

November 20th, 2015

SRSG ON VIOLENCE AGAINST CHILDREN

Provisional contribution to the OHCHR for the elaboration of a study on the situation of migrants in transit, including unaccompanied children and adolescents, as well as women and girls.

In the first section, this document identifies some key dimensions that have been addressed by the SRSG on Violence against Children (SRSG VAC) since the outset of her mandate. In the second section, some additional information is provided based on other relevant sources, which is particularly relevant for migrant children in transit.

I. Protecting migrant and asylum seeker's children from violence.

The SRSG VAC has given special attention to the protection from violence against children affected by migration and refuge at the global, regional and national levels. This concern can be found in research, advocacy and collaboration with Member States and other allies. Some relevant sources that might be considered by the OHCHR include:

1. ***Global Survey on Violence against Children: Toward a World Free from Violence, 2013.*** The Survey identifies migration as a risk factor influencing violence against children. This document also contains many references some examples of what can be done to prevent violence i.e. codes of conduct for personnel responsible for migrant children etc. Particularly relevant for the study of the OHCHR are pages 22-24, with specific references to children affected by migration and displacement, asylum seekers and refugees, included stateless children and internally displaced persons (IDPs).

2. ***Joint report of the Office of the High Commissioner for Human Rights, the United Nations Office on Drugs and Crime and the Special Representative of the Secretary-General on Violence against Children on prevention of and responses to violence against children within the juvenile justice system, 2012.*** The Report includes direct references to discriminatory practices in relation to migrant children and asylum seekers and preventing the detention of unaccompanied children, as well as child sensitive counselling, complaint and reporting mechanisms. In relation to the study elaborated by the OHCHR are especially relevant some specific recommendations. Among these, preventing the detention of unaccompanied migrant children and asylum seekers (par. 67); ensuring that the deprivation of liberty is a measure of last resort (pars. 75-78) and; ensuring children's right to legal representation and access to State-funded legal aid in accordance with pre-determined rules (par. 88).

3. ***Why Children's Protection from Violence should be at the Heart of the Post-2015 Development Agenda: A review of Consultations with Children on the Post-2015 Development Agenda, 2014.*** The Review is informed by children's

views and suggests that, in order to be able to provide the required assistance to migrants and vulnerable groups (such as victims of trafficking, unaccompanied children and migrants with health problems) it is critical to establish and implement SOPs including specific roles, responsibilities and resource allocation to identify and refer migrants within the varied migration scenarios to appropriate services.

4. ***Annual report of the Special Representative of the Secretary-General on Violence against Children, A/68/274, 6 August 2013.*** In this Report, the Special Representative stresses the impact of armed and gang violence on migration. Specifically, the Report highlights the fact that, in some countries, children live with only one or even without any parent, as a result of migration or abandonment by their family. Among other factors, these trends make children attractive targets for organized criminal activities (paras. 54-61).

5. ***Annual report of the Special Representative of the Secretary-General on Violence against Children, A/70/289, 5 August 2015.*** The Report provides a detailed analysis of the way in which, in some settings, especially those where weapons are in wide circulation, violence assumes frightening proportions. Based on a wide review of both factors and consequences of armed violence and organised crimes, the Report highlights the relation between these process and migration, particularly on children´s rights (paras 51-117)

II. Other relevant documents.

In the following paragraphs, some sources that OHCHR might consider useful for the Study.

1) General Assembly.

- Resolution 69/187, "Migrant children and adolescents", 2014

2) Committee on the Rights of the Child.

- General Comment No. 6 (2005), Treatment of Unaccompanied and Separated Children outside their Country of Origin, CRC/GC/2005/6.
- Report of the 2012 General Day of Discussion, "The rights of all children in the context of international migration", 2012

3) Council of Europe, Parliamentary Assembly.

- Resolution 2020, "The alternatives to immigration detention of children", 2014

4) European Commission.

- Directive 2008/115/EC on “common standards and procedures in Member States for returning illegally staying third-country nationals”, 2008.
- Action Plan on Unaccompanied Minors (2010 – 2014), 2010.
- The use of detention and alternatives to detention in the context of immigration policies. Synthesis Report for the EMN Focussed Study, 2014.

5) European Council on Refugees and Exiles & Save the Children.

- Comparative Study on Practices in the Field of Return of Minors, Final Report, 2011.

6) Platform for International Cooperation on Undocumented Migrants (PICUM).

- Protecting undocumented children: Promising policies and practices from governments, 2015.

7) Inter-American Commission of Human Rights.

- Refugiados y migrantes en Estados Unidos: familias y niños no acompañados, 2015.
- Human Rights of Migrants and Other Persons in the Context of Human Mobility In Mexico, 2013

8) Inter-American Court of Human Rights.

- Advisory Opinion 21/14, “Rights and guarantees of children in the context of migration and/or in need of international protection”, 2014.

9) Center for Gender & Refugee Studies/Universidad de Lanús.

- Childhood and Migration in Central and North America: Causes, Policies, Practices and Challenges, 2015.

10) RELAF, UNICEF & Save the Children.

- Niños, Niñas y Adolescentes Migrantes Retornados: Un análisis de los contextos y las respuestas de los servicios y las políticas de protección en El Salvador, Guatemala, Honduras y México, 2015.

11) IOM, UNICEF & OHCHR.

- Los derechos de los niños, niñas y adolescentes migrantes, refugiados y víctimas de trata internacional en Chile: Avances y Desafíos, 2012.

12) UNHCR.

- Protecting children on the move: Addressing protection needs through reception, counselling and referral, and enhancing cooperation in Greece,

- Italy and France, 2012.
- Children leaving Central America and México and the need for International Protection, 2014.
 - Europe Refugee Emergency - BRIEFING NOTE Unaccompanied and separated children, 2015

13) American Immigration Lawyers Association (AILA).

- AILA Recommendations on Legal Standards and Protections for Unaccompanied Children, 2014.

14) International Detention Coalition (IDC).

- Legal framework and standards relating to the detention of refugee, asylum seekers and migrants, 2011
- Captured Childhood: Introducing a new model to ensure the rights and liberty of refugees, asylum seekers and irregular migrant children affected by immigration detention, 2012
- There are alternatives: A handbook for preventing unnecessary immigration detention (revised edition), 2015