



Strasbourg, 20 March 2007

CommDH/Speech(2007)3
Original version

“The rights of children in migration must be defended”

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Save the Children Sweden Conference, Warsaw, 20 March 2007

International norms on the rights of the child are more demanding than some governments may have expected when they agreed to them. They do also apply to migrant children.

Let me give you an example. During a discussion some years ago with a Scandinavian government delegation about asylum-seeking children, the UN Committee of the Rights of the Child had to make clear the principle that children do have rights - even if their stay in the country is not regularized.

The government delegates were not convinced. “These children should not be in our country, why should we care for their schooling and health?” they asked. “Because you have ratified the UN Convention”, was the answer.

The Committee found that the children in question might be deprived of essential rights if the host country did not provide for education and health care. The Convention does *not* specify any exception for children without citizenship or residence permit. Therefore, the government had an obligation to satisfy the rights of these children as long as they were within its jurisdiction.

Indeed nowadays there are agreed European and international rules and guidelines on how migrant children should be treated both when they arrive at the borders and when they are inside:

- All aspects of the UN Convention on the Rights of the Child are relevant, including the General Principles relating to non-discrimination, the best interests of the child, the right to development, and the right to be heard.
- The Committee on the Rights of the Child has also adopted a General Comment (No. 6) on the treatment of unaccompanied and separated children outside their country of origin.
- The UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families apply to children as family members but also, when relevant, as workers.

- The Council of Europe Committee of Ministers adopted a Recommendation in 2004 on the legal status of persons admitted for family reunification.
- The Parliamentary Assembly of the Council of Europe has adopted Recommendation 1093 on the education of migrants' children. Recommendation 1596 deals with the situation of young migrants in Europe.
- The UN High Commissioner for Refugees has issued a number of recommendations on refugee children.

The rules and guidelines are there, but they are not always enforced or even understood. Indeed, decision-making politicians appear sometimes to be confused about how to treat migrant children. On the one hand, they state their full support of the idea that children do have rights and also recognize that our aging continent will need migration, not least young migrants. On the other hand a number of them appear not to be able to draw the necessary conclusions.

One reason is obviously *xenophobia*. There are extreme political parties and groups promoting prejudices and fear in several European countries today. Some of them have got a foothold in parliaments or local assemblies. They are still in a minority, but, unfortunately, some of the bigger political parties have adjusted their message to reflect such tendencies instead of exposing them. Extremist media have also played a negative role and disseminated stereotypes and in some cases even hate propaganda.

One result is increased tensions not least in suburban municipalities. "Skinheads" and boys from immigrant backgrounds have fought one another. Even in cases where right wing extremists have provoked the clashes, their targets have also been tainted as trouble makers – an image which extreme right-wing groups can and do use in their further propaganda. This is the vicious circle that must be broken.

Of course, not all youngsters with roots in other countries are angels. Poverty, exclusion and discrimination do have social consequences. Gaps in the schooling reduce the chances of future employment. The feeling of not belonging and the lack of hope about the future contribute to a destructive atmosphere.

It should be noted that some of the same social features – not least youth unemployment – are the breeding ground for xenophobic extremism among part of the majority population. We are again reminded that there is a connection between welfare policies and harmony - mutual respect - between individuals in society. Efforts for *social cohesion* are particularly essential for today's Europe.

Xenophobia and fear of xenophobia have tended to focus the migration debate on border security – whether migrants should be let in or not – rather than on the broader picture of migration in all its aspects. This has become worse after 11th September and the increased Islamophobia during recent years. The consequences have also been negative for those migrants – children and adults – who already live in our societies. Very few politicians highlight the value of diversity and multiculturalism today.

What should be done in concrete terms to protect and promote the rights of migrant children? How should the norms and guidelines be implemented?

First, there is a need for *more facts*. Statistics and other relevant data are missing on almost all aspects:

- about those coming to the borders, who they are and what happens to them;
- about those who are in the country without a permit, whether they are in school or work and with whom they live;
- about those who have residence permits and their social situation.

More efforts are needed to increase our knowledge about these essential aspects in order for us to identify the necessary resources and to respond appropriately. We certainly need more information about the extent and nature of trafficking and other forms of exploitation.

Secondly, it has to be recognised that migrant children are first and foremost *children* and that they have the same rights as others to enjoy all the rights of the child. The principle of the best interest of the child means that each child must be seen as an individual and special consideration must be given to his or her particular circumstances.

For instance, many migrant children have been uprooted once or twice or even more times. Separations from earlier homes, relatives and friends can cause traumas. Children separated from parents – those we name “separated children” – require special attention and support. The recommendation of the Separated Children in Europe Programme that a legal guardian or representative be appointed should be implemented. It is important that such children are met with respect and by personnel who have training and capacity to understand children.

Another consequence of applying an approach based on human rights is that migrant children should have the possibility to express their own views, and be able to influence their situation. Children coming with parents are not just belongings, and could have their own reasons for migrating.

Thirdly, whatever the background, the *right to education* is absolutely central. Migrant children should also be ensured access to compulsory education – irrespective of their or their parents’ legal status. In some European countries – for instance, in France and Switzerland – migrant parents with irregular status hesitate to send their children to school fearing that their registration would lead to the expulsion of the family. Such situations must be avoided.

The right to schooling also raises the issue of the *quality* of education. In some countries there is a lack of teachers who can care for migrant children ably. A particular problem is language. The experience is that all children benefit from learning the majority language. At the same time it is important that they are assisted in developing their mother tongue. On the whole, an *intercultural* approach to teaching is the way forward.

Fourth, the *right to health* should be given priority. Poverty and poor housing conditions undermine health in general. Also, many migrant children have a background of very difficult experiences which may require psychological support – this is an area where schools have a key role not least for the detection of problems and the follow through with supportive treatment.

Considerations of health are also a strong argument *against detention* of children at any stage of the migration process. It is shameful that unaccompanied children are still locked up – also in Europe - while waiting for decisions about their fate or before being deported.

Fifth, *family reunification* is an urgent need for some migrant children. The Council of Europe Parliamentary Assembly has recommended states “to facilitate the family reunification of separated children with their parents in other member states even when parents do not have permanent residence status or are asylum seekers, in compliance with the principle of the best interest of the child” (Recommendation 1596).

This is a controversial position but fully in line with the agreed norms on child rights. The right to family reunification applies to all children. Those governments which have limited this right only to the younger children – for instance, only to those below 14 years of age – should be reminded about their child rights obligations.

Would a policy towards migrant children based on agreed standards undermine our *security*? Of course not – but to allow the spread of xenophobia would.

Would a rights-based policy draw too heavily on our state *budgets*? No, it would not – but to allow gaps to widen in society would be very costly.