



Submission by Terre des Hommes for the Destination Unknown campaign to the joint General Comment on the human rights of children in the context of international migration

*This contribution is based on a series of bridging papers which are outputs of the **Civil Society Days of the Global Forum on Migration and Development** (Istanbul, Turkey, 12th and 13th October 2015). This input is articulated around key cross-cutting issues which may affect a number of different categories of children in the context of international migration.¹*

Introduction

Children in the context of international migration face a situation of double vulnerability, both as children and as migrants, putting them at risk of grave human rights violations. Whether they are travelling alone or with their families, they are born to migrant parents or remaining in countries of origin, they may be subjected to the following violations: discrimination based on their or their parents' status; trafficking; sale; worst forms of child labour; non-registration at birth; statelessness; arbitrary detention and deportation; violence, including sexual violence and torture; family separation; limited access to services, protection and justice; and disregard of their best interests and their right to life, survival and development.

Yet these children are entitled to comprehensive protection through the large body of international law. While States have the power to control their borders and develop migration policies, they have the duty to respect these children's rights through a range of treaties under international human rights law, humanitarian law, refugee law, labour law, maritime law as well as regional treaties, regardless of their migratory status. Migrant children should, in fact, be at an advantage compared to adults, as the UN Convention on the Rights of the Child (CRC) not only provides them with additional rights, but its near universal ratification entitles them to protection in 196 States parties.

Interpreting human rights treaties into legislation and policies

While it is incumbent upon the State to interpret the CRC with regards to migrant children into national laws or policies, States are often reluctant to grant them full protection, as it can be politically unpopular. Even States with comprehensive child protection systems rarely provide the same protection to all children within their jurisdiction, especially those with an irregular status.

The legal framework of the CRC has provided a basis to amend laws, develop policies or issue judgements with regards to migrant children. These include laws or policies related to nationality and statelessness, access to healthcare and education, determining the best interests of the child in decisions regarding family reunification, providing alternatives to detention and granting more comprehensive protection to unaccompanied children. Others have been linked to special protection measures, such as combating the illicit transfer and non-return of children, preventing their sale and trafficking and protecting them from economic exploitation and hazardous work as well as sexual exploitation and abuse.

Despite addressing key issues affecting migrant children, these measures are often fragmented. To maximise the impact of this framework, States must address the double deficit in legislation and policies which increase these children's vulnerability: child protection laws and public social policies do not sufficiently take into account the specific needs and vulnerabilities of migrant children, or

¹ The original bridging papers can be found at <http://destination-unknown.org/child-rights-bridging-papers/>.



specifically exclude them, and migration laws and policies do not have a child-rights perspective. These laws and policies may be contradictory, making it difficult for professionals working with migrant children to find the right balance.

Meanwhile, the Convention on the Rights of Migrant Workers and Members of their Families, cannot be applied in many destination countries² (especially in Europe), as they have not ratified the treaty. However, many of the provisions of this Convention can be found in other UN human rights treaties, so these should be used to strengthen migrant children's protection, especially for the one State which has not ratified the CRC and is a destination country for millions of migrant children from Latin America.

The gender dimension of child migration

Migrant girls should in principal benefit from better protection than boys, as they are covered by more treaties. Girls have additional rights with regards to their gender under the Convention to End Discrimination against Women (CEDAW). Furthermore, it is also nearly universally ratified, with 190 States parties. CEDAW builds on a number of rights enshrined in the CRC to reinforce the elements relevant to discrimination based on gender, including ones relevant to trafficking, exploitation and prostitution, equal right to education, employment and health. Together with the CRC, these treaties provide the standards for both a gender and child perspective in migration laws and policies.

However, gender-based discrimination, which is often amongst the reasons for migration, frequently remains or is exacerbated throughout the migration process and in countries of destination. Migrant girls often benefit of less coverage than women or boys, as the gender and age perspectives are rarely taken into account in migration laws and policies. For instance, independent female migrants may face obstacles in regular migration. In certain countries, especially in Asia, emigration restrictions on female migration have included a general ban on women migrating for work (with the exception of professionals), a ban for certain sectors (e.g. domestic workers) or age limits. The minimum age for male migration has often been the same as the national minimum working age, so boys over the age of 14 or 15 (in line with ILO Convention 138) can legally migrate for work. Meanwhile, female migration has often been characterised by a higher age limit, sometimes as high as 35, so girls or women below the minimum age can only migrate in an irregular way. These State policies contribute to greatly reducing their rights to migrate in a regular way and put them at risk of exploitation and abuse.

Using definitions that maximise protection

The States parties to the CRC should treat each child under their jurisdiction without discrimination of any kind, including migrant children. In practice, however, these children are not being defined and protected in line with the CRC or national laws and policies on child protection.

States should apply the refugee or humanitarian conventions to children who are fleeing conflicts, violence and other contexts in which their rights are violated. Amongst the children coming from Africa, the Middle East, Central Asia and Central America, many are fleeing conflicts (e.g. Syria, Iraq and Somalia), ongoing violence (e.g. Afghanistan, Honduras and Nigeria), discrimination based on ethnicity or religion (e.g. Myanmar), political repression (e.g. Eritrea) or poverty (e.g. Bangladesh).

Regardless of whether they are recognised as refugees, asylum-seekers or migrants, these children must be considered first and foremost as persons in need of protection.

² In Europe but also other regions such as in the Middle East and as this treaty is ratified by countries of origin but not by countries of destination



With the exception of certain States, many choose to recognise the narrowest definition of the 1951 Convention relating to the Status of Refugees, which focuses on “a well-founded fear of being persecuted.” Victims of general untargeted violence, conflicts and other disasters are not considered to be persecuted. The use of narrow definitions is a way of escaping responsibility and can be politically popular in destination countries. While the principle of non-refoulement can be applied to stranded children to avoid being sent back to their countries of origin if their lives are at risk, they can end up in legal limbo and be denied protective status.

To respond adequately to a situation, it is essential to have agreed definitions of some of the most vulnerable migrants in order to identify their needs. For instance, a ‘stranded migrant’ can come from any country and be stranded at any point of the migratory movement. They may not be able to move due to a humanitarian situation (e.g. violence, civil unrest, war or natural disaster) or a state-driven situation (e.g. immigration policies, detention or discrimination). While any migrant can be stranded, including regular and documented ones, most of them have an irregular status and/or are undocumented, including many asylum-seekers and victims of trafficking or smuggling.

Regardless of how they are defined, at times of humanitarian crises, restrictive migration policies should not be scaled up. Instead, they should be replaced by measures used for humanitarian crises and the right to life and survival and the best interests of the child should be primary considerations in any decision regarding children, especially those stranded in distress.

Data collection and analysis

Existing data on migrants are fragmented, incomplete and insufficiently disaggregated. Migration policies are often developed with regards to young men, despite the fact that female migration now accounts for nearly 50 percent and children are a growing proportion. This poses serious problems for developing policies or emergency responses.

The unprecedented scale of migration crises in 2015 were marked by a much higher proportion of children amongst the migrants. Existing statistics, despite providing a fragmented and incomplete picture, showed a significant increase in the number of children, including stranded in transit, at borders or in detention. The lack of accurate and disaggregated data on migrant children, reflects the overall absence of a child rights approach in migration. Without disaggregated data, it is difficult to assess whether children are accompanied, unaccompanied, trafficked, etc., as they are invisible. There is also limited data on the sectors in which children (especially girls) often end up working, as many of these sectors are unregulated, invisible (e.g. domestic work), informal (e.g. agriculture, cleaning services or textile industry) or in activities which may be deemed criminal or against public order (e.g. prostitution). There is also limited data on migrant children in detention or who are stranded. By being statistically invisible and with an often irregular migratory status, this puts children at greater risk.

Even when data is collected, there is no centralised database for States, international organisations, NGOs, diaspora groups and others to share information and facilitate cooperation. This issue has been raised by UN mechanisms, such as UPR with regards to trafficking women and children as well as sexual exploitation of migrant women and girls. For migrant children in irregular situations, neither they nor their families may want their presence to be known by the authorities.

Robust and disaggregated data is also an essential component of the Sustainable Development Goals (SDGs), including the ones relevant to migrant children. Mainstream surveys, which generally extract data from households, do not capture the reality of these children, as they often live in places which are not covered by these surveys, such as refugee camps, institutions and places of detention. The absence of comprehensive information about migrants make it challenging to have public and policy



debates based on objective facts and figures. This data is, therefore, crucial to identify and reach children on the margins of society, as is often the case of children in the context of migration.

Coordinated monitoring and advocacy

While civil society organisations (CSOs) have advocated and influenced recommendations on children in the context of international migration, this has often not been done in a coordinated manner. This may be due to limited resources, but also a lack of awareness or capacity to cover all relevant mechanisms. For instance, child rights NGOs often focus on the CRC, women's rights on CEDAW and migrants rights on CMW. However, if they are advocating for the rights of migrant girls, they should target all three to maximise their impact. Meanwhile, organisations with a narrow thematic focus might successfully advocate for their issue with a range of mechanisms, but do it in isolation. This fragmented approach may lead to certain issues relevant to children in the context of international migration being left out despite their importance for the children in question. Coordination of advocacy efforts is also needed to increase the implementation of treaty body recommendations at national level, as this is what will have a real impact on the children concerned.

Coordination amongst civil society, but also with intergovernmental organisations is key, not only to raising these issues in different forums, but also in advocating or supporting States in fulfilling their obligations towards these children.

Under an informal leadership of the International Detention Coalition, PICUM and Terre des Hommes, civil society organisations have shown unity in addressing key issues relating to the rights of children in the context of migration at the Global Level with a special focus on the Global Forum on Migration and Development. Led by the International Detention Coalition, the Inter-Agency Working Group on Ending Child Immigration Detention is an example of bringing together agencies. The Inter-Agency Working Group on Children on the Move is another good example. It brings together agencies working for the protection and support of children involved in or affected by migratory situations and includes the African Movement of Working Children and Youths, ILO, IOM, Environmental Development Action in the Third World, the Oak Foundation, Plan International, Save the Children, Terre des Hommes, UNICEF and UNHCR. The Group focuses its joint efforts in research and evidence building and regional and global advocacy. One of the most visible and comprehensive campaigns on children on the move initiated by civil society has been the *Destination Unknown* campaign (www.destination-unknown.org) coordinated by Terre des Hommes.

Diaspora and migrant organisations: advancing the rights of children

Diaspora and migrant organisations should also be and meaningfully involved in design, implementation and evaluation of policies affecting them.

Amongst the many organisations involved in advocacy and awareness-raising, there are diaspora and migrant organisations. Some of them have used UN human rights mechanisms or bodies such as the Committee on the Rights of the Child, the Universal Periodic Review or the Human Rights Council, sometimes with a very strong political agenda. Diaspora organisations, especially from countries where civil society cannot operate freely (e.g. DPRK, Eritrea and Turkmenistan), have sent information on the child rights situation. Similarly, these mechanisms have also been used to advocate for issues affecting migrant children in transit and countries of destination and residence. Certain diaspora or migrant associations focus on child rights issues, such as gender-based discrimination, early and forced marriage, witchcraft and female genital mutilation. Meanwhile, others are strong advocates for migrants' rights in countries of destination and residence, focusing on issue of discrimination and xenophobia; girls' rights; access to services, including for irregular migrants; citizenship; ending



arbitrary detention and other deterrent migration laws and policies. However, as for other NGOs, there is a need for stronger coordination amongst lobby groups.

The right to life and survival

At any point during the migratory process, a child's right to life and survival may be at stake, including due to violence of criminal gangs, push-back or interception operations, excessive use of force of border authorities, refusal of vessels to rescue them and extreme conditions of travel. The lack of regular channels for children and families to migrate also contributes to children taking dangerous migration journeys, and results in many cases in death or death. Yet the right to life is the cornerstone right of international human rights, humanitarian and refugee law. In the States parties to the CRC, every child has the inherent right to life and to the maximum extent possible to survival and development, irrespective of the child's status. In the case of migrants stranded at sea, the maritime treaties, namely the International Convention for the Safety of Life at Sea (SOLAS) and the United Nations Convention on the Law of the Sea (UNCLOS) should be applied to provide assistance swiftly to persons in distress.

Despite States' legal obligations and knowledge of crisis situations, migrant children are increasingly finding themselves stranded in distress. In the South-East Asian migrant boat crisis, children faced serious overcrowding, contaminated water, violent clashes for limited supplies of food and water, as well as death from disease. While in the Mediterranean crisis, the deterrent migration policies and limited support threaten their right to life, survival and development. Meanwhile, the tens of thousands of children entering the USA, including around 50'000 unaccompanied children in one year, often find themselves stranded in transit countries or in detention upon arrival.

Migrants stranded in distress, including children, often have no access to adequate nutrition, clean water, healthcare (including psychosocial support) and accommodation. Not only are States failing to provide access to services and protect these children's rights, but in many cases, State policies expose them to further violations of their rights, such as in situations of detention and/or deportation. Repatriations to the country of origin, without any risk assessment exposes children to risks of irreparable harm, including the risk of trafficking, exploitation, recruitment and participation in hostilities or economic destitution.

Best interests of the child and right to be heard

Children have the right to have their best interests assessed and taken into account as a primary consideration in all actions or decisions concerning them. This fundamental right of the CRC is largely violated by States when it comes to migrant children. Even when children apply for asylum, and despite the work done by UNHCR and NGOs on the Best Interests Determination (BID) process, this right is far from guaranteed. Even in countries where legislation allows for case-by case assessment based on the best interests of the child, an insufficient number of professionals in charge know what it means and how to do it.

The registration process of foreign unaccompanied children should enable these children to provide information on what happened to them and assess their vulnerabilities and protection needs. However, when interviewed, children often lack the necessary information on their entitlements, services available, asylum process and family tracing. This information should be appropriate to their maturity and level of understanding and take into account any trauma they may have endured. The exchange should occur in a language that is well understood and spoken by the child. When being heard, they should be entitled to advice by a guardian/legal representative to ensure that the best solution will be found for them. However, this advice is often absent, increasing the likelihood of repatriation, even if these children would in principle be entitled to seek asylum or receive other



assistance. Thus for many of these unaccompanied children, especially adolescents, States apply general policies which prioritise border and migration control rather than child rights.

Children travelling with adults are unlikely to have their views heard in judicial or administrative settings (e.g. immigration or asylum proceedings), as they are considered part of the same family. They remain invisible, despite the fact that the decisions regarding adults are often inappropriate for children. All decisions, such as at border control, return decisions or the delivery of social services, should be made after consultation with the children in question. However, for migrant children, the States' priorities are rarely to find durable and long term solutions for them, but to find ways to get them off their territory.

The right to a name and nationality

The lack of official record of the existence of an estimated 51 million children born each year seriously limits the enjoyment of their rights in countries of origin, transit and destination. For the increasing number of migrant children, documentation is essential to help process their cases faster and in a way that respects their rights.

Unregistered children do not have a legal identity and protection of their rights, including a nationality, access to services (e.g. education and health) and to other safeguards. Unregistered status of children can be caused by formal or informal requirements that tie birth registration to the residency status of the parents and/or unreasonable administrative and financial burdens associated with birth registration. As a result, they have fewer opportunities, are more likely to be marginalised in their country of origin, and if they decide to migrate, they are exposed to more risks. Without birth registration, any international migration is irregular, increasing the risk of being trafficked, smuggled, exploited or dying during the migratory journey.

Undocumented children are frequently subjected to punitive measures for irregular immigration, whether unaccompanied or with their parents or other caregivers. They may be detained, deported or subjected to inappropriate age determination techniques, and treated as adults when their age is in dispute. There have been numerous cases in transit countries, where children were registered as adults to avoid any responsibility towards them as children.

Children born to migrant parents

With the rise in international migration, especially of women, there is a growing number of children with no legal link to a State. In 2014, 27 States limited women's ability to pass on nationality to their children. Women left behind may not be able to transmit nationality to their children due to such laws. However, even if they can transmit nationality, they often need the documentation of both parents to obtain a birth certificate for their child. If men migrate with their documentation, this may block the official registration of the children and prevent them from obtaining the nationality they are legally entitled to.

Children born to migrant women in transit and destination countries face even higher risks of statelessness. There have been numerous documented cases of women from Sub-Saharan Africa arriving pregnant, including women who were raped along the journey. Many of the children born in transit countries are not registered at birth either with the Embassies of the country of origin or the local authorities. This may be due to a lack of knowledge of the process, the consular services being limited or inexistent, or the mother being undocumented or having an irregular status, therefore not wanting to draw attention to herself.

Children born to migrant mothers with an irregular migratory status may not be registered in countries of destination due to legal and administrative barriers. Fear and risk of being deported is also a major



barrier, even if they might be entitled to nationality through 'right of the soil'. These children are treated as 'irregular migrants', with limited rights, even though they have never moved anywhere and consider their country of residence their home. Limited possibilities to regularize their status mean these children and young people can reside undocumented for their entire childhood and beyond.

They may end up stateless, limiting amongst other things their access to services. If they are deported to the mother's country of origin, they may not be considered a citizen of that country either, especially if the mother cannot transmit nationality to her child.

Access to services: education and health care

Children in the context of migration face numerous barriers to education, such as the need to work to support their family and discriminatory refusal of registration. Undocumented children are at times denied the full enjoyment of the right to education, with restricted access to certification, internships, vocational training, and non-compulsory education, among others.

Although parental migration can improve children's access to health care services in countries of origin, they may be less likely to access preventive care and face emotional trauma due to family separation. Entitlements to health care for migrant children in countries of destination vary considerably and are often insufficient. Practical barriers such as lack of clarity in the rules, discretionary refusal of treatment, and complex and bureaucratic procedures render many migrant children, particularly undocumented children, unable to access their right to the enjoyment of the highest attainable standard of health.

Living conditions

Access to housing for children in the context of migration is highly problematic, also impacting children's access to other social rights, such as education and health care. Children 'left behind' in countries of origin may be at risk of experiencing poor housing conditions if they do not receive remittances. In countries of destination, State housing and social support provisions for unaccompanied children often do not adequately protect children's rights. Further, housing support is highly restricted for migrant families and inaccessible for undocumented children or children with regular status with an undocumented primary caregiver, except in emergency situations. Even this support is problematic, due to, inter alia, a shortage of places, reporting obligations, and the living conditions themselves. Measures that criminalise renting to undocumented migrants exacerbate their housing exclusion. Many undocumented children have insecure, substandard housing, being obliged to move frequently. Migrant families usually have restricted or no access to any state benefits, and may have limited access to the labour market. As a result, they have no financial resources and often live in poverty and social exclusion. In some countries, they are also excluded from accessing support from charities or other local structures providing support to families living in poverty.

Access to protection and justice

When reporting violence, abuse or exploitation to police or other relevant authorities, undocumented migrants regularly face immigration enforcement rather than protection, support services and access to redress mechanisms. There are documented cases in which migrant women who have telephoned the police when under attack in their home, or visited a police station to report a previous attack have been promptly arrested and deported without any action being taken against the abuser. The lack of access to justice and services for survivors of violence make undocumented women, often mothers, vulnerable to violence and exploitation in the home and workplace settings, and can trap them in such situations of violence. Where access to refuge accommodation is dependent on access to welfare benefits then undocumented victims of abuse are unable to move to safe accommodation. Women



and children frequently become undocumented as a result of domestic abuse, because their status is dependent on the perpetrator.

The use of detention

There is no comprehensive data on the number of migrant children detained for immigration purposes. Evidence shows that they are exposed to deplorable living conditions, inadequate nutrition, overcrowding, lack of healthcare, physical and sexual violence, and in some cases torture. They might be pushed to join armed forces or criminal gangs as the only way out of detention.

The Committee on the Rights of the Child has clearly stated that immigration detention of children is always a child rights violation, and is never in a child's best interests. An increasing number of human rights bodies as well as regional institutions have all recommended ending the immigration detention of children. However, with the rise in the criminalisation of irregular entry or stay, children are being systematically detained in certain countries.

Children who should be entitled to care arrangements may end up in detention after crossing an international border. In cases of migrant children with their families, States often justify their detention by claiming to be preserving family unity despite the short and long term negative impacts of detention on children. To uphold the principle of family unity, States should provide alternatives to detention for the family in the community, which are not punitive or disciplinary in nature. The wide range of existing alternative measures should replace detention, such as those set out in the Child-Sensitive Community Assessment and Placement model.

The gender dimension of child migration

There is always a gender dimension in migration, whether women and girls have migrated themselves or remained in their countries of origin. While the feminisation of migration is increasingly acknowledged, including by policy-makers, the gender perspective has yet to be translated into policies aimed at women and girls in the context of international migration.

In addition to the double deficit in legislation and policies, which affect migrant children, migrant girls also have to contend with challenges, risks and vulnerabilities specific to their gender. Migrant girls can, therefore, be considered to face a triple deficit based on their migratory status, age and gender, putting them at greater risks of violations of their rights.

Girls are increasingly migrating independently. In addition to migrating in search of better opportunities (e.g. education and work), to send remittances or to join their husband or parents, they may also migrate to escape violations of their rights in their countries of origin. These include gender discrimination, limiting gender norms, pressure to marry (early and/ or forced marriage) or sexual or other forms of violence and abuse.

Female migration undeniably raises opportunities and challenges. On the one hand, it can provide greater independence, freedom and self-confidence and enhance their status, which contribute to empowering them and advancing gender equality. Yet the personal costs can be high. The gender-based discrimination, which is often amongst the root causes for migration, frequently remains or is exacerbated throughout the migration process and in the countries of destination.

Gender-related vulnerabilities during the migration process

Discrimination based on gender is present to various degrees in countries of origin and destination, as well as during migratory journey. The constraints of gender norms, such as gender-specific roles defined in the family, community and the broader society have different impacts on the ways girls and boys migrate, such as the more discriminatory migratory policies often limiting regular migration



channels for girls. Gender inequalities, including violence, can be a root cause for migration and a violation of their rights during the migratory process.

The opportunities open to girls to migrate are more likely to be in vulnerable labour sectors or as dependents of male migrants. Girls may also have less access to information about the risks of migration, especially if unaccompanied, and resort to migration through smuggling and trafficking, exposing them to violence and abuse during the journey and in the country of destination, as well as high debts if they borrowed money to pay smugglers and an obligation to repay their debt over long periods of time.

More exploitative working conditions and limited labour rights for girls

Migrant girls face significant obstacles in the labour market. They are often confined to limited, low-skilled and badly remunerated jobs, including in the domestic and care sector, hotel and catering services, agriculture, sweatshops and other assembly lines as well as the entertainment and sex industry. These jobs are rarely in the formal sector and/or it can be difficult to acquire a work permit and regular status. Furthermore, they are often associated with poor working conditions, limited labour rights, withheld wages, insecurity, exploitation and risks of violence and sexual harassment and abuse.

Many of these occupations may be excluded from legal definitions of work, thereby depriving them of a variety of legal protections. Working predominantly in largely unregulated occupations, girls are particularly vulnerable to exploitation and abuse by employers. For example, it may increase the risk of child labour, as girls may be employed from a young age in certain sectors, such as domestic work.

Given the nature of these jobs, girls have a lower prospect of migrating in a regular way and having a regular status in the country of destination. An irregular status not only means no legal protection, but they are more likely to accept adverse working conditions, fearing denunciation and deportation. Their migration may also have resulted from trafficking and/or smuggling, especially in cases where cultural constraints and gendered international emigration and immigration policies limit their ability to migrate. Often girls are not only at high risk of trafficking for sexual exploitation (including under false pretences of regular work), but they may be criminalised for working in this industry, despite being victims.

Right to family life - Using family reunification and unity as a punitive measure

While family reunification should be dealt with by a State in a “positive, humane and expeditious manner,”³ it is for the most part being dealt with in the opposite way, especially during migration and refugee crises. In addition to using the ‘preservation of family unity’ to detain children with their families, many destination countries are increasingly interpreting family reunification as taking place in the country of origin. This decision is often taken without considering their best interests and assessing the situation in the country of origin, thus disregarding their rights. Unaccompanied children are often sent back either to their country of origin or the nearest transit country, including as part of collective expulsions and without assessing the risks or attempting to trace or reunite them with their families. In some cases, they are sent to third countries, which may further reduce the possibility of reunification.

³Article 10(1) of the CRC



Even for regular migrants, family reunification in destination countries has become harder due to tougher new restrictions. As a result, children go through irregular channels to join their parents, putting them more at risk of travelling unaccompanied, having their rights violated and ending up stranded.

Children also risk family separation through detention, deportation and in child protection procedures, when children may be separated when not in their best interests, due to concerns around economic well-being rather than protection concerns, due to reluctance to provide social and economic protection support to migrant families.

The impact on children remaining in countries of origin

Despite the potential economic and social benefits of remittances, they come at a high personal cost for children left behind. Their families are scattered and they may grow up without seeing their parents, especially if the latter are not free to travel between the country of destination and country of origin.

Migration of a parent entails changes in the previous arrangements concerning the division of care and other domestic responsibilities within a household. Even if parents successfully arrive in the country of destination and find some employment, it can take a while to be in a position to send remittances. If they are successful, it can have a positive impact on the nutrition, health and education of children, but in the meantime children face greater responsibilities, such as dropping out of school to work or taking on more domestic chores. Furthermore, the financial precariousness of parents in irregular situations can result in them being unable to send money home. Worse still, some of them may die during the migratory process, depriving the children of their parents and hope for a better future.

Globally, despite migrant men generally getting better paid than women, female migrants send around the same amount of remittances. Women send higher proportions of their salaries, do it more regularly and over longer periods of time, which is beneficial for the family, but not the women themselves.

If men migrate, women back home often become heads of households, having control over the use of the remittances, with a notable impact on children's well-being and access to services. The migration of their husbands can, therefore, contribute to empowering them and improve their status. However, if the remittances are sent to a male relative, it may make them and their children more vulnerable to poverty and abuse.

Despite the positive impact of remittances on children, the absence of parents can lead to a more limited access to services, especially if they need their parents' documentation to obtain birth certificates or identity cards to register for school, healthcare or travel. In societies, where the mother is the main carer, the emotional impact of her absence may be greater, especially if children have been left behind with another carer (i.e. not the father). The impact on these children differs depending on the remaining caregiver and the kind of support the caregiver and children receive from the extended family and community. In certain cases, children are left on their own without care by any adults or under the care of adults too old and unable (i.e. grandparents) to look after them properly. Cases of neglect by caregivers are also reported and absent parents are blamed for youth problems such as delinquency, drugs and premarital sex.

The impact of migration regimes on family ties

Migration regimes have an impact not only on migrant workers, but also on their family. Beyond the remittances, a number of external factors influence the impact parents' migration on their children, visa and travel regime, employment conditions, access and use of ICTs, support given to the caregiver



back home by the extended family, community and governments. Other elements such as social protection against work accidents, health insurance, transaction and bank costs all impact the remittances received. The pressure to save money, the high cost of travel and difficulties in negotiating leave can force migrants to avoid going back to see their families. In certain circular migration programmes, travelling back is contractually excluded. In other countries, permanent or long-term residents lose the right of return if they spend more than six months or a year abroad regardless of the family reasons behind it. The situation is even more difficult for migrants residing irregularly, as they cannot travel freely.

Children left behind are sometimes reported to become increasingly quarrelsome and have difficulties developing healthy friendships with other children. In some cases, their grades get worse resulting in school dropout. They may end up seeing their parents only as sources of gifts and money, losing interest and initiative to work. However, evidence also shows that institutions, programmes and services developed by governments and other stakeholders can play an important role in supporting caregivers and promote the children's protection and welfare. The use of ICT to communicate on a regular basis, while it does not make up for the physical absence, it helps maintain family ties. Some emerging evidence shows that when there is enough support for the caregiver and child left behind, there are virtually no real differences between the health and well-being of children of migrant and children of non-migrant parents.

Labour rights of migrant children

When discussing labour rights of migrants, little attention is paid to children. Yet, children are directly affected, as many of them migrate in search of labour opportunities. In international law, the two ILO Conventions focus on the worst forms (Convention 182) and the minimum age (Convention 138). According to these conventions, a child over the age of 15 can legally work. As such, adolescents aged 15 to 18 are entitled to migrate and work, provided that they do not end up in the worst forms of child labour. Younger children however are *de jure* not entitled to work.

Lacking (adequate) schooling opportunities, in the absence of other personal development possibilities and experiencing strong economic pressure from the family, children may start working from an early age in their communities of origin. Later on, some of them may choose to migrate hoping for better labour conditions. Their recruitment into the labour market may be informally processed and once in a transit or destination country, the migrant child may find a job usually through relatives or other migrants. These children will often end up working in the informal labour market, including in services (i.e. domestic work), agriculture or industry (e.g. mining and textiles). The majority of child migrants in the informal labour sector is in the South. In the South-North context, the majority of children migrating for work are above the minimum age. However, the risk for the child to end up working in the informal market also remains high in the North, especially when the child is undocumented.

As many of these children work in the informal sector, they do not benefit from protection by labour inspectorates and labour laws. Neither do they benefit from specific labour units support. The advantages they perceive as labour migrants are different: they have their own income, live independently and have more opportunities to socialise with peers. Some of them succeed in supporting their families back home, while some girls use it to make their dowry. However, evidence shows that with regards to working hours, pay, exposure to hazardous work, exposure to violence, denial of food, exposure to bondage, living conditions and access to education, migrant children were worse off than local children. Furthermore, because of their age, they lack labour rights and the combination of age and nationality often exclude them from access to justice if their employers or others commit serious crimes against them.



Multi-stakeholder partnerships

By the very nature of the migratory movement, multi-stakeholder partnerships are essential in the context of international migration. These partnerships are important to mobilise and share knowledge, expertise, technologies and financial resources to fulfil the obligations under the human rights treaties and support the delivery of SDGs. The migration-related goals and targets concerning children in the context of migration have to be translated into national policies, and ensure their adequate resourcing and implementation. For instance, the Global Partnership to Prevent Violence against Children and an associated Fund will focus on target 16.2 which aims to end abuse, exploitation, trafficking and all forms of violence against and torture of children, which is particularly relevant to migrant children. However, in addition to the usual stakeholders which support children in the context of migration, there are major players which are often overlooked: migrant and diaspora associations. While many of them already advance children's rights in a number of ways, they are yet to think of their activities, or be considered by others, in these terms.

Engagement of diaspora and migrant associations

Diaspora associations are increasingly recognised as key actors in development largely due to the volume of remittances. In 2015, an estimated USD 454 billion, which is more than three times the Official Development Assistance and significantly higher than Foreign Direct Investment (except for China), were expected to be sent. In certain countries, the officially reported remittances account for more than 40% of the GDP. However, beyond the volume of remittances, the efficiency with which they are used should also be increasingly recognised. As the interventions of these associations tend to be organic and outside the confines of government and institutional structures, a higher proportion goes directly to the beneficiaries. In addition to their impact on poverty reduction and contributing to sustainable growth, remittances should be recognised for their impact on children's enjoyment of their rights.

While these associations are considered in a positive light for the impact of their remittances, creating jobs, providing services and building capacity, suspicion often remains between them and governments in their countries of origin and/or countries of destination and residence. They may provide emergency aid after natural disasters (e.g. the Indian Ocean tsunami and earthquakes in Haiti or Nepal) or in response to a conflict (e.g. Syria). There is also a growing number of youth diaspora networks (e.g. the African Diaspora Youth Network in Europe), which carry out activities to empower or support children or youth in the context of migration, advocate for their rights or facilitate youth exchange programmes. However, diaspora funding is also used to influence the political situation in countries of origin, including supporting a specific political party, armed group or civil society movement (e.g. Colombia, Cuba, Ireland, the Middle East, Somalia, Sri Lanka and Tibet), with the aim to bring about peace, nation-building or overthrow a repressive regime. However, funding has sometimes also been used to contribute to supporting one side in a conflict, including in rare cases ones which recruit child soldiers (e.g. Sri Lanka).

Service provision for migrant children

These associations also support their communities in countries of destination and residence through programmes directly targeting children of migrants and the diaspora, migrant children (including separated or unaccompanied ones) or children who have been trafficked, sold or exploited. The range of activities vary, including facilitating integration, supporting children to become successful in school, establish their own schools or community activities (e.g. cultural, communal kitchens). Others facilitate contact between families, including providing assistance in tracing families and family reunification.



This may involve working with the social services to provide a detailed country assessment for children and families, providing legal aid for case assessments, helping with translation and providing information to children, including victims of trafficking or exploitation.

Knowledge of the country of origin and country of destination and residence puts them in a strategic position to provide assistance tailored to the children's needs. However, despite the impact of their activities on the beneficiaries, they are often limited in scope due to available resources, the self-help nature and fragmented approach. In countries of destination and residence, stronger professionalism and coordination of services (without losing the self-help approach) between these associations and government services would provide more comprehensive child protection.

Capacity-building on child protection and support for children

Using their knowledge of both countries, certain associations provide training to policy-makers, specialised services or even migrant or diaspora families. For instance, they train senior policy-makers and practitioners in the country of origin on child protection and international human rights standards. Meanwhile, in countries of destination and residence, they establish training programmes, produce research for specialised services working with children from diaspora communities and migrant children. They also provide training to parents from migrant and diaspora families on child protection. However, this strong child protection focus is specific to certain associations and often focuses on providing training or information to one specific country of origin or diaspora group. Coordination with diaspora or migrant associations would increase the impact of theirs and other stakeholders' actions on a greater number of children.

Correspondance:

*Terre des Hommes International Federation International Secretariat intl-secr@terredeshommes.org;
ignacio.packer@terredeshommes.org*