those of local child labourers. This includes evidence that migrant child labourers work longer hours, attend school less and earn less than local child labourers.

Working conditions

There are high proportions of migrants among child labourers in the agricultural, domestic work and urban informal economic sectors , as well as commercial sexual exploitation.

In Guatemala, children in the 12–14 age group comprise 30 per cent of internal migrants working on coffee, sugar cane, cardamom and cotton plantations (ILO-IPEC, 2006d). Where workers on plantations are inappropriately young, there are high numbers of work-related injuries and fatalities (Estes et al., 2010). The Department of Agriculture of the United States defines agriculture as the most hazardous occupation for child workers, and, yet, it is precisely that sector which, in the United States alone, includes 400,000 working children, many of whom are migrants (Romano, 2011).

In the cotton sector in India, local children work on average between 9 and 12 hours a day, while migrant children worked at least an additional 3 hours (ILO, 2004b). In the manufacturing sector in the Philippines, migrant child labourers tend to work longer hours compared to non-migrants (ILO-IPEC, 2005b).

Despite their longer work hours, migrant children do not earn more. In fact, child labourers in the manufacturing sector in the Philippines are paid 20 per cent less than local children (ILO-IPEC, 2005b).[3] In the tobacco industry in Kazakhstan, migrant child labourers often earned 1.5 to 2 times less than local labourers (ILO-IPEC, 2006c). In Thailand, the wage disparity is even greater, with immigrant child domestic workers earning about half the monthly salary of local child domestics (ILO-IPEC, 2006a). When children migrate solely for economic reasons, the natural tendency is to accept any kind of work (even that which is underpaid and demeaning) and to work as long as possible. This cycle of low wages and long hours is self-perpetuating.

Bondage and being away from a protective environment

According to an ILO synthesis report, the inability to quit is a condition characteristic of the worst forms of child labour (ILO-IPEC, 2005a). In Ethiopia, more than 80 per cent of migrant child domestics surveyed reported that they do not have the right to voluntarily quit their jobs (ILO-IPEC, 2005a). In the commercial sex industry in Manila, migrant child labourers are characterized as 'more compliant' than their local counterparts; however, this can be linked to the fact that migrants, unlike locals, do not have the ability to just leave and go home or "hide in their relatives' homes" when faced with unfavourable working conditions (ILO-IPEC, 2004a). Places of recourse are more limited for migrant workers due to the absence of social support and the distance that separates them from their families (ILO-IPEC, 2004a).

3 Migrant child workers receive between 5.50 and 6.50 Philippine peso per thousand compared to the local wage ranging from 6.10 to 5.70 Philippine peso per thousand (ILO-IPEC, 2005b).

Education

Even if migrant children have access to education (which they most often do not), the time and energy that working requires from them makes them too busy or too tired for study. There is a marked pattern where migrant child labourers are far less likely than local child labourers to attend school. In Ghana, the school dropout rates of migrant child labourers in seasonal agriculture are among the highest because their long working hours leave them exhausted (ILO-IPEC, 2004a). Seasonal agricultural work tends to be characterized by irregular and unpredictable hours during harvest time, such that it is inevitable that child migrants drop out. In Kazakhstan, 79 per cent of migrant children cited the need to work as the reason why they did not attend school, whereas only 11 per cent of local children responded in this manner (ILO-IPEC, 2006c). In Côte d'Ivoire, only 33 per cent of migrant child labourers on cocoa farms were enrolled in school, compared to 71 per cent of locals (ILO-IPEC, 2007e). In the pyrotechnic sector in the Philippines, children tend not to be in school at all during the peak production season between September and December (ILO-IPEC 2005b).

Health

Adverse working and living conditions naturally lead to a lower level of health – both physical and mental – among migrant child labourers. In Kazakhstan, the greater amount of physical work and inadequate living conditions render the health status of migrant children markedly worse than that of local children (ILO-IPEC, 2004b). Furthermore, unlike their local counterparts, many migrant children have no access to public health services due to their illegal status and cannot afford private medical services; treatment for illnesses consist almost exclusively of home remedies (ILO-IPEC, 2004b).

The lack of community relations and parental oversight of child migrant labourers who have relocated by themselves renders them more vulnerable than local child labourers. Unlike local children, who have parents that are familiar with their employers, child migrants suffer from more maltreatment in the workplace. In a study of employer behaviour in Viet Nam, there were no instances of scolding, insulting or illegal punishment for local child labourers; the same could not be said for migrant child labourers (ILO-IPEC, 2009).

In sub-Saharan Africa, the prevalence of delinquency, alcohol and drug addiction and prostitution among indigenous child migrant labourers has been noted. The removal of familial support and guidance from these children are thought to render them less equipped to resist the social 'evils' that they are exposed to for the first time compared to children under parental guidance (ILO-IPEC, 2006b).

In summary, migrant child labourers are worse off in terms of working conditions compared to local children. This is because migrant child labourers are among the least visible and least politically enfranchised, such that employers have no incentive to provide proper working and living conditions. This lack of legal protection also generally translates to lower levels of health and education.

CONCLUSION AND RECOMMENDATIONS

In conclusion, the correlation between migration and child labour has hitherto only been explored superficially. This article has argued that the link between migration and child labour is manifest, yet multifaceted. Migration is often undertaken by children and their families for the hope of a better future. The act of migration itself does not constitute a risk of child labour; rather, the conditions under which children migrate heighten that risk. For future policies to effectively address child labour, it is important that a variety of research studies from different continents suggest that migrant child labourers are worse off at work in comparison to local child labourers.

Compliance with conventions

Several widely ratified conventions, including the United Nations Convention on the Rights of the Child (UN CRC) and the ILO Minimum Age of Employment Convention (ILO C138, 1973) cover child labour, and implicitly touch on the subject of migrant children. Article 2 of the UN CRC spells out that all children, including migrant children, are born with the same rights, including the right to be free from child labour.[4] Moreover, the ILO Convention on Migrant Workers (ILO C143, 1975) stipulates in Article 1 that "Each Member for which this Convention is in force undertakes to respect the basic human rights of all migrant workers."

Thus, it is necessary for governments to fulfil their obligations under these Conventions and ensure compliance. This implies that the rights of migrant children, including those at work, should take priority over their possible penalizations as illegal immigrants.

Education

The cycle wherein migrant child labourers reproduce themselves needs to be broken. At the heart of this cycle are the lack of access to education and poverty that often necessitates work at the expense of education. For migrant child labourers, work is almost always unskilled and poorly compensated, such that it creates an inescapable poverty trap. In fact, many child migrants do not even have the choice between work and education because the latter is unavailable. Policymakers should rectify the problem of inaccessible and/or unaffordable education for prospective migrant children (at places of origin) and children who have migrated (at destination). In particular, they should work towards unrestrictive enrolment procedures, ensuring the proximity of school facilities to migrants' homes and/or worksites and establishing internal support services that recognize the challenges posed by language barriers.

Debt and loans

Given that migration is often financed through loans at exorbitant interest rates and/or situations of debt bondage, it is recommended that places of outmigration invest in loan mechanisms at affordable rates. A good practice worth mentioning is a village in Nepal where a cooperative offers

4 Article 2.1 of the United Nations Convention on the Rights of the Child maintains that every child, without discrimination of any kind, irrespective of the child's or his/her parents or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status is born with the same rights.

loans to migrating workers at a low interest rate guaranteed by the community (United Nations Resident and Humanitarian Coordinator's Office Nepal, 2010). The ILO has also suggested access to affordable credit for youths of working age and low-interest government loans to spur educational endeavours and delay migration for work (ILO-IPEC, 2010c).

Birth registration

Compliance with the ILO Minimum Age Recommendation (ILO R146, 1973), which calls for public authorities to "maintain an effective system of birth registration, which includes the issue of birth certificates,"[5] is one way to address the problem of access to education. If every child is ensured his or her identity documents, there would be one less barrier to their enrolment in school. Furthermore, birth registration makes it easier for migrant children to become socially integrated and gain access to basic public services. This would undercut the migrant worker's reliance on his or her employer and increase the channels of available remedies.

Increased levels of preparation

Children below the minimum working age should, where possible, be offered opportunities at source (i.e., education and training). If youth of working age would rather migrate for employment than continue their education, this should ideally only occur in conjunction with the ILO multilateral framework on labour migration through increased cooperation between governments and employers' and workers' organizations that is able to promote managed migration for employment purposes. Migration undertaken without first securing a job sows vulnerability that markedly leads to exploitation. However, the urge to migrate even without job prospects is often so strong that it would be more realistic to instead address the lack of preparation that often leads to child labour. Along these lines, it is advised to target communities where migration for work is more common than in others and offer pre-departure training services, including life skills training, along with vocational training tailored to the needs of prospective employers.

Monitoring migration movement

Increased security along the main migration routes would likely decrease the number of children who 'disappear.' Thailand offers an interesting case in which village buses shuttle migrant youth workers to and from Bangkok two or three days a week; the bus drivers are trusted villagers themselves, and so youths can travel alone safely and return when they wish (ILO-IPEC, 2002a). A readily available way to return home for migrant child labourers will mitigate the problem of child migrants who run out of money along the way and have to resort to hazardous work in order to survive.

5 Article 16 of ILO Minimum Age Recommendation No. 146.

Law enforcement and monitoring of working conditions

Governments need to work towards better oversight of recruitment practices and working conditions so as to better protect the rights of migrants, including migrant children. Increased scrutiny of the practices of recruitment agencies would deter those who use it as a cover for exploitation and/or merely look to it as a moneymaking scheme, and would ensure that they do not overcharge or misinform would-be migrants.

Government oversight should increase in industries where there are many child labourers working in hazardous conditions, such as in domestic work and agriculture. Due to the informal nature of these kinds of work, protection for migrant children has been minimal at best. The recently adopted ILO Domestic Workers Convention (No. 189, 2011) offers promising opportunities to improve protection in at least one sector. For improved oversight, inspectorates should expand in size, be knowledgeable about child labour, and speak the language of migrant workers who are commonly engaged in that type of work.

Improved governance of migration for decent jobs with decent pay

Given current demographics and economic inequities in a globalized and interconnected world, migration – including that of children – will surely continue to happen. There is, thus, a crucial need for policymakers to work towards better local alternatives for children in need, while governing the conditions under which migration occurs, and ensuring that the end result is a decent job with decent pay for youth of working age. If policies as described here are left unchanged, the problematic link between migration and child labour would persist.

Future research

For responsive policies to address issues pertaining to migration and child labour, it is crucial that we continue to improve our understanding of both phenomena and the relationship between them. Future research on social issues (including child labour) should, therefore, systematically include a focus on migration – with data disaggregated by internal versus external migration, independent versus family migration, and birth registration – while research on migration should systematically include attention to children, including those below the minimum working age.

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Unaccompanied migrant children and legal guardianship in the context of returns:

The missing links between host countries and countries of origin

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ABSTRACT

The article addresses the issue of legal guardianship in the context of return of unaccompanied migrant children within the broader perspective of child migration. Despite their apparent greater vulnerability, unaccompanied migrant children are subject to highly politicized debates on immigration policies and child welfare systems taking place in host countries. The article suggests that discussions should move on and tackle the actual challenges faced by legal guardians in host countries, as well as countries of origin, which nowadays impede returns of unaccompanied migrant children. Difficulties should be examined in an adequate and timely manner, in line with the best interests of the child. Consistent with this proposed approach, the article discusses the role of legal guardians in the context of the return of unaccompanied migrant children, taking into consideration the relevant international instruments and standards and analysing the concrete challenges legal guardians face in the field of integration in host countries and return to and reintegration in countries of origin. The analysis draws on a review of existing literature in this area, as well as on the experience and data gathered by the International Organization for Migration (IOM) through internal reviews carried out in 2009 and 2012. A comparative analysis of the situation in selected host countries and countries of origin addresses cross-cutting issues affecting legal guardians at both ends of the return process. The article concludes with a number of recommendations to overcome the current challenges, including the need for clearer standards and guidelines for legal guardians in the context of return of unaccompanied migrant children, greater operational cooperation between legal guardians in host countries and countries of origin, and, finally, a stronger possibility for unaccompanied migrant children and former unaccompanied migrant children to participate in the discussion around appropriate procedures and standards, based on their own experiences in the migration process.

INTRODUCTION

Unaccompanied migrant children (UMC)[1] have become part of global and mixed migration flows across the world. Travelling on false documents or having no documents at all, the young migrants are often apprehended and possibly detained in transit or after entering the host country. The reasons for which children emigrate from their country of origin vary and – whether the decision was an individual one or family-based – the root causes for emigration are the same as those for adults; some flee war and persecution in their home countries, while a large proportion migrate

1 IOM considers "unaccompanied children" to be children, as defined in Article 1 of the Convention on the Rights of the Child, 1989 (CRC), who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so.

in search of economic and educational opportunities. Over the past few years, efforts have been undertaken to raise awareness in society about the international phenomenon of child migration while aiming to increase the accountability of governments vis-à-vis the vulnerable situation of those who become victims of abuse and exploitation by smugglers, traffickers and unscrupulous employers. For instance, the United Nations Special Rapporteur on the Human Rights of Migrants referred in his United Nations General Assembly Report of 14 May 2009 to the obligation of the State "to ensure the protection of all children in all stages of the migration process" (United Nations General Assembly, 2009). In the European Union (EU) context, the Stockholm Programme (and more specifically the European Commission Action Plan on Unaccompanied Minors) addresses the need for more concrete responses – specifically in the areas of prevention, regional protection programmes, reception and identification of durable solutions (European Commission, 2010).

Despite their apparent greater vulnerability, UMC are not freed from the highly politicized debates on immigration policies and child welfare systems in host countries. The public discourse is usually polarized between two key policy considerations: 'integration' or 'return.' Given the fact that most UMC entering host countries are not considered orphans, they are not put up for adoption but rather entered into residential institutions or allocated to foster homes. The fact that this kind of assistance causes considerable costs for local and central governments has dominated political debates across many countries and has led to migration policies focusing on expediting family tracing and the return of UMC to their countries of origin. However, research shows that at least some UMC do not want to be returned to their families because of past experience of ill-treatment, abuse in the family environment, armed conflict or other life threats. Thus, existing legal frameworks should not trigger the assumption that return to the families (if they exist) is always in the best interests of the child (Fundamental Rights Agency, 2010).

In light of these challenges, the role of legal guardians is fundamental. Whether individuals or institutions, legal guardians need to fulfil their legal rights and responsibility, requiring them to make decisions on behalf of an unaccompanied migrant child in the absence of the parents. While efforts have been undertaken in Europe to develop guidance for legal guardians and their capacity to work with and represent UMC, the challenges associated with the lack of communication between carers and professionals and this category of young migrants are evident (Defence for Children, 2011). This is particularly important with regards to return, which is seen as one of the most challenging topics in discussions with children close to adult age (16 to 18 years old) due to the lack of clarity about when and how this issue should be discussed with the UMC concerned (Kromhout, 2011).

This article discusses the role of legal guardians in the context of return of UMC. It considers relevant international instruments and standards and analyses the concrete challenges legal guardians face in the field of return and reintegration in countries of origin and host countries. The analysis will draw on a review of existing literature in this area, as well as on IOM's own experience and data gathered through internal reviews carried out in 2009 and 2012. A comparative analysis of the situation in three host countries (Belgium, Netherlands and South Africa), as well as three countries of origin (Afghanistan, El Salvador and Zimbabwe), will look at cross-cutting issues affecting legal guardians both in host countries and countries of origin. The article will conclude with a number of recommendations to overcome the current challenges.

LEGAL GUARDIANSHIP IN INTERNATIONAL LAW

While a number of relevant instruments at regional and national levels exist, this section focuses on instruments and standards in international law that apply to all of the countries studied in the IOM internal reviews in 2012, that is, Afghanistan, Belgium, El Salvador, the Netherlands, South Africa and Zimbabwe.

Relevant international law instruments and standards on legal guardianship

As regards the international legal framework, the United Nations Convention on the Rights of the Child of 1989 (CRC) is paramount. Being an international treaty and binding on, currently, 193 State Parties, the CRC is a comprehensive instrument that sets out the rights of all children "irrespective of [their]...national...origin...or other status." Consequently, the Convention entails the same rights for UMC as for national children. The CRC makes specific reference to the role and responsibilities of legal guardians (see, for example, Articles 3, 8 and 18) and in particular their responsibility to ensure the best interests of the child (Articles 3 and 18). Articles 20 and 22 ensure protection and assistance, including alternative care, for children 'temporarily or permanently deprived of his or her family environment' and children seeking refugee status, whether accompanied or unaccompanied. Article 4 states that "Parties shall undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention."

A crucial measure to provide protection and assistance to UMC and to ensure their best interests is, indeed, the legal guardian. In its General Comment on the Treatment of Unaccompanied and Separated Children Outside their Country of Origin of 1 September 2005 (Comment No. 6), the Committee on the Rights of the Child sets standards in this regard. Paragraph 21 prescribes that the "appointment of a competent guardian as expeditiously as possible" serves to safeguard one of the core principles of the CRC, that is, "ensure respect for the best interests of an unaccompanied or separated child." Moreover, in order to address protection needs, Comment No. 6 requires states to "create the underlying legal framework and to take necessary measures to secure proper representation of an unaccompanied or separated child's best interests." Comment No. 6, paragraph 33 prescribes when a legal guardian should be appointed (as soon as the unaccompanied child has been identified and until the child has reached the age of majority or left the territory). It provides guidance on the role of the legal guardian (authority to be present in all planning and decision-making processes) and on the qualifications required by the legal guardian (expertise in the field of child care to cover the child's legal, social, health, psychological, material and educational needs). Comment No. 6 also foresees review mechanisms in order to monitor the quality of the legal guardianship (paragraph 35). Its paragraph 37 establishes that the child should at all times be informed about the arrangements with respect to the legal guardianship and his or her opinion taken into consideration.

The latter is further clarified in the Committee's General Comment on The Right of the Child to be Heard of 20 July 2009 (Comment No. 12). Comment No. 12 seeks to enhance the understanding and effective implementation of the child's right to be heard (Article 12, CRC). In its paragraph 25, the Comment requires legal guardians to inform the child about the "matters, options and possible decisions to be taken and their consequences," so to enable the child to exercise his or her right under Article 12 of the CRC.

Guidance on legal guardianship is also provided through the United Nations Guidelines for Alternative Care of Children (Guidelines for Alternative Care), adopted by the United Nations General Assembly in 2009. The Guidelines seek to enhance the implementation of the CRC and other international instruments with respect to children who are temporarily or permanently deprived of their family environment and parental care (Article 20, CRC). Paragraph 101 of the Guidelines establishes that a "designated individual or competent authority should be vested with the legal right and responsibility to make...decisions" (United Nations General Assembly, 2010). Paragraphs 101 to 104 provide guidance as to the attribution of the legal responsibility by competent authorities, supervision of the legal responsibility, qualifications of the persons exercising this legal responsibility (to be of good reputation, with relevant knowledge about children's issues, to be provided with appropriate training and professional support), and the role and specific responsibilities of the designated person or entity. Finally, the United Nations High Commissioner for Refugees (UNHCR) has published Guidelines on Policies and Procedures in dealing with Unaccompanied Children Seeking Asylum, which ask for the appointment of a legal guardian, as soon as the unaccompanied child is identified, through an independent and formally accredited organization during the asylum process (UNHCR, 1997).

Definition of 'legal guardian' in international law

The term 'legal guardian' is used in the CRC and other international conventions and is commonly understood as "[o]ne who has the legal authority and duty to care for another's person or property, usually because of the other's incapacity, disability or status as a minor" (IOM, 2011a). However, 'legal guardian' has no proper definition in international law, largely because its "precise definition, functions and manner of appointment… varies from jurisdiction to jurisdiction" (ICRC, 2004).

Based on these instruments and standards, it can be concluded that the main characteristics of the function of a legal guardian include, inter alia: a designated individual or competent entity that under relevant national legislation has been formally assigned responsibility for the child and is vested with the legal right and responsibility to make decisions, in full consultation with the child. Entities or persons exercising such legal responsibility should have relevant knowledge on children's issues, an ability to work directly with children and the understanding of any special and cultural needs, so to ensure that the interests of the child are safeguarded and that the child's legal, social, health, psychological, material and educational needs are appropriately covered. They should receive appropriate training and professional support in this regard. The overall role and responsibility of the designated entity/person is to ensure that the rights of the child are protected (IOM, 2011b). A competent legal guardian should be appointed as expeditiously as possible upon identification of an unaccompanied child.

While several studies have been published on the topic (such as IOM, 2011c and ENGI, 2010), the report *Closing a Protection Gap: Core Standards for Guardians of Separated Children in Europe* (Defence for Children International, 2011) is especially noteworthy. Based on relevant legal instruments and standards and on the analysis of existing research information, it sets out 10 core standards for legal guardians with respect to the role and responsibilities of the guardian, the guardian and the separated child, and the qualifications of the guardian. The report aims at providing an instrument to standardize the qualifications of guardians and hence to contribute to closing a protection gap.

IOM's internal data collection on UMC and legal guardianship

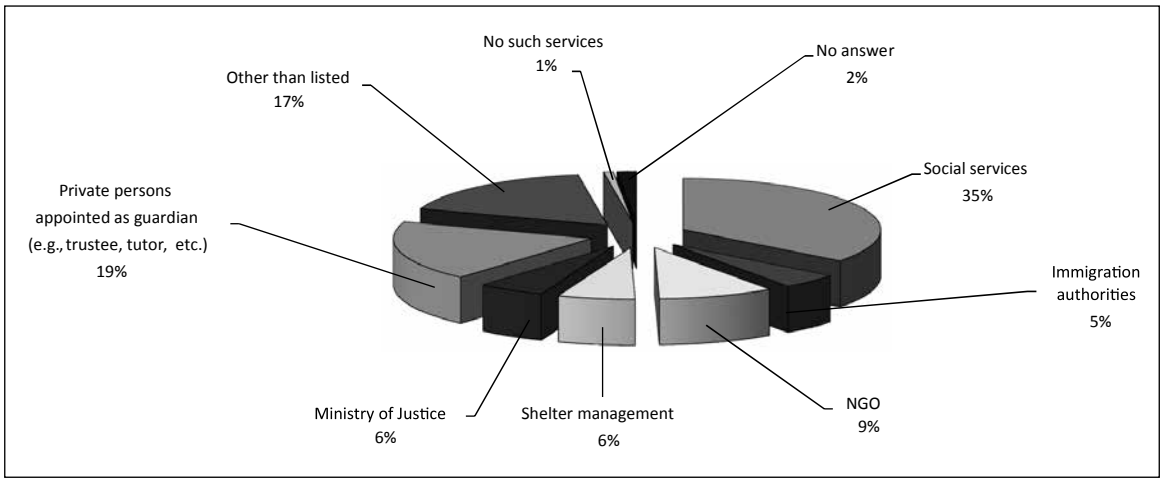
In an effort to analyse the phenomenon of UMC on the move and mainstream data collection systems, IOM has started to review more consistently the assistance provided by the Organization

to UMC in recent years. A global internal review was conducted in 2009 to analyse the profile and needs of UMC and the institution of legal guardians, as well as the legal frameworks under which the Organization's assistance to UMC takes place.

The role of the legal guardian is of outmost importance to the work of IOM in the context of return of a UMC from the host country to the country of origin (or a third country). In order to provide voluntary return assistance to UMC, IOM requires confirmation from legal guardians in the country of origin and in the host country. This is needed for the preparation of voluntary return to the host country and to secure concrete arrangements for care and define custodial responsibilities in the country of origin. In the absence of parents, the identity of a legal guardian is verified in cooperation with the competent national authorities and in accordance with national laws (IOM, 2011b).

In line with IOM's expertise and activities, the present paper focuses on situations in the context of return: As regards host countries, the paper refers to situations where the parents of a child are not present and a legal guardian needs to be appointed. With regard to countries of origin, it applies to situations where the primary legal guardian, that is, either the parent, cannot be found or is unable or unwilling to take care for the child and, hence, a legal guardian needs to be appointed.

Figure 1: Legal guardianship for unaccompanied migrant children in the case of absence of parents



Source: IOM Internal Review 2009

The 2009 IOM internal review found that legal guardianship is being exercised by a range of different institutions. In the majority of host countries where IOM assisted UMC with voluntary return and reintegration, the role of legal guardian is assigned to the relevant social services. In the remaining countries, the official entity designated by the state as legal guardian are private persons (e.g., trustees, tutors, etc.), non-governmental organizations (NGOs), shelter management services, ministries (often, the Ministry of Justice) or immigration authorities. As regards the country of origin, in the context of IOM-assisted voluntary return, the legal guardians are mostly the respective parents and, to some extent, the close relatives of the unaccompanied migrant child.

An additional internal review conducted by IOM (IOM, 2012) is seeking to update and deepen the findings of the 2009 Review for selected host countries and countries of origin where IOM assisted UMC over the past years.

THE CHALLENGES FACED BY LEGAL GUARDIANS IN THE CONTEXT OF RETURN AND REINTEGRATION

In host countries

Today, there is no unanimous approach as to how and when the issue of the return of UMC should be discussed: while some reports indicate that the absence of timely and accessible information about available options, in both host countries and countries of origin, are seen by children as a significant factor that can reduce their chances of regularizing their stay in the host country upon having turned 18 (UNHCR, 2010 and IOM 2011c), other studies involving UMC and 'aged-out minors,' that is, those who left the country of origin as children and turned 18 during the migration process, highlight that raising the option of return is often considered to be futile or counterproductive, as long as the legal means to stay have not yet been exhausted (Kromhout, 2011). This difficulty of communicating with UMC on the issue of possible return is linked to their trust of their legal guardians. This problem becomes bigger the closer the legal guardian is associated with the government of the host state. Considering this difficult relationship, guardians consider the decision as to whether return is in the best interests of the child or not to be a major challenge, exacerbated further by the fact that many say they lack information on the country of origin of the child for whom they are responsible. Studies conducted in countries with restrictive return policies indicate that many UMC disappear from care centres to unknown destinations instead of returning to their countries of origin (Kromhout, 2011).

Belgium

The Belgian law on legal guardianship for UMC has existed since 2004 and all legal guardians are under the coordination and responsibility of the Guardianship Service of the Belgian Ministry of Justice. Legal guardians are individual persons and no specific qualification is requested, but participation in training is required prior to taking up the guardianship role. Based on the law, Belgium has implemented a decision-making procedure focusing on durable solutions for unaccompanied minors who do not apply for asylum or those whose applications for asylum have been rejected. This procedure has to be launched upon request of the legal guardian of the child, and – within the limit of the remaining legal options (including return) – takes into account the best interests of the child. However, overall responsibility for the procedure and for decision-making lies with the Minors Bureau of the Entry and Residence Directorate (MINTEH) of the Immigration Office. As a result of this situation, legal guardians have expressed concern that they feel less influential in decision-making processes in relation to the best interests of the child than the MINTEH.

While voluntary return of UMC requires the consent of the legal guardian, based on a determination of the best interests of the child, it is precisely the determination of the best interests that represents a key challenge to legal guardians. This results from the fact that many legal guardians face difficulties in communicating openly about the issue of return with children and are therefore unable to obtain a full picture of their situation. This is often linked to the UMC' mistrust towards anyone who is associated with the authorities of the host country, including their legal guardians. As regards cases where return has been identified as an appropriate solution for the child, legal guardians in Belgium report that factors of distance and language make cooperation with their counterparts in a child's country of origin challenging. IOM Belgium has been working in recent years to address these challenges through training and information sessions for newly appointed legal guardians and those already in place on the issues linked to UMC and the context of return (IOM, 2012).

The Netherlands

While the Ministry of Justice has been officially in charge of guardianship matters in the Netherlands since 2001, the main body for legal guardianship of UMC is the Nidos Foundation, once this responsibility is assigned by a court. To date, guidance materials and documentation for front-line workers dealing with UMC have been developed at the operational level. However, actors working in the field state that official rules on this matter are either unclear or lacking. Experience in the Netherlands shows the negative impact of a politicized debate around the needs of UMC on the ability of legal guardians to fulfil their assigned role and responsibilities in line with international standards. Care workers report that, as a result of not enjoying the trust of UMC, warnings to UMC that their prospects of success are limited and that they should therefore start thinking about return at an early stage usually go unheard up to the moment when the actual expulsion order is received. Instead of providing details about their families and background, which would allow guardians to assess more comprehensively all available options for the children, including return, minors do everything to 'keep a distance' (Defence for Children, 2011a) and guardians are left without the necessary information on which to base their decisions (Kromhout, 2011). Finally, legal guardians have commented on the difficulty they experience in trying to stay in contact with the child once they return to their countries of origin. The Legal guardians depend on the good cooperation of their counterparts in the country of origin to exchange information about the well-being of an unaccompanied migrant child who has been returned (IOM, 2012).

South Africa

In the South African context, the Child Care Act provides the legal framework for managing the welfare of children, including UMC. The issues of coordination and overall responsibility of legal guardianship lie with the Children's Court which, however, does not speak directly to UMC. The linkage between the child in need of care and the Children's Court is facilitated by the Department of Social Development.

The Child Care Act is regarded as progressive, as it considers any child within the South African border area to be covered by this act. However, the Act is not clear on legal guidelines on UMC; it specifies that foreign UMC must be assessed by a social worker, but does not provide for necessary follow-up services. Legal guardians in South Africa should be qualified social workers. They are considered to have sufficient power vis-à-vis other actors in the migration field, carrying out a number of activities on behalf and in the interest of children, including ensuring their access to public services and family assessment (and, where applicable, family reunification), among others. (IOM, 2012). Capacity-building workshops for law enforcement officials focus on procedures on how to deal with UMC, including defining the roles and responsibilities of different government departments and NGOs on identification, documentation, family tracing, reunification and reintegration where necessary. Moreover, NGOs and international organizations are supporting and facilitating the work of cross-border communication and cooperation with children's legal guardians in Zimbabwe, which takes place through steering committees existing at the national, provincial and local levels. Experience shows that the lack of coordination meetings often leads to a considerable delay in obtaining feedback from the legal guardian in the country of origin (IOM, 2012). While this kind of cooperation mechanism can be considered very valuable, it is not available for other countries of origin of unaccompanied children in South Africa apart from Zimbabwe, and it is questionable whether it would be equally easy to implement in non-border contexts.

In countries of origin

The lack of solid infrastructure for conducting family assessments and providing effective reintegration support for UMC and their families is considered a key challenge in many countries of origin. This is more evident in the case of those migrants returning outside specific voluntary return and reintegration programmes (ECRE and Save the Children, 2011). There are other fundamental challenges that – although not necessarily associated with countries of origin per se – have, however, been crucial in countries that have come out of conflict or social restructuring. These challenges are primarily associated with the lack of legal frameworks or policy governing the situation of UMC, leading to the absence of effective systems for the determination of the best interests of the children before and after return. A common challenge in all countries assessed in this article relates to lacking links between the legal guardians in countries of origin and host countries in the context of the best interests determination. Furthermore, the lack of guidance for practitioners playing a role in the reintegration of returning UMC is a key gap identified in countries of origin.

Afghanistan

Afghanistan is one of the top 10 countries of origin in the context of assisted voluntary returns from Europe that received more than 800 migrants assisted by IOM in 2011, with only approximately 1 per cent being UMC (IOM, 2012). At the same time, significant numbers of UMC are returned from Iran to Afghanistan every year, which becomes a substantial challenge in light of security conditions and the absence of a system allowing for the safe return of UMC and families with children (ECRE, 2011). The major challenge in the field of legal guardianship in Afghanistan is the lack of legislation that governs the situation of UMC. This has been identified as a concern by the Afghan Government, and the Ministry of Labour and Social Affairs is currently working to develop legislation in this field. So far, current practice and understanding indicate that legal guardianship can be assumed by parents, siblings, or paternal and maternal uncles (the latter if no paternal ones are available); in other words, the immediate family members who are in a position to make decisions regarding the well-being of the child (IOM, 2012). At the operational level, the lack of capacity and training for social workers and those who assume responsibilities of care for UMC represents a major challenge (ECRE, 2011).

El Salvador

In El Salvador, IOM has assisted the reintegration of 64 children returned from the United States during the past two years. The Attorney General's office is in charge overall of legal guardianship for UMC. The key gaps in El Salvador are linked to the need to strengthen inter-institutional dialogue and coordination between legal guardians of host countries and countries of origin, as well as between the National Institute for Children and Adolescents (ISNA) and the other relevant ministries involved in reintegration projects (IOM Internal Reviews, 2009 and 2012).[2] In the context of return, one of the key tasks for the National Council of Children and Adolescents is to

2 The IOM Mission in El Salvador has been active in the provision of training for the Ministry of Education's Teacher Network in the application of the Manual for Reintegration of Returned Migrant Children and Adolescents, which, aside from practical guidance, has helped to improve the coordination between ISNA and the Ministry of Education (MINED) for the incorporation of returned migrant children and adolescents into the educational system. A total of 183 members of the Teacher Network were trained, including coordinators of technical assistance and directors in charge of customer services, the legal department, the technical department and the central level of the MINED. The governmental and non-governmental institutions that comprise the Shared Attention Network (RAC) received training, gained knowledge and increased their understanding of the risks of irregular migration for children and the reintegration process for returned minors. A total of 216 members of RAC were trained in eight different sessions in the central, para-central, western and eastern zones of the country. In addition to this, the government institutions discussed good practice with an expert on the issue of the reintegration of returned migrants in a workshop with the participation of 30 officers from ISNA, *Dirección General de Migración* (DGME), and Sister Valdette from the Centre from Returned Migrants in Honduras.

ensure good communication between all the institutions involved with the families of UMC, while seeking to enforce the principle of shared responsibility and compliance with the mandates of each state institution involved (especially to meet the established legal representation for children and adolescents who are orphans and have neither mother nor father). Having very little to no socioeconomic means, parents as well as legal guardians in El Salvador often find it difficult to exercise their legal obligations of parental authority. Indeed, this was, in many instances, the reason why they supported the migratory journey of their children in the first place (IOM, 2012).

Zimbabwe

Zimbabwe is one of the countries of origin to which IOM has provided humanitarian assistance to the highest number of UMC. Between 2010 and 2011, a total of 985 UMC were assisted at the IOM Reception and Support Centres at the Beitbridge and Plumtree border posts, after being returned by the authorities of South Africa and Botswana.

The Department of Social Services (DSS), which operates under Zimbabwe's Ministry of Labour and Social Services, automatically assumes the role of legal guardianship of UMCs by offering interim care, family tracing, reunification, referrals to other child-centred organizations before and after assessment of unaccompanied minors' families, registration and birth entries, and protection assistance to those returned. Nevertheless, there is a reported need for their efforts to be complemented by other relevant agencies and organizations with a child protection mandate on the ground for the effective execution of their duties. After being returned by a host country`s authorities, UMCs are allocated social workers by DSS when their parents are absent and until they are reunited with their parents or families. A child is put under the care of social workers from the DSS, who must hold a relevant degree, upon liaison with the Social Services from both Botswana and South Africa. However, this does not always happen, as children from Zimbabwe under DSS supervision often abscond before reunification. This could be due to the fact that the UMC were originally sent by their parents as part of a family decision to try to increase the family's income.

As coordination with relevant ministries in charge of legal guardianship in host countries is limited, state actors in Zimbabwe rely heavily on the work of and assistance from IOM and other protection agencies mainly for the provision of safe accommodation, food and other basic services. Although there are set standards for the treatment of UMC, including on their identification, documentation, family tracing and reunification (IDTR), legal guardians face constraints due to a lack of financial, human and material resources to use when conducting family tracing and the whole process of IDTR. In addition, there are major challenges in making sure that every child has access to basic services, driven by the lack of referral structures to ensure coordination among the various entities. According to IOM data in Plumtree, of the total 985 who were returned in 2010 and 2011, 731 were reunited with their families. Strong evidence indicates that those who refuse reunification services after deportation opt to go back either to Botswana or South Africa (IOM, 2009, 2012).

COMPARATIVE ANALYSIS OF THE NATIONAL CONTEXTS ASSESSED IN THE 2012 IOM INTERNAL REVIEW

With respect to the legal framework that governs legal guardians in countries of origin and in host countries, the 2012 IOM internal review found the following: All the countries but one (Afghanistan) have a legal framework for guardians. Most often, the issue of legal guardians for UMC is addressed in a general Children's Act, while Belgium has a specific law on guardianship. In line with international standards, countries usually have a legal framework in place, including provisions specifying the rules for the appointment of the legal guardian, be it for migrant or national children,[3] whenever they are identified (as unaccompanied) within the country. This is equally true for countries of origin and host countries. For the majority of the countries that have a legal framework, it was reported that national law foresees the appointment of a legal guardian for UMC up to the age of 18 years, irrespective of whether they apply for asylum or not. This is in line with relevant international standards.

Except for El Salvador (Attorney General) and South Africa (Children's Court), the overall responsibility for legal guardianship for UMC lies with a government ministry. It is interesting to note that in countries of origin, the responsible ministry is mostly the Ministry of Labour and Social Affairs, whereas in host countries it is often the Ministry of Justice and/or Interior. The requirements as regards the qualifications of the legal guardian vary greatly among the countries studied during the 2012 IOM internal review, with no apparent similarities between countries of origin on the one hand and host countries on the other. Legal provisions in one country of origin (Zimbabwe) and one host country (the Netherlands) state that, at a minimum, a degree as a social worker is needed in order to work as legal guardian. In Belgium, no specific degree is required, but participation in training prior to taking up guardianship is compulsory instead. As regards the entity or person assuming the functions of a legal guardian, 2012 IOM internal review has confirmed the findings of the 2009 version. That is, the functions of legal guardians are being fulfilled by a variety of different actors, ranging from the government's social services (Zimbabwe), to the Attorney General's Office (El Salvador), private persons (Belgium) and NGOs (the Netherlands). For Afghanistan, it was reported that, while no legal provision exists, the current practice and understanding is that the legal guardian role is to be exercised by parents, siblings, uncles from the father's or mother's side, that is, immediate family members who are in a position to make decisions regarding the well-being of the child.

The analysis of the different national contexts in this article highlights the difficulty of talking about the challenges faced by legal guardians exclusively from a host-country or country-of-origin perspective. Rather, legal guardians in the field of return and reintegration face significant gaps that are common to countries of origin and host countries. One of these is the lack of direct and regular contacts between the legal guardians in most host countries and countries of origin. In cases where UMC are assisted under the assisted voluntary return and reintegration projects of IOM, the Organization plays an active role in establishing this link. However, outside IOM-assisted returns, it is unclear whether alternative efficient channels exist. Available research indicates that legal guardians in host countries are often left in a situation without adequate information about the child's prospects for reintegration in the country of origin. At the same time, most legal guardians in the country of origin are unable to get hold of information about the children they will be responsible for before they are handed over to them upon return. Consequently, they cannot adequately prepare to meet the children's needs. While the South African/Zimbabwean practice

3 The provisions for the appointment of a legal guardian are often set out in laws such as the general Children's Act of a country and apply to migrant and national children.

of using bilateral steering committees presents a very interesting development, it remains to be seen whether this kind of arrangement could work as efficiently in other non-border contexts.

With the exception of El Salvador, the lack of knowledge in the host country on how to handle the issue of return and reintegration and how to communicate effectively with UMC about these issues seems to be a challenge commonly experienced by guardians in host countries and countries of origin. While IOM has been active in host countries in providing training, information and guidance material to legal guardians, social workers and other carers on how to approach and handle the aspect or option of return and reintegration of UMC to their home countries, these activities need to be replicated further, in particular with regards to front-line actors.

Despite the commonalities between countries of origin and host countries, there are some differences with respect to the concerns considered by legal guardians in both situations. While legal guardians in host countries are mainly concerned with responding to the needs of the UMC themselves, legal guardians in countries of origin face a slightly different situation, at least in cases where children return to their families (the majority of cases). Research, as well as IOM's own data, shows that the defence of the child's best interests and the protection of his/her rights as established under the CRC can be even more challenging where the immediate family environment is one of extreme socioeconomic hardship or violence, which in turn challenges the exercise of parental authority in line with the child's rights recognized in the CRC. It is therefore even more important to provide guardians with the necessary tools and means to address these types of situations. This requires not only technical support to advise effectively on the migrant child's family but also the provision of adequate socioeconomic support to the families. If this cannot be provided, it will remain difficult to convince parents to support their children's education or vocational training rather than using them to support the family's subsistence.

Both host countries and countries of origin (Zimbabwe, Belgium and the Netherlands) confirm that it is good practice and important to have minimum requirements regarding the qualifications of legal guardians, which ensures well-trained professionals. Another good practice highlighted was the coordination of all legal guardian issues within one national context by one single entity (as in Belgium and the Netherlands).

CONCLUSIONS

IOM's Internal Review 2012 has shown that a well-functioning coordination mechanism and minimum requirements concerning legal guardians' qualifications are key elements for a solid legal guardianship system. Moreover, it can be concluded that a sound legal framework supports the work of the legal guardian. The number of recently adopted laws on children reflects the increasing understanding of this fact. Efforts to create laws that regulate legal guardianship are to be welcomed as it ensures compliance with Article 4 of the CRC, that is, the requirement that states undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the CRC.

In the context of return, it is vital that legal guardianship systems are supported by solid links between the relevant entities in both host countries and countries of origin. This could be facilitated by promoting bilateral and multilateral dialogue further, especially where the framework and practices for guardianship are not yet clearly established.

At the operational level, it is necessary to improve the availability of data and information available on the different forms of return, in order to allow guardians in host countries and countries of origin to understand the needs and expectations of UMC better. For example, data concerning assisted voluntary return (whether IOM or another agency provides the assistance), government-forced return, spontaneous return, among others. More clarity on the different options available would ensure that guardians in the host country can give the right advice to UMC. At the same time, guardians in the country of origin would have more clarity about the experience the child has gone through before return. Furthermore, research activities using participatory approaches and reflecting the views of UMC should be strengthened. This would ensure that the opinions of UMC and their experiences during the migration process (including return) are heard and would contribute to the formulation of recommendations and guidance for legal guardianship systems in countries of origin and host countries.

Apart from communication gaps in the field of reception, integration and return between legal guardians and the UMC themselves, there are several factors directly and indirectly linked to return and reintegration that need to be further analysed and discussed among government and non-government agencies involved with protection and return. In the context of return, the role of parents and extended family is an essential element within the framework of legal guardianship. The role they play in Afghanistan and El Salvador, for example, is fundamental to the child's development and well-being once back in their communities. In order to allow parents to fulfil their role as legal guardians in an adequate manner, the support granted to UMC during the return and/or reintegration in their countries of origin should be spread to their immediate family environments as well, to strengthen the basis for an effective exercise of parental authority.

Without prejudice to the importance of training and information on communication, trust-building and best interests determination, the access of legal guardians in host countries to information about the situation in a child's country of origin certainly needs to be improved further. This is particularly important with regards to UMC returning to less common countries of origin, as it improves the guardian's potential to assess the situation of UMC if the option of return to a child's country of origin is chosen.

In light of the evident disconnect between legal guardianship entities and systems between host countries and countries of origin in the context of return, it is absolutely crucial to propose more forums to bring legal guardians in the host country together with those in the country of origin to discuss findings and best practices, and follow up with recommendations on guidance and support to effective systems of protection and proactive assistance for durable solutions.

Apart from these specific suggestions for improvement, it is highly important that guardians, especially those working in host countries, are able to do their job professionally, without being influenced by other actors who directly or indirectly intervene in policymaking and the decision-making processes for UMC. If actions are not taken to support the children and allow legal guardians to fulfil their role effectively, we would not be able to prevent UMC on the move from becoming subject to further risks and exploitation.

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Protecting and supporting children on the move:

Translating principles into practice

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ABSTRACT

Globally, the number of children who are on the move is increasing. While previously neglected in the international debates on migration, children are now becoming a more recognized part of global migration flows. However, despite the growing attention, particularly from child protection agencies, to the specific perspectives, interests and vulnerabilities of these children and on the consequences – both positive and negative – of mobility on them, policies and practices for the protection of children on the move still fail. Despite their common vulnerabilities and protection needs, children on the move are still divided into distinct categories and channelled into different protection routes and services which are subject to different political priorities. This has created an inconsistent and, in some cases, contradictory system of protection. Save the Children's current efforts with Children on the Move are focused on developing and piloting models of national and community-based child protection mechanisms that can respond to the specific needs of children who are affected by mobility and that are effective in areas of origin, during transit and at destination. This article describes some of Save the Children's most recent work in developing methodologies that can assist in the design of responses for children on the move, particularly during transit, one of the most challenging stages for child protection programmes. These models include methods to assess the best interests of the child in each phase of his or her journey. This article also describes specific tools that Save the Children has recently tested and which aim to contribute to the debate on how to translate the principles enshrined in international standards into procedures and practices that genuinely protect all children on the move, irrespective of their migration status, and that can provide a protective presence during each phase of their journeys.

INTRODUCTION

Millions of children 'move' both within and between countries. The majority move with their families but many do so independently. Children migrate for a variety of reasons: to escape poverty, abuse, violence or conflict, or to access education, jobs and basic services. Their movement takes many forms and their experiences are extremely varied.

Children's movement is becoming a more recognized part of larger migration flows and there is growing attention, particularly from child protection agencies, to the specific perspectives, interests and vulnerabilities of children who are on the move and on the consequences – both positive and negative – of mobility on children. Importantly, there has been increased recognition that further efforts are needed to identify the appropriate responses for the protection of all these children in appreciation of the commonalities of their protection needs.

Save the Children has been at the forefront of this debate. Since 2006, its work has built upon and evolved from programmes on child protection in general and on child exploitation and child trafficking in particular. Many of these programmes have naturally evolved into more holistic Children on the Move work which aims to build protection systems that work for all children affected by mobility.

Save the Children defines children on the move as:

> Those children moving for a variety of reasons, voluntarily or involuntarily, within or between countries, with or without their parents or other primary caregivers, and whose movement might place them at risk (or at an increased risk) of economic or sexual exploitation, abuse, neglect and violence (Save the Children, 2010a).

'Children on the Move' is not meant as a 'new' category of children. It is an umbrella definition that brings together the multitude of categories in which children who move have been, often unhelpfully, divided. This definition, therefore, includes:

- children who have been trafficked;
- children who migrate (for example, to pursue better life opportunities, look for work or education, or escape exploitative or abusive situations at home);
- children displaced by conflict and natural disasters; and,
- children who live and work in the streets.

All of these children might find themselves at risk, especially of being exposed to various forms of abuse and involved in the worst forms of exploitation. This concept, by highlighting the common risks and challenges faced by all these children alongside their specific situations, needs and decisions, aims to refocus interventions and ensure coherent policies by placing the protection of the child at the centre. It also acknowledges the need to support the positive effect that mobility can have on improving children's life chances.

This approach stemmed from the realization that the variety of categories into which children on the move were divided often failed to acknowledge the common protection risks faced by these children and the commonality of the responses they require. Additionally, evidence from policy analysis highlighted that children on the move were often confronted by policies made on the basis of inaccurate or incomplete assumptions about why and how children move (Reale, 2008). Children's movement, for example, has often been considered within the framework of the debate on child trafficking. The consequence has been that responses have often been aligned to an anti-trafficking emphasis on the 'rescue' and 'return' of children to their areas of origin. This fails to take into account why and how many children initiate their journeys and the role of their own decision-making, both as a trigger for movement and as an element of their protection. Furthermore, despite the common risks they face, different categories of children have been channelled into different protection routes and services which are subject to different political priorities. This has created an inconsistent and, in some cases, contradictory system of protection,

whereby some children and their families are left outside more developed protective systems established for some specific categories, such as for victims of trafficking or refugees, and are thus unable to access protective services that might respond to their needs. As a result, the majority of children on the move generally fall outside any other established legal and social protection systems,[2] not only when they move across international borders but also when they move within their own countries, with migration being considered a security, rather than welfare, issue.

Addressing the needs and problems faced by children on the move is complex. Their largely invisible nature and the difficulty of devising appropriate responses for children at each stage of their respective journeys are compounded by the challenge of creating a child-centred protection system that has effective coordination mechanisms between agencies in the same location and between areas of origin, transit and destination, both within and between countries. This is a challenge that confronts government and child protection agencies alike.

Save the Children's current efforts with Children on the Move is focused on developing and piloting models of national and community-based child protection mechanisms that can respond to the specific needs of children who are affected by mobility and that are effective in areas of origin, during transit and at destination. This article illustrates some of the most recent work in developing methodologies that can assist in the design of responses for these children, particularly during transit, one of the most challenging stages for child protection programmes. These models include methods to assess the best interests of the child in each phase of the journey: before the journey starts, during identification, reception, assistance and the search for durable solutions. This article also highlights the specific tools that Save the Children has recently tested and which aim to contribute to the debate on how to translate the principles enshrined in international standards into procedures and practices that genuinely protect all children on the move, irrespective of their migration status.

PROTECTING CHILDREN IN TRANSIT

The hard-to-reach nature of children on the move presents unique difficulties when planning programming to support and protect them, particularly during transit. Indeed, providing for children in transit has been identified as one of the biggest challenges by various agencies working on children on the move, including Save the Children.

Children are particularly vulnerable during their journeys and when they reach their destinations because often they move to a place where they do not know anyone to whom they can turn for help and where they might even be seen as not worth helping. Both in transit and at destination, they are often unconnected to the communities through which they pass or settle, either permanently or temporarily. Their lack of documentation, language barriers or the stigmatization against them often means that they deliberately avoid contact with others and have difficulty in accessing basic services. Their isolation makes them particularly vulnerable to abuse, exploitation and violence.

Crossing borders can expose migrant children to additional dangers. Especially when travelling alone, children are particularly vulnerable to various forms of violence, abuse or exploitation by

2 Save the Children defines a rights-based national protection system as being made up of a set of laws and policies; a central government coordination mechanism with a clear mandate; effective regulation and monitoring at all levels; a committed, competent workforce; and child-friendly non-discriminatory services, accessible to all children (Save the Children, 2010b).

state actors, such as border police, or by individuals or groups who take advantage of their uncertain status. At borders and/or at destination, children can be subject to prolonged detention, denied the right to seek asylum or placed in immigration detention as a substitute for care arrangements. In such settings they are often exposed to severely inadequate living conditions, lack access to education and other services and can be separated from family members.

Supporting children in transit is challenging. Tracking children can push them into looking for more invisible and potentially dangerous routes to evade detection, especially if they suspect that the aim is to control or interrupt their journeys. Because these children are difficult to reach, they are often underserved.

For obvious reasons, information on the number of children who move is very scarce, and their reasons for moving and the challenges they encounter during transit and upon arrival are widely variable. Such difficulties are further compounded by the complexity of developing programmes that protect children while they move, since most protective services are fixed in one location. Because migration routes are not linear, it is difficult to devise responses that can provide for children at each stage of their journeys, especially when protection systems are either absent or undeveloped, or when they struggle to reach the community level.

The Mobility Assessment Tool

Recognizing these challenges, Save the Children UK, with support from Oak Foundation, commissioned a scoping study in 2009 to explore strategies to improve evidence-based policy and practice for children during transit (Dottridge, 2010).

The review identified several significant obstacles to accurately analysing children's needs in migration contexts. These include:

- identifying the different needs of children at each stage of their respective journeys, including during transit, as opposed to only the origin or destination locations, and design programmes that apply a protection system approach that integrates responses between areas of origin, transit and destination;
- ensuring that children participate fully both during research and the programme design phase;
- piloting methods that utilize genuinely appropriate evidence so that findings are representative of the true target population and responses can fully address the multiple and complex needs of these children; and,
- ensuring that during the data collection phase, the research has an action component, so that if a child requests assistance or discloses abuse, the adequate response can be provided.

Subsequently, Save the Children commissioned Columbia University to assist in the development and piloting of a Mobility Assessment Tool (MAT) for children on the move that could gather information about children's evolving needs and coping strategies throughout the course of their journeys. The objective of this tool is to attempt to fill a knowledge gap about how to design responses that are appropriate and effective for protecting children at all stages of their journeys, especially in transit – the stage where conventional protection systems are often weakest. The tool aims to collect evidence of the different protection issues and opportunities in each context to help identify key points of intervention that would be most effective for children in each situation.

Children's travels and their needs

The MAT gathers information about child migrant demographics, as well as children's reasons for migrating, travel plans, migration routes and modes of travel. The tool also collects information on children's travel companions, the services these children have access to in transit locations, and what services they recommend to help them during their journeys. The MAT aims to shed light on the needs of these children while in transit and at their destination, as well as the coping mechanisms they use during travel, with the aim of designing programmes that put in place services that children on the move actually need (and where they need them the most) and build their coping mechanisms and resilience. Additionally, to inform and enable flexible, mobile responses to support children as they move, the MAT was designed so that it could be replicated in multiple locations along a migration route.

The research sites

The MAT was first piloted in 2010 on the border between South Africa and Zimbabwe. A second pilot was conducted in 2011, in two locations in Thailand's Ubon Ratchathani, on the border with Lao People's Democratic Republic (PDR).

In South Africa, the research was conducted in Musina, a town on the border with Zimbabwe. Increasing numbers of children, often unaccompanied, have come to South Africa in recent years due to the economic and political turmoil in Zimbabwe, the loss of family members or household livelihood as a result of HIV/AIDS, and poor schooling options in Zimbabwe. The journey to South Africa is often difficult, with reports of violence and theft during the border crossing and of girls forced to have sex with authorities, truck or taxi drivers or others in order to 'pay' for their passage (IOM, 2009:26–29; Save the Children UK – South Africa, 2007, 2008). Living conditions for migrant children in Musina are difficult, as shelters are overcrowded. Access to health and education is also limited, as children are fearful of being reported to authorities and deported (Odhiambo, 2012). With deportations from South Africa to Zimbabwe resuming in October 2011, accounts suggest that detention, especially of young people, and deportations take place without the safeguards defined by South Africa's Children's Act (Lawyers for Human Rights, 2012). In addition, xenophobic violence against foreigners has meant that many migrant children have remained hidden and are difficult to reach because they are fearful of accessing public services. Save the Children has been operational in Musina for the past 10 years, supporting and strengthening local authorities in addressing the protection needs of migrant and asylum-seeking children. Local services for unaccompanied children in Musina have mainly focused on providing access to basic services and facilitating return and family reunification.

In Thailand, the research was conducted in Kong Chiam and in Chong Mek, two transit areas in Ubon Ratchathani Province, on the border with Lao PDR. There is regular and irregular migration across this border, and local police, immigration officers, the navy (in Khong Chiam) and the army (in Chong Mek) patrol the border crossing. Border crossing is very different in the two locations selected, with crossing into Chiong Mek being more expensive and more difficult than crossing into Khong Chiam. In Chiong Mek, border crossing requires documentation, identification and a border pass. While the community and law enforcement officials appear to accept the presence of many young Lao workers, there is still a potential threat of deportation. In the two sites selected for these pilots, Save the Children has been present with programmatic activities for some time, supporting local partner organizations. Work in these locations is coordinated through Save the Children's Cross-Border Project for children on the move in the Mekong Region.

Findings

During the pilot research, the research teams interviewed 52 children in South Africa (40 male and 12 female) and 121 children (39 male and 82 female) in Thailand, of whom 69 were in Khong Chiam and 52 wer in Chong Mek (Columbia Group for Children in Adversity, 2010a, 2010b).

In both pilots, interview teams targeted children ages 10 to 17 years. In the South Africa pilot, the average age at which children first entered the country was 14.5 years, with the youngest child being 10 years and 5 months old at first arrival in the country. In both the South Africa and Thailand pilots, the majority of the children interviewed had already spent almost a year away from their countries of origin at the time of the research.

In Thailand, the children reached included girls working in karaoke bars; child domestic workers; children working in restaurants, hotels or resorts, beauty salons, shops, stalls or pushing carts, and agriculture. Many of these children were particularly vulnerable to exploitation due to their lack of documentation. In both locations where data was gathered, children were migrating from Lao PDR in search of work. Some internal migration also existed, with children being part of families returning to the province after having moved away. The research found that internal migrant children were more likely to attend school full time and only worked after school or on weekends, while Lao migrant children would not attend school and were there to work full time. While both locations were areas of transit, they were also areas of destination for many of the children interviewed, who indicated that they did not have plans to move from those areas in the foreseeable future. Most of the working children interviewed could not leave their workplace, so the interviews could only take place in their workplace, with the agreement of their employers.

The majority of the children interviewed in Thailand (80 out of 121) indicated that they migrated to look for work and earn money and that they themselves made the decision to leave. In some cases, parents had been the ones to make the decision because of the need for extra income, and many children indicated a sense of obligation to help their families.

The travel experience was described as being short and relatively safe by most of the children interviewed, who were accompanied by friends or relatives up to the border crossing or beyond but who then left them with an employer. The former were the persons that they indicated as having helped them the most during transit.

When asked to rank their travel needs, having money to pay for transportation, border passes and documentation were mentioned most frequently by children. However, they ranked them as being less important than having adult support during travel and safety from arrest.

Upon arrival in either Khong Chiam or Chong Mek, children told interviewers that they became very isolated both from peers and from other adults, as most of these children could not leave their workplaces, where they not only spent the entire day but also slept at night. They also expressed fearing the police and feeling that they had no adult to turn to if they became victims of abuse.

Children highlighted education and vocational training as the services they needed the most. This reflects their hope of improving their working conditions and income-generating opportunities. Many of the children, particularly the girls working in karaoke bars, also requested access to health care. Children gave mixed responses to the question on who should be providing such services. Many expressed an interest in participating in government programmes despite not having all the necessary documentation, while others thought the community should provide the services.

Questions about what they would suggest to their friends who intended to initiate a similar journey were aimed at informing targeted prevention interventions in areas of origin. Interestingly, children expressed more negative feelings about their experience than they had done speaking about themselves. Suggestions ranged from practical advice on what to take with them to clear warnings about the loneliness of life in Thailand, the difficult working conditions and the advice to travel with a friend. Some children offered to be a point of reference for help for Lao children arriving in the two locations.

The MAT helped in identifying some interesting directions for programming in Khong Chiam and in Chong Mek. The need for more interaction with peers and the presence of adults whom children can consult and who can provide advice in a non-judgemental way came out very strongly in both research areas. Counselling and peer support would therefore be an appropriate response to a pressing need of these children. However, it was clear that as children felt relatively safe during travel and trusted their travel companions, but ended up having limited freedom of movement and being isolated and exploited once at work, interventions aimed at enhancing interaction with these children should be focused on the workplace. Regular outreach and engagement with employers to allow for some time off work emerged as a key priority. Additionally, as many children also lived in their workplace or with their employer, addressing the quality and appropriateness of their living conditions clearly appeared as a key issue to be addressed by interventions.

The consultation with children and their interest in education and vocational training highlighted that these two locations were both transit and destination areas for most children. This suggests that interventions in these areas should include not only short-term access to services and counselling but also a longer-term perspective which would include education, training and developing realistic 'life plans' with the children involved.

The ethnographic mapping in the two areas in Thailand also highlighted the presence of a relatively large Lao adult migrant community in the two locations. The adults were aware of the presence of unaccompanied working children but did not show engagement or a sense of responsibility for the protection of these children. The creation of a protective environment for migrant children in these locations would therefore require mobilizing these communities and creating links with local child protection mechanisms and local service provision. The fact that some children offered to help new arrivals suggests that children would see themselves as being part of such a network of support.[3]

In South Africa, the children interviewed included boys living in a boys' shelter, girls living in a women's shelter, children living in the streets in Musina town, girls living in suburbs and working in town, boys working at the border, and girls frequenting or passing through truck parks at the border.

Many of the children interviewed (32 children) had lost at least one parent prior to departure; half of them had lost both parents and some spoke of being cared for by other relatives after their parents' deaths, but these relatives also died shortly after. The death of a parent and their ensuing inability to pay for school and exam fees were indicated by most children as the major driver of

3 An interesting example of fostering links and connections within migrant communities and between these and local communities is the work conducted in Thailand by the Association for the Promotion of Children, Youth and Families (APCYF), supported by Save the Children's Cross-Border Project on Children on the Move in the Mekong Region. APCYF supported the establishment of child protection committees in a major plantation area in Fang district where migrant families work and live, isolated from the outside world. The work of the committee has been successful in reaching parents and employers and raising awareness of child protection issues among migrants working in the plantations. The programme was also successful in working with local authorities and with the Youth Council to include migrant child leaders in the local child protection committees (Martin, 2012; Save the Children UK, 2011; also see Wessels, 2009 for an analysis of community-based protection mechanisms).

their migration. As a consequence, looking for work or money was the reason that the majority of children (47 out of 52) listed for moving to South Africa.

Most children in the sample arrived in South Africa using various means of travel and indicated that their journeys did not last long. Often they described beginning to travel alone and picking up travel companions along the way, mostly just before crossing the border. Those children who travelled with adults (either adult siblings or aunts and uncles) described being separated from them once in South Africa, in some cases because of differences in asylum/passport status and in others because they were abandoned at the border. Some children travelled with taxi drivers hired by adult family members who asked them to transport the child across the border, a common practice among Ndebele people. Over a quarter of the children interviewed entered the country through an unofficial channel, circumventing the border post entirely. The rest entered through the border post, but did so without legal entry permits and gained access by either doing odd jobs for the border officials, paying bribes or being given a free pass usually because they were known by the border officials.

When asked about their needs during travel, children indicated they mainly needed money to pay for transportation, bribes and clothing, as robberies of children, of their money and clothes are common along the borders. Children also thought that being accompanied by an adult to provide advice and support during their journeys would have helped them. However, this service was considered secondary to their immediate needs associated with gaining entrance into South Africa and basic survival.

Once in Musina, the children's most pressing need was to find a job and earn money, followed by shelter, clothes and food. Children thought these should be provided by the local community, non-governmental organizations (NGOs) or the Government. When asked what available services in Musina they accessed, those children who were housed in the boys' shelter indicated that they had access to at least two types of services, while the children living in the streets responded that they did not access any. The girls interviewed in the market were not even aware that such services existed in the town.

Through the MAT, it was possible to map which individuals or authorities children came in contact with during their travel, when crossing border and at destination, and the nature of their interaction. The pilot provided useful recommendations to the programmes on the key actors to mobilize or target, for example through training, including border authorities, staff at the shelters.

Similar to the Thailand case, Khong Chiam and Chong Mek being transit areas notwithstanding, the majority of children interviewed indicated that Musina was their destination and only a few indicated that they intended to move further or return home. This would involve reconceptualizing services with a view to providing children with some form of continuity in their lives through education and vocational training provision and, when appropriate, foster care for the significant number of children who have lost both parents and may not have other relatives to care for them. Interestingly, reunification with family members in South Africa or assistance with return to Zimbabwe – two of the key services offered in Musina – were ranked as least important by the children, showing the mismatch between the reasons, the circumstances and the objectives that had pushed many of these children to take the decision to migrate and the local services available to them.

The research also highlighted that different groups of migrant children had different levels of awareness of and access to existing services, with girls and children living and working closer to the border being more isolated and less served than children living in the shelters. These findings

are of great relevance for programmes aimed at children in transit, as they allow responses to be targeted effectively so that they serve the specific needs of subgroups of migrant children and use resources efficiently.

Some key learnings for future applications of the MAT

Sampling

The pilots tested the use of the respondent-driven sampling (RDS) method developed by Douglas Heckathorn (Heckathorn, 1997:174) to produce a representative sample of children on the move. This method uses incentives to increase the low response rates that are typical of chain-referral methods targeted at hidden populations (such as snowball sampling, targeted sampling or key informant interview techniques). This method was tested in the hope of overcoming some of the shortcomings of chain-referral methods, which tend to recruit the easiest-to-reach children to participate in research and miss the harder-to-reach children. The risk is that because the needs of the former group of children and their circumstances might be very different from the needs of harder-to-reach children, responses serve one group of children on the move, missing the more hidden ones.

In the RDS method, individuals who have been interviewed are rewarded for referring friends for interviews.In addition to receiving a reward for participating in the research, they also receive one additional incentive for each friend they refer successfully. After progressing through various waves of referrals, this method can produce a representative sample of the population that is independent of the individuals recruited in the first wave of interviews. During the pilot test, this method was used to check if children were part of networks of children on the move and how connected these networks were.

During the two pilots, the data collection element of the tool highlighted interesting and useful information on children in transit. However, the sampling strategy did not succeed in producing a representative random sample, as had been hoped. The reasons for such results included:

- the suspicion with which referring others was seen, for fear of detection or arrest and deportation;
- issues related to the local context in which children found themselves (for example, in the Thailand pilot, children were not able to leave their workplace at any point, day or night, and so had no contact in the outside world); and,
- most importantly, the lack of sufficient time and resources to ensure that waves of referrals took place.

As time limitation is a key factor when designing dynamic responses for children in transit, the future concrete application of this tool will probably require that, at least in a first instance, a combination of sampling methodologies are used. This can provide information that is sufficiently reliable and useful to design responses, despite not being statistically representative of the entire population of children on the move. Information from statistically representative samples can then be collected once a programmatic response is more established, as this allows the time and the trust necessary for multiple waves of referrals to arrive on a longer-term basis.

Adapting to children's movement

As highlighted by the literature review, one of the key challenges in developing responses to support children in transit is the fact that most operational programmes are static and based in single locations, while children move between different locations. The MAT was therefore designed so that it could be replicated in multiple locations along a migration route to inform and enable flexible, mobile responses to support children as they move. The Thailand pilot, in particular, allowed the testing of this element, as the research was replicated in two locations in the migratory route between Lao People's Democratic Republic and Thailand. However, the pilot highlighted that more testing is required to fully develop the potential of this element of the tool, in particular the practical implications of mapping the local system of referral to services, especially when there is no full programmatic activity in one of the locations along the route.

Child participation

The two pilots also provided the opportunity to test what type, level and degree of child participation was appropriate for the successful application of the tool and its translation into programmatic responses. Children were involved through consultation in the development and testing of the pilots. Children's inputs were crucial in clarifying issues arising from the key informant interviews and in providing important contextual insight both on the methodology and on the mapping of the child migration dynamics in the areas. However, in both pilots, it soon emerged that training children as researchers and interviewers would have required considerable time and resources. Additionally, given the difficult context where the research was conducted and the sensitive nature of some of the issues disclosed during the research, it was deemed that the involvement of children as researchers was not appropriate. However, children played a key role in raising awareness at the community level to build the trust in the researchers and in making other children feel comfortable in participating in interviews.

Although some elements still need further testing and strengthening, the MAT appears to be a promising new methodology to collect meaningful data about children on the move that can inform programmes, particularly by indicating how and where its responses should be focused along the migration route and what the real needs of various subgroups of children on the move are. The mobile element of the MAT, in particular, though requiring more testing, seems to be a promising attempt for programmes to provide a 'protective presence' for children on the move (Save the Children UK, 2012).

DETERMINING THE BEST INTERESTS OF CHILDREN WHO ARE ON THE MOVE

> "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration." (United Nations Convention on the Rights of the Child, Article 3)

> "In the case of a displaced child, the principle must be respected during all stages of the displacement cycle. At any of these stages, a best interests determination must be documented in preparation of any decision fundamentally impacting on the unaccompanied or separated child's life." (Committee on the Rights of the Child 2005, General Comment No. 6, Paragraph 19)

> "A determination of what is in the best interests of the child requires a clear and comprehensive assessment of the child's identity, including her or his nationality, upbringing, ethnic, cultural and linguistic background, particular vulnerabilities and protection needs. Consequently, allowing the child access to the territory is a prerequisite to this initial assessment process. The assessment process should be carried out in a friendly and safe atmosphere by qualified professionals who are trained in age and gender-sensitive interviewing techniques." (Committee on the Rights of the Child 2005, General Comment No. 6, Paragraph 20).

The research conducted in Thailand and South Africa to test the MAT confirms evidence from programmes on children on the move in other regions which showing that, particularly during transit and when crossing borders, children's first point of contact are state actors (border officials, social workers, etc.) and in many cases, particularly where protection systems are weak and/or under-resourced, non-state actors (NGOs and community-based practitioners, often volunteers) required to make decisions on their behalf but are often ill-equipped to decide on what actions to take for their protection. Evidence has shown that very often there are no formal procedures that assess and prioritize the best interests of the child, and that decisions are made on an intuitive basis, and all too frequently, priorities based on the government's policies on immigration override child protection concerns.

In many cases, children are not given an opportunity to participate or make an input during this process. Yet, as highlighted by the MAT research, many children view migration as a survival strategy which can potentially open up opportunities that are not available at home. Many of these children migrate willingly, and repatriation, one of the most common responses, is often futile, as children routinely repeat their journey across the border until they are successful.

Therefore, a comprehensive child protection system aimed at strengthening the protection of children on the move needs to have mechanisms that allow for a child to be assisted in meeting his or her objectives while providing the most appropriate assistance by identifying what solutions are in a child's best interests. Such mechanisms may range from an assessment of which option is in the best interests of the child, to a formal process with strict procedural safeguards, depending on the importance and the impact on the child of the action to be taken, both in the short and in the long term.

While strict procedural safeguards are not necessary for all actions that concern individual children on the move, a functioning protection system that responds to their needs would nevertheless require that the practitioners in charge of such actions have the knowledge and skills required to assess whether the actions to be taken are in the best interests of the child.

The application of the best interests of the child principle for children on the move can be particularly complex. While the debate on best interests determination procedures is more advanced in relation to children seeking asylum under the competence of the United National High Commissioner for Refugees (UNHCR), with formal guidelines developed (UNHCR, 2008), there is a clear knowledge gap and limited guidance on how to operationalize the best interests of the child principle for children on the move, particularly as immigration and other political agendas and priorities often take precedence over child protection considerations and obligations.

A best interests determination toolkit for children on the move

In order to contribute to filling such a gap, in 2010, Save the Children developed a best interests determination toolkit aimed at improving the best interests determination process for unaccompanied children on the move in South Africa. The toolkit and a training manual (Save the Children UK – South Africa, 2010) are aimed at field practitioners who manage the identification, documentation, tracing and reunification processes in South Africa. The toolkit is designed to ensure the involvement of children on the move when official decisions are made that affect their immediate and longer-term futures, and to improve such decisions by taking into consideration the wide range of factors that have contributed to the migratory experience of the child. The tool was developed within the South African legal and policy frameworks and designed in such a way as to promote implementation of the best interests clause in South Africa's new Children's Act by South African authorities that have the statutory authority to make such determinations, namely, social workers and key officials within the Department of Social Development. However, the toolkit was designed in a way that would allow to easily adapt it to other contexts, where necessary; in this sense it was developed also as a contribution to improving child protection programming and responses for children on the move at the global level.

Child protection practitioners and legal experts from the University of Pretoria, UNICEF, UNHCR, IOM and civil society organizations such as Childline and the Consortium for Refugees and Migrants in South Africa were part of a Task Team and a Stakeholder Group that provided ongoing technical reference during the development and testing of the tool. The tool was tested in Musina, Polokwane, a city 200km from the border with Zimbabwe, and Johannesburg by various local and international organizations who routinely engage in decision making on behalf of and in consultation with children on the move, as well as by a social worker working for the Department of Social Development in Musina. Approximately 60 children and 10 practitioners participated in the testing. As the tool was developed specifically to be used by the authorities with statutory power to make decisions for unaccompanied migrant children in South Africa, training on its use was conducted with auxiliary social workers from the Department of Social Development, with Save the Children and other agencies' staff working along the border and with local police and border authorities who make decisions on behalf of children on the move (Stiglic, 2010).

The tool is comprised of two components designed to work in conjunction: the Best Interests Assessment Form and the Durable Solution Recommendation Matrix.

The Best Interests Assessment Form is an instrument guiding the collection of information from a child who has crossed international borders without appropriate care provision at the identification and registration phase. The tool is designed to collect information which would enable social workers and other relevant authorities to decide on appropriate care arrangements in line with the best interests of the child.

The questions in the assessment form are ordered chronologically to capture the situation before, during and after migration for the individual child in question. These include their history from before the move to separation; the history of separation including migration; the history following migration and the child's current situation. The form is designed so that the views of the child are a crucial part of the data collection phase and inform the subsequent decisions. The child's views are complemented with the views of the biological mother and father, of the persons close to the child and of the person whose care is indicated as an option for alternative care arrangement, if applicable.

The second element of the tool, the Recommendation Matrix, is aimed at helping the assessors make durable solution decisions with confidence by systematizing the information collected through the form.

In particular, the information collected in the assessment form is clustered in the Recommendation Matrix according to 10 key questions relating to whether the child has a parent/s or caregiver/s; if the parent/s or caregiver/s are willing to be reunified with and able to care for the child; if there is a positive relationship between them, and with the sibling/s and extended family; whether the child is safe at the proposed residence and willing to be reunified with a particular person; whether the child is involved in hazardous labour; and whether there are adequate educational opportunities and health services for the child.

According to how the information collected in the form answers these questions, six possible options for durable solutions that are relevant for the South African context and aligned to national law and international conventions are then identified:

1. **Immediate reunification** with the family the child was living with in his or her country of origin;
2. **Delayed reunification** with the family the child was living with, following the rectification of certain issues, either in relation to their living environment or in addressing the child's need that cannot be addressed at home, regardless of reason;
3. **Alternative care in the country of origin**, with a suitable caregiver within the extended family who is able and willing to look after the child;
4. **Alternative care in South Africa**, with a suitable caregiver within the extended family who is able and willing to look after the child;
5. **Supported, independent living or placement into a place of safety in South Africa** for children who are unable or unwilling to return to live with family or alternative caregivers in country of origin;
6. **Foster care** for younger children who are unable or unwilling to live with family or alternative caregivers in their country of origin.

The closed and prescriptive structure of the toolkit, whereby information from the assessment form leads to specific decisions in the recommendation matrix according to how they answer the key questions listed above, is aimed at allowing front line workers with variable levels of knowledge and skills to make best interests determinations in a linear and standardized way.

Overall, from the feedback received during testing, the best interests determination toolkit appears to be a promising instrument to improve practice on best interests determination for children on the move. Individual tests showed that the tool was successful in making the decision-making process more consistent, with different assessors arriving independently at the same conclusion on the course of action to be taken in each specific case.

The testing of the tool highlighted some interested learning points which can inform the future use and adaptations of the tool to different contexts.

The children consulted highlighted that a history and a threshold of assistance actually provided to them needed to be reached before they could trust an adult in making decisions in their best interest. There were differences, however, which would need to be explored and accounted for in adapting and rolling out such a tool. In Musina, girls were more reluctant to trust an adult other than family members. In particular, they did not trust decisions which involved reunification or being moved elsewhere, at times preferring possibly worse situations and conditions over the prospect

of the unknown. Different groups of children are then likely to require a longer engagement and trust building phase for Best Interests Determination to be reached with their involvement and participation.

Another key finding shows that it is crucial to map who the first points of contact are for children as they cross a border or as they come in contact with the formal or informal local protection system and ensure that they are fully involved during the development and adaptation of the tool, so that it reflects the local context where they operate and the existing services that they can actually refer children to. This will contribute enormously to developing a strong sense of ownership for the entire process and their commitment in using the tool. Future developments and adaptations of the tool will also need to consider targeted versions to be used by different actors.

CONCLUSIONS

With the number of children involved in migration likely to dramatically increase in the next decades as a consequence of global trends such as urbanization, economic developments, and environmental and resource pressures, improving systems that can translate international standards into effective and appropriate protection procedures and practices for children on the move is becoming urgent. Yet, children on the move still fall through the cracks in the systems of protection aimed at different categories of vulnerable children or are failed by the priority given to migration policies over the fulfilment of child rights obligations.

Save the Children's work is focusing on supporting and testing models of child protection systems with effective coordination mechanisms that can provide support and protection to children who move within and between countries. The tools and methodologies described in this article aim to contribute to the current debate on what works for children on the move and particularly on how to improve practices and responses that can provide a protective presence for children before they depart, during transit and when they arrive at their destinations.

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Challenges faced in protecting children on the move:

An NGO perspective

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ABSTRACT

This paper focuses on the assistance and protection that children on the move need and could receive from the non-governmental organization (NGO) sector. As used in this paper, the term 'children on the move' refers to all those persons under the age of 18 who have left their place of habitual residence and are either on the way towards a new destination, or have reached such destination not long ago. As this definition brings together children in various situations, there is considerable diversity in their protection and assistance needs. Consequently a large number of actors and service providers, including NGOs with various mandates and of different sizes, should be intervening on their behalf. Currently, however, such intervention is far from sufficient and not always in the best interests of the child.

This paper describes how many NGOs, including Terre des Hommes Foundation, where the author is based, focused on the issue of child trafficking in the first decade of this century, but have been gradually reorienting to respond to the broader protection needs of children who leave home and are vulnerable to various forms of abuse, not only the exploitation and abuse associated with human trafficking. It describes the specific experiences of Terre des Hommes and one other NGO, the Association for the Social Support of Youth (ARSIS), as they tried, in Albania and Greece, to develop systems to protect both Albanian children who could be categorized as 'trafficked' and other Albanian children.

This paper seeks to explore some of the factors that hinder NGOs today in assisting and protecting children on the move. It reviews the operational challenges as well as challenges specifically connected with making a best interests determination or assessment. The paper refers to some existing promising practices developed by NGOs around the world. It aims to demonstrate that ways forward for a better protection of children on the move are possible and are currently the subject of review and reflection by a number of international NGOs.

ANALYSING THE DIFFICULTIES

Children on the move and the political debate around migration

As 'children on the move' is an umbrella term, various mobility scenarios are covered by it. For some of them, the role today of NGOs (as opposed to other actors) is clear to practitioners within the sector itself, and also fairly clear in the public opinion, at least in media-led debates. A typical example involves cases of children moving to escape war or natural disaster. NGOs intervening in such cases usually provide direct services to the children and their families in their new settlement or assist the host community in doing so. When acting in situations of armed conflict, many of them also publicize abuses that they learn about in order to help mount international pressure for a cessation of hostilities. When the conflict comes to an end, or in the aftermath of a natural disaster, many NGOs contribute to the reconstruction process, including in terms of services and infrastructure for children. Some of them also support children and their families to return to their places of origin and to resettle there.

The situation is, however, more complex when looking at another group of children on the move, namely, migrant children. This term refers to those children who move with their families, alone, with peers or with other adults, because of a desire for better economic and social opportunities. In these situations of child mobility, the current approach of NGOs remains fragmented. On one side, there are the NGOs that work in the places of origin of the children concerned. These NGOs seek to improve the opportunities for children in their communities of origin, reducing the pressure to go elsewhere. While such interventions are extremely useful to the children (and their communities), they are sometimes inadequate, or perceived to be inadequate, to change the situation radically and for all, at least in the relatively short term. Thus, some children still leave and, often, by doing so, they lose access to the support and assistance provided by the NGOs operating in the children's places of origin.

These children hardly receive any assistance and support from NGOs while they are on the way, travelling from one place to another. Once they reach a new destination, the children might benefit from some NGO support and assistance, but it would usually be from a different NGO than the one operating at the place the child has just come from. Today there is still a 'disconnect' between the NGOs working in the places of origin and those working at the places children choose as destinations. There are only a few NGOs that assist migrant children before departure, on the way and also after they reach a new location. Many NGOs that work around the world do not, for example, have a mandate to provide assistance to children migrating from these places to the country where the NGO is registered and has its support base.

One reason for this is that, when faced with limited resources and in order to ensure the quality of their work, NGOs have to make choices about where best to intervene. However, in addition, some child-focused NGOs also think that in the public debates occurring today in Western or industrialized countries, it would be risky to get a reputation for working in both the field of development and the field of protecting migrants. These NGOs also fear that their involvement in protecting child migrants might not be understood by members of the public at home or their national government that support their work overseas. In the United States, in 2011, the Federal Government challenged in court the anti-illegal immigrant law of the state of Alabama, which, inter alia, criminalized the employment of illegal immigrants or renting property to them, and which also included provisions allowing school children to be questioned about their immigration status. In certain member states of the European Union (EU), as well as other countries around the world, some measures against migrant children who are in the country and irregular migrants, for example, detention and deportation, place extreme limits on the access that NGOs can have to child migrants and the services that they can provide to them.

Former Council of Europe Human Rights Commissioner Thomas Hammarberg (who just recently stepped down), is reported to have stated: "[m]igrant children are one of the most vulnerable groups in Europe today. Many of these children suffer exploitation and abuse. Their situation is a major challenge to the humanitarian principles we advocate" (PICUM, 2010). The Committee on the Rights of the Child issued its General Comment No. 6 on the treatment of unaccompanied and separated children outside their country of origin (Committee on the Rights of the Child, 2005). The Committee noted in this General Comment of 2005 that:

> …unaccompanied and separated children face greater risks of, inter alia, sexual exploitation and abuse, military recruitment, child labour (including for their foster families) and detention. They are often discriminated against and denied access to food, shelter, housing, health services and education. Unaccompanied and separated girls are at particular risk of gender-based violence, including domestic violence. In some situations, such children have no access to proper and

> appropriate identification, registration, age assessment, documentation, family tracing, guardianship systems or legal advice. In many countries, unaccompanied and separated children are routinely denied entry to or detained by border or immigration officials. In other cases they are admitted but are denied access to asylum procedures or their asylum claims are not handled in an age- and gender-sensitive manner. Some countries prohibit separated children who are recognized as refugees from applying for family reunification; others permit reunification but impose conditions so restrictive as to make it virtually impossible to achieve. Many such children are granted only temporary status, which ends when they turn 18, and there are few effective return programmes (Committee on the Rights of the Child, 2005, paragraph 3).

These Committee comments are supported by the findings of research conducted on undocumented child migrants in Europe by the Platform for International Cooperation on Undocumented Migrants (PICUM) (2008). This Platform, which brings together 149 member organizations and over 150 individual members and provides support and assistance to undocumented migrants in 38 countries, aims to promote respect for the human rights of undocumented migrants within Europe. Over the past few years, PICUM has noted a dangerous trend towards the erosion of the rights of children who are in an irregular migration situation. Today, the Platform is implementing a project aiming at building strategies to protect such children.

Another European NGO network focusing on the protection of unaccompanied and separated migrant children is the Separated Children in Europe Programme (SCEP).[1] SCEP was established in 1997 and seeks to improve the situation of separated children through research, policy analysis and advocacy at the national and regional levels. To date, one of the most important achievements of the Programme is the establishment of a network of NGO partners across Europe (in both EU member and non-member states). Both PICUM and the SCEP can serve as a link between NGO intervention in the countries of origin and destination, as long as the children move within Europe and depending on whether NGOs from both countries involved are represented in the network. Both networks find it more difficult, however, to make such links when the country a child migrant comes from is outside Europe. As already mentioned, today there are only a few examples of NGOs that manage to bridge the gap between their child protection work in a migrant child's place of origin with the assistance provided to the same child once he or she arrives at a new destination.

Over the past two years, one of the organizations investing in this direction is the Terre des Hommes International Federation (TDHIF) and the organizations belonging to the Federation.[2] The Federation's experience in protecting children on the move dates back to 2000 and was developed in particular by one of its members, the Terre des Hommes Foundation based in Lausanne, Switzerland. For almost nine years, this Foundation implemented a project between Albania and Greece, which is discussed in greater detail below. Today, the Terre des Hommes Foundation continues to implement projects aiming to protect migrant children against exploitation between Benin and Nigeria and also between the Republic of Moldova and the Russian Federation. Another Swiss-based member of the Federation, Terre des Hommes Suisse, based in Geneva (Switzerland), also runs similar projects in West Africa and is reported to be considering how to link its interventions in Latin America with the response to the protection needs of undocumented migrant children from Latin America in Geneva. Terre des Hommes Netherlands also supports

1 More information about SCEP is available at www.separated-children-europe-programme.org/index.html.

2 The TDHIF is a network of 10 national organizations with headquarters in Canada, Denmark, France, Germany, Italy, Luxembourg, the Netherlands, Spain and Switzerland (comprising 2 organizations: the Terre des Hommes Lausanne Foundation and Terre des Hommes Switzerland). More information on TDHIF is available on their website, www.terredeshommes.org/index.php?lang=en&page=abo.mem.

partner organizations protecting children on the move within South-East Asia. Recently, its partners in the Lao People's Democratic Republic, Cambodia, Viet Nam, Philippines, Indonesia, Thailand and a regional network, Asia Against Child Trafficking, developed a leaflet, which, in child-friendly language, advises children on what to pay attention to before and during their movement, as well as where to seek help if they need it. The leaflet is an example of how NGOs can avoid getting embroiled in the political debate around migration and move ahead in providing simple forms of assistance to children on the move.

Shifting the focus away from child trafficking?

Another factor hindering adequate protection of children on the move by NGOs is that some of them still struggle to understand the complexity behind the mobility of children and how best to respond to it. In the early part of the past decade, Terre des Hommes gained considerable experience from assisting unaccompanied or separated children belonging to an Albanian minority group who were taken to neighbouring Greece and deployed by adults who were not their parents to earn money by begging. Initially, the response of the authorities in both countries was inappropriate. The Greek authorities would deport the children to Albania without any prior risk assessment or even liaising with the Albanian authorities to ensure that anyone was available at the border point to look after them. The Albanian authorities also failed to react both in terms of prevention, as well as in accompanying the returnee children back home and providing follow-up and assistance to them and their families.

As an immediate response, Terre des Hommes developed a method (known as the 'Transnational Action against Child Trafficking')[3] to enable NGOs in the two countries involved to coordinate their protection activities: Terre des Hommes in Albania, where children were recruited, and ARSIS in Greece, where they were exploited. This included exchanging information about individual children who had gone missing in Albania or been spotted in Greece.

In addition, the two NGOs in Albania and Greece lobbied for their respective governments to develop a bilateral agreement that would ensure coordinated protection of the children concerned. They contributed to the preparation of a draft for a cooperation agreement between the two governments "on the protection of unaccompanied children, trafficked children and children at risk of being trafficked". It took some time before a definitive text was agreed upon in February 2006.[4]

Based on the stories told by children assisted by ARSIS and Terre des Hommes, it was soon realized that, while a number of children were taken away from Albania to Greece for the purpose of exploitation, others left Albania out of their own free will, but fell victim to exploitation on the way or once inside Greek territory. Both Terre des hommes and ARSIS recognized that push factors related to the overall situation in Albania and the extremely limited possibilities of legal migration (to Greece or elsewhere) were some of the reasons behind the situation of the children. ARSIS in Greece also identified the lack of protection for child migrants as one of the gaps facilitating the exploitation of these children. Both organizations pointed out that the identification of Albanian children trafficked to Greece will continue to remain problematic as long as Greek legislation does not offer sufficient protection and assistance to all unaccompanied foreign children (Shuteriqi et al., 2007). Efforts were made by civil society to extend the application of the Agreement signed to

3 For more on Transnational Action against Child Trafficking, see http://tdh-childprotection.org/projects/tact/description.

4 The text in English of the Agreement between the Government of the Hellenic Republic and the Council of Ministers of the Republic of Albania for the Protection and Assistance of Children Victims of Trafficking can be found at: www.legislationline.org/documents/id/5856.

all unaccompanied Albanian children found in Greece as well as to replicate them in agreements with other states when this became necessary. By 2011, for example, a number of Bulgarian children were identified begging in a city in northern Greece. In March 2012, authorities in the two states indicated that they were considering an informal protocol of collaboration.[5]

Along similar lines, following the increased number of children from Albania identified begging in the streets of UNSC resolution 1244-administered Kosovo (hereinafter referred to as Kosovo/UNSC 1244), Albania and Kosovo/UNSC 1244 signed in June 2012 an Additional Protocol to complete a previous 2009 Agreement on cross-border police cooperation. The main objective of this Additional Protocol is to intensify the cooperation in combating trafficking in persons and improvement of identification, notification, referral and support to victims and potential victims of trafficking, especially children.[6] Terre des Hommes contributed to this agreement by conducting the first study on the situation of children from Albania begging in the streets of Kosovo/UNSC1244 (Terre des Hommes, 2012) and by calling upon the authorities in both countries to adopt a joint solution that goes beyond addressing the crime of trafficking to include child protection as well.

In a similar way, many other NGOs learned from practice to distinguish trafficked children from other children on the move and to understand the relationship between the two phenomena. However, today, there are still a large number of NGOs which assume that all children who move while unaccompanied by their parents are taken away by force, kidnapped, lured and trafficked. The understanding and application of the Palermo Protocol (the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2000) remains a challenge, especially in determining whether there was an intention to exploit the child behind the act of facilitating his or her movement from one place to another.

To address such challenges, eight organizations working in West and Central Africa (the African Movement of Working Children and Youth, ENDA Jeunesse Action, Plan, Save the Children, Terre des Hommes, the International Labour Organization, UNICEF and the International Organization for Migration) combined their efforts in a regional platform, seeking to analyse and document the mobility of youth and children in the region. In the framework of this platform, children on the move were the main actors of research conducted in four countries (Benin, Burkina Faso, Guinea and Togo). The aim of the project was to study the various forms of child mobility and their implications for child protection, from the perspective of formal actors, as well as the communities and children concerned. The findings were discussed and analysed at national and regional levels, and available today in the form of a publication entitled *Quelle protection pour les enfants concernés par la mobilité en Afrique de l'Ouest* (Feneyrol, 2011).

This work shed light on the various scenarios behind the phenomenon of child mobility in the region. It shows that, in addition to trafficking, there are situations where children make deliberate choices. Such choices can be part of a boy's strategy to deal with the family's limited food supply or his alternative to heavy agricultural work, which brings little return to a boy worker in the community of origin. For a girl, leaving the home country can be a solution to avoid getting trapped in a forced marriage arrangement or escape the difficulties of accessing school education or training while remaining at home. Children also move to escape abuse (which has gone unnoticed or unstopped) within the family and/or community. In other cases, these migration plans are considered by the

5 See, "An informal protocol of collaboration considered by Bulgarian and Greek authorities", 26 March 2012, accessed at http://marioproject.org/news/an-informal-protocol-of-collaboration-considered-by-greek-and-bulgarian-authorities.

6 See, "Albania, Kosovo, Additional Protocol on Cross-Border Collaboration", signed 14 June 2012, accessed at http://tdh-childprotection.org/news/additional-protocol-to-complete-the-agreement-on-cross-border-police-cooperation-between-kosovo-and-albania-was-signed.

child and his or her community to be part of the young person's growing and development process, as well as an experience to mark the transition from child- to adulthood. While demonstrating that mobility can be positive for the child, the publication also identifies a high level of vulnerability of these children. The document ends with a set of recommendations from state and non-state actors, at national and regional level. The eight organizations behind this study are currently working towards disseminating the findings and implementing its recommendations.

A challenge for the organizations concerned, which is not easy to overcome, is to bring the donor community on board. With the exception of the EU and a few bilateral donors that provide relatively small amounts of money to this area of concern, the other development cooperation agencies continue to use conventional categories for initiatives that might benefit children on the move, giving priority to anti-trafficking interventions. Moreover, even when a more integrated and consolidated approach is adopted towards migration, children often come last on the donors' agendas.

One region where a similar initiative to the joint multi-agency approach adopted in West Africa would be welcome is South Asia. Until now, NGOs in the region have focused mainly on providing assistance to former trafficked children. Somehow, well-targeted prevention activities against child trafficking have been lacking, with lots of investment in awareness raising or even direct action by NGOs to stop children from moving. The results show that these strategies are not adequate or are insufficient in some way. A large number of children continue to fall victim to severe exploitation and trafficking within the region. Often these children, before falling victim to exploitation, have been on the move within the borders of their own respective countries, or in several different countries. It is high time for NGOs in the region to reflect whether, by protecting children during the course of their movement, they would be more effective in preventing these children from being trafficked and/or exploited. Especially since during the course of the movement, children can float from one category another. For instance, an internally displaced child can, in the course of moving, be recruited by armed forces or moved across borders for the purpose of exploitation. Moreover, seeking to ensure that all children on the move are protected, instead of focusing specifically only on trafficked children, seems likely to provide a better guarantee that each child in need of protection would actually receive it. It also avoids labelling every child on the move as a 'trafficked child,' which distorts reality and might have a negative impact from a human rights perspective.

A recent study on the human rights impact of anti-trafficking measures demonstrates how some trafficked women regretfully find themselves in the following situation:

> She discovers that in trying to remove her from harm, her well-meaning advocate, be it the government, an NGO or an individual, who has come forward to assist and protect her, has actually done further harm and removed her even farther away from her desired destination. She discovers that in the name of protection she can be confined to a shelter under conditions which are no different from detention, or packed off 'home,' back into the very same environment that she wished to leave behind, with its joblessness, poverty, conflict, abuse, or even a not-so-dire middling situation, which to her offered neither promise nor possibility of realizing her life's full potential (GAATW, 2007).

Similar studies could reach much the same conclusions if they were to consider some NGOs' current interventions with respect to children on the move, but who are considered by them as 'trafficked.' When children who are unaccompanied move in search of better opportunities, many NGOs find it difficult to establish what sort of intervention is most likely to be in the best interests of the child.

The intervention dilemma around the best interests of the child

In the same General Comment No. 6 on the Treatment of Unaccompanied and Separated Children Outside their Country of Origin, the Committee on the Rights of the Child stated:

> "In the case of a displaced child, the principle must be respected during all stages of the displacement cycle. At any of these stages, a best interests determination must be documented in preparation of any decision fundamentally impacting on the unaccompanied or separated child's life." (Committee on the Rights of the Child, 2005)

However, determining the best interests of children on the move remains a challenge. The migratory routes taken by unaccompanied children often entail many risks. The route can be long and exhausting for the child. On the way, he or she can come across and start trusting older children or adults who end up abusing and exploiting him or her. When the migration involves crossing borders illicitly, the child also faces the risk of being tracked down by the police, and, depending on the country's legislation, ending up in detention and/or being deported. In any case, the irregular character of the migration process limits the access to support and services that the child is likely to have on the way and after reaching a possible destination.

Based on these risks, many NGOs around the world, particularly in Asia and Africa, designed interventions seeking, in all circumstances, to prevent children from leaving their places of origin unaccompanied. Even Terre des Hommes, when it first discussed the migration phenomenon of unaccompanied children from countries such as Benin (to Nigeria) and the Republic of Moldova (to the Russian Federation), during the first awareness-raising sessions that were conducted, focused on seeking to prevent children from migrating in all circumstances because of the risks it could entail for the child. However, after the first trial -and-error period, the organization saw the weaknesses of this approach and adjusted it accordingly. Other NGOs went to extremes, with some of them even placing staff at borders or other transit points to facilitate identification of children travelling unaccompanied, in order to send them back home. In 2010, Integrated Regional Information Networks, the news and analysis service of the United Nations Office for the Coordination of Humanitarian Affairs, described in a blog the intervention of NGOs along the border between India and Nepal (Kale, 2010). Maiti Nepal, a Nepalese NGO, explains in its website (www.maitinepal.org) how its border-monitoring staff inspect vehicles crossing the border. For many of these NGOs, there is an assumption that the best interests of the child involve a child remaining in his or her home country, preferably in his or her community of origin. As, in their view, children should not move unaccompanied in the first instance, it is considered inappropriate to provide services while they are on the move or once they reach a new destination. As NGOs in the region told the author, they also fear that, by doing so, they would encourage other children to leave their communities.

NGOs taking this approach are being challenged today on various grounds. So far, NGOs' efforts to stop children from leaving home (or their own countries) have had quite chequered success. Children continue to leave unaccompanied, and, as they may try to keep their departure a secret even from NGOs working near their homes, their journey becomes riskier. What is the legitimacy and impact of an NGO's intervention in such circumstances? Is the NGO's action proportionate to the abuse that the NGO wishes to prevent a child from experiencing, particularly as there is a likelihood that the NGO's action prevents the child concerned from exercising some of his or her rights, or interferes with the child's parents' ability to exercise theirs? For example, would it be legitimate for an NGO to stop a 15-year-old girl from escaping an arranged marriage and to return her to her parents' or husband's home? When stopping a 15-year-old boy at the border whose parents got into debt to pay for his trip (to what is expected to be a better life), whose interests does the NGO serve?

A general strategy applied to all children in all situations does not allow for a best interests assessment to be made on an individual basis. Moreover, to make sure that the NGO's intervention serves the best interests of the child, it is necessary to consider the potential risks the child could face if he or she remains in the place of origin and the opportunities he or she might obtain as a result of moving. The decision (about what course of action is in the best interests of the individual child) should therefore reflect the best possible balance of all the likely effects of these factors on the child. Listening to the views of the child concerned is necessary in order to achieve such a balance. It would require not being judgemental, but trying to understand the child's reasoning for his or her decisions, even when the NGO might not necessarily agree.

In 2008, the United Nations High Commissioner for Refugees (UNHCR) launched guidelines on best interests determination (BID) (UNHCR, 2008). As explained in the document (UNHCR, 2008:9), these guidelines apply in three situations in which UNHCR must undertake a BID. These include: (i) the identification of the most appropriate durable solution for unaccompanied and separated refugee children, (ii) temporary care decisions for unaccompanied and separated children in certain exceptional circumstances, and (iii) decisions which may involve the separation of a child from parents against their will. The UNHCR is given a legal mandate by the United Nations General Assembly to lead and coordinate international actions to protect refugees, asylum-seekers and stateless persons. Despite this solid legal mandate, the UNHCR recognized the need to further clarify, standardize and operationalize the steps and criteria to be considered when determining the best interests for a child asylum-seeker or refugee. The BID is considered as one step towards helping fill this gap (UNHCR, 2008:5).

The UNHCR guidelines cannot be applied to other children on the move, not only because other children often do not have the same legal status as an asylum-seeker or refugee child, but also because the motives for their movement and its very nature can differ substantially. The tool has, however, inspired NGOs to work on specific guidelines concerning the determination of the best interests of unaccompanied migrant children. Unlike the UNHCR, NGOs that try to assess what course of action is in the best interests of a child asylum-seeker or refugee do not have any internationally recognized mandate to decide for children in the absence of their parents, unless authorized to do so by a state child welfare agency. Therefore, the tools concerning best interests determination that NGOs draft are intended mainly to be used by government authorities who are in charge of making decisions about a child in the absence of his or her parents. The SCEP, for example, has included in its Statement of Good Practice (SCEP, 2009) a specific chapter on BID. Again, in Europe, a project called 'Mario,' which brings together a Polish NGO, Nobody's Children Foundation and several international NGOs (Terre des Hommes, ECPAT and Save the Children), seeks to protect children on the move more effectively by strengthening the capacity of local, national, regional and Europe-wide authorities. For Project Mario as well, one specific area of focus is linked to assessing the child's best interests, as the existing gaps identified in the practice of national authorities remain vast. One member of the project, Terre des Hommes, drafted a policy document in 2007 on issues related to the possible return of foreign unaccompanied minors to their home countries (Terre des Hommes, 2007). The document set out the limits of the Organization's mandate with respect to such children and the conditions and procedures it has to respect, as well as urges governments to adopt limits regarding BID.

Another member of Project Mario, Save the Children, has published a toolkit entitled *Best Interests Determination for Children on the Move: A Toolkit for Decision-making* (Save the Children UK – South Africa Programme, 2010). The toolkit includes a Best Interests Assessment Form, which Save the Children designed as a method for collecting information, enabling social workers and other relevant authorities to decide on appropriate care arrangements in line with the best interests of

the child. Although far from perfect, these tools already have the potential to improve current interventions for children on the move, if sufficiently shared and promoted by others NGOs.

CONCLUSIONS

In 2011, the Terre des Hommes International Federation (TDHIF) engaged the field staff of its member organizations and partner NGOs in a worldwide consultation regarding children on the move. The consultation concluded that large numbers of children are to be found today among internal and international migrants, asylum-seekers and refugees, displaced and trafficked persons, or any other categories of people on the move. The expectation is that in the years to come, the number of people moving within and across borders will increase and so, too, will the number of children among them. The consultation also concluded that the services and protection that children access while on the move and upon reaching their destination are far from sufficient and adequate. This observation was made in a context where children often leave home and move in the first instance precisely because of the lack of services and adequate protection in their home communities. What is currently being done to address these protection gaps for children on the move?

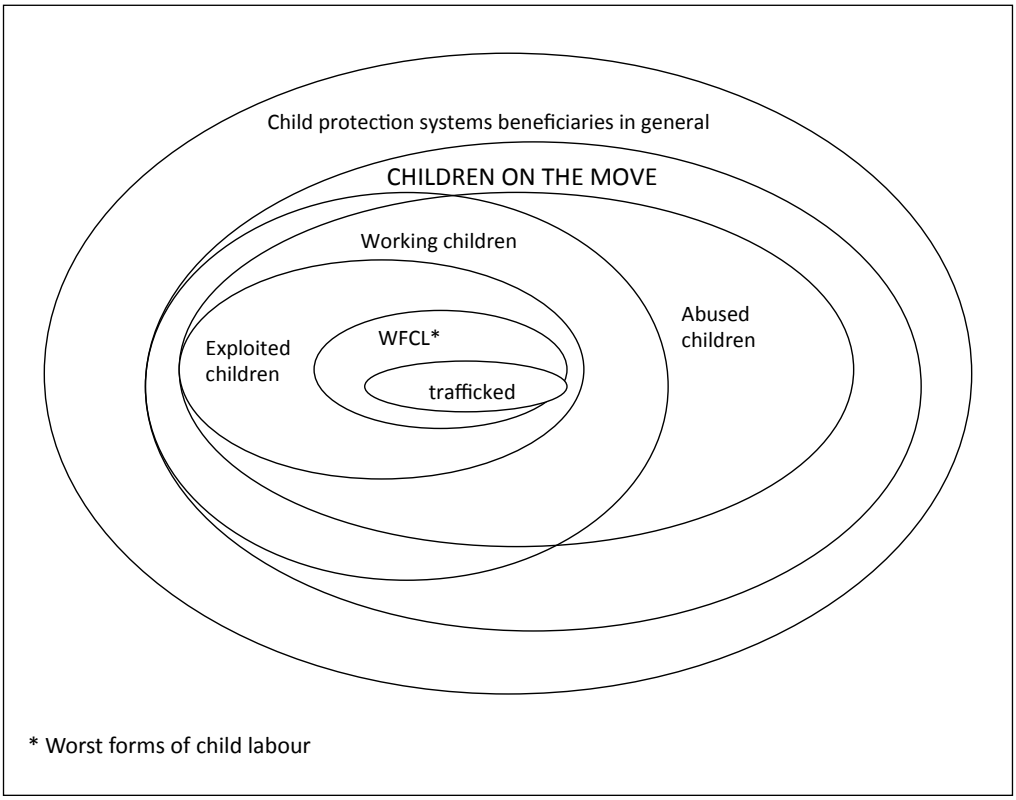
This paper has not commented on interventions, current or intended, by government-run organizations, nor has it focused on the strategies developed by the children themselves, their families or communities to ensure that they continue to be protected while on the move. It focused instead on the NGO sector, seeking to demonstrate why they currently struggle with the challenge of whether and how best to assist and protect children on the move. While recognizing the phenomenon of child migration and its increasing scale, on the whole, NGOs feel challenged by the political debate occurring around the topic of migration, and are also affected by their own perceptions of migration and the dilemmas it presents. Despite the existence of NGO actors working in the communities from which children migrate and also of NGOs that assist children once they reach a new destination, a geographical disconnect between NGO activities in the places of origin and destination has been identified as one of the main gaps. The paper also identified a few existing NGO initiatives that have sought to respond to this gap.

In 2012, the TDHIF launched an international campaign entitled 'Destination Unknown: Protect Children on the Move.'[7] One of the objectives of the campaign is to ensure that, on a number of identified routes, children get access to appropriate protection and services along the way. Other objectives of the campaign revolve around the need to change the current paradigm by developing a better understanding of the risks and opportunities for a child before, during and after movement. The advocacy is constructed around 10 demands, which include: enhancing alternatives to migration for children and their families back home; bringing an end to detention and deportation procedures involving migrant children; finding a durable solution according to the best interests of the child; listening to the views of the child; enhancing the evidence base of policies aiming at protecting children on the move, and so on. In line with the United Nations Convention on the Rights of the Child, the organization is shifting away from a 'silo' approach (focusing on just one form of abuse suffered by children) and investing in supporting integrated protection systems to benefit all children.

7 More information about the Destination Unknown campaign is available at: http://destination-unknown.org.

The diagram below illustrates the Terre des Hommes' understanding of some categories of children with whom the organization works and the interrelation ships among them.

Figure 1: Different categories of children



Terre des Hommes, along with other NGOs and agencies, thinks that building child protection systems guarantees protection for a large category of children today, and is therefore a more efficient way of responding to their needs, as well as managing the limited resources available to do so. The focus is on national protection systems, but systems in different countries need to be linked to ensure a continuum of protection and services for children on the move.

The last, but not least, of the challenges identified in this paper concerns the BID for a child on the move. The Committee of the Rights of the Child commented on the process by which states should determine the best interests of unaccompanied and separated children outside their countries of origin in its General Comment No. 6 (Committee of the Rights of the Child, 2005). In the same General Comment, the Committee also referred to Article 12 of the Convention, according to which the child's views and wishes should be elicited and taken into account (Committee of the Rights of the Child, 2005, Article 12 (1)). In 2009, the Committee issued its General Comment No. 12 on the right of the child to be heard (Committee of the Rights of the Child, 2009). In this General Comment, the Committee recognized that the right to be heard, being a general principle of the United Nations Convention on the Rights of the Child, "is linked to the other general principles of the Convention, such as Article 2 (the right to non-discrimination), Article 6 (the right to life, survival and development) and, in particular, is interdependent with Article 3 (primary consideration of the best interests of the child)." Once again, the Committee makes the link by referring explicitly to the child's right to be heard in immigration and asylum situations.

One way forward, thus, in the assessment of the best interests of a child on the move would be to give due weight to his or her views and opinions. Listening to the experiences of children on the move, the reasons that made them leave home and go abroad in the first instance, as well as their expectations of NGOs and other actors responsible for protecting children, would help address many of the challenges identified in this paper. As the Committee of the Rights of the Child stated:

> The views expressed by children may add relevant perspectives and experience and should be considered in decision-making, policymaking and preparation of laws and/or measures as well as their evaluation…The concept of participation emphasizes that including children should not only be a momentary act, but the starting point for an intense exchange between children and adults on the development of policies, programmes and measures in all relevant contexts of children's lives (Committee of the Rights of the Child, 2009).

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Children's migration:

Towards a multidimensional child protection perspective

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ABSTRACT

In the field of migration, child migrants occupy a mixed space, generally viewed as acted upon, either as victims, passive followers or 'left behind.' Despite growing evidence that recognizes children's evolving capacities, resilience and agency, children's independent movements are generally viewed as an anomaly. Programmes and policies developed on this assumption that aims to protect children from violence, abuse and exploitation in the context of migration risk putting children at harm and infringing on their rights. The intended protective role of international standards, along with some experiences in programme implementation, are also discussed. The paper cautions against the rigid classification of child migrants into programmatically convenient categories as they move in and out of them. Drawing on a range of literature, programming experience and available evidence, this paper seeks to advance a child protection perspective to children's migration throughout the whole cycle of migration, from the place of origin, to transit and destination, and, in all contexts, taking into consideration the need to adopt a multilevel, interdependent, multidisciplinary and evidence-based approach to the phenomenon. Children's migration cannot be delinked from wider socioeconomic, political and historical factors. Factors at community level, including the impact of ongoing social and economic changes, affect migration, including that of children. The household also plays a significant role in determining who migrates and under what circumstances. Finally, it is necessary to understand the individual characteristics and interests of the child and his or her interactions and interdependencies with the household, as well as his or her own aspirations and motivations, as this helps bring clarity as to who migrates and for what reasons. Consideration of the dynamics among all these factors, including the interrelationships and interdependencies among the categories explored, further suggests how they shape and affect children's migration and the experiences migrant children have.

INTRODUCTION

There is strong interest on the part of policymakers, development officials, civil society actors and academics in all forms of migration, particularly, cross-border and irregular migration. Within the broad topic of migration, child migrants occupy a mixed space. In general, children are seen as acted upon, as victims, passive followers of their parents/guardians or 'left behind' while one or both parents migrate for work (Whitehead and Hashim, 2005; O'Connell Davidson and Farrow, 2007; Dobson, 2009; Brettel, 2003).

Findings from small-scale qualitative studies and from a number of disciplines identify that, across contexts, migration of some form is a reality for many girls and boys who migrate without their parents/caregivers for different purposes, including schooling, work and a combination of the two; strengthening social networks, kinship and other ties; a rite of passage, or for adventure, among others (Hashim, 2005; Punch, 2007; Whitehead and Hashim, 2005; Monsutti, 2007). By and large, however, children, as independent migrants, are largely invisible to policymakers, except when there is some form of force, including trafficking.

Many projects, programmes and policies related to children's migration are, in many ways, reflective of the views held by the development actors and child-focused organizations that enact them: that children's independent movements are an anomaly. Well-intentioned policies focused on 'protective' measures that raise administrative barriers for children often tip the balance away from protecting children from harm to infringing on their rights. At the extreme, interventions

based on this perspective have inadvertently led to age- and gender-specific prohibitive responses, such as those that impede children's independent migration through interception along the migration route as a 'rescue' measure from the imminent danger of trafficking, or through raids at the destination point. Children may then be returned home with the assumption that such responses are in line with the principle of the best interests of the child, whereas, in fact, by failing to take into consideration the reasons or underlying structural dimensions why children have left home, the response may be harmful and counterproductive.

Having provided a brief overview of the children's mixed place within the topic of migration, this paper proposes what it means to look at the process of children's migration from a child protection perspective. This paper draws on relevant policy and academic documents, programming experiences, and the reflections and lessons learned over the past 10 years, when the International Convention on the Protection of all Migrant Workers and Members of their Families and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children came into force in 2003, and when the Protocol against the Smuggling of Migrants by Land, Sea and Air came into force in 2004.

Before setting out several key perspectives to be examined, an overview is provided of what is to be understood as 'child migration' and, subsequently, the term 'child protection.'

UNDERSTANDING CHILD MIGRATION

Migration has been defined or understood in many ways. For example, according to the International Organization for Migration (IOM), migration is "the movement of a person or a group of persons, either across an international border, or within a State. It is a population movement, encompassing *any kind of movement of people* [emphasis added], whatever its length, composition and causes; it includes migration of refugees, displaced persons, economic migrants and persons moving for other purposes, including family reunification" (IOM, 2011). Migration of a child, by extension of the above (and for the purposes of this paper) refers to the same processes when undertaken by a person under the age of 18.

Child migration is often approached and responded to through different categories or a compartmentalized lens. These include, among others, independent migrant children, children migrating with parents and families, children on the move, unaccompanied migrant children, separated children, (internally) displaced children, asylum-seeking children, refugee children, children left behind, trafficked children, and smuggled children. These categories suggest how and why the process of migration was initiated and the corresponding outcome. It is important to keep in mind that these categories are not necessarily fixed or discrete: child migrants can and do move in and out of these categories. Indeed, it is recognized that forced and voluntary movements are difficult to establish as polar opposites; rather, they often form a continuum (International Council on Human Rights Policy, 2010). Further, evidence shows that migration brings about a wide range of impacts on the child migrant, often with mixed outcomes. On the one extreme, for example, being equipped with information, having family support and migrating through legal channels provides no guarantee of a 'safe' or benign outcome for the child migrant; on the other extreme, an uninformed migration process, coupled with irregularity in migration procedures, does not preclude a positive outcome. Nevertheless, it is broadly assumed by development actors that uninformed migration exacerbates the potential for exploitation and that 'information is a protection' (ILO, 2008).

Child protection

The term 'child protection' relates to the set of protection rights in the United Nations Convention on the Rights of the Child (CRC).[1] While the CRC uniquely recognizes, on the one hand, that children are holders of rights and capable actors in their own respect, it also sees childhood as a phase in which the girl or boy is still evolving physically, mentally and emotionally, thus requiring special measures to protect and promote their development (Lansdown, 2005).

Since the entry of the CRC into force more than 20 years ago, child protection has also emerged as an evolving sector of work to prevent and respond to violence, exploitation and abuse of children across all contexts – development, transition and humanitarian. As the sector has been strongly influenced by the normative standards set out in the CRC and other related human rights standards and mechanisms, and as these other instruments provide additional protection for child migrants, these are briefly touched upon as they relate to child migration.

The normative framework

The Universal Declaration on Human Rights (UDHR) asserts that "[e]veryone has the right to freedom of movement and residence within the borders of each state" and that "[e]veryone has the right to leave any country, including his own, and return to his country" (Article 13, paragraphs 1 and 2). More specifically, concerning children, as mentioned, the normative framework that buttresses a child protection perspective of child migration begins with the CRC. The protective rights of the child articulated in the CRC include the right of the child to be protected from economic exploitation and harmful work, from all forms of sexual exploitation and abuse, from physical or mental violence, and as well as from being separated from their families against their will. These rights are further bolstered by two Optional Protocols – one on the sale of children, child prostitution and child pornography and the other on the involvement of children in armed conflict. General Comment No. 6 of the Committee on the Rights of the Child (Committee on the Rights of the Child, 2005) deals specifically with the Treatment of Unaccompanied and Separated Children outside of their Country of Origin and provides added clarity about the vulnerabilities of children who migrate unaccompanied, or who have been separated in the context of migration, and their need for special protection.

Other instruments providing an overall guiding framework to protect migrant children include, among others, the International Convention on the Protection of all Migrant Workers and Members of their Families; ILO Convention 143 on Migrant Workers (Supplementary Provisions) of 1975; the 1951 Refugee Convention and the 1967 Protocol Relating to the Status of Refugees; a number of Hague Conventions, including the Convention of the Protection of Children and Co-operation in Respect to Intercountry Adoption; the 1961 Convention on the Reduction of Statelessness; the 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; and the Protocol Against the Smuggling of Migrants by Land, Sea and Air. Each of these instruments sets the standards for states parties and the international community, as well as non-governmental organizations, to provide protection and prevent violations from taking place in certain specialized contexts of migration. In many ways, together they strengthen the protective provisions outlined in the CRC. As noted by the Committee on the Rights of the Child in its General Comment No. 5, states parties to the CRC take on the obligations under international law to "ensure the realization

1 These rights include, among others, children's rights to be protected from situations of abuse and exploitation such as from child labour (Article 32), sexual exploitation (Article 34), and sale, trafficking and abduction (Article 35). Given the interdependency of rights and their mutually reinforcing nature, rights in the other 'clusters' such as survival, health and education also need to be given sufficient attention.

of all rights in the Convention for all children in their jurisdiction" (Committee on the Rights of the Child, 2005:1). Further, as observed by the Committee on the Rights of the Child in its General Comment No. 6, a number of articles in the CRC and other General Comments are applicable for the protection of children in the context of migration and call upon States to provide protection to all children within their jurisdiction irrespective of their 'administrative status or categories' (Committee on the Rights of the Child, 2005:12). In addition to these global instruments, there are a number of regional standards that provide contextualized frameworks to prevent and respond to various forms of protection violations.

Gaps are, however, evident, including in the implementation of these obligations. For example, while the right to leave any country is enshrined in the international law (e.g., the UDHR), there is no corresponding right to be received by another state, except in situations when international protection is being sought.

Standards and the mixed experience of implementation

Efforts to translate normative standards into international and regional programmatic and policy responses are numerous. These include, among others, the 2001 Berne Initiative (Berne Initiative Studies, 2006), which brings together countries of origin, transit and destination to build a consensus on common understanding and effective practices; the 2000 Hague Process on Refugee and Migration (for details, see www.thehagueprocess.org); the 2006 Euro-African Migration and Development Process, also known as the 'Rabat Process' (for details, see www.dialogueuroafricainmd.net/web/the-rabat-process); the Global Migration Group, established by the United Nations Secretary-General in early 2006, which builds on the 2003 Geneva Migration Group and the Global Forum on Migration and Development established following the High-Level Dialogue on International Migration and Development in September 2006.

Many of these processes and mechanisms recognize the linkages between migration and development, as well as the need to adopt a more balanced regulatory approach to 'manage migration' with shared responsibilities between countries of origin and destination, promoting venues for legal migration.[2] However, the number of migrants that fall into the cracks and who are unable to access and operate within these legal channels are considerable. This is, in part, because the legislative frameworks and practices implemented in both developing (mainly referred to as 'sending') and developed (mainly referred to as 'receiving') states privilege 'high-skilled' workers and sectors, for which there are labour needs (UNDP, 2009:35). Sectors that are less likely to be promoted (or managed) for labour migration, such as so-called 'low-skilled' work, for example domestic work and work in small, home-based or cottage industries, are also less likely to be as carefully overseen, thereby creating space for migration to occur through non-legal and, possibly, riskier channels. The irregularity of these migrants, which include children, heightens their risk of experiencing violence, abuse and exploitation. At the same time, experience indicates that while it is governed by labour standards in principle, exploitative working conditions abound in the formal sector. Identifying meaningful strategies by which to protect child migrants, and prevent them from coming to harm in the first place and address issues that may have forced them to leave

2 The United Nations has estimated that globally there are approximately 30 to 40 million irregular or undocumented migrants, a number that amounts to between 15 and 20 per cent of all international migrants (UN DESA, Population Division, Trends in Total Migrant Stock: The 2003 Revision, accessed at www.un.org/esa/population/publications/migstock/2003TrendsMigstock.pdf). It is important to bear in mind, however, the fact that it is very difficult to accurately count the numbers of irregular migrants on a national, regional or international level. The 2009 Human Development Report makes the point that most estimates of migrant numbers are derived from censuses, and that "there are good reasons to suspect that censuses significantly undercount irregular migrants, who may avoid census interviewers for fear that they will share information with other government authorities" (UNDP, 2009:23).

home, necessitate looking at migration from a variety of perspectives and through a different lens while at the same time not stifling their rights.

A CHILD PROTECTION APPROACH TO CHILDREN'S MIGRATION

The topic of migration is intrinsically interdisciplinary (Brettel and Hollifield, 2000; Castles and Miller, 2003). A child protection perspective also takes a multisectoral or interdisciplinary approach to the phenomenon. In addition to the consideration of the normative framework – the international norms and standards that directly and indirectly aim to protect migrant children from harm and to promote their well-being – looking at child migration from a child protection perspective necessitates examining a number of factors at multiple levels – macro, meso and micro – that shape and impact child migration. This would allow for the prioritization of interventions to mitigate and alleviate vulnerabilities that push communities, families and children to migrate or undertake uninformed or risky migration and to equip them, the household and the community with the knowledge and conditions to help minimize the risk-taking behaviour associated with various elements of vulnerabilities. At the same time, the weaknesses in the systems and structures of protection, which include legislation and policies that adhere to and which are implemented in line with international standards and norms, must also be brought to the forefront. As will be explored, these factors at the macro, meso and micro levels – including their interlinkages – need to be addressed at the places of origin, transit and destination.

A child protection approach to migration may focus on the various vulnerabilities that arise, during the process, but should not preclude recognition of children's resilience nor the positive outcomes that may result from his or her migration. As noted by one migrant child in Bangladesh, "I sleep on the floor in my mistresses [sic] room. I have no problem with that, actually I am happy as I am able to sleep under an electric fan… there is no shortage of clothes… I am given sufficient food. I earn 600 taka[3] per month. I send the money to my mother. My mistress takes care of me when I am ill." Another child, this time in South Africa, remarked, "I feel good because sometimes I sell 250 rand[4] per day and on top of that I can manage to send some money and clothes to my relatives…" (Global Movement for Children, 2010).

Macrolevel factors

At the macrolevel, one considers the political and economic factors that shape and govern people's movements within and across borders. Across much of the industrialized West, increasingly restrictive migratory frameworks and structures, evidenced through policy and administrative measures that include restrictive and challenging visa processes and intensified border controls and involve the militarization of such mechanisms, have had the effect of increasing undocumented migration, contributing to the professionalization of the human smuggling business, increasing the cost for the purchase of smuggling services and heightening the exposure of migrants and prospective migrants to more dangerous routes (Andrijasevic, 2010). This suggests that structures and mechanisms at the intra-state level create the space for exploitation of migrants to occur.

3 The taka (Tk) is the currency of Bangladesh, where 100 taka is equivalent to about USD 1.22.
4 The rand (R) is the currency of South Africa, where 100 rand is equivalent to about USD 12.77.

In addition to the supranational dimensions of migration, including systems and structures that may inadvertently result in risky migration, including migration that involves trafficking, there are national-level factors that may facilitate or restrict migration for particular populations. Evidence shows that restrictive measures put in place on the part of many national governments (including those purportedly concerned about forced migration and trafficking) to manage migration have not deterred would-be migrants. Rather, they have led many to pursue costly and more dangerous means of movement, inadvertently opening up greater opportunities for exploitation, abuse, profiteering and trafficking. For example, in Myanmar in the early 2000s, females under the age of 25 were prohibited from travelling without a legal guardian, following reports of female migrants from Myanmar being sexually exploited and forced into prostitution (Doussantousse, 2010). Migration of girls and women under 25 shifted underground; there was an increase in payments to intermediaries to procure passports, visas or other travel documents, with the actual movements being facilitated through more difficult, less used and remote terrains, thus further heightening the risks and potential for abuse and exploitation.

The features of labour markets also shape migration with effects that are important to consider vis-à-vis children's migration and a child protection approach. A number of studies have shown that children migrating independently more often than not end up working in the informal sector, which is at best unregulated and at worst illegal. This can lead to exploitation and impunity from the part of employers. The types of work that fall into the informal category often include domestic work, work on fishing boats, prostitution, street vending, begging and garbage scavenging garbage, among others (O'Connell Davidson and Farrow, 2007). From a child protection systems[5] perspective, this suggests that the protection systems that could be relied upon to prevent harm from taking place are at best weak.

Additionally, societal attitudes can facilitate or hinder a protective environment for migrant children. Combined with a weak protective legislative framework, a migrant child can become extremely vulnerable to discriminatory attitudes and practices in wider society. As noted, "[c]hildren who leave home to work in villages, towns or cities often feature very negatively in national and international discourses. Street youth, in particular, are often portrayed by politicians and the media in developing countries as miscreants or petty criminals who lack proper adult supervision" (White and Sward, 2008). A combination of weak protective systems and negative attitudes held by host communities towards particular groups of migrant children (such as those working or living in the streets), together with pre-existing vulnerabilities of migrant children, can combine, resulting in violence, abuse and exploitation.

Meso-level considerations: the household and community

Having explored a number of macrolevel considerations for a child protection perspective to children's migration, the focus now concerns that impact on the level of the household and community. Developments occurring at the mesolevel affect communities, with impacts at the household level. Hence, notably in places of origin, it is necessary to understand the impact of social and economic change on households and what goes on within them. This is because – as will be explored below – the household is the key site where choices and decisions about migration for

5 A number of agencies define child protection systems in different ways, but with much complementarity. In its 2008 *Child Protection Strategy*, UNICEF defines child protection systems as "the set of laws, policies, regulations and services needed across all social sectors — especially social welfare, education, health, security and justice — to support prevention and response to protection related risks." Terre des Hommes, in its 2011 *Enhancing Child Protection System,* defines child protection systems as "a coherent set of actions and actors, in which the child is the starting point and which aims to guarantee the rights and well-being of the child by constructing synergies within and between protective environments." Save the Children (2010) and UNHCR (2010) have defined child protection in complementary ways.

work or other purposes are shaped and framed, although extra-household factors and influences, such as structures of and accessibility to labour markets, and the expansion of schooling and access, also affect and shape migration, including children's.

In the context of migration studies, the household has been acknowledged as playing a role in choice- and decision-making and as being affected by migration (Boyle et al., 1998). Caroline Brettel (Brettel, 2000) and others (Boyle et al., 1998) draw attention to migration as a household-based survival strategy that occurs at certain phases of the household life cycle, thereby acknowledging the role of different generations, including children. Further, children grow up and are raised in the context of their interactions with others, including adults and peers. Hence, a child protection perspective to children's migration must also consider the interactions that occur within the structure of the household and community.

Ongoing social and economic change across many rural settings throughout the developing world are transforming land ownership and landholding patterns, necessitating increasingly diversified livelihoods, some of which necessitate migration. These have gendered impacts. For example, in Bangladesh, ongoing social and economic change associated with the decline in the importance of family-based farming in the rural countryside has eroded the traditional productive roles of both men and women (Kabeer, 2001). Norms of purdah (literally, 'curtain' or 'veil,' referring to the system of seclusion of Muslim women from outsiders) have made it difficult for women to follow men into the wider cash economy in search of alternative employment (Kabeer, 2001). Therefore, in addition to transformations in land ownership and increasingly diversified livelihoods, it is also important to examine other aspects of ongoing social and economic change that may necessitate migration, including children's.

Evidence shows that within communities, certain households may be more likely to have members who migrate, including girls or boys. For example, in some rural settings where agriculture is a key source of livelihoods, households with small or no landholdings at all may be more likely to have members that migrate for work. Under such circumstances, mechanisms that may mitigate household vulnerability that results in risky migration or migration for work that may be exploitative include social protection schemes comprising cash grants or conditional cash transfers and services targeted at particular vulnerable groups (Miller et al., 2008; Gasper and Vinay, 2010).

Having outlined a number of factors occurring at the community level that may impact on migration, there are a number of household factors that shape migration choices, including those of children. Not only does the economic status of a household, but also other demographics such as household composition, play a role. While context is critical, evidence shows that the interlinked dimensions of household composition, birth order and sibling composition affect children's migration, since it is these that determine the choices and opportunities households have available to them and the decisions they make (Punch, 2001; Antoniou, 2007). Hence, within households, birth order and sibling composition may help determine within which households a child migrates and which child migrates. These factors also shape and affect children's roles and responsibilities within and to the household. Households with child migrants may be disproportionately those lacking one or both parents. For example, households with child migrants may be those who lack an able-bodied father or elder male due to death, illness, family separation, divorce or remarriage (Heissler, 2008).

In addition to the need to understand which girls and boys leave their households, it is also important to know when. The composition of households is not static: cyclical changes in size and composition are brought about by births, marriages and deaths of family members, and these affect households' means of subsistence. Roles and responsibilities of members are therefore dynamic and vary according to the domestic cycle of the household, the individual life cycles of its members

and the negotiations and renegotiations that take place within. As explored below, variations in these determine household members' responsibilities, dependencies and interdependencies to each other, as well as subsequent decisions that have to be made, including about migration (Whitehead et al., 2007).

Microlevel considerations: the individual child and his or her interactions

While considering the macro- and meso-level factors, it is also critical to consider factors at the level of the individual – in this case, that of a child – which affect migration, including movement that may be risky or result in exploitation or violence.

In more collective societies, decisions around migration – including who goes and when – are likely to be made with the consideration of the well-being of the household as a whole and less with the interests of autonomous individual actors in mind. For example, the significance of the extended family system in Cameroonian society, captured in the high prevalence and common practice of fosterage, leads to decisions around migration as part of the 'intrafamilial implicit contract' (Fleischer, 2007). It was also noted that, "[m]igrants do not necessarily set out to pursue individual goals. They are often delegated to leave by authority figures in their extended family. The individual is part of an informal reciprocal system of exchange, which is based on trust, has social consequences, and includes duties and responsibilities for both sides" (Fleischer, 2007).

These findings have been observed in other contexts. For example, from her findings in ethnographic research undertaken in rural areas of the Plurinational State of Bolivia, Punch (2002) describes the ties between parents and children as interdependent, and notes the concept is relative, "worked out in relation to particular needs at particular times in particular contexts." Across many settings, with variations for age/life stage, class and gender, children participate in the construction, maintenance and advancement of the household enterprise. The household should therefore be understood as involving dynamic interdependence between and among members (Alanen, 2003). The interdependent relationship may be appropriately envisioned as an 'intergenerational contract' among members where claims and responsibilities are backed by the rules of wider society (Kabeer, 2001). This model allows for consideration of children as social and economic actors, a contrast to some perspectives among researchers and policymakers that consider children as, inter alia, "…passive and dependent" (Lansdown, 2005). The nature of interdependence helps explain why many children work – including migrating for work – and why they are compelled to work to support the household.

This finding identifies the need to have a comprehensive understanding of the environment of the child migrant, when developing and implementing interventions, and when seeking to promote a protective environment for child migrants and potential migrants.

As noted previously, children's own resilience; including individual factors such as gender and age; and characteristics of the child, including his or her resourcefulness and inquisitiveness, also play a role.

CONCLUSIONS

In conclusion, a child protection perspective to child migration suggests several dimensions for consideration. First, children's migration cannot be delinked from wider socioeconomic political and historical factors. All these factors are interrelated, so looking at child migration through a child protection lens requires a multifaceted approach in both theory and practice. Second, it is important to recognize that the causes, as well as the consequences, of migration are varied and a binary approach or categorization of child migration as either forced or voluntary, moving under parental pressure or independently, or as regular or irregular, is unhelpful because children move in and out of categories depending on the situation that prevails on the ground. Third, it is important to understand the individual characteristics and interests of the child and his or her interactions and interdependencies with the household, as this helps understand who migrates and for what reasons. Consideration of these factors, including the interrelationships and interdependencies among the categories explored, further suggests how they shape and affect children's migration and the experiences they have.

Having noted a few key conclusions, it is also important to identify the limitations of this paper. First, the individual strengths of children, their resiliency and evidence of the empowering effect of children's independent migration have not been examined in any depth. While the need to ensure strong child protection systems has been identified, further research is required to strengthen this argument. Finally, the focus of this paper has looked at child migration primarily from the point of view of the place of origin and in particular rural settings. While reference has been made to the importance of looking at the issue throughout the whole cycle of migration (including transit and destination), the paper has not touched on these areas in any detail. This is important if vulnerabilities and exploitation of a migrant child at transit and at destination are to be addressed. Applying a child protection lens to child migration must ensure that the whole cycle is covered. Further, while conflict, violence and disaster have been noted as reasons for migration, children's experiences in these settings and a protection perspective have not been elaborated.

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Millions of children are on the move, both within and between countries, with or without their parents. The conditions under which movement takes place are often treacherous, putting migrant children, especially unaccompanied and separated children, at an increased risk of economic or sexual exploitation, abuse, neglect and violence. Policy responses to protect and support these migrant children are often fragmented and inconsistent and while children on the move have become a recognised part of today's global and mixed migration flows they are still largely invisible in debates on both child protection and migration.

This publication targets policy-makers and practitioners in the field of migration and child protection, along with academics and activists, and sheds light on the situation of migrant children. The publication is the result of a collective effort by a number of specialists from different organizations, was edited by Mike Dottridge (an independent child rights specialist) and includes a foreword by Professor François Crépeau (United Nations Special Rapporteur on the human rights of migrants).

International Organization for Migration (IOM)