

**UNICEF**  
Innocenti Research Centre



## **Workshop on Independent Child Migrants: Policy Debates and Dilemmas**

Organised by the Development Research Centre on Migration,  
Globalisation and Poverty, University of Sussex and UNICEF  
Innocenti Research Centre

12<sup>th</sup> September 2007, Central Hall, Westminster, London

## **Workshop on Independent Child Migrants: Policy Debates and Dilemmas**

### **SUMMARY**

This report is based on the contributions from the speakers at the Workshop on Independent Child Migrants: Policy Debates and Dilemmas which took place on 12<sup>th</sup> September 2007, at Central Hall, Westminster, London. The Conference was organised by The Development Research Centre on Migration, Globalisation and Poverty and UNICEF Innocenti Research Centre, with additional funding from The Department for International Development and the Nordic Africa Institute.

The objective of the workshop was to stimulate debates and research on independent child migrants, to provide an opportunity for researchers and policy makers to exchange views on the independent migration of children and to identify gaps in evidence required to formulate policies.

#### **Introduction**

Independent child migration is the migration of children who are not refugees and are not coerced or tricked into moving by third persons, it is often carried out with the aim of seeking work or education. These children need a higher profile in policymaking. Currently there is a very narrow policy space in which to develop recommendations and little evidence and research exists for detailed policy formulation.

- Child migration is a relatively new area in academic and policy debates, it is a diverse phenomenon and there are many gaps in our knowledge and understanding.
- The policy space on independent child migration needs widening and there is a need for policy makers to design policies that create a more protective environment for migrant children
- In thinking about children's agency, and their capacities as thinkers and doers, we should avoid considering them either solely as 'romantic heroes' or as 'passive victims.'
- The way in which we view children's agency affects the labels we use to describe child migrants (for example, as independent, unaccompanied, or voluntary), the ways in which we understand children's engagement in decision-making, and how we evaluate the risks in children's migration from a parental setting.
- The various structures, contexts and relationships that influence agency also relate to children's vulnerability and child-related vulnerability factors include age, social capital and work destination.

#### **Theme 1 – Migration Projects: Children on the Move for Work and Education**

This session focused on what is known about children's migration projects and the factors affecting them, in order to explore appropriate policies for the real life contexts in which children make choices. It examined how definitions and practice around children's movement, working children and children's education match up with children's experiences of work and schooling through migration. It also examined the quantitative evidence available for investigating children's independent migration. Points made in presentations and discussions included:

- There is a need to move away from assumptions that independent child migration is a necessarily exploitative or damaging experience for children.
- The process of decision-making is complex, steps are taken to make the journey safe, children have many motives to migrate, and the continuum of experiences range from good to very bad.
- Children have tended to be represented as passive victims of exploitation, lacking agency and lacking an active role in the decision-making and migration process. This needs rethinking and childhood must be seen in context, especially of age, gender and the HIV/AIDS pandemic.
- Children's 'choice' must be situated in the context of extreme poverty and limited opportunities in their home environment and in the manner in which their identities as a 'good' child' are tied up with fulfilling their work roles – they have 'thin' or constrained agency.

- Appropriate support is needed for migrant children whether they are with kin-groups or not. Living with 'blood' relatives doesn't necessarily mean they are being better treated.
- A review of secondary sources reveals numerical data on independent child migrants (both internal and international).
- According to census data, children comprise a small minority of the overall *internal* migrant population and girls comprise over half of independent *internal* child (0-17 years-old) migrants for the countries presented.
- However, if survey data is based on residence it may fail to capture the full scope of child migration, short-term and/or seasonal migration.
- There is a tendency to look at migration in terms of 'origin,' and 'destination' but migrants can get 'stuck' in 'transit' countries. These can be the most dangerous places for migrants because if a country declares itself to be a 'transit' country it claims no responsibility for taking care of migrants.

## **Theme 2 – Migration and Trafficking**

This session focused on the connections and differences between migration and trafficking, paying attention to the ways in which they may vary in particular context specific migration flows. It also focussed on the context of the trafficking debate and how this affects child migrants. The main points emerging from presentations and discussions were:

- Terminology is important and the most commonly agreed definition of 'trafficking' outlined in 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' supersedes older definitions contained in other conventions and treaties.
- It is important to define and deconstruct concepts and terms used such as 'trafficking,' 'street children,' 'child beggar'
- The label of 'child trafficking' is inadequate to explain the complexity of the situation where the experience of being trafficked concerns only a small part of experience teenagers face as migrant workers
- By adopting a biographical approach, it is possible to understand trafficking as a phase within a much larger process of labour migration
- International policies may be creating more trafficking and putting children in more vulnerable situations
- The trafficking framework is limited because of the context within which it has emerged – that of transnational crime
- The prevention and/or control of movement is not helpful (and may make children more vulnerable) and movement will continue to take place, even if it is prohibited

## **Theme 3 – Legal Issues and Criminalisation**

This session explored the legal issues in children's migration and citizenship, what legal frameworks are in place and how their rights are protected, including their right to work and the portability of rights to education and health services.

- As presently constituted, the legislative framework applicable to the situation of independent child migrants is radically incomplete and dramatically ineffective
- Many of the categories of child migrants do not in fact 'fit' the legal categories available e.g. the legal frameworks for the protection for children and for the protection for migrant workers fail to address independent child migrants migrating for employment.
- There are three broad approaches each of which covers only part of the child migration phenomenon
  - The first approach includes conventions criminalising trafficking in persons, including children. This approach focuses on penalising and preventing exploitative child migration. Victimhood is constitutive of the child migrant.
  - The second approach is regulatory and establishes the parameters for legal migration. It is based on a notion that children are not autonomous.

- The third approach is protective and represents the most recent human rights strain. In the absence of comprehensive legislation there is a body of 'soft law' (including guidelines, etc).
- The refugee protection system is anything but a panacea for independent child migrants. A pervasive climate of disbelief, reflected in the high number of age-disputed cases, detention of children, and rejection of children's testimony affects child migrants in many aspects of the migration system.
- By criminalising or not protecting irregular child migrants, states are violating the principle of non-discrimination in the Convention of the Rights of the Child (CRC). The CRC should apply to all children within a state's jurisdiction, but in practice children's rights are being violated, often because their legal immigration status takes precedence
- The portability of rights and legal protection is problematic, especially in the current context of security and border control in Europe
- In the international context there are a number of instances where broad brush legal restrictions have negative outcomes for children – preventing child labour may mean children can't afford uniforms or books and so they may be forced out of school, or where restrictions on migration lead to more risky movements for children.

The question of which policy audience research on child migrants is seeking to address, needs further clarification. There are fundamental gaps and weaknesses in most of the discussions that have taken place on the link between policy and research. A challenge for researchers is to build on recent studies that have, so far, mainly served to question existing assumptions and dominant discourses.

It was observed that most presentations and discussions focused on the child migrant as an 'individual' but not on the child as a member of 'society', and the child's impact on the society at origin and destination. Impact might differ depending on whether or not the children are temporary or long-term migrants, and if the success or failure of the individual migrant relates to groups or aspirations.

While the meeting had shown that extensive research has been carried out on children's migration, there is a gap between this work and policy makers' existing agenda on migration. To speak to policymakers there is a need for more reports to be quantitative and reflect on macro-level issues. It was debated whether policymakers take note of case histories of relatively few numbers of children, yet noted that they can be swayed by public opinion and individual cases that draw media and public attention.

It was stressed that there is a role for both qualitative and quantitative research: Qualitative research can inform the design of quantitative instruments and surveys (including where to undertake the research to find respondents) and vice versa. Both methods can document different types of mobility and different reasons and rationales for migrating (for example, ranging from environmental factors to the need to generate bride wealth) and identify from such well-documented work the minimum conditions common to all. Information on child migrants from household surveys is limited and when a target group is unknown it is difficult to undertake a survey.

In sum, the discussions revealed some missing bridges that research can help pave the way towards. First, there is a need to bridge the limited research that exists into a stronger understanding of the central policy issues, particularly in terms of how the phenomenon connects to other policy issues vying for attention in the child development arena specifically, and in the development arena generally. Second, the bridges between different disciplines, and also between quantitative and qualitative approaches, are under-developed, and so the picture is partial and fails to reflect the rich complexity of the issue. Third, children's participation and voice, sometimes powerfully articulated in case studies, has not been bridged into new research agendas.

### **Research Priorities**

These are outlined at the end of the workshop report and will be developed in a further research-focussed workshop to be held at the University of Sussex in 2008.

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### **Welcome**

#### **Dr. Meera Warriar**

Research Manager, Development Research Centre on Migration, Globalisation and Poverty

On behalf of Dr. Richard Black, Director, Development Research Centre (DRC) on Migration, Globalisation and Poverty, Meera Warriar opened the workshop and provided the welcome address, thanking the hosts and supporters of the workshop: UNICEF Innocenti Research Centre; Development Research Centre on Migration, Globalisation and Poverty, University of Sussex; the U.K. Department for International Development (DFID); and The Nordic Africa Institute. She also thanked the individuals involved in its organisation.

Meera then introduced the Development Research Centre on Migration, Globalisation and Poverty (Migration DRC) highlighting its position as generating evidence-based research for policy making to maximise the benefits and minimise the risks of migration. She noted that the Centre’s research on child migration has been extremely successful in illuminating specific case studies and that this workshop is an attempt to move to the wider issues regarding independent child migrants.

There are four focus countries where ethnographic work on child migration has been undertaken by the Migration DRC and its partners: Bangladesh, Burkina Faso, Ghana, and the southern state of Karnataka in India. Comparative data has also been generated from other countries.

There is a need for a higher profile of these migrants in policy dialogue. According to the literature, there is an increase in the numbers of autonomous child migrants and the purpose of today's workshop is to identify the gaps and steps forward. Over the next few months, the DRC will be conducting a review of census and other materials to identify existing data on the migration of children.

## **Plenary Session 1**

**Chair: Eva Jespersen**, Chief, Child Poverty and Social and Economic Policy Responses, UNICEF Innocenti Research Centre

### **Presenters**

#### **Professor Ann Whitehead**

Coordinator, research on the themes of 'Independent Child Migration,' and 'Poverty and Livelihoods,' Development Research Centre on Migration, Globalisation and Poverty

#### **Dr Samantha Punch**

Lecturer in Sociology, Sociology and Social Policy, University of Stirling

**Eva Jespersen** welcomed the knowledge sharing and networking potential of the day between policy-makers, activists, researchers and academics, and highlighted the need to increase the visibility of child migrants. She pointed out that although child migrants are a big concern in the media, they are often invisible in official statements on migration by organisations such as the UN. She pointed out that there are four dimensions to children and migration that UNICEF is interested in: those left behind, those who go with their parents, those who are born abroad and those who migrate on their own. In UNICEF the ways in which such dimensions are addressed depends on the context and situation in each country where the organisation operates. UNICEF Headquarters is currently working to generate more data on the scale of children involved in migration. At the Innocenti Research Centre (IRC) the focus is on independent child migrants and children in immigrant families.

### ***Professor Ann Whitehead, Independent Child Migration: Issues and Context***

#### **Key Presentation Points:**

- **Child migration is diverse, and there are many gaps in our knowledge and understanding**
- **The process of decision-making is complex, steps are taken to make the journey safe, children have many motives to migrate, and the continuum of experiences range from good to very bad**
- **The policy space on independent child migration needs widening**
- **Under the 2000 Trafficking Protocol, children's consent is irrelevant and an ambiguous notion of exploitative work becomes the key to defining a trafficked child.**
- **Concerning children's agency, we must avoid the risk of considering them either solely as 'romantic heroes' or 'passive victims'**
- **Childhood studies have been dominated by developmental frames for discussing the issue of age, but the literature on children and migration pays little attention to these**
- **Children may be described as having 'thin' agency which refers to decisions and everyday actions that are carried out within highly restrictive contexts, characterised by few viable alternatives**
- **The various structures, contexts and relationships that 'thin' or 'thicken' agency also relate to children's vulnerability**
- **A child or young person's legal status as a migrant affects their vulnerability**

- **The sending community context, poverty and family circumstances affect the vulnerability of child migrants because it affects their ‘fall back’ position**
- **Child-related vulnerability factors include age, social capital and work destination**

Ann Whitehead introduced the themes to be covered in the workshop. She reiterated that the Migration DRC is seeking to consider more widely the issues raised by their research and also the priorities for new research.

She explained that over the course of the day the following range of migration flows of children moving without their parents will be covered, including children migrating:

- Within developing countries
- From South to South Countries
- From South to North Countries (through intermediary South countries)
- Through various means into EU countries.

The following key questions that relate to the processes of children’s migration and its impacts on them will be addressed:

- Children’s motives and reasons for migrating
- Children’s experiences
- The factors that increase their vulnerabilities and the factors which affect positive outcomes

From research undertaken to date we have learned that child migration is diverse, and that there are many gaps in our knowledge and understanding. Findings from small-scale studies tell us that the process of decision-making is complex (and usually involves several actors including the child), steps are taken to make the journey safe, children have many motives to migrate (such as to work or to achieve educational goals), and that the continuum of experiences ranges from good to very bad. Some children who had had objectively bad experiences were still committed to migration.

Too little evidence and research exists for detailed policy formulation and policy recommendations however a main focus is to widen the policy space. As it currently exists, there is a very narrow space for policy discussions about child migrants. This is primarily structured by the UN Convention on the Rights of the Child (CRC), the International Labour Organisation (ILO) conventions concerning child labour, and the 2000 Trafficking Protocol. While the CRC establishes the rights of children to exercise life choices, in the Trafficking Protocol, children’s consent is irrelevant and an ambiguous notion of exploitative work becomes the key to defining a trafficked child. Therefore, ‘child migrants’ become ‘trafficked children.’ The main measures taken under the Trafficking Protocol are to punish traffickers and to repatriate or return the children. Ann Whitehead explained that the migration/trafficking nexus and related legal frameworks will be discussed in further depth in parallel session two.

Ann Whitehead then shifted the discussion to consideration of a core conceptual issue in children’s independent migration: how to think about children’s agency, and their capacities as thinkers and doers, in order to avoid the risk of considering them either solely as ‘romantic heroes’ or as ‘passive victims.’ The way in which we view children’s agency affects the labels we use to describe child migrants (for example, as independent, unaccompanied, or voluntary), the ways in which we understand children’s engagement in decision-making, and how we evaluate the risks in children’s migration from a parental setting. An important link exists between agency and age that needs to be considered which has legal, developmental and social dimensions.

Assessing children’s capacities is affected by the point that childhood is an age-specific process of development. During this process, the question for adults is how to judge the balance between a child’s need for guidance, support and protection and the need to encourage independence and development. While childhood studies have been dominated by developmental frames for discussing the issue of age,

the literature on children and migration pays little attention to these. Shahin Yaqub (IRC) has recently tackled the question and argues that there may be specific developmental stages when the impacts of parental movements are more harmful to children. He also argues that a key question is how to support migrant children in their own efforts to develop through migration without jeopardising their protection. Evidence suggests that child migrants are found within older age groups, with the proportions increasing rapidly over 12, 14 and 16 years-of-age. Many of these 'children' are therefore in a transitional stage from childhood to adulthood, identified developmentally as 'adolescents.' Given this, is it more appropriate to talk of these 'children' as young youth, or as adolescents? The period of adolescence is a time of transition when young people are seen to be developing a more mature sense of their self. That many young migrants are in this transitional life stage needs greater recognition.

Most research on child migrants has looked at the social dimensions of age, stressing that children's actual capacities are linked to doing things which are age appropriate. What is regarded as an 'age appropriate capacity developing activity' varies from place to place. National definitions about the legal ages at which children can work are partially based on these local understandings. They also affect how children themselves interpret their experiences and objectives.

Much of the case study research finds that working migrant children are realistic about their situations. For example, Huijsmans argues that Laotian children understand they are being exploited, but this does not prevent them from preferring migration. While many child migrants who are found taking into account family responsibilities also feel they have some room to make independent life choices, this is not always the case. There are limits to children's agency as not all children have room to make life choices. Klocker describes young Tanzanian domestic workers who are under heavy pressure from external factors and who actively negotiate the expectations and power relations surrounding them as having 'thin' agency. "Thin agency refers to decisions and everyday actions that are carried out within highly restrictive contexts, characterised by few viable alternatives." As Ann Whitehead explained, 'thin' agency is not very effective agency. Is it meaningful to talk about agency at all when some child migrants have shortened, desperate and miserable lives?

The various structures, contexts and relationships that 'thin' or 'thicken' agency are linked to the analysis of vulnerability. Three strands of factors may reduce children's vulnerability:

- migration status/ migration regime
- features of the sending or home community
- factors specific to individual children at their destinations

A child or young person's legal status as a migrant affects their vulnerability: being irregular or illegal markedly increases the risks of being trafficked or being exploited. Evidence shows that in practice many states give priority to the immigration status and not to children's rights which increases the risk of exploitation. Restrictive migration regimes of 'North Country' states increase child migrants' vulnerability. Moreover, attitudes towards migration are usually negative more globally and the migration of poor people is a source of stigmatisation and discrimination in many countries.

In the sending community context, poverty and family circumstances affect the vulnerability of child migrants because it affects their 'fall back' position. The child who belongs to a poor family has fewer possibilities of refusing harmful, hard and poorly rewarded work. Yet, our actual knowledge of the link between poverty and child migration is very weak and inadequate. One reason for this is the difficulty of identifying child migrants in national statistics that could be used to look at linkages between child migrants and poverty. According to the literature:

- Poor areas and localities often have high rates of adult and child migration
- trans-national migration is very rarely undertaken from poorest areas and poorest households

- Youth migration into wealthy countries, with some exceptions, tends to be undertaken by the not so poor, but we don't know if this is true also for child migration.
- Concerning regional migration, some well-established flows of adults are from poorer to richer countries, but overall much regional migration is from countries with similar average incomes
- Even where sending districts are poorer than destination ones, it is not always the poorest areas within these poor districts that send most child migrants
- We have virtually no information about whether child/young person migrants from poorer areas come from the poorer or wealthier households within those communities

These indications raise questions about the link to poverty and what we mean by 'poverty': to identify various kinds of poverty variables we need a contextual understanding. For example, are young people motivated by 'income' poverty or lack of educational opportunities - i.e. the 'poverty of opportunity and experience'?

Also greatly unknown but important in terms of vulnerability is family circumstances. Being orphaned and having poor family relationships play a significant part in increasing children's vulnerability in the same way that poverty does, it negatively affects the child's fall back position, but detailed evidence about this is lacking.

Child-related vulnerability factors also include age, social capital and work destination. Age is a factor that can increase vulnerability: younger children are more subject to norms about obedience and submissive behaviour and being subordinate in age-related power relations. With respect to work, if children end up in situations of harmful and coercive work, including isolating work situations such as domestic work, this exacerbates their vulnerability. Children's social capital also affects their vulnerability: the way in which they actively construct social relations, contacts and social support at the destination can be a protective factor.

Ann concluded by introducing participants to the agenda and to encourage them to think of gaps in research required to formulate policies, future policy-related research efforts and the challenges in undertaking such research.

### ***Samantha Punch, Migration Projects: Children on the Move for Work and Education***

#### **Key Presentation Points:**

Samantha Punch explained that she would provide an overview of the literature on child migration, with a focus on the main issues that have arisen within the last ten years of research on the topic, and the gaps in our knowledge of children's migration for work and education. Key points were as follows:

- **Child migration is a relatively new area in academic and policy debates**
- **Children have tended to be represented as passive victims of exploitation, lacking agency and lacking an active role in the decision-making and migration process**
- **Recent research with independent child migrants has highlighted the variety and complexity of children's migratory experiences which include both positive and negative experiences**
- **Migration is linked to youth transitions and identity, and involves inter-generational relationships**
- **We need to move away from assumptions that independent child migration is a necessarily exploitative or damaging experience for children**
- **Little is known about what happens to children who decide to continue their education rather than migrate for work, or who combine migrant work and education, and their experiences (positive and/or negative)**
- **There is a need for multi-sited research (in sending and destination communities), multiple perspectives, holistic methods, and longitudinal research**

- **There is a need to go beyond a conventional contrast between children as passive pawns or active and autonomous agents**

She explained that child migration is a relatively new area in academic and policy debates. In early 2000, the migration literature and research focused mainly on adults and assumptions were made about children's migration because the 'ordinary' stories were hidden and children's voices were rarely heard. Children were represented as passive victims of exploitation, lacking agency and lacking an active role in the decision-making and migration process. However, migration of children and young people is not a new phenomenon. Recent research points out the variety and diversity of children's migration motives and experiences.

The literature shows that there are multiple reasons why children migrate for work. Poverty is an important factor but there are also social and cultural reasons such as political conflict, environmental disasters, HIV/AIDS, uneven development, a lack of work/education opportunities, and domestic violence or abuse.

Some communities with a long history of migration have a 'culture of migration'. Migration may be the norm and may be encouraged by return migrants and by parents. There are two key benefits for migrants from these areas: they can count on wider social networks and they have greater knowledge of alternative labour markets.

Migration may take place within a particular stage in the life course, marking a rite of passage and transition to adulthood for young people. It may be a means of acquiring a new social identity, and it may be linked to economic independence and a rise in consumerism.

Migration may be a means of balancing both individual and household needs. The term 'negotiated interdependence' was introduced to explain how children's motives for migration often include balancing individual needs with cultural obligations to contribute to the household.

Different case studies highlighted diversity and complexity as a feature of the decision-making process. The process may involve different members of the household (i.e. siblings) and may also be influenced by other members of the community such as return migrants. Children negotiate with adults to make strategic life choices while seeking actively migration opportunities.

Recent research with independent child migrants has highlighted the variety and complexity of children's migratory experiences which include both positive and negative experiences. It was noted that it is difficult to establish objective criteria for 'successful' migration and the importance of seeking young migrants' own views was highlighted. Samantha explained when positive experiences are reported they are usually linked to the motives for migration: it is seen as a learning experience, a way of becoming socially or economically independent, a means to earn an income, to send remittances home, and to have access to consumer goods. Migration is also linked to acquiring a new identity and this can be experienced in both positive and negative ways. From some case studies it emerged that being identified as a migrant may lead to stigmatisation whereas for others it may be a means of enhancing one's status. The context in which one is identified as a migrant also affects the way in which one is perceived.

Negative experiences include: emotional difficulties in leaving home and, in the early stages, a sense of loneliness and homesickness; difficulty in adapting to a new environment; being stigmatised or discriminated against; being verbally, physically or sexually abused; bad working conditions and living conditions, and; a lack of social networks.

Overall the experiences reported in the literature show that migrant children tend to move back and forth across a continuum of positive and negative experiences and that vulnerability is not an absolute state. The same child can be disempowered in some situations and empowered in others.

Samantha Punch pointed out that there are some under-researched areas. These include:

- Intergenerational relationships: They can be conflictual or supportive, and they can change and be renegotiated over the life course. For example, as parents grow older they become more dependent on children's remittances.
- Intra-generational relationships: Siblings can play an important role in the migration process both during decision-making and at the destination, particularly if their parents have never migrated. Relations with peers, girlfriends and boyfriends are under-researched, yet important in shaping the migration process.
- Independent child migration is under-theorised: The concept of 'youth transitions' may be a useful framework to understand some children's processes of migration. Yet 'youth transitions' do not just refer to transitions from school to work, or from unpaid work to paid work, but also include other kinds of transitions such as leaving home, forming a new household, developing new relationships, getting married, and having children. Many of these transitions impact upon the decision to migrate as well as shape the experience of migration. The nature of different youth transitions may therefore shape the type of migration which young people undertake.

There are many different types of migration which both adults and children engage in. Young migrants may move through a variety of jobs and move to different places. Independent child migration can be mobile and flexible, resulting in uncertain pathways and fragmented youth transitions. We need to move away from assumptions that independent child migration is a necessarily exploitative or damaging experience for children.

Research shows that children migrate for secondary education. Urban education is perceived as more valuable because rural schools are under-resourced and the quality of teaching is poor. An 'educated' identity is linked to an increased status. Some children try to combine work and education. Education is perceived as a means to improve future employment prospects.

Yet, some children do not migrate to pursue education. A poor perception of schooling exists for a variety of reasons: structural constraints of education in rural areas can lead to young people rejecting further schooling; poor quality of teaching and low wages for teachers lead children to question the utility of an education, and; children are pressured to leave school to start earning an income and have access to cash. Migration for work is perceived as giving more tangible benefits than migration for schooling.

Not much research has been done to document children's views of migration for education. Little is known about what happens to children who decide to continue their education rather than migrate for work, or who combine migrant work and education, and their experiences. From the research that does exist we may assume that children's migrant education experiences are both positive and negative and that these change over time and in relation to different aspects of their daily migrant lives. From her own research, Samantha Punch reported the experience of a 22 year-old girl Bolivian girl whose experience of migrating for secondary education were quite negative. Overall children's reasons for migrating and their subsequent experiences can be shaped by a range of factors including the social, cultural and economic context, gender, age, birth order, and sibling and household composition.

To understand children's migration, including the process, Samantha emphasised the need for:

- Multi-sited research: both in sending and destination communities
- Multiple perspectives: children, parents, siblings, etc
- Use of ethnographic methodology for an in-depth understanding of the socio-economic context
- Holistic methods in order to explore different arenas of children's daily lives
- Longitudinal research to capture changes over time

Attention was drawn to the following gaps in research:

- The experiences of children who migrate for education
- The impact of birth order, sibling and household composition is important but often overlooked
- Siblings can play an extremely important role when the decision to migrate is being made and in shaping the experience of migration (for example, if they are at the destination together).
- The impact of, and links with other youth transitions also require further research particularly regarding children's changing relationships and formation of new households. New relationships, such as having a girlfriend or a boyfriend or new friendships influence children's motivations for migrating or returning. They also shape their migratory experiences
- Further exploration is required on the gendered impacts of youth transitions, such as pregnancy and parenthood
- Life trajectories and their link with the life course.

Samantha concluded with some reflections on the issue of 'choice'. She said there is a need to consider both children's agency and structural constraints. There is a need to go beyond a conventional contrast between children as 'passive pawns' or active and autonomous agents. We need to think more in terms of a continuum of experiences and try to strike a balance between exploring the range of positives and negatives that exist at both the sender and destination communities.

### ***Plenary Session 1: Summary and Discussion***

**Eva Jespersen** stressed that two key points had emerged from the presentations:

- **The importance of understanding older children's migration in terms of youth transitions connected to different stages in the life course**
- **The fact that children's migration is not a new phenomenon and that it concerns children of different age, and that risks and opportunities vary according to age**
- **The need for policy makers to design policies that create a more protective environment for migrant children**

Before the discussion commenced, Shahin Yaqub, Social Policy Specialist, Innocenti Research Centre was invited by Eva Jespersen to highlight the research work being planned at the IRC. He explained the IRC is designing a project with the broad aim of looking systematically at children's migration in terms of 'vulnerability' and 'risk' and how they change across different geographical spaces and socio-economic contexts. The project will focus on poverty dynamics at the household level and study how the household responds to vulnerabilities. Inside this framework the research will focus on adolescents who have migrated and look at the networks through which they connect back to their households and areas of origin. The research will be multisided and compare two regions with different economic backgrounds: a rural one and an industrial manufacturing region. At present, the IRC has completed the conceptual framework for the research design and is now developing the sampling frame and methodology.

### **Key Discussion Points:**

- **The need to examine the intergenerational dimensions of migration**
- **The relationship of migration to space, how it varies according to gender, and the link between mobility and governance**
- **The need to examine intra-household dynamics and how 'risks' are shared within the household and gaps in our knowledge of inter- and intra-generational relationships**
- **More examination is needed of the process of movement, which in some cases (for example, West Africa) are getting longer**
- **Concerning international relations, HIV/AIDS may be contributing to an intergenerational 'clash of values' between grandparents and grandchildren**
- **Migration is a complex process yet what is known about changes in gender and inter-generational relations and intra-household dynamics when migrants return home?**

In the plenary discussion it was raised that migration patterns tend to change over time and that it is important to look at second and third generations of migrants. Samantha Punch explained that migration from Bolivia to Argentina is now lived as temporary and that there is a lot of return migration and migration is seen as a rite of passage to adulthood. Although they cannot save as much as they could 10 years ago, children and young people migrate from Bolivia to Argentina to work and save money to buy land back home. In Argentina, they have the opportunity to earn more but they are less well-treated and do not like being 'outsiders.'

One researcher noted from her work that the age of child migrants is getting younger, but that there are no statistics on this. Samantha Punch spoke about the importance of context and responded that she has found that child migrants from Bolivia are getting older because the government has increased the number of years of primary education from four to six years and children usually migrate after completing primary school. She added that as children are migrating at an older age their expectations from migration are changing: Some of them have decided to remain in Argentina where they can earn more cash income, but others returned to Bolivia.

A comment was raised about the important relationship of youth and children's mobility in relation to space and how this varies according to gender, which affects the experience of migration and also the mobility patterns of girls and boys. A further point raised was that children's independent migration may also relate to governance, with children and young people's migration a quest for political space and that mobility should be linked to governance. It was added that it is important to know not only what a child's perception of governance is, but also how this fits into wider public debates about how children and childhood are conceptualised. Ann concurred about the importance of the language of governance and the need to look at how public space and political participation are lived. She stressed the need for a 'finely grained knowledge' of the different contexts and situations in order to identify priorities for policy intervention.

Concerning the planned IRC research, a participant wanted to know if the literature on poverty considers how 'risk' varies and changes according to the life course. It was discussed that some research shows evidence of 'risks' that take place within the household however the research tends to treat the household as a homogenous unit and does not examine intra-household variations and differences such as according to life course and generation. It was raised that the poverty literature focuses on shocks, vulnerabilities, risks and asset building. Children's migration may be a response to 'shocks' and/or the asset building of the household. For example, some households may have more positive ways of building assets, in which planning for and managing migration was part of that plan. Conversely where migration is not planned for, or managed, migration may reflect a shock that has not been anticipated by the household. Ann Whitehead emphasised that in looking at poverty dynamics we have to study migration not only as a response to shock and crisis but as a more planned process responding to a long term strategy for asset-building in relation to inequalities.

It was noted that there is a lack of information about the process of movement: anecdotal evidence from West Africa, for example, suggests that the distance of migration is increasing. To respond at a programmatic and policy-making level his organisation is working more closely with other regions, namely the Middle East and North Africa.

Concerning the intergenerational dimension of migration, one of the participants raised the issue of the emergence of an intergenerational 'clash of values' and noted that an absence of household resources can be a contributing factor. He explained that many children orphaned due to HIV/AIDS are living with their grandparents, and elders' lack of material resources is contributing to children's migration. This also contributes to the emergence of a new type of intergenerational conflict between children and their grandparents which is unusual because culturally it is seen that grandparents and their grandchildren share mutually positive and supportive relations.

One person noted that there is a need to look more closely at intra-household dynamics and how risks are shared within the household. It was discussed that there is too little knowledge of inter- and intra-generational relationships. One participant wanted to know if any research has been conducted on the social effects of return migration on the home society. In particular, she asked what happens under circumstances where gender bias privileges boys over girls and where there exists a sex bias in migration towards girls: what impact does this have on the males who remained behind and the status of the females who moved? An example was cited of girls' migration from Vietnam to Thailand and gaps in research about the impact of girls' return to Vietnam and intra-household gender relations (including a recent phenomenon where girls tend to get married when they are in Thailand).

Others asked how children's expectations of migration, including how they defined 'success' compared with other people's expectations and perspectives. Samantha Punch found that children's expectations were diverse: some children met their expectations for cash and savings; however, others hated the experience (including disliking the climate) but still completed their year abroad and then returned home.

Given the difficulties and costs of conducting research on migration, one wondered if a priority could be on migrants' interactions with social services. Ann Whitehead agreed that the high cost of research on migration is one reason why, before embarking on any data gathering exercise, it is important to know why particular research is needed and how the findings will be used.

## **Plenary Session 2**

### ***Anne Hatløy Relocation and Trafficking –Is There a Link? Studies of Children and Youth in West Africa***

Researcher, Coordinator for Program on Child Labour and Trafficking, FAFO Institute for Applied International Studies

#### **Key Presentation Points:**

- **Children primarily migrate to join kin households (for fostering, domestic work and education) or for paid work (in workshops, for apprenticeships, in petty trade, fisheries, farms) and for education (Koranic schools)**
- **Children migrate for both personal and household aspirations**
- **Work tasks depend on age and gender and they vary according to the social and cultural setting**
- **Exploitation is widespread, and social and family networks may protect children**

Anne Hatløy's presentation provided a synopsis of FAFO's projects in West Africa related to children and 'child relocation' including:

- Studies of child migration and trafficking in Mali, Burkina Faso and Ghana;
- Street children in Mali and Ghana,
- Children engaged in cocoa farming in Côte d'Ivoire,
- Diamond-related work in Sierra Leone, and
- Child beggars in Dakar Senegal.

Children migrate to relatives' homes (for fostering, domestic work and education) and also for work in a variety of sectors (for both paid employment and apprenticeships). Children (i.e. boys) migrate to attend religious schools.

Children tend not to share their negative stories and experiences when they return home. If they do not return with the goods they had anticipated, for example a bicycle, they explain it as having had 'no luck'.

In West Africa, she explained that most children work as farmers and most are working for their own family but also for extended family and non-relatives. She noted that the work tasks depend on age and gender and that these vary according to the social and cultural setting. Whereas in Accra, the capital of Ghana, girls are more prevalent on the streets, in Senegal, boys are more commonly observed.

Concerning Senegal, Anne Hatløy explained that many boys are enrolled in Koranic schools (and the students are referred to as *talibés*). In Dakar, *talibés* comprise 89% of the child beggar population. The findings focus on the physical and moral hazards in much of the workplaces (for example, identifying that the 'worst forms' of exploitation occur on the street and are experienced by children working outside the family structure). She suggested that social and family networks serve as protective factors for independent child migrants. She furthermore noted that preventing children's migration may contribute to their further exploitation and that returning them to their homes is not necessarily in their best interests (or what most children want).

### Key Discussion Points:

- **The importance of defining and deconstructing concepts and terms being used such as 'trafficking,' 'street children,' 'child beggar'**
- **The necessity to situate all analysis of the motivations and experiences of children's independent migration for work within the social and cultural context**
- **The problem of relying exclusively on UN and ILO criteria to define 'exploitation'**
- **Children are not necessarily better off and well-treated when living with and working for their relatives: the language of kinship may mask poor treatment and exploitation**

One of the participants drew attention to the importance of terminology, and especially the importance of using the most commonly agreed definition of 'trafficking' that is outlined in 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' rather than older definitions contained in other conventions and treaties.

A participant requested that a more comprehensive explanation of *talibés* be provided otherwise the findings presented could lead to a misunderstanding and misrepresentation of a traditional practice which is a common form of education for many boys. One of the participants noted that most boys attend such schools and cautioned everyone about the importance of not generalising that such exploitation is to all students. The Koranic system of education needs to be better situated in the social and cultural context of the society. It was shared that the practices in the religious schools have changed over time and that while some schools are exploiting their students, it cannot be generalised that the whole system is not functioning as it should. The problem cannot be easily resolved through policy-making because the religious organisations are very influential and are supported by powerful organisations in society.

One person noted that while focus exists on cross-border trafficking of children more trafficking takes place internally, within borders.

An in-depth discussion took place around the traditional practice of 'child fostering.' One researcher noted from experience in Ghana that the concept covers a broad range of experiences that are not all necessarily positive. Even if a child is living with his/her relatives, the child is not necessarily protected or treated better than if he/she were living with non-relatives. The treatment of migrant children in fact depends on the motivations for migrating. If the family that hosts the child was pressured to do so, they may feel resentful and take out their frustrations on the child. Another participant also added that living with relatives is not necessarily safe and that vulnerability also exists among such migrant children.

A participant raised a point about how the language of kinship is used to construct social relations but also noted that it is an economic construct because it is a means of not paying child relatives for their

work. Children living with their relatives are not necessarily better off than those who are working and living with strangers and this is important to consider when organisations create hierarchies of vulnerability.

It was mentioned that in both East and West Africa, one reason why parents send their children to live with their relatives is for their socialisation: at times wealthier children are sent to live with less well-off relatives for the experience and/or that some children are sent to live with childless relatives.

It was raised that here is a link between migration, trafficking and ethnicity, yet ethnicity is often neglected even though it is an important aspect in traditional practices of movement.

Concerning repatriation efforts for trafficked children, one participant said that research shows that it can be a waste of resources.

One person asked if the sectors of work FAFO found children engaged in are exclusively for children or whether they are working in 'adult' sectors.

One participant spoke about how 'the street' is not necessarily a destination for children but rather may be a transit site instead. She explained that from 'the street' children may be forced to move (for example by state authorities or NGOs) or children may themselves take the initiative to move elsewhere. Another person informed the audience that many children do not like being referred to as 'street children' and that the term is problematic because many such children do not live 'on the street', and in fact live with parents or other caregivers.

Anne Hatløy clarified that the social and cultural context is indeed critical to understanding children's lives and children's independent migration. She said that the practices in some Koranic schools need to be examined because some may be exposing students to risk. She said there is a need for an oversight body to examine the practices in some of the schools.

### ***Jacqueline Bhabha, Legal Issues and Criminalisation***

Executive Director, University Committee on Human Rights Studies, Carr Center for Human Rights Policy, Jeremiah Smith Jr. Lecturer in Law at Harvard Law School, Executive Director of the Harvard University Committee on Human Rights Studies, Adjunct Lecturer in Public Policy at the John F. Kennedy School of Government, Harvard University

#### **Key Presentation Points:**

- **Many of the categories of child migrants do not in fact 'fit' the legal categories**
- **there are three broad approaches each of which covers only part of the phenomenon**
- **The first approach is punitive and criminalising: it includes conventions criminalising trafficking in persons, including children. This approach focuses on penalising and preventing exploitative child migration. Victimhood is constitutive of the child migrant**
- **The second approach is regulatory and establishes the parameters for legal migration. It is based on a notion that children are not autonomous**
- **The third approach is protective and represents the most recent human rights strain. In the absence of comprehensive legislation there is a body of 'soft law' (including guidelines, etc)**
- **A range of different legal instruments exist for independent child migrants**
- **The refugee protection system is anything but a panacea for independent child migrants**
- **A pervasive climate of disbelief, reflected in the high number of age-disputed cases, detention of children, and rejection of children's testimony affects child migrants in many aspects of the migration system**

- **A large body of international and regional law could be used more creatively to challenge the existing exclusionary approaches to migration and immigration**
- **As presently constituted, the legislative framework applicable to the situation of independent child migrants is radically incomplete and dramatically ineffective**

She thanked the organisers for inviting her and being able to interact with a different constituency of researchers and policy makers than human rights lawyers normally engage with. She noted that some 'categories' of child migrants get more attention than others, yet there are gaps with existing 'categories.' Many of the categories of child migrants do not in fact 'fit' the legal categories. For example, concerning children who exercise agency and move seasonally for work, according to law, migration and the option of leaving, returning and leaving again often does not exist.

It was explained that the presentation would focus on the legal consequences of crossing borders. Adults and children migrate for different reasons and they face legal consequences as a result of their migration. She said two of these consequences are common to all child migrants and have broad implications: child migrants become non citizens or aliens once they cross a border, and they face a new social environment once they leave home. The existing legal framework comprising national and international law is inadequate. For example, gaps exist in national child protection laws regarding child non-citizens and in migration law, which establishes the parameters of lawful status, there is nothing about the needs of children who move independently of their parents.

Within the legal framework, there are three broad approaches each of which covers only part of the phenomenon. The first approach is punitive and criminalising, and represents the oldest strain in migration legislation and dates back to the prohibition of the so-called "white slave trade" in the nineteenth century. In its contemporary form, it includes conventions criminalising trafficking in persons, including children. It is based on a dichotomy between criminal traffickers and victims who are trafficked persons. This approach focuses on penalising and preventing exploitative child migration. It is, by definition, inhibitory rather than facilitatory. This body of legislation is embodied in the United Nations Trafficking Protocol to the '2000 Transnational Organized Crime Convention.' According to the definition of trafficking, unlike adults, children can never consent to exploitative migration and victimhood is constitutive of the child migrant. An adolescent looking for employment and agreeing to go with an agent for work in an exploitative setting is a trafficking 'victim' just as is a child sold into domestic service by her parents. Under international law, the two examples are treated as the same. The effect of being categorised as a 'trafficked child' may mobilise assistance because of the need to 'protect' children. For example, in the United States a 'T' visa is given to proven trafficking victims. In practice, however, it is rarely granted. For example, between October 2001 and January 2005, 32 such visas were issued. Yet, the label of having been 'trafficked' may also have a negative outcome as it may prevent the child from achieving his/her goals and force him/her to return home. The process of criminalisation of traffickers may also expose children to more dangers for example, if they are required to testify against their traffickers.

The second approach is regulatory and is the thrust of most domestic and regional migration law. It establishes the parameters for legal migration. However, it is based on a notion that children are not autonomous: children belong to their parents and 'children' only exist in relation to their family. The framework is built around parents and not children's reality.

The third approach is protective and represents the most recent human rights strand. It includes international law directed at the protection of specific groups for example, refugees, migrant workers and their families, children and child victims of the worst forms of child labour. There has also been a growing acknowledgement that child migration is an important phenomenon that requires a more effective protective approach. As a result, despite the absence of comprehensive legislation there is a body of 'soft law' which does directly address the issue. For example, some destination countries have developed guidelines for child asylum seekers, regional bodies have produced recommendations for child migrants, and the United Nations Committee on the Rights of the Child has developed a 'General Comment' on the issue. Regional groupings of NGOs have also developed recommendations and

guidelines for specific categories of child migrants, such as sexually exploited children. Human rights organisations and other groups have also undertaken related research and advocacy. The emphasis of this body of work has been on child migrants' distinctive vulnerability, their burden of being an alien, their status as a minor, their separation from their families, and on the need for protective policies that ensure their safety and wellbeing. In this focus, the work has followed two key principles from the UN Convention on the Rights of the Child (CRC), the 'best interests of the child,' and children's agency and voice. When these principles are applied to independent child migrants a perspective of children as agents, decision makers and social agents in their own right emerges. This perspective has been virtually non-existent in the evolution of the legal framework governing child migration.

Four categories of children are covered under the themes of the workshop: children who travel in search of opportunities (i.e. school and/or work); trafficked and/or exploited children; children who travel to survive (i.e. as a result of war or poverty), and; children who travel for family reunification. None of these categories are mutually exclusive. Much of the existing legal framework applies to all four categories of children, and some pertain to specific categories (for example, trafficking). However 'children who travel in search of opportunities' are the least catered for in legislation.

A range of different legal instruments exist for independent child migrants. Although there is a definition of a 'child' (according to the UN CRC), there is no comparable definition of a 'migrant.' The most applicable law is found under international human rights law and labour law. The former includes the International Bill of Rights and the specific Conventions. These frameworks apply to all so child migrants, whatever their immigration status, have rights to non-discrimination. More specific rights pertain to the right to 'life, liberty and security' including recognition as a person before the law and the right to nationality.

The right to equality before the law and the right to fair working conditions should be beneficial to child migrants. Yet there is also a need for a more nuanced sense of when and where people consent, and concerning children this is trickier to determine.

States can limit rights to employment and types of labour (for example, wages, social assistance, etc) and may issue directives in this regard (for example, the European Union prohibits the employment of children under 15). General non-discrimination provisions should apply therefore migrant children should be protected as are domestic children.

However, there is a double standard and this is evident in two specific contexts: adequate housing and healthcare. According to international law, everyone has a right to an adequate standard of living, including adequate housing. Concerning children, the state is obliged to assist parents to ensure that they can provide such treatment to their children. Concerning health care, states are legally obliged to ensure that at least primary healthcare is realised for children. Yet implementation of this varies within Europe and needs to be addressed. Furthermore, the right to education is seen as universal, yet children may be excluded and this is hard to claim in practice.

With regards to broad areas of entitlement for specific groups, there are two related conventions: the UN Convention on the Rights of the Child (CRC) and the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, both of which include a framework for implementation. Concerning the CRC, the complaint mechanism is not as effective as national law; however, a strong case can be made under the CRC for family reunification. The CRC notes that States Parties have a mandatory obligation not to separate a child from his or her parents against their will unless this is necessary for the child's best interests. Family reunion in immigration law is a unidirectional principle that assumes the movement of child to parent, not parent to child. Yet, if the human rights community reclaims the discussion on family reunification and 'turns it on its head' then it is possible that the child could provide the basis around which his or her family later gathers.

The Convention on the Protection of the Rights of All Migrant Workers and Members of their Families is less powerful than the CRC, and is less ratified and therefore it has less 'bite.' However, it is inclusive,

encompassing the rights of migrant workers that are both legal and not legal. However, the Convention is not helpful concerning independent child migrants because its definition of family members reflects the traditional view of migrants as adults.

Labour law provides a different legal framework for child migrants based on their activity rather than their status. The International Labour Organisation (ILO) is governed by a different framework and is not enforceable like UN conventions that are ratified by states. ILO conventions are aspirational and tripartite. Yet the ILO has been on the forefront of thinking and formulating policy about child labour, the most recent convention being the ILO Convention No. 182 concerning the 'worst forms' of child labour. Yet, implementation is weak and children's alternatives are often non-existent.

Concerning protection under international refugee law, data from UNHCR suggests that between 4 and 5% of all asylum applications received in industrialised countries come from unaccompanied minors. The refugee protection system, however, is anything but a panacea for independent child migrants. Although many child asylum applicants receive some form of protection during their status as a minor, receiving long-term permanent legal status is far less common. Moreover, procedural problems undermine the efficacy of existing rules. A pervasive climate of disbelief, reflected in the high number of age-disputed cases, detention of children, and rejection of children's testimony affects child migrants in many aspects of the migration system. With the options available, asylum is the most familiar protection outcome for unaccompanied minors not because it is easily secured but because it corresponds to the protection required of all States Parties to the 1951 Refugee Convention. However, as mentioned previously, many difficulties face children who attempt to secure asylum. A central concern is the persistent failure of immigration officials and decision makers to effectively apply the 'refugee' definition to children.

In conclusion, Jacqueline Bhabha said that there is a large body of international and regional law that could be used more creatively to challenge the existing exclusionary approaches to migration and immigration. As presently constituted, the legislative framework applicable to the situation of independent child migrants is radically incomplete and dramatically ineffective. She also spoke about the translatability of these facilitatory mechanisms in the courts and as advocacy tools to engage with governments and policy-makers. She said training of immigration officers, teachers, and others could be undertaken to create a shift so that they know it is a state's responsibility to provide such rights, and that they are not a luxury.

#### **Key Discussion Points:**

- **How to balance the two intellectual histories and approaches of childhood and migration**
- **A complex and contradictory concept of exploitation is often the key to identify if the movement to work may be labelled 'trafficking'**
- **Protection dilemmas between ILO and efforts to stop child labour and promote education which inadvertently result in children leaving school**

Reflecting on the narrow policy space, one participant argued that the space needs to be opened to look at the regimes of childhood (including children and agency) and regimes of migration (including inequality). These reflect different intellectual histories and so how can they be balanced?

Another participant argued that a complex and contradictory concept of exploitation is often the key to identify if the movement for work could be labelled as trafficking. Among the activist community there is a tendency to presume that certain work is automatically exploitative and the ILO Minimum Age Convention defines any movement or employment below the age of 15 as exploitative. She said this is a dilemma. She said that when we talk of 'agency' and migration for work, children also facilitate the movement of other children to work (for example, to domestic work, brothels, etc). She asked, are they recruiters and traffickers or are they exercising their agency? Jacqueline Bhabha responded that may

be some of the children are traffickers: just because a child engages in it doesn't mean it has to be good.

One participant noted a dilemma between protection policies outlined in ILO conventions and the CRC. It was explained that Kenya has universal free primary education yet many children are not attending school. Child orphans do not have responsible adults to take care of them so to be able to go to school they need to work to be able to buy the supplies and uniform that are required. A respondent suggested that the contradiction between the prohibition of employment and need to go to school parallels the discussion on trafficking: when one creates a rigid rule, it ricochets and often not in the best interests of children.

In West Africa there is a lot of back-and-forth migration. Concerning the creative use of legal frameworks, it was mentioned that international NGOs can be counterproductive in defending the rights of children because of their particular ideological way of viewing 'the child'. He noted a challenge in changing this mindset.

One participant drew attention to the situation of child migration along the Mexico-US border. It was explained that the practice of the US government is to return the child to Mexico within 72 hours without any legal remedies and that this often leads to exploitation. Increasingly the undocumented population in the US is resorting to more dangerous methods to get people (including children) into the country because of the increasingly restrictive policies of the US government. This is putting children at risk.

### **Parallel Session 1: *Migration Projects: Children on the Move for Work and Education***

**Chair:** Shahin Yaqub, Innocenti Research Centre

#### **Presenters**

**Erick Otieno Nyambedha**, Department of Sociology and Anthropology, Maseno University

**John Bryant**, Institute for Population and Social Research, Mahidol University, Bangkok

**Iman Hashim**, Development Research Centre on Migration, Globalisation and Poverty, University of Sussex

***Erick Otieno Nyambedha, Children's Independent Movements in the era of HIV/AIDS pandemic***

#### **Key Presentation Points:**

- **Children's independent migration is closely linked to the context of HIV/AIDS in Western Kenya**
- **The HIV/AIDS pandemic has implications for conceptualising children and children's work, intergenerational relations, and notions of 'home'**
- **Increases in the numbers of HIV/AIDS orphans presents challenges to kinship structures and relationships**
- **The concept of 'vulnerability' and notions of adult responsibility need re-thinking**

Erick Otieno Nyambedha explained that due to HIV/AIDS, surviving relatives are taking in orphans because there are no alternatives. There are expectations that the orphans will be engaged in household work and they are often considered as 'workers' rather than as family members. Notions of 'exploitation' are changing as are notions of 'home.' As a result of HIV/AIDS, children do not feel they belong to the household that they have joined, and many orphans leave and migrate to places that they conceive of as 'home'. Complicating the issue is the situation of children born out of wedlock who do not have paternal homes and whose maternal relatives are reluctant to take them in because they have no inheritance rights. Due to the numbers affected by HIV/AIDS, children –in larger numbers –are moving in different directions than was traditionally the case and no one is interested in protecting them. Furthermore, most of the actions meant to protect children are based on adults' conceptualisation of

'vulnerability'. When parents die, the decision about where the surviving children are placed is usually made by adult relatives based on who is best able to cater to children's 'material' needs (i.e. the wealthier relatives) and not on who is best able to take care of children's emotional needs. Many siblings are scattered despite their wishes to be kept together. Later some siblings come back together and create child-headed households.

### **Key Discussion Points:**

- **Concepts of 'exploitation' and 'vulnerability' are based on adult and minority world contexts and experiences of childhood**
- **Population growth and density in Western Kenya has created a shortage of land, and children orphaned by HIV/AIDS are being additionally taken advantage by relatives who are not respecting children's inheritance rights**
- **Most child orphans are moved to relatives within their kinship group but even if they are with 'blood' relatives doesn't necessarily mean they are being better treated**
- **Children who live in child-headed households have a more settled life than those who are scattered and who are often moved around which, *inter alia*, disrupts their schooling**

One participant noted that concepts of 'exploitation' and 'vulnerability' are based on adult and minority world contexts and experiences of childhood. She explained that 'minority' and 'majority' refers to land mass and population. Although the bulk of the world's landmass and population resides in the 'majority' (developing) world, the ideologies around childhood are based on 'minority' world realities.

One comment concerned how inheritance rights influence how relatives decide where children will be placed. One person asked if disputes over inheritance are taking place because of the rising rates of child orphans or if it is because the communities themselves have changed due to population growth and density.

Erick noted that some research shows that some adult relatives exploit children to get their parents' assets. He explained that when the father dies, the inheritance usually goes to the mother. He added that in Western Kenya there is a shortage of land and child orphans are taken advantage of by relatives who claim that the land belongs to them and children are taken advantage of and lose their rightful claims to the land.

One person asked what happens to intergenerational power dynamics in families that take in orphans:

- Do younger children have power over older child orphans?
- What impact does the new child have on the family?
- What is the impact on sibling relations?

It was discussed that in other contexts, for example, Laos, older siblings tend to outsource tasks and make younger children do work for them. Erick responded that there are some reports of discrimination between children and the new child arrivals but that he has not noted any change in power relations among children (i.e. older children being ordered around by younger child relatives). He did note however that the new children are often treated worse than adult relatives' own children.

Concerning the formation of child-headed households, it was explained that some are created by those children who refuse to leave their parents' home and be separated, and others are formed after siblings have experienced being scattered and who have decided to move back together.

Erick was asked to explain his methods and he explained he first started the work in 1998. He first undertook a baseline survey to identify how many children had moved and why. In follow-up surveys he interviewed those children who had moved out and also the adults in the receiving households. He explained he has continued to do follow-up with the children, tracking subsequent moves and reasons for their migration. He noted that some children move at relatively short intervals and he tries to trace

them. He has found more male than female migrants and that some move from rural to urban sites, whereas others may move within the same locality or shift to a different household within the same homestead.

One person asked if patterns of movement depend on kinship relationship. He said that when he started the research he looked at 'relatedness' which comprises kinship and other relationships and found that most children move within their kinship group but that whether or not they are 'blood' relatives doesn't necessarily mean they are better treated within the household.

One noted that child fostering is a long-standing practice that has been exacerbated by HIV/AIDS.

One person asked what the findings suggest for policy. Erick responded that child-headed households are coping mechanisms and that children who remain have a more settled life than those who are scattered and who are often frequently moved around which disrupts their schooling. He said policy-makers need to strengthen the institution of child-headed households. He said households with adolescent girls are at risk of being taken advantage of and exploited by men in the villages and that this further contributes to the spread of HIV/AIDS.

Concerning policies about child labour and schooling, he explained that some work helps keep the child going to school so if government officials stop them from working they will not be able to buy their uniforms and school supplies which will have even more adverse consequences on children's lives.

### ***John Bryant, Independent Child Migrants: Some Basic Information and How to Find out More***

John Bryant drew attention to the existing macro and micro-level data sets from where information and numbers about internal and international child migrants may be drawn.

#### **Key Presentation Points:**

- **A review of secondary sources reveals numerical data on independent child migrants (both internal and international)**
- **According to census data, children comprise a small minority of the overall *internal* migrant population (ranging from 0.5% to 2.1%) for the countries presented**
- **Girls comprise over half of independent *internal* child (0-17 years-old) migrants for the countries presented**
- **Administrative statistics and findings from small-scale studies are often the best places to look for information on *international* child migrants**
- **According to 2005 Thai government policy, all migrant children, including those who are unregistered, can legally attend school**

From the perspective of South East Asia he noted that these are 'early days' to approaches to the issue of children's independent migration. He drew attention to a website [www.ipums.org](http://www.ipums.org) which has consolidated census data from 26 countries from where macro-level data on internal migration (i.e. within national borders) of children aged 0-17 years-old may be found. He provided basic numbers from several countries and said that girls tend to comprise a majority of independent child migrants (i.e. ranging from 51.2 % of all independent child migrants within South Africa to 66.7% within the Philippines). Overall, however, he said numbers suggest that children comprise a small minority of the overall internal migrant population (ranging from 0.5% to 2.1%) for six the countries he presented data on: Vietnam, the Philippines, Ecuador, Brazil, South Africa and Mexico.

Concerning international migrants, he noted that census and national surveys have very poor coverage and that administrative statistics and findings from small-scale studies are often the best places to look for information. He cited findings from several small-scale studies in Thailand which reveals child migrants to comprise approximately 10% of the population and noted that half of the child migrants are

girls. Child migrants often travel long distances, many with relatives and the quality of their networks varies yet is the most important determinant of their safety. A minority of children, less than 10% of migrant children are enrolled in school, yet according to 2005 Thai government policy, all migrant children, including those who are unregistered, can legally attend school. Barriers to education include the costs of uniforms and books, fear of discrimination and language. Concerning work, many children work alongside adults, although tasks are often differentiated by age and sex. They earn less than adults, their experiences may be both positive and negative, and many complain of long working hours.

#### **Key Discussion Points:**

- **If survey data is based on residence it may fail to capture the full scope of child migration, short-term and/or seasonal migration**
- **There is a tendency to look at migration in terms of 'origin,' 'destination' but migrants can get 'stuck' in 'transit' countries which can be the most dangerous places for migrants**
- **Use of the term 'transit' has dangerous implications concerning the rights of migrants and it is preferable to use the term 'destination' because if a country declares itself to be a 'transit' country it claims no responsibility for taking care of migrants**

One participant noted that the weakness of survey data is that if it is based on residence, it may fail to capture the full scope of child migration. Another person noted that it would not capture short-term residents and the phenomenon of short-term or seasonal migration.

One person noted that where appropriate it is often a better use of resources to see where several questions on the issue of migration could be tagged to the end of a survey rather than to create a new survey. Another participant questioned the value of surveys for locating information on independent child migrants because it may be difficult to find children. One person noted that while it may appear from the statistics that children comprise a tiny minority of overall migrants and are therefore of little importance to policy makers, if that population is concentrated the situation may in fact be of extreme importance to officials. Also, so-called 'small' issues can in fact capture tremendous attention and interest.

One person noted that there is a tendency to look at migration in terms of 'origin,' 'destination' and 'transit' countries, where migrants may get 'stuck,' do not get sufficient attention, even though 'transit' areas can be the most dangerous for migrants. Migration routes can be very long, and research undertaken on migration from sub-Saharan Africa to Northern Africa show that migrants from 17 countries are all travelling through one specific town on their journey. Many independent child migrants are stalled in border areas where they know no one, have no contacts and are in very bad situations.

Concerning usage of the term 'transit' one person noted the policy implications because if a country declares itself a 'transit' country it claims no responsibility for taking care of migrants even though according to international human rights law, it is responsible. It was discussed that introduction of the concept of 'transit' into the language of policy makers has dangerous implications concerning the rights of migrants and that it is preferable to use the term 'destination.'

#### ***Iman Hashim, Children's Independent Migration in Ghana: What are the Costs and Benefits?***

#### **Key Presentation Points:**

- **Childhood must be seen in context: work is seen as an age-appropriate behaviour and children's 'work' is divided by age and gender**
- **Work is seen as teaching children the skills to survive, to be self-reliant, and is part of their enculturation into their roles in the wider economy and community**

- **Children who work for relatives are rarely paid, but receive ‘gifts’ of money, food and other items**
- **Where children are paid, the levels of remuneration a child received are closely linked to the child’s age and gender and reflects a hierarchically organised system of control and command over labour and the rates of return for the types of work in which children are engaged**
- **The majority of the children interviewed chose to migrate and were positive about their experiences of migration, as it enabled them to develop important skills, to receive gifts or earn an income.**
- **Children have ‘thin’ or constrained agency**
- **Children’s ‘choice’ must be situated in the context of extreme poverty and limited opportunities in their home environment and in the manner in which their identities as a ‘good’ child’ are tied up with fulfilling their work roles**

Iman Hashim presented highlights of field research she undertook in Ghana, during which she had interviewed seventy child migrants who had moved from the Upper East Region of Ghana to the cocoa-growing areas of central Ghana. She spoke of the importance of listening to children and taking their views into account, when assessing the costs and benefits of migration and in understanding the constraints on children’s choices. She explained that the sending area is characterised by labour intensive farming and reproductive work. Work is organised hierarchically along gender and age lines. Girls and boys under approximately six years-of-age undertake the same tasks (care for younger siblings, guarding crops, and running errands). Above that age, however, their work becomes divided according to gender and age, with girls’ tasks’ primarily situated around the household and marketing, whereas boys’ work focuses on livestock and farming. From the age of 14, both girls and boys are engaged in gendered ‘adult’ tasks. Iman drew attention and importance to the local construction of childhood where work is seen as age-appropriate behaviour that teaches them the skills to survive, to become involved in the domestic economy and wider community, and to become self-reliant.

It was explained that finding independent child migrants was an unanticipated outcome of earlier field research undertaken in north-eastern Ghana: 15% of the child population had migrated outside the village and 50% of households had a migrant child. She notes that children’s own choices are important and that younger children (ages 7-13) who had migrated often did so at the request of an adult. Migrant children were involved in a range of activities, including agricultural and domestic work, and of those working for relatives, none in the younger age category were paid but received gifts of money, clothes and other items. Some of the children had their school and/or apprenticeship fees paid. In contrast, almost all of the children working for non-relatives were paid, although they often received a small amount. She found that the levels of remuneration a child received were closely linked to the child’s age and gender, and reflects a hierarchically organised system of control and command over labour and the rates of return for the types of work in which children are engaged.

It was found that there were considerable benefits and costs to migration yet most children were positive about the experience. She spoke of methodological challenges and ethical dimensions of conducting research with child migrants who were being badly treated but who did not want to return home.

Iman Hashim spoke about children having ‘thin’ or constrained agency. A ‘good’ child was one who worked and the intergenerational contract obliges children to migrate on the request of an elder. Children’s ‘choice’ must be situated in the context of extreme poverty and limited opportunities in their home environment and in the manner in which their identities as a ‘good’ child’ are tied up with fulfilling their work roles. She concluded, therefore, that children’s own evaluation of their experience is paramount to understanding children’s migration, but that these must be situated in the broader context in order that we understand the constraints on children’s choices.

### **Key Discussion Points:**

- **The data shows that girls are less rooted than boys but context is important. In Ghana, the constraints on boys' and girls' ability to migrate differs as boys need to build critical social networks with older males, which might require them to stay in their home communities, whereas although parents express greater fears regarding girls vulnerability when migrating, girls are not seen as belonging**
- **The children are not earning enough to shift power dynamics within the family**
- **It is more appropriate to break 'child' into different age and gendered stages in order to understand the differing constraints and opportunities available to them. Caution is needed when considering the legal implications of this, since it could lead to an erosion of the protection that exists for children under 18 years-old**

One person asked whether or not having a positive or negative attitude to migration affected the outcome. It was also queried if whether or not the child is paid affects one's expectations. It was suggested it was quite difficult to answer such questions, since children's attitudes to and perceptions of migration could change practically on a daily basis as a result of, for instance, whether they just had been told off by an employer for not working well or if their expectations of migration had not been fulfilled.

It was raised that although this study is of a small sample, concerning larger scale research and international data most evidence shows male migrants outnumber females, except in certain situations. Iman's data show that girls are less rooted than boys. She explained that context is important to understand the gender dynamics in children's independent migration. Concerning Ghana, it was explained that fewer boys migrate than girls because it is more important for them to build long term relations in the community where they will stay, whereas girls marry and move elsewhere. Also, boys need to build relations with senior men in the community in order to become successful, and migrating for work would mean they had less time to build crucial networks and relations in their home community. Girls, in contrast, are not seen as belonging and their work is different: they can do it anywhere and also girls are encouraged to leave. Iman added that birth order and sibling composition are not important in Ghana, yet in Bolivia these factors shape who migrates, when and for what reasons.

What are the implications for power dynamics of children earning money in households where others are not working? For example, what happens in households where children are living with their grandparents? Does children's income overrule the traditional power based on age hierarchies of grandparents over their grandchildren? Iman responded that the children are earning such small amounts that it does not disrupt or change the balance of power. Furthermore, it is seen as part of their transition to adulthood and the money they earn is for their own uses.

It was appreciated that Iman had broken the 'child' into different stages because lumping 0-18 year-olds together is too broad. From a legal perspective, it was noted that advocacy to change the definition of the child (as someone who is under 18 years-old) is potentially dangerous as it could erode the existing benefits that come with being a child. Iman Hashim responded that possibly it could be used to 'turn it on its head' and to argue that adults, like children, should get more protection. It was countered, however, that the current advocacy and legal climate concerning migration is adverse for migrants' rights so that it is more important to be pragmatic.

It was explained that whether or not you are remunerated for your work when you undertake it in relatives' houses depends on a number of factors. Boys prefer having contract work because they know what they will get whereas if they work for relatives it is unclear what they will receive.

One wondered about the role of peer groups and if girls and boys form associations to support one another. It was responded that, boys do sometimes work in groups. However, no mention was made of peer associations by the children interviewed, but it was felt that this was an important area of research, given that social networks were important when travelling and finding work.

## Parallel Session 2: *Migration and Trafficking*

**Chair:** Pierre Ferry, UNICEF West and Central Africa Regional Office

### **Presenters**

**Tanja Bastia**, University of Manchester

**Inthasone Phetsiriseng**, National Coordinator for Lao PDR, Asia-Pacific Migration Research Network (APMRN)

***Tanja Bastia, Child trafficking or teenage migration? Bolivian Migrants in Argentina***

### **Key Presentation Points:**

- **Child trafficking for labour is a widespread phenomenon in the context of increased cross-border movement within Latin America**
- **New patterns of migration**
- **By adopting a biographical approach, it is possible to understand trafficking as a phase within a much larger process of labour migration.**
- **The label of ‘child trafficking’ is inadequate to explain the complexity of the situation where the experience of being trafficked concerns only a small part of experience teenagers face as migrant workers**
- **This kind of migration can have a positive effect on the long-term life chances of the migrants**

Tanja Bastia’s presentation was based on field work conducted in 2002 and 2003 for her doctoral research on gender, race and ethnicity issues in adolescents’ migration from Bolivia to Argentina. Although her research did not directly aim at collecting data on trafficking, she identified four case studies of adolescent migration that she discussed in relation to the discourse and practice of child trafficking.

The core questions to be answered were:

- Whether it is correct and to what extent it is useful to define the processes of international migration she found as ‘child trafficking’?
- What are the consequences of using certain kinds of labels (i.e. in this case ‘trafficking’) to define more complex social processes?

There are a few studies that deal specifically with child trafficking in Latin America. Child trafficking and labour exploitation are not often perceived as a problem. However, child trafficking for labour is a widespread phenomenon in the context of increased cross-border movement within Latin America. Bolivian migration to Argentina is long-standing practice and it is mainly migration for work characterised by the maintenance of strong links with the place of origin. The pattern of migration is, however, changing in three main ways:

- People now choose to migrate to Buenos Aires rather than to Northern Argentina as was the practice in the past
- Migration is increasingly illegal
- There has been a feminisation of migration

Moreover from 2001, there has been an increase in migration to Spain.

The four cases of teenage migrants were examined in relation to the following:

- Reasons for migrating
- Modes of recruitment
- Working conditions
- Consequences concerning ‘child trafficking’

Tanja argued that her cases studies show that by adopting a biographical approach, it is possible to understand trafficking as a phase within a much larger process of labour migration. The label of 'child trafficking' seems inadequate to explain the complexity of the situation where the experience of being trafficked concerns only a small part of experience teenagers face as migrant workers.

Her research shows that this kind of migration can have a positive effect on the long-term life chances of the migrants with regards to:

- Access to education
- Acquiring diverse work experience
- Acquiring new skills
- Capacity to accumulate savings
- Acquisition of higher status in the community

#### **Key Discussion Points:**

- **Child trafficking may be seen as a child labour issue**
- **International policies may be creating more trafficking and putting children in more vulnerable situations**
- **The trafficking framework is limited because of the context within which it has emerged –transnational crime**
- **The prevention and/or control of movement is not helpful (and may make children more vulnerable) and movement will continue to take place, even if it is prohibited**

Child trafficking may be seen as a child labour issue. Concerning child rights organisations there may be discrepancies in positions held by head offices and country offices. The latter see the issue from 'the ground' and are more aware of what is happening. It was discussed that international policies may be creating more trafficking and putting children in more vulnerable situations. Previously there was more fluid movement across borders and children were able to get access to work in neighbouring countries. However, since the increased attention to 'child trafficking' these movements have been curtailed and now children need to cross borders illegally and with the help of smugglers, which puts them at greater risk than before.

In many West African countries there is no equivalent word for 'exploitation'. There was some discussion in relation to this, especially in relation to the fact that local concepts for 'slavery' do exist (but this is not the same as trafficking or exploitation). In West Africa some domestic workers are paid £2 per month and because they are paid they are not considered slaves.

The trafficking framework is limited because of the context within which it has emerged –transnational crime. The premise is that there are transnational networks of crime that engage in human trafficking but we know that most traffickers are part of the victim's social networks; sometimes they are close family members. There is a discrepancy between the assumptions on which trafficking policies are based and reality.

It was mentioned that in one of the UNICEF offices they are now focusing on how to protect the child while in movement, mentioning that the meaning of 'trafficking' comprises both movement and exploitation and that solutions thus far have tended to focus on the prevention of movement. Most of the participants agreed that the prevention and/or control of movement is not helpful and could in fact put children more at risk, and movement will continue to take place, even if it is prohibited. One person noted the vulnerability of children who are born on the journey, for example, between Gabon to Europe may take two-to-three years.

## ***Inthasone Phetsiriseng, Mapping Migration in Lao PDR***

### **Key Presentation Points:**

- **Limited economic opportunities in the country constitute a strong push factor that contributes to labour migration abroad**
- **Migration for work has increased rapidly and as many as one in five migrants are under 18.**
- **Irregular status, as well as the unregulated nature of domestic work, can contribute to vulnerability**
- **Young people also contribute remittances, 29% of the 10-14 year-old age group and 47% of the 15-17 year-old age group sent back remittances**

Inthasone Phetsiriseng's presentation focused on labour migration from Lao PDR. The data presented were collected through a quantitative survey administered in three provinces of the country in 2003.

The context in which the survey was undertaken was presented: approximately 25,000 youth (15 - 18 years old) enter the labour market in Lao PDR each year. Limited economic opportunities in the country constitute a strong push factor that contributes to labour migration abroad. Women are especially willing to migrate to Thailand, even through illegal recruitment networks.

The sample size comprised almost 39,000 people and more than 20,000 people were interviewed, involving almost 6000 households. According to the findings, 7% of household members are migrants. Of this, approximately 56% are female and 44% are male. Moreover, approximately 21% are children under 18 years of age.

The main findings revealed the following: workers migrate to Thailand through four channels:

- illegal labour recruitment networks
- cross border smugglers
- social networks of migrant workers
- using border passes and passports

Of the total migrant population, almost 81% migrate internationally and more females migrate than males. Of this figure, most are in Thailand (82%) and 8% are in other neighbouring countries, 9% are in the USA and less than 1% are in Europe. Almost 74% of the migrant population in Thailand went within the last three years (2000-2003). Remittances are one of the benefits of migration to Thailand: approximately 54% of migrants sent remittances to their families. Concerning children, 29% of the 10-14 year-old age group and 47% of the 15-17 year-old age group sent back remittances. The highest percentage of those who send back remittances is among the 46-50 year-old age group.

Migration to Thailand involves the following risks: no remittances sent to their families, lost contact with families, and no information about migrants' livelihoods sent back. Overall, high risk groups comprise 1.4% of total migrants and girls of the 10-14 and 15-17 year-old age groups comprise the highest risk groups of migrants.

Internal migration comprises a minority of all migrants: only 1.2% of the sample population migrated internally. Of this percentage, 22.1% were children. Almost 43% of internal migrants move to the capital, Vientiane. Over 51% of internal migrants sent remittances to their families, and of children, more girls than boys in the age group 10-17 sent back remittances to their families. Concerning the risks associated with internal migrants, among male internal migrant workers, males between 18-30 years-of-age were at high risk. Among female internal migrant workers, there were no particular high risk groups identified, but there were some risk groups for girls aged 15-20 years-old.

In summary, the survey found that:

- there has been a dramatic acceleration in migration

- more than 1 in 5 migrants are under 18
- more than 50% of the children have lost contact with their families
- girls aged 10 to 14 are at greatest risk of trafficking
- 49% of males and 44% females don't know about HIV/AIDS and more than two-thirds of migrant returnees did not have a health check-up

Inthasone concluded his presentation with a description of the situation of female migrant workers. Due to poverty, Lao girls tend to leave school at an early age to help their families. An increasing number of girls and women are migrating to Thailand through familial networks. In Thailand, due to their irregular status, they are often subject to abuse, hard and long working hours, and poor wages. Sometimes, upon their return, they are caught by the immigration police and put in detention centres or heavily fined.

In conclusion he observed that, under Thai and Lao labour law, domestic work is not fully protected as a form of labour, and has not as yet been recognised and officially approved as a work sector for recruitment and sending under a Memorandum of Understanding between the two countries. Although there is high demand for the Lao migrant workers to work in Thailand, the process of recruitment, approval and job offers has been very slow and it has not met the pace of demand by employers.

#### **Key Discussion Points:**

- **The government does not acknowledge that there is trafficking**
- **Attention was drawn to the importance of bringing policy-makers on-board and the survey involved the government in the solutions**
- **Recruitment agencies are too expensive, therefore people resort to smugglers and are therefore at greater risk of being trafficked**

Overall comments and suggestions for future research were as follows:

- How is child migration different from adult migration?
- What kinds of risks and vulnerabilities, including lack of assets create the conditions for children's migration? Are independent child migrants able to strengthen their fallback position by acquiring different types of assets through migration?
- Concerning the definition of 'trafficking' under the 2000 Trafficking Protocol, there is a need to/for a:
  - review the repatriation provisions
  - more nuanced approach to victims of trafficking
- Need for a better understanding of trafficking as part of migration
- How to distinguish between 'positive' and 'negative' migration
- Need for long-term evaluations. No reintegration project has been evaluated in the long term. We therefore do not know what happens to 'victims of trafficking' in the long term
- Need for longitudinal research
- Need to scale-up of research results and combine qualitative and quantitative methodologies

#### **Parallel Session 3: *Legal issues and Criminalisation***

**Chair:** Ann Whitehead, Development Research Centre on Migration, Globalisation and Poverty

#### **Presenters**

**Kristina Touzenis**, International Organisation for Migration (IOM), Rome

**Jyothi Kanics**, Irish Refugee Council, Dublin

## ***Kristina Touzenis, Child Migrants – Legal Protection and Criminalisation***

Kristina Touzenis' paper addressed the legal frameworks of protection for child migrants and addressed two key points:

### **Key Presentation Points:**

- **The legal frameworks of protection for children and protection for migrant workers are missing a category of 'independent child migrants migrating for employment.' However, aspects of these frameworks can be applied in conjunction to protect migrant child workers**
- **By criminalising or not protecting irregular child migrants, states are violating the principle of non-discrimination in the Convention of the Rights of the Child (CRC). The CRC should apply to all children within a state's jurisdiction.**

Kristina Touzenis argued that currently child migrants are seen as vulnerable, passive and dependents of adult migrants. This means that often, when independent child migrants come into contact with protection frameworks, their individual migration project (often to gain employment and income) is not acknowledged, leading to inappropriate protection regimes. This often results in the child absconding from care, or foster homes, and 'disappearing', entering the informal economic sector.

The legal frameworks protecting migrants usually construct migrants as male adults, mainly missing out children. Meanwhile, the CRC also misses out child migrant workers. Consequently, there is a gap between worker protection and child protection that independent child migrants often occupy.

However, Kristina highlighted that there are parts of these protection frameworks that do offer protection to independent child migrants. For example there are statements about minimum ages for work, reasonable hours for work, and access to education and protection against workplace exploitation contained in the CRC. Also the ILO's Minimum Age Convention No. 138 makes provision for child work under certain conditions including minimum age and the provision of moral and physical safety.

Kristina suggested that in some ways child migrant workers could be protected in the same way as adult workers, except for the issue of Article 31 of the CRC, which provides for the right to leisure, play and culture. When this is considered alongside the right to education it is difficult to see when a child would have time to work and maintain his/her healthy development. There are also social concerns that limit the way in which child workers can be treated as other workers. For example there has been little advocacy for the right of child workers to associate (or unionise) because to advocate for this could be seen as condoning child labour.

Kristina argued that the rights and legal protections necessary for independent child migrants exist in the legal frameworks and it is possible to use them to condemn those who exploit child migrant workers. However, she noted that it is a question of education and advocacy to make sure that these protections are applied. The CRC in particular puts the onus on states to protect all children without discrimination, and legally it should be argued that this includes irregular migrant children within a state's territorial space.

Kristina then continued by outlining the problems of criminalisation of migrants. These problems are relevant to all irregular or undocumented migrants. She pointed out that the European Union (EU) consistently uses the terminology 'illegal' rather than 'irregular', which constructs migrants as criminals. She argued that when children are detained as 'illegal' migrants it is a violation of the principle of non-discrimination in the CRC.

## ***Jyothi Kanics, Independent Child Migrants in Europe: Realities, Challenges and Opportunities***

Jyothi Kanics's paper addressed the question of how legal frameworks can contribute to increasing risks and vulnerabilities for migrant children, with a focus mainly on adolescent independent migrants to Europe.

### **Key Presentation Points:**

- **The portability of rights and legal protection is problematic, especially in the current context of security and border control in Europe**
- **Although legal frameworks are available, they are not applied evenly and both children themselves and the judiciary are not always aware of them**

Jyothi Kanics started her presentation by questioning the portability of children's rights. The CRC should protect child migrants but unfortunately through a lack of education and training on the part of judges and the limited access unaccompanied minors have to legal aid children's rights are being violated. Although the CRC concerns all children, in practice the legal immigration status of the child is important regarding its full implementation.

Highlighting different categories of child migrants, for example, undocumented children, trafficked children, asylum seeking children, homeless children, children whose age is disputed (i.e. they claim to be under 18 but border or Home Office officials believe them to be older and therefore not automatically allowed to stay), Jyothi questioned whether protection regimes were adequately aware of the specific needs of these groups. However, she also pointed out that perhaps protection regimes should not be overly fragmented or have too specific a mandate, as ultimately some children will be excluded.

The right to education enshrined in the CRC was discussed and Jyothi suggested that there are diverse experiences across the European Union (EU) in terms of implementation and that there is also discrimination in access. She explained the lack of language support and the need for fees at higher levels of education complicate access. She also provided an example from Ireland where refugees are required to pay the high tier non-EU student fees if they want to attend university.

Jyothi then addressed the right to work, which again is very variable across the EU. For example some states allow asylum seekers to work, whereas others do not. She also suggested that in some states migrant adolescents are pressured to work rather than to pursue their education. The issue of *au pairs* was raised, as usually their work is not regulated and is thus open to exploitation.

Like Kristina Touzenis, Jyothi also highlighted the issue of criminalisation. Most migrant children are already in conflict with the law due to their manner of entry. In addition, many migrant children are pushed into informal sector work. In some cases this may be because they have been trafficked. In other cases they may be forced to engage in begging. When children are in conflict with the law there are a number of options available to states: to punish, prevent or rehabilitate. However, in the context of unaccompanied minors the default option is normally to refer them back to the asylum system rather than to take the measures followed for the protection of national children.

Jyothi argued that a number of things needed to be done to improve the protection of migrant children. There needs to be more knowledge about the numbers and experiences of child migrants. Article 12 of the CRC needs to be implemented so that children's opinions are heard. Guardians need to be appointed for children. The role of the children's ombudsman needs to be strengthened. The discrimination of migrant children, as compared to national children, needs to be addressed. Finally, opportunities for legal migration, employment and education need to be created.

### **Key Discussion Points:**

- **The distrust of children's stories**
- **The difficulties of implementing existing legal frameworks of protection**
- **Future research priorities**

The discussion started with group members pointing out that when it comes to legal discussions, children's voices are even less likely to be heard. It was pointed out that there is not a need for a deep philosophical discussion with children about the nature of childhood, but it would be useful to discuss with them the goals they hoped to achieve by migrating so that protection can be tailored to their needs. A question was raised about at what stage children's voices should be heard.

Participants who work directly with unaccompanied minors felt that the possibility of consulting with children was extremely unlikely because immigration officers generally believe they are lying. In some cases, they explained, this may be justified, as children may have been told to lie by smugglers, traffickers or their parents/family members in order to improve their chances, for example, for being granted refugee status. However, it was also noted that this is not always the case and children are no more likely to be lying than adults (except possibly about their age). Despite this, research in Australia and the UK has shown that officials are less likely to believe children. The group discussed that there needed to be an institutional cultural change before children would be believed and that this would not happen until migrant children were seen as children first and foremost and migrants second.

A question was asked about the role of government's foreign offices regarding child migrants. It was discussed that departments responsible for foreign affairs lobby governments regarding the ratification and application of the CRC. Other participants noted that some governments (including with the EU) have made reservations in their ratification of the CRC, regarding all those (including children) with irregular immigration status.

One participant mentioned that the UK government is considering separate care services for unaccompanied minors. Many people in the group felt that this was a bad idea and that all children whether national or migrant, should be treated in the same way and in the same facilities. This discussion led to participants highlighting the problem of private foster care (for example, when unaccompanied minors are placed with families that belong to their ethnic community) and the lack of follow-up by social services. It was mentioned that there have been several cases where 'fostering' has been a mask for abuse, and examples were provided of African and Asian children.

The discussion then moved on to the issue of criminalisation. A participant suggested that if EU countries are going to implement stricter border controls they should also implement stronger protection rights from the border. However it was felt by some that there are disadvantages of having social workers at the airport (as they do in the UK) because the child may not trust them and that there is a danger of mixing security and protection. It was suggested that a neutral third person should be present in all immigration interviews at border control.

This discussion of border security led to questions about what should happen if a child gets into trouble with police as a result of doing exploitative work, for example following the command of traffickers. A participant pointed out that their legal defence should point out that the child was committing a crime under duress, but in reality problems of access to legal advice mean that this does not happen.

The discussion turned to future research priorities and the following suggestions were raised:

- What happens to child migrants who do not go through the asylum system, how can they be identified for protection?
- A comparative study of all foreign-born children in care and unaccompanied minors in care is needed.
- How are legal instruments such as the CRC applied in poorer countries?
- Ethnographic work with children highlighting their aims in migrating is required.

- How to make protocols and conventions more binding?
- Comparing the experiences of less 'visible' migrant children (i.e. Eastern European) with more visible ethnic minority migrant children. Are protection regimes racist?
- Research private fostering.
- Research child migration for marriage.
- Cost-benefit analysis of strict border controls and deportation *versus* a more rights-based approach

## Final Plenary Session

**Chair, Ann Whitehead**, Development Research Centre on Migration, Globalisation and Poverty

Representatives from each of the parallel sessions were asked to present summaries of the discussions that had taken place and related research and policy implications.

Shahin Yaqub, on behalf of the session on 'Migration Projects: Children on the Move for Work and Education' made the following key points:

- Erick Otieno Nyambedha's presentation on migration in the context of HIV/AIDS orphans revealed a fluid notion of the home: where a child belongs is an open question because of the complexity of families and also a fluid notion of 'exploitation': as it is difficult to determine whether or not exploitation is taking place
- John Bryant's presentation focussed on numbers of child migrants drawn from census data and small-scale studies. The census data on internal migrants suggest that the numbers of children migrating are not as large as we may think. Yet in the absence of hard empirical data many assumptions are created, for example, about exploitation that takes place and; the numbers of children who want to work and whose parents agree to let them migrate. It was also revealed that the assumption that all states treat child migrants poorly is not entirely accurate. He gave an example from Thailand where the Health and Education Ministries use a human rights framework. Child migrants, including unregistered children, have access to education, albeit a minority of child migrants avail of this right.
- Iman Hashim's findings from Ghana challenge notions that children are 'forced' and have 'no choice' about migration. She found that most child migrants chose to leave however they are not full optimising agents as their choices and the circumstances of their work and remuneration are not entirely under their control. Concerning child fostering, the nature of family relationships affects how children are remunerated for the work they work they do in their relatives' households.
- In the discussion, the group focussed on whether or not there is any utility in using the term 'transit' country as it is a way for governments in so-called 'transit' countries to avoid taking responsibility: 'transit' is also a 'destination'. The importance of re-examining what it meant by 'exploitation' and 'independence' was also discussed.

In the second group on 'Migration and Trafficking' both presentations focused on:

- The strong link between trafficking and immigration
- The difficulty of identifying trafficking within the migration process
- A questioning of the existing definition of 'trafficking'
- Tanya Bastia's presentation noted that trafficking is part of a movement in a longer term migration process
- In Laotian and in many African languages, there is no word that means 'trafficking' and often there is no translation of 'exploitation' so better definitions are required

Concerning recommendations, the group noted that the following gaps need to be addressed:

- Most of the research is undertaken on a specific part of migration and very little focuses on children
- The migration process is long and sometimes children are born en-route
- Little is known what happens to the child after he/she has been trafficked. Many interventions have had a negative impact on children but we often do not know what the results have been
- There is a need for an evaluation of all trafficking reintegration programmes undertaken by UNICEF and other agencies: we do not know if they have been beneficial, and significant resources have been invested in them

In the group on 'Legal Issues and Criminalisation' the following highlights were shared:

- The two presentations focused on legislation and laws in Europe that aim to protect the child migrant, but in reality they often increase children's vulnerability
- There is a conflict between child rights legislation and state priorities
- Children are seen as appendices to their parents and the authorities do not pay attention to children's own migration projects
- Children are treated as victims and are put into 'protective' structures that are not necessarily in their best interest
- Children are conceptualised as 'migrants' and not as 'children.' For example, when they are interviewed they are treated as adult migrants and authorities often do not trust or believe their stories
- It is important to separate the child migrant conceptually from adults in the existing legal framework irrespective of their status. They also require protection
- There is variation in the ways in which laws are implemented in practice: there are many categories of child migrants, they are not treated very well and they are discriminated in their access to protection
- There is a lack of harmonisation between the laws
- Children's opinions are not heard in the legal framework of the discussion. Where efforts are undertaken to take into consideration children's perspective it is recognised that it is not easy to do so in practice

### **Plenary Discussion**

The workshop questioned prevailing notions of 'independent', 'child' and 'migrants' and that unresolved policy debates and dilemmas should be articulated as such.

The question of which policy audience research on child migrants is seeking to address, needs further clarification. It was noted that there are fundamental gaps and weaknesses in most of the discussions that have taken place on the link between policy and research. A challenge for researchers is to build on recent studies that have, so far, mainly served to question existing assumptions and dominant discourses. There is a need for research to develop the issues in a way that will better engage policy-makers, such as by connecting to broader development debates (taking the issue out of its 'special interest' box) and by deploying combined analytical and methodological approaches (taking some of the research out of its 'ethnographic, case study' box).

It was observed that most presentations and discussions focused on the child migrant as an 'individual' but not on the child as a member of 'society', and the child's impact on the society at origin and destination. Impact might differ depending on whether or not the children are temporary or long-term migrants, and if the success or failure of the individual migrant relates to groups or aspirations.

Research presented at the workshop, (Punch, Bastia, Hashim) is unusual in having fieldwork that connects origin situations and destination situations. Although difficult to set-up, more of this kind of research is needed to understand the root causes and issues.

While the meeting had shown that extensive research has been carried out on children's migration, there is a gap between this work and policy makers' existing agenda on migration. To speak to policymakers there is a need for more reports to be quantitative and reflect on macro-level issues. It was debated whether policymakers take note of case histories of relatively few numbers of children, yet noted that they can be swayed by public opinion and individual cases that draw media and public attention. An example was mentioned about changes in policies and laws in Saudi Arabia triggered by a high profile case of a Filipino maid who killed her employer who was raping her.

It was stressed that there is a role for both qualitative and quantitative research: Qualitative research can inform the design of quantitative instruments and surveys (including where to undertake the research to find respondents) and vice versa. Both methods can document different types of mobility and different reasons and rationales for migrating (for example, ranging from environmental factors to the need to generate bride wealth) and identify from such well-documented work the minimum conditions common to all. Information on child migrants from household surveys is limited and when a target group is unknown it is difficult to undertake a survey.

In sum, the discussions revealed some missing bridges that research can help pave the way towards. First, there is a need to bridge the limited research that exists into a stronger understanding of the central policy issues, particularly in terms of how the phenomenon connects to other policy issues vying for attention in the child development arena specifically, and in the development arena generally. Second, the bridges between different disciplines, and also between quantitative and qualitative approaches, are under-developed, and so the picture is partial and fails to reflect the rich complexity of the issue. Third, children's participation and voice, sometimes powerfully articulated in case studies, has not been bridged into new research agendas.

It was noted that a number of methodological and analytical questions would have to be addressed before macro level research can take off. A lot of legislation regarding child migration equates child migration with trafficking and therefore interventions proceed from this, which requires rethinking.

Ann Whitehead, on behalf of the organisers and supports, thanked the participants for the rich discussions and debates that had taken place over the course of the day.

### **Research Priorities**

**One of the aims of the day was to identify areas for future research. Here some of the key areas discussed on the day are highlighted by emerging themes:**

#### **Methodological Issues**

- Multi-sited research: both in sending and destination communities and with multiple perspectives: children, parents, siblings, etc.
- Ethnographic methodology is needed for an in-depth understanding of the socio-economic context.
- Use holistic methods in order to explore different arenas of children's daily lives.
- Longitudinal research is necessary to capture changes over time, using methodologies which look at life trajectories and how these link with the life course.
- Scale-up research results and combine qualitative and quantitative methodologies
- Ethnographic work with children highlighting their aims in migrating is required.

#### **Vulnerability, Poverty and Long Term outcomes**

- What kinds of driving forces, risks and vulnerabilities, including lack of assets create the conditions for children's migration? Are independent child migrants able to strengthen their fallback position by acquiring different types of assets through migration?
- What are the links between poverty and child migration?
- There is a need for good quality and well designed research that looks at the long term socio-economic effects for individuals and their families of a child's migration
- How to distinguish between 'positive' and 'negative' migration

### **Migration, Trafficking and Legal Issues**

- Concerning the definition of 'trafficking' under the 2000 Trafficking Protocol, there is a need to review repatriation provisions and take a more nuanced approach to victims of trafficking
- Need for a better understanding of trafficking as part of migration
- Need for long-term evaluations. No reintegration project has been evaluated in the long term. We therefore do not know what happens to 'victims of trafficking' in the long term
- What happens to child migrants who do not go through the asylum system, how can they be identified for protection?
- A comparative study of all foreign-born children in care and unaccompanied minors in care is needed.
- How are legal instruments such as the CRC applied in poorer countries?
- How to make protocols and conventions more binding?
- Comparing the experiences of less 'visible' migrant children (i.e. Eastern European) with more visible ethnic minority migrant children. Are protection regimes racist?
- Research private fostering.
- Research child migration for marriage.
- Cost-benefit analysis of strict border controls and deportation *versus* a more rights-based approach

### **Mobility and Governance**

- The relationship of migration to space, how it varies according to gender, and the link between mobility and governance
- More examination is needed of the process of movement and journeys, which in some cases (for example, West Africa) are getting longer
- Should priority be given to migrants' experiences where policy can directly intervene such as looking at migrants' interactions with social services?

### **Intergenerational Relationships, Life stages and Youth Transition**

- Relations with peers, girlfriends and boyfriends are under-researched, yet important in shaping the migration process. How and with what effect do children construct peer networks of social relations in migration destinations?
- The concept of 'youth transitions' may be a useful framework to understand some children's processes of migration. 'Youth transitions' do not just refer to transitions from school to work, or from unpaid work to paid work, but also include other kinds of transitions such as leaving home, forming a new household, developing new relationships, getting married, and having children. How do these transitions impact upon the decision to migrate as well as shape the experience of migration?
- The impact of birth order, sibling and household composition is important but often overlooked
- How do the gendered experiences of pregnancy and parenthood impact on youth transitions?
- More comprehensive research on migration and education is needed. Not much research has been done to document children's views of migration for education. Little is known about what happens to children who decide to continue their education rather than migrate for work, or who combine migrant work and education, and their experiences.
- There is a need to examine intra-household dynamics and how 'risks' are shared within the household and gaps in our knowledge of inter- and intra-generational relationships
- The long term impact of children's migrations on relations with their parents and siblings needs exploration
- What is the role of difficult family relationships in children's motivations/decisions to migrate and the kinds of migration they undertake?

The issue of setting priorities for research will be explored further in a research workshop to be held at the University of Sussex in 2008.