

How to make children visible in migration!

Seminar Report

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Separated Children in Europe Programme



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Save the Children Sweden

How to Make Children Visible in Migration!

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How to Make Children Visible in Migration!

I. Seminar Agenda

The seminar had three main aims, to

- Raise awareness about the situation of children in migration,
- Exchange good practice on ensuring the rights of children in migration,
- Promote networking and to propose recommendations for concrete future joint action.

- 9.30-10.0 Registration of participants
- 10.00-10.30 Welcome and introductions / Overview of seminar
Eva Larsson Bellander, Save the Children Sweden
Jyothi Kanics, Separated Children in Europe Programme
- 10.30-11.00 Keynote address highlighting main issues affecting children in migration in Europe
Eva Larsson Bellander, Save the Children Sweden
- 11.00-11.30 Tea and coffee break – *sign up for afternoon working group sessions*
- 11.30-13.00 Expert panel presentations – followed by question and answer session
Facilitator – Terry Smith
Education – Dr. Lothar Krappmann, Member of the Committee on the Rights of the Child
Healthcare – Dr. David Ingleby, Utrecht University
Housing – Ms. Michele LeVoy, Director, Platform for International Co-operation on Undocumented Migrants (PICUM)
- 13.00-14.00 Lunch
- 14.00-15.30 Working groups - to identify good practice and recommendations for future joint action
- Working Group 1 – Research
Chair: Anna Rostocka, Head of Office, International Organization for Migration
Expert intervention: Agnieszka Weinar, Centre of Migration Research, Warsaw University
Rapporteur: Terry Smith, SCEP
- Working Group 2 – Advocacy
Chair: Olivia Lind Haldorsson, Save the Children Brussels Office
Expert intervention: Almudena Escorial, Save the Children Spain
Rapporteur: Jyothi Kanics, SCEP

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Working Group 3 – Participation

*Co-Chairs: Simone Bommeljé, YOHRl and Zaina Karekezi,
AMA Raad - SAMAH*

Rapporteur: Lise Bruun, SCEP

- 15.30-16.00 Tea and coffee break
- 16.00-17.00 Reporting back to plenary from working groups – by Working Group rapporteurs
- 17.00-17.30 Closing remarks – Save the Children Sweden and SCEP

2. Keynote Address

**How to Make Children Visible in Migration? Assist them to Fulfil their Rights – by
Eva Larsson Bellander, Programme Officer, Save the Children Sweden**

I. Global Migration Trends

Save the Children Sweden favours a broad definition of migration as elucidated in a policy document for its Europe Program *“to ensure that the UN Convention on the Rights of the Child is fully implemented when a child crosses a national border, regardless of the reason or whether they travel ‘alone’, with their family or with other caregivers. This task encompasses the reasons for leaving the country, issues regarding the transit, and how children are met in the destination country within or outside of the asylum system - alternatively returned to the country of origin”.*

The Global Commission on International Migration (GCIM) presented its report to the UN Secretary General in October 2005. The report explains that the number of international migrants has increased from 75 million to 200 million in the past 30 years, and that migrants are now found in every part of the world. The expansion in scale and scope seems certain to continue for the future due to the growing developmental demographic and democratic differences that exist between different regions of the world. The search for better economic opportunities is a major driving force for migration. Europe now matches North America in its significance as a region of immigration. The region now hosts a population of 56.1 million migrants compared to 40.8 million in the North America (IOM 2003) There is every indication that Europe’s importance as a region of destination will increase, as European countries recruit migrants to fill the labour and skills shortages which are predicted to rise in the coming decades due to the aging population.

In the last five years, the number of asylum seekers arriving in all industrialized countries has fallen by half, according to preliminary annual figures released by the United Nations High Commissioner for Refugees, UNHCR. Asylum applications in 50 industrialized countries fell sharply for the fourth year in a row in 2005, reaching their lowest level in almost two decades.

Still, while asylum figures may decline in many countries, this does not necessarily mean a decrease in the number of migrants overall. For example, Eurodac figures show us that in 2004 the number of asylum applications across the EU has gone down while the number of irregular entrants registered has increased. Additionally, there is an increased awareness and recognition of trafficking in human beings and the result that children may be exploited in a variety of ways including: sexual exploitation, domestic servitude and begging.

It is difficult to get an overview regarding migrating children and families in Europe. Data are few and practices on collecting data vary from country to country. There is a rich documentation available on migration in general but information on children is very meagre, except with regard to asylum seeking children.

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In its recent General Comment No. 6 on 'Treatment of unaccompanied and separated children outside their country of origin', the Committee on the Rights of the Child recommends: Data collected should ideally include but not be limited to: basic biographical data on each child (including age, sex, country of origin and nationality, ethnic group); total number of unaccompanied and separated children attempting to enter the country and the number that have been refused entry; number of requests for asylum; number of legal representatives and guardians assigned to such children; legal and immigration status (i.e. asylum-seeker, refugee, temporary resident permit); living arrangements (i.e. in institutions, with families or living independently); enrolment in school or vocational training; family reunifications; and, numbers returned to their country of origin. In addition, States parties should consider collecting qualitative data that would allow them to analyse issues that remain insufficiently addressed, such as for instance, disappearances of unaccompanied and separated children and the impact of trafficking.

No matter what our research on trends and statistics tells us, it is clear that we need to have a better response in order to identify, assist and support separated children and other children who are migrating with their families.

European governments continue to show ambivalence about immigration. Issues of labour migration, irregular migration and asylum have become highly politically contested. There has been an attempt to estimate the scale of the number of irregular migrants in European countries. The EU suggested a figure of 500.000 irregular migrants entering EU Member States annually. Estimates put the number in Italy at 800.000, Germany 500.000, France 300.000 and the UK 200.000 although of course all such figures should clearly be treated with caution (GCIM 2005).

In the report "Children without protection in Europe" by Save the Children Sweden a referral is made to a report "Minors, migrants and refugees" where it is stated that within the last three years more than 20.000 illegal entries of separated children have occurred into Italy.

In Sweden we have two groups of vulnerable migrating children: those who have applied for asylum and subsequently disappeared (about 100 every year) and those who are undocumented and travelling with their families, who never applied for asylum.

Turning to another aspect of migration, according to the World Bank migrants sent 232 billion USD home in remittances in 2005. This figure is a lot more than the total amount of the world's development aid. In recent years several international organisations and regional development banks have formulated objectives and programmes to lower the transaction costs and increase the developmental effects of remittances. (Towards a Migration for Development Strategy - Ministry for Foreign Affairs, Sweden, 2006)

At the European level, the European Commission issued a "Communication on Migration and Development" in September 2005 that outlines future steps to improve the impact of migration on development. Furthermore, in December 2005 the European Commission adopted a Communication on a "Policy plan for legal migration" aimed at regulating the entry and stay of desired migrant workers,

essentially the highly educated ones. The commission considers it essential to have such a plan in view of the strong decline in the population of most Member States and the sharp rise of people over the age of 65 years. We believe it should include a clear and constructive framework for consideration of children in line with the standards set out in the Convention on the Rights of the Child.

II. Children in migration

As mentioned above, there is very little reliable data on children in migration, especially those who may be in an irregular or undocumented situation. In response to a questionnaire sent in preparation for this seminar, members of the Separated Children in Europe Programme's NGO Network provided the following data:

Selection of statistics provided in survey responses:

Bulgaria: 60 cases of separated children returned from abroad 2003-2005 – State Agency for Child Protection

Czech Republic: Legally staying children in 2004: almost 32.000
Asylum seeking children 2005; 747 accompanied; 100 unaccompanied – Ministry of Interior statistics

Estonia: Estimated that 3% (about 25.000) of working age population have left to find work abroad; families mainly stay in Estonia

Germany: Alien population under 18: over 1.200.00 children (see: definition issues) – 2004 figures from Federal Office for Statistics

Lithuania: 2005: more than 1.000 immigrating; more than 3.000 emigrating

Netherlands: 2005: 3.400 children involved in asylum procedure; 515 separated children migrated to Netherlands; number of children with families unknown

Romania: 1.100 separated children migrated abroad in 2002 – IOM

Switzerland: 150.000 without legal status including approx 15.000 migrant children

III. Protecting children's rights in migration – standards, good and bad practice

In order to provide a straightforward account of the policies and practices required to implement measures that will ensure the promotion and protection of the rights of separated children, together with UNHCR the Separated Children in Europe Programme (SCEP) has produced *The Statement of Good Practice*. The Statement of Good Practice is principally informed by the UN Convention on the Rights of the Child, UNHCR's *Guidelines on Policies and Procedures in dealing with Unaccompanied Children Seeking Asylum* and the European Council on Refugees and Exiles' *Position on Refugee Children*.

Drawing upon good practice outlined in the third edition of the Statement of Good Practice as well as responses received in preparation for this seminar from the SCEP NGO Network, I would like to briefly highlight some key challenges we face in ensuring the protection of migrant children's rights.

Non – Discrimination

Separated children are entitled to the same treatment and rights as national or resident children. They should be treated as children first and foremost. All considerations of their immigration status should be secondary.

First Principles, B 2, Non-discrimination. SCEP Statement of Good Practice

Yet, separated and other migrant children are often the object of discrimination based on nationality, ethnicity, gender, religion and other grounds. In practice, many governments refuse to recognize foreign migrant children as children first and foremost.

Discrimination may influence the identification of a child as a child or as a victim of persecution or trafficking and the recognition and fulfilment of their rights, which in turn may have a negative impact on their subsequent treatment and care.

Several countries mentioned racism and discrimination in response to the questionnaire. Others mentioned administrative measures that cause barriers to the fulfilment of rights such as Hungary where migrants have access to mainstream social services only when they have a permanent address, but where it is very difficult for them to be registered at a permanent address.

Education

Separated children should have access to the same statutory education as national children. Schools need to take a flexible, welcoming approach with separated children and provide second language support. In order to preserve their cultural identity separated children should have access to mother tongue teaching. Vocational and professional training should be available to older separated children. It is likely to enhance their life chances if they return to their home country.

Good Practice, C 11.3, Education, language and training. SCEP Statement of Good Practice

We shall spend some time this morning focusing on access to education where the situation seems to vary considerably from country to country. On the one hand, some countries such as the Czech Republic and Sweden deny education to migrant children who lack residence permits. On the other hand, countries such as Lithuania, Romania and Spain ensure equal rights to education for all children in their legislation. In practice, we see other challenges even in these countries. For example in Spain migrant children have the right to go to school, but often have problems with access to public grants because of a lack of proper documentation. In regards to good practice examples, we can highlight the case of the Netherlands where schools can receive extra funds to support migrant children with special needs.

I look forward to our in-depth discussion of these issues with Dr. Krappmann during the expert panel this morning.

Health care

Separated children should have access to health care on an equal basis with national children.

Particular attention should be paid to their health needs arising from previous physical deprivation and ill health, disabilities, and from the psychological impact of violence, trauma and loss as well as the effect of racism and xenophobia that may be experienced abroad. For many separated children access to counselling is vital to assist their recovery.

Good Practice, C 11.2, Health. SCEP Statement of Good Practice

Again, practice varies considerably from country to country when we consider access to health care services for migrants. Spain and a few other countries provide equal rights to health care for migrant children. However, it seems that the majority of European countries only provide emergency health care to migrants, if any services. Even countries like Sweden deny free basic health care to migrants without a residency permit. We are fortunate to be joined this morning by Dr. Ingleby, who will present the findings of his research in this field during the expert panel.

Detention

Separated children should never be detained for reasons related to their immigration status. This includes detention at the border, for example, in international zones, in detention centres, in police cells, in prisons or in any other special detention centres for young people.

Good Practice, C 9, Freedom from detention. SCEP Statement of Good Practice

Recently NGOs such as Amnesty International and Jesuit Refugee Services have documented conditions of immigration detention and strengthened their advocacy efforts to bring an end to such measures. Some NGOs, such as Save the Children in the United Kingdom, have specifically targeted their investigations and recommendations to improve the situation of children in immigration detention.

Contrary to the obligations outlined in the *Convention on the Rights of the Child*, many States detain children unlawfully and arbitrarily, keep them detained for unnecessarily long periods of time, disrupt family unity and often deny children's right to challenge the legality of the detention.

As highlighted in Save the Children UK's report *No Place for a Child*, conditions of detention are detrimental to children and may foster violence in a variety of ways. Detention can cause serious negative impacts on a child's mental health that may have long-term consequences. Often as a result of depression, stress and frustration, children may stop eating or be unable to sleep and this diminishes their physical health. Detention usually means a disruption in schooling and a lack of contact with the outside world. Decision making and review procedures are often dominated by immigration-related concerns rather than the welfare of the child.

Several of the SCEP NGO Network partners highlighted the problem of detention in their countries. In the Netherlands children are detained without education or special care and this may go on for months. Also in the Czech Republic children may be detained with their family for up to 6 months. In Malta the average length of stay in detention for each child is between 3-4 weeks to guarantee medical clearance. In many countries including Germany children are detained before deportation or removal as has also been documented in the research on the implementation of the Dublin II regulation. Finally there are also countries such as Slovenia where there is no appropriate accommodation for separated children and where children are detained with a lack of psycho-social support and other programmes. Children have a right to an adequate standard of living and this includes proper housing. Ms. LeVoy from PICUM will tell us more about standards, practice and advocacy efforts in this field.

Family unity

Family unity is also threatened by the actions of governments against migrant families. For instance, it is a challenge in some countries like Denmark when only one parent receives a residence permit. It can also cause problems, as is the case in the Czech Republic, when a child has received a negative decision and the parent is still in the asylum process.

IV. Future challenges and priorities

Right to be heard / participation

The views and wishes of separated children should be sought and taken into account whenever decisions affecting them are being made. Measures should be put in place to facilitate their participation in line with their age and maturity.

The views and wishes of separated children should be sought and taken into account whenever decisions affecting them are being made. Measures should be put in place to facilitate their participation in line with their age and maturity. Separated children are entitled to be heard directly or via a legal representative or guardian/adviser in any legal procedures.

Separated children should be enabled and encouraged to voice their views, concerns and complaints regarding their care and guardianship, education, health services and legal representation.

First Principles, B 3 & Good Practice, C 10, Right to participate. SCEP Statement of Good Practice

Disturbingly, there are very few good practice examples where children are consulted and listened to by those involved in decisions that directly affect the children. From our questionnaire responses, Spain ensures the right for children to be heard in administrative or judicial hearings about matters which directly affect them.

Work

The rights of separated children to education and training...and employment should continue on the same basis as available to national children and according to national laws.

Good Practice, C 13.3.2, Integration. SCEP Statement of Good Practice

While it remains a controversial point, the fact is that many children are migrating for economic reasons and those who are legal working age should have access to such opportunities in their host countries. From the questionnaire responses, Malta stated that more needs to be done regarding integration and equal opportunities especially with regards to education and employment. Germany also criticized that access to the labour market is denied and availability of professional training almost impossible. This is also an issue that the SCEP NGO Network should discuss further together with other key stakeholders.

Return – Durable solutions

A durable long-term solution (integration in the host country, return to the country of origin, resettlement in a third country) for a separated child should be decided on the basis of the assessment of the best interests of the child in each case and in a timely fashion. The decision should be taken by a child welfare authority independent from immigration or police authorities.

Save the Children & SCEP: Position Paper on Returns and Separated Children

As outlined in the *Position Paper on Returns and Separated Children* by Save the Children and SCEP, there are many issues that should be considered and balanced when determining which durable solution is in the best interests of the child.

With regards to return, Bulgaria shared an example of good practice where an individual rehabilitation and social adaptation plan is developed for each child returned from abroad. However, Bulgaria also gives a bad practice example since those children who are involved abroad in criminal actions, even as a result of trafficking, may have their documents confiscated or may be denied travel documents for a period of two years. This violation of their freedom of movement is contested by many NGOs as well as UNICEF.

Turning to the situation where it is in children's best interests to stay in a destination country, another interesting practice to consider is given by Spain where it is possible for those who are 14 or older and who have been under the guardianship of a Spanish institution for at least 2 years to apply for citizenship.

Final remarks

My presentation has highlighted several key rights of migrant children, which are often violated in practice. During the course of our discussions and working sessions today I encourage you to build on the existing standards and recommendations in

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this field and to give us new suggestions for how Save the Children Sweden and the Separated Children in Europe Programme can work together with you all to promote and secure the rights of children in migration.

Thank you very much for your attention.

Commentary:

It was clear from Eva Larsson-Bellander's opening address that migration remains a current social issue within Europe today and whilst the number of people (children) seeking asylum in Europe may be decreasing there are no signs that migration overall is likewise in decline. There are real gaps in both quantitative and qualitative data relating to migrant children and despite existing agreed international standards widespread violations of the rights of migrant children within Europe persist.

3. Expert Panel

Following Eva Larsson-Bellander's opening presentation the seminar moved on to hear three specialist presentations:

- Migrant Children and their Right to Education – Dr. Lothar Krappmann, Committee on the Rights of the Child
- Presentation on Health Care – Dr. David Ingleby, Utrecht University
- Undocumented Migrant Housing Strategies – Michele LeVoy, Director, Platform for International Cooperation on Undocumented Migrants (PICUM)

3.1 Migrant Children and their Right to Education – Dr. Lothar Krappmann, Committee on the Rights of the Child

Thanks for the invitation and the friendly words of welcome. Many greetings and good wishes from the Chair of the Committee on the Rights of the Child who himself was not able to come to this seminar because of other obligations. He and the whole Committee is very much aware of the importance of the issues on the agenda of this meeting.

Let me first give you some information about recent changes in the working methods of the Committee. You know that all State Parties of the United Nations, with the exception of two, have acceded to the Convention and now submit the reports on the implementation of the Convention, which they are obliged to send to the monitoring Committee established by the Convention. Additionally the Committee receives increasingly more reports, which State Parties have to submit that have ratified the two Optional Protocols amending the Convention.

On the one hand, this is a great success story; on the other hand, the Committee is in danger to deal with nothing else than with State Party Reports, and does not find time for other work, e.g. to elaborate General Comments, to coordinate work with other human rights committees, and, most important, to pursue actual child rights violations, violence against children, death penalty, children in institutions and many other issues which need consideration and action.

Fortunately, we were able to convince the General Assembly to allow the Committee for a certain period of time to work in two parallel chambers which side by side examine reports and debate with the governments. The Concluding Observations, however, are still adopted by the plenary of the Committee in order to prevent the emergence of separate interpretations of the article of the Convention in isolated chambers. We started the new procedure in January and are now able to move ahead with more reports, and will win time for other urgent business when the enormous backlog of reports waiting for consideration is reduced.

One of the issues in need of more attention of the Committee is the situation of migrant children, with special emphasis on refugee children, in particular on refugee children separated from their parents. The Committee knows that quite a number of specialized organizations are working in this field, organizations of high competence,

commitment, and effort. Thus, one may ask: Has the Committee an additional role? The answer is yes. It is the Committee that has the authority and the responsibility to remind State Parties of their obligations to these children and to urge State Parties to adapt their laws and other regulations to the requirements of the Convention to which the State Parties have acceded.

But the Committee realizes that more has to be done than to remind State Parties of their obligations once every five years: We should not allow State Parties to return home from Geneva and forget about the Concluding Observations and the recommendations included in that document. The Committee wants to develop strategies for following up the Concluding Observations. The Committee has already started to encourage national seminars bringing together NGOs, Government, and institutions working for and with children, in which the Concluding Observations are used for action plans and targeted programmes, and committee members have attended these seminars to explain concerns and recommendations to a wide audience.

The Committee has also participated in the organization of regional workshops in which typical regional problems are analyzed and counter-measures elaborated. One of the major regional problems in Europe is the treatment of migrant children, refugee children, of children from abroad separated from their parents. Migrant and refugee children are a concern worldwide. From many dialogues with European State Parties the Committee concludes that these children should be a special concern here in Europe.

Thus, the General Comment No. 6 of the Committee "Treatment of unaccompanied and separated children outside their country of origin" should be carefully read by the European State Parties to the Convention. Many of the State Parties are reluctant to ensure the rights, to which every child is entitled according to the Convention, to migrant and refugee children to the same extent as to the children of the country. They argue that they do not want to make the migration to Europe attractive for children from other world regions. Instead, they promise that they would support the economic development in these regions. The extent of escape from misery and distress and the many futile attempts demonstrate the unsatisfactory results of this policy. In my view, European states have a moral obligation to care for the consequences of their ineffective efforts to level the unbearable social inequality in the world.

The General Comment No. 6 reminds the State Parties that they do not only have a moral obligation, but also an obligation based in international law. State Parties have admitted the article 2 of the Convention stating that all children on their territory fully enjoy the rights of the child without any discrimination.

Many of the rights enshrined in the Convention have not only relevance for the actual well-being of children, but are crucial for their development and future lives. Among these rights the rights of article 28 and 29 of the Convention are of utmost importance: each and every child's *education*. Section V, d of the General Comment No. 6 repeats the most important provisions of the Convention, which apply to refugee and migrant children in the same way as they apply to children who live in their country of origin. I summarize what is said in the General Comment:

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Irrespective of the status of a child

- the child has to be given *access* to education during all phases of their stay in the country,
- with regard to primary education the attendance has to be *compulsory* and without open or hidden *costs*,
- including *girls*,
- and this rights refers also to *vocational training* for both genders
- and also to *early education* programmes.
- This right should also be ensured for *children with special needs*.

The Comment also adds that

- refugee and migrant children have the right to maintain their *cultural identity* and should be given the opportunity to develop their *native language*.
- Furthermore the school administration has to provide these children with *certificates* indicating their level of education.

Many these rights are incorporated in many laws, regulations, and guidelines, which are in force in Europe. However, we all know that many children do *not* enjoy these rights, although they are put down in legal documents, because administrations maintain that the status of these children is not yet determined. For this reason, the General Comment states that children must have full access to education "*irrespective of status*" (p. 9). This requirement is founded in Art. 22 (2) and in the principle of non-discrimination (Art. 2) of the Convention, which effect that the right to education is not only ensured to refugee children after the termination of their admission procedure which guarantees them some kind of status. No, they enjoy the right to education "irrespective of status", also without status. With regard to children the Convention on the Rights of the Child amends and expands the right to education contained in the Refugee Convention of 1951.

From my fresh reading of European regulations and guidelines I conclude that it would be useful, if the very general stipulations would be specifically spelt out in revised regulations and guidelines in order to make clear that these children are not entitled to some education at some time, but have to be given access to all educational institutions from preschool programmes and primary and secondary education to higher academic education and vocational training in order to provide orientation in a complex world, knowledge and capacities needed to make a living, and competence to participate in civil activities.

This specification of educational rights to which migrant and refugee children are entitled implies that schools must be given the resources, which enable them to fully implement the educational rights of these children. No full implementation without particular educational programmes helping these children to benefit from the educational facilities in their country of short or long-term residence! No full implementation without training of teachers for this task! No full implementation without additional educational materials and appropriate methods! And, for all these reasons, no full implementation without a budget!

I could not find a complete overview of the state of implementation of these rights in European states. If it does not exist, it would be urgent to examine the situation and to put the results of such an examination together in a publication. There is no

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doubt that refugee and migrant children face many difficulties in the fulfilment of their right to education.

Rarely only do these migrant and refugee children get the attention they need. Most of them are in a bitter and detrimental situation: Many are missing their family and friends, in many cases they are traumatized by a dangerous trip or flight to Europe, many suffer from in-transparent, often humiliating procedures to which they are exposed. Many of them need rehabilitation. In school, quite a number of them are underachievers, since the additional support they need is not given. Also quite a number of them experience social marginalization and exclusion or are victims of xenophobia and aggression.

Many organizations in Europe, many of them represented here in this hall, are aware of these problems and strive for better solutions. I am convinced that the title of our meeting "Make children visible!" gives direction. The problems of these children should be regarded as an open challenge to our public understanding and practice of human and children's rights. Their treatment is a conclusive test, which can demonstrate, whether our states and societies are seriously committed to the indispensable rights of all children.

3.2 Presentation on Health Care – Dr. David Ingleby, Professor of Intercultural Psychology, University of Utrecht

In 1982 David Ingleby moved from the UK to take up a post in the Netherlands at the University of Utrecht. In effect he became a migrant and his experiences as such have continued to inform his work and his writing. He outlined that he would be looking at 6 areas in his presentation:

- Migrant populations, immigration policies; the social, historical and political context
- Migrants state of health and its determinants
- Health systems and the entitlement of migrants to health care
- Access to health care
- Quality of care: matching service provision to the needs of migrants
- Policy measures to investigate and improve migrant health (care)

The pattern of migration from the less to the better resourced countries is well established and apart from the interruptions in the 20th century of 2 world wars and the great depression has existed throughout modern times. The numbers will fluctuate, rising and falling in response to ever changing events and scenarios – current examples being the recent expansion of the European Union and the fall of the Soviet Union and other Eastern European regimes. The context of migration is one of resistance and scapegoating against a backdrop of governments focusing on tighter border controls and maintaining an unsympathetic stance on human rights issues.

The general public perception of the state of health of migrants is often contradictory. On the one hand they are portrayed as carriers and transmitters of disease. On the other hand they are conversely perceived as healthy young men whose only aim is to secure employment regardless of the impact that this will have on the employment opportunities of the host community. Migration exposes people to risk, danger and stress and this can be exacerbated by the trauma caused by pre migration experiences. The reality for many migrants upon arrival in Europe is discrimination and the loss of their personal and cultural support networks. Many migrants are forced to live in poor quality housing – effectively the social housing that nobody else will accept and those who do secure employment often find that it is low paid and physical demanding sometimes in unsafe environments. All these factors can contribute to poor health for child migrants and their families.

It is generally accepted throughout Europe that migrants do have an entitlement to regular health care. However many still miss out. Those migrants who are undocumented or outside the system in other ways, perhaps as failed asylum seekers, often find it hard to receive support and some migrants are unable to meet the costs of private health care insurance.

Language can be a barrier in accessing health care both at the point of referral and in alerting migrants to preventative health care initiatives. However David Ingleby also outlined how perceptions towards health care can also be a barrier. Many migrants come from cultures that favour a holistic approach and identifying the particular

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problem for which help is being sought can sometimes be problematic for western professionals. It may be difficult for a migrant to understand the clear separation between mental and physical problems that practice tends to favour in Europe and they may have little experience of the specialist models of delivering health care that are similarly applied in Europe, for example referring children to child psychotherapists. Many migrants, for example, may simply not fully understand what is meant by mental health care, or ante natal care etc.

Treatment needs to be relevant if it is to be effective and relevance is a major factor in determining the quality of health care available to migrants. David Ingleby stressed the importance of health professionals and their clients finding a common wavelength. Sadly this isn't always achieved as professionals often claim that migrants have 'messy' problems. They mix body and mind and will want to discuss problems of a practical nature with a therapist (see above) and what is often needed is a holistic approach to the difficulties that they are experiencing. Health professionals may benefit from looking more generally at the circumstances and conditions of the lives of their migrant clients and community networks are likely to be important in responding to pressing health needs and necessary associated support.

Regrettably most initiatives responding to the needs of migrant health care are short term projects that do not lead to structural changes in service delivery. Governments, and increasingly the European Union institutions in Brussels need to be making the policy that impacts on this group.

3.3 Undocumented Migrant Housing Strategies – Michele LeVoy, Director, Platform for International Cooperation on Undocumented Migrants (PICUM)

Michele LeVoy opened by pointing out that the United Nations believes that the right to housing is one of the most frequently violated human rights and against this backdrop it is not surprising that undocumented migrants find it difficult to access housing. Indeed the question of whether undocumented migrants have any rights in the housing market is often raised. Article 27 of the Convention on the Rights of the Child outlines that every child has the right to an adequate standard of living and it would be unreasonable not to include housing as a factor in assessing this standard of living. However migrants clearly feel vulnerable when their housing rights are violated. The fear of removal is such that many are deterred from taking cases to court as they do not wish to draw attention to themselves.

So how do undocumented migrants find somewhere to live? Michele LeVoy outlined six categories of housing which are used by undocumented migrants:

- Their own networks
- Private housing sector
- Social housing sector
- Shelters for the homeless
- NGO provision
- Other housing strategies

The most common form of housing for undocumented migrants was via their own networks, for example sharing with friends, family or just with people from their own community. A French study identified that approximately 50% of undocumented migrants were sheltered by their own networks. A Dutch study identified that it was the children of the host family who suffered the most under these 'own network' arrangements as they had restricted space and privacy and had less financial possibilities.

The second most popular strategy among undocumented migrants was to seek accommodation in the private housing sector. This was despite the existing of some legislative barriers, for example in Italy, Germany and Austria landlords are required to register all their tenants with the local housing authorities. In other countries an undocumented migrant is prohibited from holding a legal contract so accommodation is often arranged unofficially, adding to their vulnerability. Research shows that in such instances migrants are likely to occupy the worst, poor quality housing, and pay a high proportion of their income in rent. In addition they are more likely to experience ill treatment or exploitation from their landlord. In Spain there is a shortage of accommodation for rent and this has created the emergence of what is called 'camas calientes' or 'warm beds' where beds are rented by the hour. The secretary for housing estimates that this system is currently being used by about 15,000 people and growing. Remaining in Spain Michele LeVoy outlined an area of good practice where an NGO acts as a guarantor and provided the migrant has some form of income and ID document can rent an apartment through the NGO. The accommodation must also meet an agreed standard and the busiest year of this project saw 235 families housed under the scheme.

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Legislation throughout the European Union does not allow undocumented migrants access to social housing. The few exceptions to this rule only allow access where the migrant is close to the end of the regulation procedure. In a similar scheme to that outlined above a Belgium NGO is able to rent properties and then sublet them to migrants at low prices. Migrants are only eligible for consideration if they have a personal plan linked to regularisation or return to their country of origin or a safe third country.

There is a growing demand from undocumented migrants for places in homeless shelters. The shelters are having some difficulty in adapting to the differing needs of migrants compared to their host community clients and these environments are hardly conducive to the integration of migrants into their new community. By their very nature it appears that night shelters often draw the attention of the police and this can be a significant factor in limiting their attractiveness to many undocumented migrants. In Austria, Caritas Vienna run two projects with a total capacity of 450 bed spaces. One of these shelters is available only for migrants and this minimises some of the difficulties referred to above.

The NGO sector is able to provide some accommodation but this is invariably on a small scale and often relies on local government funding. Capacity is limited and is usually emergency accommodation for the most vulnerable. For example there is an NGO project in Spain that provides accommodation to migrant women with sick children and in Genoa, Italy, a similar project accommodates unaccompanied children referred directly by the police.

Finally Michele LeVoy outlined some other types of accommodation used by undocumented migrants, including cheap hotels, caravans and huts, shantytowns, abandoned buildings and work based accommodation, for example in farms and warehouses.

In her concluding remarks Michele LeVoy offered three steps that should be taken to improve the housing rights of undocumented migrants. Firstly all migrants, whether undocumented or otherwise, should be advised of their rights and responsibilities as tenants. Secondly the lack of accurate data within this section should be addressed (there is a particular scarcity of data relating to migrant children) so that strategies can be prepared and awareness of the issues be raised. And finally, a broader definition of the term socially excluded groups should be used so as to include undocumented migrants in order that consideration can be given to addressing their needs and promoting their rights.

3.4 Thematic observations

All three of the expert presentations made reference to the existence across Europe of legislation, regulations, guidelines and directives etc. that outline the rights of migrant children to access the services they need for their protection, development and the promotion of their welfare.

All three presentations went on to outline how these rights are often denied and are rarely fully realised by the children who are entitled to receive the benefits of these rights.

It is clear that migrants experience greater difficulty in accessing services than citizens of the host community. Whilst at times some practical factors, for example the lack of a common language and a genuine lack of specific resources may contribute to this, migrants are clearly disadvantaged by structural as well as individual discrimination.

Concerns were also raised about the lack of available data and statistics available regarding migrant children. This would appear to be a real obstacle in making them visible. The lack of statistics is worrying as it makes it problematic to assess the full scope of this issue and consequently the identification of the resources necessary to respond appropriately. We do know however, from Eva Larsson-Bellander's presentation, that the figures are high.

Throughout this session of the seminar there were also regular references to the importance of the migrant communities in supporting each other and developing self-help initiatives. It should also be noted however that this support can come at a price to the communities.

4. Working Groups – to identify good practice and recommendations for future joint action

The afternoon session was based around 3 working groups designed to allow the seminar participants a more active role in the proceedings. There were 3 working groups on 1) Research; 2) Advocacy and 3) Participation.

4.1 Working Group I – Research

Chair: *Anna Rostocka, Head of Office, International Organization for Migration*

Expert intervention: *Agnieszka Weinar, Centre of Migration Research, Warsaw University*

Rapporteur: *Terry Smith, SCEP*

Agnieszka Weinar opened the workshop by identifying some of the issues that had challenged her whilst undertaking research at Warsaw University's Centre for Migration Research:

- How do you collect data? – there was little available in Poland pre 2000 and that which existed invariably related to Polish migrants who had gone to Canada, Germany and the USA and had subsequently returned to Poland.
- How do you set up a European wide network with similar data?
- Funding of the research project is often limited and this in turn places constraints on time and particularly the length of time the project can run. This is problematic as academics need time to build trust with their research subjects. Similarly research projects of a comparative nature also benefit from a long time scale.
- It is not possible to do a research project on migration without being able to base findings against a backdrop of the numbers of migrants in the country. The official statistics can often be quite low (the census of 2002 indicated 40,000 migrants in Poland though it is estimated that there are 800,000 unregistered Ukrainians alone in Poland).
- There will always be a variance between the flow of migrants and the cumulative number in the country at any one time.
- What do you do if your sample of migrants is repeatedly the same people? This is often the case as those who are not afraid to talk or come forward are often interviewed by researchers many times. Agnieszka Weinar ventured to suggest that perhaps as few as 20 individuals in Poland were persistently consulted and this limits the validity of studies – effectively 20 people become the migrant voice in the country perhaps disproportionately influencing the agenda.
- Most researchers are female and there may be cultural issues which make it hard for them to approach male subjects, and the subjects in turn may give responses influenced by the gender of the interviewer. Similarly, female migrants may feel very uneasy about contributing to research studies. For example, in Poland most Ukrainian domestic workers are female and most are afraid to talk to researchers.
- In Poland, and perhaps in other central European countries too, children in migration almost amount to a taboo subject and are generally avoided.

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- It can be difficult to define the methodology of the research – though to a certain extent this may be true of any research project and not just those focusing on migration.
- Research needs to be seen as objective and Governments can be inclined to believe that NGO's may have a hidden agenda or particular interest. This means that any research projects funded by NGO's may not be viewed as objective by the State. Conversely does government funded research limit the scope for criticism of State responses to the needs of migrants.
- Finally there are ethical considerations to be thought through. Migrant subjects need to fully understand how the research may impact upon them – particularly their ability to remain in the host country – and conceivably their families in their country of origin. There are also the usual considerations around data protection, confidentiality and the security of the research.

A group discussion then ensued in which the anxieties and fears that many migrants felt in their everyday lives was raised as a significant barrier to their active participation in research. Where migrants did come forward issues arose around the building of trust between researcher and subject. It was recognized that if this situation is true for migrants in general it is exacerbated where the migrant is undocumented – and even worse still where the subject is an undocumented child migrant.

The workshop concluded with the participants making 3 recommendations:

- In order to be effective research projects need long-term funding
- Research in this field needs to be responsive, adaptable and flexible
- Consideration should be given to the preparation of an ethical checklist for any piece of research that will use migrants as its subjects.

4.2 Working Group 2 – Advocacy

Chair: *Olivia Lind Haldorsson, Save the Children Brussels Office*

Expert intervention: *Almudena Escorial, Save the Children Spain*

Rapporteur: *Jyothi Kanics, SCEP*

The working group began with a presentation by Almudena Escorial from Save the Children Spain. Almudena Escorial outlined that initially there was a serious discrepancy over whether it was the autonomous communities or national government that would supervise the protection and intervention with separated children. However the autonomous governments' role has now been clarified, though the cooperation between the two (namely, the support from the national government to the autonomous governments, especially those with a relatively high number of separated children) is not always smooth.

In Spain, unlike in the majority of Western European countries, the population of separated children is made-up primarily of economic migrants. In the majority of cases, these children come from Morocco and are between 15 and 18 years old, though increasingly younger children are making the journey to Spain on their own. There is also a significant population of sub-Saharan Africans and recently, the

number of Eastern European children – particularly Romanians – has also begun to increase.

The central theme of advocacy for separated children is that they are first and foremost children. Their immigration status is secondary and they should have the same rights as Spanish children. So the general criterion which must guide all the decisions taken is the principle of the 'best interests of the child' - it shall be the primary consideration. In practice though, this basic and important idea, which seems very clear, is not always easy to defend with some authorities.

Almudena Escorial then went on to look at three specific areas where separated children need strong advocacy support:

- **Documentation** - The Minors Law calls on the Spanish government to give foreign minors documentation that accredits their situation in Spain. The Foreigners Law and its Implementing Regulation offer more detail, calling for separated children to be granted a residence permit after nine months. So, consistent with the best interests of the child, children should receive their residence permit before the completion of nine months under the guardianship of the autonomous community. In practice however this system is nearly always problematic, as it often lacks strong inter-organisational coordination and can lead to delay and passing of blame on both sides.
- **Repatriation or 'Family Reunification'** - Spanish Law clearly states that the most important condition to be fulfilled prior to returning a child to his country of origin –prior to taking *any* action affecting the child– is that the return be considered in the child's best interests. The Foreigners Law and its Implementing Regulation are less clear on the primacy of the best interests' principle, as both texts give explicit priority to the child's repatriation over his permanence in Spain. Once again the practice is for many separated children to be repatriated without any assessment of their best interests. Many children are not even informed of the plans to return them to their country of origin.
- **Participation** - The Spanish Minors Law calls for children to be heard in both in their family environment as well as in any administrative or legal procedures that affect them directly or could lead to an alteration in their personal, familial or social life. However most children do not get a real opportunity to participate in the processes or decisions that affect them and in particular separated children lack information on their situation in Spain. Government entities (i.e. Child Protective Services, Government Delegations) do not show evidence of always taking children's views into consideration, especially when their opinion or desire is at odds with the solution that the government determines preferable.

The final part of Almudena Escorial's presentation looked at Save the Children Spain's advocacy work with separated children in practice. The starting point was usually to affirm the legal basis and instruments with which to promote the rights of separated children. Public and government figures were key targets of lobbying and this was usually most effective when different partners had been networked to present their arguments together. Similarly it was helpful to approach bodies that

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were independent of government but held a monitoring role and could call government to account, for example, institutions such as Ombudsmen. It was also helpful to engage with the media in order to illustrate the reality of the lives of separated children and a really effective advocacy strategy was to resort to the courts where it is felt that there are violations of children's rights.

The working group then undertook a brainstorm to identify key issues affecting separated children and what should be the aims of advocacy initiatives addressing these issues. The responses to the brainstorming exercise are presented below:

Issue	Aim
should be a priority - serious approach	issues taken seriously
legal status often irregular	legal residence
age assessment	benefit of the doubt
turning 18	continued support
durable solution / return and best interests	on an individual basis joint decision with child welfare experts
country of origin info / assessment	clear process / reliable info and resources
participation	consult with children, involve, empower
education	safe, access, quality, vocational, dignity, culture
role of media	sensitize media, better coverage, influence public opinion
respect for <18 as child / age sensitive approach	consider and implement child specific and child friendly measures
detention	prohibit detention, promote alternatives
Dublin II	promote family reunification, respect best interests of child, ECRE recommendations
ECHR test cases	build capacity of courts, establish jurisprudence
lowering of standards	ensure international standards are respected
agency responsible for child care	should be child welfare agency rather than immigration authorities
EU trends – policy and funding	ensure / support child rights approach
role of guardian / legal representative	Many recommendations... see SCEP Statement of Good Practice and CRC General Comment No. 6

The concluding phase of the working group identified potential lobbying targets. At European Union level these were seen as the European Council and Parliament as well as the member state currently holding the presidency. At national level the list was considerably longer and referred to Members of the European Parliament; the media; national decision making authorities; courts; judges and prosecutors; children's ombudsmen and the general public.

4.3 Working Group 3 – Participation

Co-Chairs: *Simone Bommeljé, YOHRI & Zaina Karekezi, AMA Raad - SAMAH*
Rapporteur: *Lise Bruun, SCEP*

The co-chairs Simone Bommeljé and Zaina Karekezi introduced the workshop and Article 12 of the CRC - the child's right to be heard. Two short films were then shown to introduce a discussion on what child participation is. A subsequent discussion on the participants understanding of and experience with good or bad practice was opened up through a 'throwing the dice' exercise. Participants threw a dice and responded to the one of the following issues:

1. What would you bring if you had to flee your home / country?
2. What means youth participation to you personally?
3. Tell us shortly your best experience with youth participation projects
4. Tell us shortly your worst experience with youth participation projects
5. In what way would you want to participate yourself if you had fled your country?
6. What is the best project / method you have heard of? Or who is the first person you think of if we talk about youth participation and why?

Some of the responses were:

No 1: Money and photos were mentioned, and in the discussion it was pointed out that personal documents/identification were probably the most important things to take. The lack of these usually causes major problems.

No 2: Participation should be as full as possible, starting in the planning stage; to start by asking the children/youth what is required and perceived as important and to listen; participation is two-way communication.

No 3: A participant when aged 17 had participated in the UN Summit on Children and felt that the youth had really been listened to; a young street boy who was in the target group for a field project is now involved in the work with outreach where he is able bring in his own experiences.

No 4: In relation to a 10th anniversary celebration of the CRC children were treated as pawns in a meeting with decision makers who did not take them seriously because they are young.

Then in depth discussions followed, taking place as a 'World café' in smaller groups circulating between 3 tables representing 3 project phases:

Table 1, Starting phase of project:

- How to reach young people / children?
- How to involve them from the beginning?
- How to reach undocumented minors?
- How to reach youth from different countries (e.g. European Network)?

Output:

- Need time and resources
- Spread leaflets in the streets
- Offer trust
- Balance expectations

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- Be sincere
- Also outreach to the community
- Involved must have part in ownership
- Give power
- Suggestion: Establish 'catalogue of ideas' on the internet for inspiration and sharing of experience

Table 2, How to establish cooperation of youth:

- How to cooperate?
- How to work with different cultures / interests?
- How to satisfy? Needs? Which activities keep them interested?
- How to keep them interested?
- Teambuilding?

Output:

- Promote fun and activities
- Offer language courses
- Look for inspiration from others
- Look for funds for exchange/travels
- Learn about each others' cultures
- First involve smaller groups, and then enlarge/widen

Table 3, Results:

- How is youth really taken seriously?
- What do you want to achieve (e.g. with European network)?
- Results
- Media / publicity
- Communication after the project has finished?

Output:

- Consider long term consequences, decide whether to stop with end of project or continue a long term empowerment process
- Be supportive listeners
- Adults shouldn't think: 'we consult with children' but, 'children should have access to consult with us'
- Include surrounding community, e.g. neighbours, teachers, relatives etc.

Annex I

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