



Grosvenor Gardens House  
35 – 37 Grosvenor Gardens  
London SW1W 0BS  
Tel: +44 (0) 207 233 9887  
Fax: +44 (0) 207 233 9869  
info@ecpat.org.uk  
www.ecpat.org.uk

protecting children everywhere

## ECPAT UK BRIEFING PAPER

### CHILD TRAFFICKING – BEGGING AND ORGANISED CRIME

#### 1. DEFINITION OF HUMAN TRAFFICKING

The definition of human trafficking is derived from the *United Nations Protocol to Prevent, Suppress and Punish Trafficking In Persons, especially women and children*, supplementing the United Nations Convention against trans-national crime. [Also known as the Palermo Protocol.] It lays the foundation for UK laws against human trafficking. According to Article 3 of the Palermo Protocol, ‘trafficking in persons’ means:

*“The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation”.*

*“Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”.*

#### Children

The Palermo Protocol further states that the **means of recruitment do not apply** to children under 18 years. It is not required to have deception, coercion, threat or any other means evidenced to prove a child is trafficked.

Child trafficking can be more simply defined as the movement of a child for the purpose of exploitation or financial gain or benefit of another. This movement can be across borders or within national borders. Family members, including parents, can be identified under this definition as 'traffickers'. It is internationally accepted that a child cannot consent to his/her own exploitation and therefore it is irrelevant to the definition of trafficking if the child consented to travel, work or participate in any activity.

### **Smuggling or trafficking?**

People smuggling is the facilitation of illegal entry, in breach of immigration law, either clandestinely or through deception or the use of false documentation. In this sense "smuggling" refers to the illegal transport of a person or persons across state borders, which results in a financial benefit for the smuggler. It follows that the person being smuggled will be complicit, often paying large amounts of money to be transported, and once in the country they will be left to their own devices.

Human trafficking, on the other hand, specifically targets the trafficked person as an object of exploitation. There may be one or more individuals involved as traffickers and facilitators but the purpose is to exploit this person and to gain a profit. Types of exploitation can include sexual exploitation, forced labour, domestic servitude, organ harvesting, criminal activity and benefit fraud.

## **2. THE TRAFFICKING OF CHILDREN FOR ORGANISED CRIME INCLUDING CHILD BEGGING**

Children are trafficked across and within borders for a range of criminal activity including cannabis cultivation and street crime such as DVD selling, bag snatching, ATM theft, pick-pocketing and forced begging. In these cases children should be seen as the victims of crime and not the perpetrators. In many instances these children will be 'invisible' to the wider community except when they come to the notice of the authorities because of the crimes they have committed. Children under the control of adults will be reluctant to come forward and ask for help.

### **Child begging**

Forced child begging is seen as a form of exploitation and more recently has been considered a form of servitude and modern slavery. The most recent report on Forced Child Begging was published in April 2009 by Anti Slavery International.

Called *'Begging for Change'* the research looks at cases of forced child begging in Albania, Greece, Senegal and India. The report provides a clear picture of the complex grooming and behaviour patterns that keep children locked in a cycle of exploitation when forced to beg for family members.

Child protection and psychology specialists involved in the Albanian research commented that in addition to a sense of protection, children who are forced to beg by their parents may experience more positive feelings of belonging, usefulness and power from providing income needed by the family, which children forced to beg by third parties do not. However, depending on how each individual child responds to events in their lives, these can conflict with the negative feelings they also have from being mistreated by their parents. So while in the short-term many tend to feel less threatened than children who are forced to beg by third parties, the problematic relationship with their parents can lead to additional emotional difficulties in later life<sup>1</sup>.

The report authors state that from the outset:

*Governments must ensure that adequate legislation is in place to protect children who are forced to beg, and that these laws are enforced<sup>2</sup>.*

and conclude with the following statement:

*Forced child begging constitutes a gross violation of children's rights and requires urgent action on the part of governments and others with a duty to protect children's rights. Forced child begging by third parties is especially harmful, but forced child begging by parents is also damaging and should not be ignored despite the particular challenges associated with addressing this problem<sup>3</sup>.*

### **Child trafficking for forced begging**

The Organisation for Security and Cooperation in Europe (OSCE) Office of the Special Representative and Coordination for Combating Trafficking in Human Beings recently stated that "There is a fundamental lack of understanding about forced begging cycle and its consequences on children's lives among the general public and the institutions responsible

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<sup>1</sup> Delap, E (2009) *Begging for Change*. Anti Slavery International. London. p13

<sup>2</sup> Ibid p2

<sup>3</sup> Ibid p 24

for protecting children's rights."<sup>4</sup> The OSCE and other European institutions have increasingly focussed efforts on forced child begging. This has led to public awareness campaigns to raise awareness about forced child begging and trafficking, particularly involving the Roma community.

Operation Beggar was a public awareness campaign launched in Bosnia-Herzegovina. Assistant Human Rights and Refugee Minister, Slobodan Nagradic, was quoted as saying "that the trafficking in Roma people is definitely the most widespread form of human trafficking in Bosnia-Herzegovina. In addition to organised groups that have turned this into a business, the families of many of the victims are also participants in the trade. This is probably why it is so hard to uncover the real organisers of trafficking and begging"<sup>5</sup>.

Although there is not a lot of published research on forced child begging and human trafficking, and no published reports from the UK experience, there is literature available from South Eastern Europe. A 2005 report produced by the International Organisation for Migration called '*Other forms of trafficking in minors: Articulating Victim Profiles and Conceptualizing Intervention*' states that:

....minors accounted for a noteworthy percentage of assisted victims trafficked for these various forms of exploitation. In addition many minor victims were exposed to dual forms of exploitation. For example 14 of the 15 Bulgarian minors trafficked for begging and delinquency in 2003 and 2004 were obliged to both beg and steal. Similarly, Albanian minors were occasionally trafficked for combinations of labor, begging and delinquency, which generally involved begging and selling.<sup>6</sup>

The report uses case studies from Romania, Bulgaria, Moldova and Albania of trafficked children identified as having been returned from other European countries such as Austria and describes challenges in rescue and reintegration due to the 'normalcy of the arrangements' of recruitment process which includes children mostly living with family, extended family and sometimes the ability to keep a small amount of their 'earnings'.

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<sup>4</sup> OSCE Press Release 7 August 2008. OSCE Mission supports campaign to curb child trafficking and begging in Kosovo.

<sup>5</sup> [www.media-diversity.org](http://www.media-diversity.org) Operation Beggar. Accessed 23/06/09

<sup>6</sup> Surtees, R (2005) Other Forms of Trafficking in Minors: Articulating Victim Profiles and Conceptualizing Interventions. Nexus Institute. International Organisation for Migration. p 4

Of the experience of Bulgarian children it states that “most Bulgarian minors trafficked for begging and delinquency were recruited by a male/female pair, generally a family member”<sup>7</sup> Of the experience of Romanian children it states that minors of Roma ethnicity were heavily represented amongst Romanian minors trafficked for labour begging and delinquency. It goes on to state that “the vast majority of victims resided with their family at recruitment”<sup>8</sup> - an indication of family involvement from the earliest stages.

A significant concern highlighted in the report is the limited choice that children are presented with when living in this situation, whether with family members or others. One victim was forced to beg, do all of the domestic work for the family, and obliged to provide sexual services to the males in the family. Another victim, having been trafficked to Italy, was given the “choice” of whether to steal, provide sexual services, or beg in front of the grocery store.<sup>9</sup>

### 3. DUTY OF CARE

The UK Government ratified the Council of Europe Convention Against Human Trafficking in December 2007. The European Convention provides for special protection measures for child victims of trafficking. As part of the implementation of the Convention a National Referral Mechanism for the identification of victims has been developed. The National Referral Mechanism referral and assessment form contains a *Risk Matrix* for the identification of children who may have been trafficked. It lists as exploitation: children who are...

Involved in criminality highlighting involvement of adults (e.g. recovered from cannabis farm / factory, street crime, petty theft, pick pocketing, begging etc).

The UK includes in its definition of child trafficking the exploitation of children for criminal activity including begging, theft, pick-pocketing, drug cultivation etc.

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<sup>7</sup> Ibid p 6

<sup>8</sup> Ibid p 8

<sup>9</sup> Ibid p 9

***The European Convention On Human Rights (ECHR) - ARTICLE 4***

All UK police and statutory agencies should be mindful of their responsibilities under Article 4 of the ECHR which states:

1. No one shall be held in slavery or servitude.
2. No one shall be required to perform forced or compulsory labour.
3. For the purpose of this article the term 'forced or compulsory labour' shall not include:
  - (a) any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of this Convention or during conditional release from such detention;
  - (b) any service of a military character or, in case of conscientious objectors in countries where they are recognized, service exacted instead of compulsory military service;
  - (c) any service exacted in case of an emergency or calamity threatening the life or well-being of the community;
  - (d) any work or service which forms part of normal civic obligations.

**UK legislation for child trafficking and forced labour*****The Coroners and Justice Act 2009***

Section 71 of the Coroners and Justice Act 2009 introduced a new offence ("the section 71 offence") of holding someone in slavery or servitude, or requiring them to perform forced or compulsory labour. The section 71 offence applies in England and Wales and in Northern Ireland.

The section 71 offence consists of holding another person in slavery or servitude or requiring another person to perform forced or compulsory labour. The circumstances must be such that the defendant knows or ought to know that the person is being so held or required to perform such labour.

The terms “holds another person in slavery or servitude” and “requires another person to perform forced or compulsory labour” are defined in accordance with Article 4 of the European Convention on Human Rights. The offence of trafficking people for labour exploitation under section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (“the 2004 Act”) is framed in similar terms and includes behaviour contrary to Article 4 as one form of prohibited exploitation. It should be noted, however, that the section 71 offence does not contain the element of trafficking and is not an immigration offence. It is wider and will apply irrespective of whether the victim has been trafficked and irrespective of the immigration status of the victim(s).

#### **The Asylum and Immigration Act (Treatment of Claimants) Act 2004**

This UK law includes offences related to trafficking in persons for exploitation using the definition of trafficking to include slavery and forced labour as laid down in Article 4 of the ECHR. Trafficking for sexual exploitation is punishable under the Sexual Offences Act (2003).

*In cases of child trafficking for forced labour such as criminal activity and forced begging:*

- If an adult brings a child into the UK with the intention to exploit the child (or children) for the purpose of forced labour, including forced child begging, pick-pocketing etc this can be considered a trafficking offence as per Section 4(1) of the Asylum and Immigration (Treatment of Claimants Act etc) Act 2004.
- If a child is moved around the UK for the purposes of exploitation then Section 4 (2) of the Asylum and Immigration (Treatment of Claimants Act) 2004 can be used.
- If a child is moved out of the UK for the purpose of exploitation then Section 4 (3) of the Asylum and Immigration (Treatment of Claimants Act) 2004 can be used.

**There are other criminal offences that may be relevant and should be investigated including physical abuse, sexual abuse and child neglect.**

#### **4. THE IMPACT OF TRAFFICKING AND EXPLOITATION ON CHILDREN**

In 2007 the UK Government published ‘*Working Together to Safeguard Children Who May Be Trafficked*’ a multi-agency guidance on child trafficking. The opening address by two government Ministers states that:

*'It is important that professionals working across social care, education, immigration, health and law enforcement develop an awareness and an ability to identify trafficked children. Many of these children are reluctant to disclose their plight either out of fear of reprisal or due to a misplaced loyalty to their trafficker' (Department for Children, Schools and Families, 2007. page 4).*

It is now considered normal that a trafficked and exploited child would give a patchy, sometimes contradictory, account of what has happened to them which is why government guidance on pro-active identification and assessment has become more robust in recent times. This is in part due to a lack of a child's ability to recall events, or that they do not want to disclose to the authorities what has happened to them.

The trafficking of children is unquestionably a form of child abuse but it also raises unique issues. It can involve young people who do not recognise the coercive nature of their relationships or where they fear going to the authorities for help. It can also involve young people who have been groomed over months or years to not trust the authorities and to behave in a specific way, normalising the behaviour and believing that this is their fate. Often these children live on the margins of society with no education, little or no documentation, and no income of their own, dependent on adults for all their emotional and physical needs. These young people are not always recognised as victims of crime by the range of professionals who first come into contact with them (including police, social workers, immigration officials etc) and as a result their emotional and psychological needs often go unattended even if the professionals believe they are away from immediate harm.

Working with children who have experienced exploitation and trafficking requires a long-term commitment by professionals to help these young people rebuild their lives. This reaches far beyond basic care to include protection plans that recognize their vulnerability to further abuse and pathway plans that support young people through the maze of services they need to access for safe accommodation, education, employment, parenting, building appropriate relationships, life skills and legal support.



## 5. OTHER INTERNATIONAL TREATIES AND OBLIGATIONS

### *(i) UN Convention on the Rights of the Child*

The UK has ratified the UN Convention on the Rights of the Child. Article 34 of the convention obliges State parties to protect against all forms of exploitation that are prejudicial to the child's welfare.

### *(ii) The Council of Europe Convention on Action Against Trafficking in Human Beings (CETS 187)*

The UK ratified the Council of Europe Convention in December 2008. This Convention recognises that trafficking can be cross-border or within State borders, thus making trafficking *within borders* as serious an offence as international trafficking.

#### **Article 2 – Scope**

This Convention shall apply to all forms of trafficking in human beings, whether national or transnational, whether or not connected with organised crime

#### **Article 3 – Non-discrimination principle**

The implementation of the provisions of this Convention by Parties, in particular the enjoyment of measures to protect and promote the rights of victims, shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

### *(iii) International Labor Organisation Convention 182*

The UK has ratified the International labour Organisation Convention 182 on the worst forms of child labour. ILO Convention 182 section 3c states that the worst forms of child labour includes:

- (c) the use, procuring or offering of a child for illicit activities

## 6. THE ROMANIAN SITUATION

ECPAT UK visited Romania in July 2009 and met with numerous professionals and specialists in counter-trafficking, including police, government and non-government social care practitioners.

There is agreement across many professionals that Romanian criminals are involved in trafficking children to the UK and other parts of Western Europe for criminal activities such as begging, stealing and prostitution. Many of these children are thought to be of Roma ethnic origin although this should never be considered a 'Roma problem' and Romanian children who are not of Roma origin are also victims of trafficking. Many Romanian professionals also believe that some of these adults are exploiting their own children for financial gain and this would constitute human trafficking. In one interview with a Romanian child trafficking specialist and child psychologist it was agreed that if in these circumstances the trafficked children are returned to Romania there is a very high risk that they will be kept in a cycle of abuse and exploitation by their extended family unless there is high level intervention and protective accommodation and support services made available on a long term basis.

*Save the Children Romania* quoted in their 2003 report<sup>10</sup> on child trafficking from Romania that:

In the case of trafficking in children for labour exploitation, the child's family is involved in a direct or indirect way in this process. In many cases it is about the direct migration of the whole family to another country, usually a Western Europe destination. This process is seen by the whole family as the only way to get a better life, sometimes the only way to survive. Usually the family prepares its leaving based on the experiences of other friends, relatives or acquaintances that were in the destination country before. In these cases the family is the trafficker, but also the exploiter, because most of the times children are used in the destination country for ensuring the necessary allowance [income] for the whole family, being involved in begging, stealing, but also in sexual exploitation. Many times the adults return to their home leaving children in the "care" of the local network of exploitation that regularly sends them money. *When the family is involved in the trafficking process, children do not oppose, being convinced that it is their duty to help their families, not seeing the whole process.* [my emphasis]

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<sup>10</sup> Salvati Copiii (2003) Child Trafficking in Central, South Eastern Europe and Baltic Countries. (Save the Children Romania).

The Romanian government has recognised that trafficking of children can involve begging as well as other forms of exploitation. The 2009 Thematic Study on Child Trafficking in Romania, published by the European Agency for Fundamental Rights (FRA) notes that Romanian Law 678/2001 amended by law 287/2005 does not criminalise prostitution or begging in the case of victims of trafficking in persons including child trafficking. On page 37 of the report it states that “ Victims of trafficking who, while under the control of the traffickers practiced prostitution or begging, or crossed the border illegally, will not be prosecuted for these offences. ”

## **7. CONCLUSION**

All professionals in the UK have a significant duty of care to identify and protect children who may be victims of trafficking. This includes, but is not limited to, trafficking for sexual exploitation, forced labour and criminal activities. The latter includes begging, street crime and drug cultivation. Early identification is essential and robust assessments need to include a multi-agency framework. Traffickers normally do not stop at just one child so information must be shared between authorities to avoid other children being placed at risk of harm. Children who are found in family or extended family situations where exploitation has occurred need the same robust assessments as those who have been trafficked and exploited by strangers.

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