

## Child Trafficking for Sexual Purposes

### Concept Note and Outline

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#### CONCEPT

The paper will focus on the changes which can be noted on the issue of child trafficking for sexual purposes since the last Congress in 2001. In practice, as the last Congress occurred shortly after the UN's adoption of both the Optional Protocol to the CRC<sup>2</sup> (May 2000) and the UN Trafficking Protocol<sup>3</sup> (November 2000), the paper will review the period 2000 to 2008.

While the author will try to assess whether there is evidence of significant changes in patterns of child trafficking for sexual purposes, the main focus of the paper will be on responses, i.e., responses by States, intergovernmental Organisations (IGOs) and non-governmental organisations (NGOs). As relatively large amounts of money have been invested since 2001 in attempts to stop human trafficking in general (at least US\$500 million by the government of one State alone, the United States), the implicit questions throughout will be:

- Has the money been put to good use?
- Have we learnt what techniques are effective to stop child trafficking and to enable trafficking children to recover? Or conversely, have we learnt what techniques do not work effectively?
- What should we be doing differently?

#### Definition of trafficking in children

As the UN Trafficking Protocol subsumes the issue of child trafficking for sexual purposes within the wider issue of trafficking in both adults and children for any purposes (i.e., in addition to sexual exploitation and the exploitation of the prostitution of others, for the purpose of "forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs") and presents a definition of trafficking in children which is different to the definition of trafficking in adults, what are the implications? Is it helpful to consider every case of a child subjected to commercial sexual exploitation as a case of trafficking? Or do the cases of most trafficked children have singular characteristics, in that they are moved from an environment with which they are familiar and where they have some idea where to turn for help, to one in which they are deprived of their usual support systems and are therefore exceptionally vulnerable to harm.

The paper will argue that, although under the terms of the UN Trafficking Protocol's definition, child trafficking is the act of "recruitment, transportation, transfer, harbouring or

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<sup>1</sup> Commissioned by ECPAT International

<sup>2</sup> Optional Protocol to the Convention on the Rights of the Child on Sale of Children, Child Prostitution and Child. Entered into force on 18 January 2002.

<sup>3</sup> UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. Entered into force on 26 December 2003.

receipt” of a child “for the purpose of exploitation, regardless of the use of illicit means, either within or outside a country”, in practice it is helpful to distinguish between children who are exploited while living at or near home from those who are moved some distance to be exploited, as a series of specific techniques are required to identify and protect such children, as well as to prevent their recruitment in the first place.

The impact of the two UN protocols will be reviewed to see whether all States now mean the same thing when they say someone has been ‘trafficked’ or refer to a child as a ‘victim of trafficking’. A general observation is that they do not, that some States use the terms to refer to all children who have been recruited for commercial sexual exploitation, while others use the term very widely to refer to children who have been subjected both to the forms of exploitation specified in the UN trafficking Protocol and to children recruited into other forms of child labour.

Attention will be paid to the status of young adults who have been trafficked while still children.

### **Issues concerning Law Enforcement**

The plethora of new laws which have been adopted on the topic of trafficking need some comment, notably that in some regions they do not reflect the definition of child trafficking adopted in the UN Trafficking Protocol, but rather suggest that children, like adults, must have been subjected to some abusive means of control during their recruitment to be considered as ‘trafficked’. The paper will also question whether laws which simply repeat the wording of international treaties, such as the UN Trafficking Protocol, without being adapted to confront the specific cases which are reported to occur in the country concerned, can really be implemented by law enforcement officials.

The substantial investment in specialist training and the development of child friendly procedures also requires comment, together with the question of whether there is evidence that this has been followed by an increase in the number of trafficking cases detected or prosecuted. Whatever evidence is available about rates of detection and prosecution of cases of children trafficked for sexual purposes will be reviewed and the question asked of what the obstacles appear to be to increasing these rates.

### **Issues concerning Prevention**

Two main preventive techniques are reported to have been used: 1) giving information to children or their parents about the risk of being trafficking, which sometimes seeks to deter children from leaving home or migrating in general; 2) intercepting children who are travelling from one place to another. Although the second technique is a protection measure, it may be more appropriate to consider it in a section on prevention, as it seems to be viewed as a legitimate technique to prevent migrating children from being subjected to sexual exploitation when they reach their destination.

The paper will discuss these two techniques and question some of the assumptions behind them and also look at the benefits of some broader approaches to prevention, particularly ones which involves strengthening child protection systems and improving the capacity of services to identify children who are most likely to be trafficked. While criticising interceptions which are based on crude profiles of likely trafficking victims, it will also mention how police intelligence has been used to develop more sophisticated profiling, as well as how children who might be victims of traffickers have been identified while travelling through border posts so that measures can be taken to check up on them subsequently.

It will also mention and comment on two other high profile techniques, again questioning whether they are appropriate in the way they have been used. The first concerns high level publicity about the risk that young people will be trafficked, either in the context of natural disasters or at major sporting events. It will question whether it is wise to, 'Cry wolf', when there is little evidence that trafficking has occurred in similar situations in the past. The second concerns the US Trafficking in Persons (TIP) report, the publication of which is described by the head of the US anti-TIP office as a preventive exercise, 'naming and shaming' governments for taking inadequate action against trafficking. It will suggest that this had a marked effect in the first years of its publication, but that, for several reasons, the positive effect has worn off and that the report now risks presenting over simplistic versions both of what is being done and what needs to be done.

### **Issue concerning protection, care and assistance**

There appear to be major obstacles to **identifying** children trafficked for sexual purposes. Some effort will be made to try and identify these.

Furthermore, in one particular region, Europe, children who have been identified and intercepted, either as likely victims of traffickers or as possible victims of other abuse, are reported to leave the residential care homes to which they are sent, in considerable numbers. Some comments will be made on the steps being taken to address this.

If adequate evidence is available on cases which have reached court, some comments may be justified on the lack of progress in delivering justice to trafficked children, notably providing them with remedies such as compensation or damages.

On the issues of care and assistance, it will be appropriate to review the various international standards that have been adopted (such as UNICEF's Guidelines on the Protection of Child Victims of Trafficking) and efforts to bring about the implementation of either of these guidelines, for example, in South East Europe and South East Asia, or similar standards at the national level, such as minimum care standards. Various aspects of the Guidelines should be mentioned (such as the appointment of temporary guardians), along with the evidence of the lack of enthusiasm by the State to implement such guidelines.

Two particular issues seem appropriate to highlight. Firstly, the state of knowledge and lessons learnt about what constitutes a successful case of assistance and recovery. Secondly, concerning procedures surrounding repatriation: the inadequacy of procedures for reaching a decision that is in the 'best interests' of the child; the lack of proper risk assessment; the lack of emphasis on ensuring that returns are voluntary and assisted; particular reference could be made to the Regional Conference on Migration (RCM), Regional Guidelines for Special Protection in Cases of the Repatriation of Child Victims of Trafficking (adopted in April 2007) and to the UN Committee on the Rights of the Child's General Comment No. 6, 'Treatment of unaccompanied and separated children outside their country of origin' (2005).<sup>4</sup>

### **Efforts to improve coordination of anti-trafficking initiatives at the national and local levels**

There are various overlapping or conflicting frameworks within which coordination can be organised at the national level: both coordination of general initiatives to stop child trafficking and specific referrals of individual children. The paper will comment on the possible lack of

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<sup>4</sup> Adopted during the Committee's 39th session, 17 May to 3 June 2005. General Comment No. 6 can be found at: <http://www.ohchr.org/english/bodies/crc/docs/GC6.pdf>

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coherence when several separate coordination mechanisms are set up on overlapping issues, such as 'sexual exploitation of children', 'child trafficking', 'trafficking in persons' and 'worst forms of child labour', particularly if the separate mechanisms are coordinated by different ministries. As coordination sometimes occurs within the framework of national plans of action (NPAs), the same question will be asked about NPAs.

It will also look at the pros and cons of adopting special coordination or referral mechanisms for children who have been trafficked, rather than ones which handle cases of both children and adults who have been trafficked.

It will ask whether any evidence is available for considering that a particular model for national-level coordination is best or most appropriate in particular circumstances and what needs to be done to rationalise a multitude of overlapping coordination structures.

It is also important to look at how coordination is ensured at the local level and the role of either 'community-based child protection networks' or 'multi-disciplinary teams', both in relation to prevention measures and the organisation of protection, care and assistance.

The paper will comment that the gaps between separate parts of the child protection net still seem dangerously large, along with the fact that training and expertise in a national level unit specialising on the issue of child trafficking or sexual exploitation of children frequently does not seep down to the local level, resulting in unsatisfactory procedures being followed at the operational level.

### **The impact of efforts to improve bilateral cooperation and coordination between States**

Some examples of bilateral agreements concerning either trafficked persons in general (e.g. Cambodia and Thailand) or trafficked children in particular (e.g. Albania-Greece or Mali-Côte d'Ivoire) will be cited. The particular circumstances in which good cooperation between States is required will be pointed out (e.g., law enforcement cooperation concerning investigations and prosecutions; family tracing and risk assessment; and repatriation). An effort will be made to identify the obstacles (of which there appear to be many, though the author is not sure what to comment on, beyond the lack of political will). Is the only solution to opt for endless bilateral agreements?

### **International Cooperation**

The paper will note that the amounts of money invested in efforts to stop trafficking since 2001 are reported to be larger than during the previous decade and suggest that the results have not been as impressive as it might be reasonable to expect from the levels of investment. It will ask why this is and whether anything can be done to ensure more effective use of funds provided by international cooperation.

It will comment that donors are reported to have become wary of prevention programmes, the effects of which are not measurable. Unfortunately, the way in which some donors have chosen to deal with this is to call for each programme to indicate the number of children whose trafficking which will be prevented, which appears naïve or unrealistic.

### **The impact of efforts by the private sector to stop child trafficking**

Once again, the question is whether the measures that have been taken, in this case by the private sector, have been relevant or effective in reducing cases of child trafficking for sexual purposes. There is evidence that prominent businesses that are concerned about their image with investors and with the general public, which have adopted and monitored codes (e.g., against child labour and forced labour), while enterprises operating in the informal economy, often on edge of the law or just outside it, have not been influenced by these measures. Are there examples of effective action being taken at this level?

While action by the hotel and tourism sector largely belongs to other thematic papers, the paper will look specifically at the experience of the transport sector, notably to see whether companies involved in transportation or their employees can identify children who are being trafficked from other children on the move for relatively legitimate reasons.

### Comments on the use (and abuse) of the term ‘good practices’

It sometimes seems that every initiative to prevent children from being trafficked has been termed a ‘good’ or ‘best practice’ by the organisation behind it. Some comments are needed on when the term should or should not be used and the need for a procedure involving more specialist organisations to consult each other about what constitutes a ‘good practice’. This in turn raises the issue of the lack of coordination and collaboration between various intergovernmental organisations which run programmes concerning child trafficking or trafficking in persons more widely. This issue could be raised earlier, in the section on international cooperation. Without wanting to point the finger directly at UNICEF and ILO IPEC (the International Labour Office’s International Programme for the Elimination of Child Labour), which appear to have been rather unsuccessful in their attempts to coordinate their efforts against child trafficking, it seems appropriate to question why the UN has not made more attempts to promote cooperation and reduce competition between its specialised agencies on the issues of both child trafficking and human trafficking.

## DRAFT OUTLINE OF CONTENTS

	Section title	Summary of proposed contents
1	Patterns of child trafficking for sexual purposes and changes reported since 2001	<ul style="list-style-type: none"> <li>• Continuation of trafficking of children specifically for commercial sexual exploitation and the close link between sexual exploitation and the recruitment of children for other exploitative purposes (e.g., children recruited for domestic work who run away from employers and resort to prostitution as a survival strategy).</li> <li>• Information about trafficking for sexual exploitation is almost exclusively about girls; patterns of adolescent boys migrating and earning money from commercial sex, without being trafficked</li> <li>• Notable geographical patterns (e.g., reduction reported in numbers trafficked from other countries to parts of Southeast Europe, where peacekeepers are deployed and corresponding refocus on internal trafficking).</li> <li>• Possible increases in numbers of u-18s migrating – not trafficked, but some coming under the control of traffickers after travelling and others resorting to commercial sex as a survival strategy.</li> </ul>
2	Developments relating to the adoption of the UN Trafficking Protocol (2000)	<ul style="list-style-type: none"> <li>• Entry into force of the UN Trafficking Protocol.</li> <li>• Definitional issues: is every case of recruitment for commercial sexual exploitation one of trafficking, or does trafficking chiefly concern children who are moved from one place to another to be exploited?</li> <li>• Numerous anti-trafficking initiatives supported by UN agencies or the US Government, but, despite Protocol’s focus on ‘especially</li> </ul>

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		<p>women and children', many initiatives fail to take the specific rights and needs of children into account.</p> <ul style="list-style-type: none"> <li>• Some confusion about which initiatives should be child-specific and which should relate to trafficking in persons more generally.</li> <li>• Adoption of UN High Commissioner for Human Rights's Recommended Principles and Guidelines (2002) and UNICEF's Guidelines on the Protection of the Rights of Child Victims of Trafficking (2003).</li> </ul>
3	Law enforcement	<ul style="list-style-type: none"> <li>• Many new laws on trafficking adopted, with specifics of child trafficking reflected in different ways.</li> <li>• Development of appropriate expertise among law enforcement officials, including forensic interviewing.</li> <li>• Related legal reforms concerning police and prosecution procedures that are more child- or victim-friendly.</li> <li>• Evidence on arrests and prosecutions for child trafficking, when many prosecutions focus on different offences.</li> <li>• Emphasis in US anti-trafficking policy on the number of prosecutions and side-effects of this emphasis.</li> <li>• Existing child protection procedures sometimes become part of the problem and are exploited by traffickers. In Europe, large numbers of unaccompanied children walk out of temporary accommodation and go 'missing'.</li> </ul>
4	Efforts to prevent children from being trafficked	<ul style="list-style-type: none"> <li>• Initial focus on giving children information about trafficking and the risks they face if they travel.</li> <li>• Perceived benefits of a variety of other techniques, such as life skills education, schemes to address shortfalls in income of households where a child is assessed as being at risk of being trafficked, and advice of precautions for adolescent migrants to take.</li> <li>• Confusion about objectives: stopping children from being mobile versus stopping children being trafficked/exploited.</li> <li>• Lack of adequate consultation with children who have already been trafficked – to learn about factors that led them to be trafficked and which could be addressed by anti-trafficking programmes.</li> <li>• Dual focus on 'supply' and 'demand' factors (in area of origin/destinations) and reasons for the lack of integrated approach (involving places of origin, transit and destination). Impact of efforts to address 'demand'.</li> <li>• Impact of anti-trafficking campaigns not based on evidence (e.g., substantially exaggerating numbers involved).</li> <li>• US TIP report as a prevention initiative: i.e., 'name and shame'.</li> </ul>
5	Efforts to protect children who have been trafficked	<ul style="list-style-type: none"> <li>• When interceptions are appropriate and effective.</li> <li>• Priority in some regions (e.g. W Africa) to intercepting mobile children, with correspondingly little action to detect children already being subjected to sexual exploitation.</li> <li>• Effective identification: obstacles to coordinating law enforcement interviews with child victims of crime and appropriate protection techniques; lack of widely shared standards for identification.</li> <li>• Lack of progress in delivering justice to trafficked children, notably forms of remediation such as compensation or damages.</li> </ul>
6	Care and assistance for trafficked children	<ul style="list-style-type: none"> <li>• State of development of standards for care and assistance at international and national levels. UNICEF Guidelines in SE Europe and SE Asia.</li> <li>• Lack of certainty about what constitutes 'successful recovery'.</li> <li>• Progress concerning specific techniques (e.g., semi-independent living arrangements and lessons learnt concerning vocational training).</li> <li>• Procedures surrounding repatriation: inadequacy of procedures for reaching a decision that is in the 'best interests' of the child;</li> </ul>

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		lack of proper risk assessment or guarantees that returns are voluntary and assisted; Regional Conference on Migration (RCM), Regional Guidelines for Special Protection in Cases of the Repatriation of Child Victims of Trafficking (April 2007).
7	Coordination at the national level of anti-trafficking initiatives	<ul style="list-style-type: none"> <li>• Development of national-level coordination or referral mechanisms to manage responses to trafficking cases, with uncertainty about whether these should relate to both adults and children, or whether there should be a separate initiative relating to children.</li> <li>• Role of 'multi-disciplinary teams' or local coordination, both in prevention and organisation of protection measures.</li> <li>• How huge gaps remain.</li> </ul>
8	Bilateral and international cooperation	<ul style="list-style-type: none"> <li>• Progress in sharing intelligence and evidence for investigations and prosecutions</li> <li>• Continuing problems with inconsistency of use of terms, including 'child trafficking' and 'victims of trafficking'.</li> <li>• Impact, from 2001 onwards, of donors making large amounts of money available for anti-trafficking initiatives (particularly the US Government).</li> <li>• More recent signs of donor fatigue (possibly due to lack of tangible results) and priorities for donors in the future.</li> </ul>
9	The role of corporate social responsibility in stopping child trafficking	<ul style="list-style-type: none"> <li>• Codes relating to child labour, forced labour and trafficking and disconnect between efforts of large corporations to enforce these and enterprises operating in the informal economy or at the lower end of a supply chain.</li> <li>• Progress in the transport sector, relating to identification and interception.</li> </ul>
10	Identifying 'good practice'	<ul style="list-style-type: none"> <li>• Frequency with which the term 'good practice' is invoked, despite the lack of wide discussion about the suitability of intervention techniques.</li> <li>• Need for wide agreement on procedures for agreeing good practice.</li> </ul>
11	Recommendations	