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A differentiated care system: its contribution to the vulnerabilities of separated migrant children in Ireland

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ABSTRACT

The paper will explore findings of a research project on child protection policies and practices in Ireland and their contribution to safeguarding separated migrant children. It begins with a discussion on separated migrant children in Ireland, provides some sense of the recent momentum with regard to legislation and policy developments, as well as service responses that seek to meet the challenges posed by this phenomenon. Then it draws on research undertaken with service providers and child care/protection agencies in Ireland that are involved in the identification, care, and support of separated migrant children who are vulnerable to being trafficked. The paper makes links to broader trends in the treatment of separated children across Europe. The *EU Agenda for the Rights of the Child (2011)* provides an important policy context from which to consider the rights of separated children and appropriate responses in policy and practice.

KEYWORDS: child migration, separated migrant children, child protection

Introduction

This paper examines the position of separated children seeking asylum and trafficked children, who comprise a growing number of children and young people in Ireland and other European countries. Separated children seeking asylum (also referred to as unaccompanied minors seeking asylum) represent an identifiable transnational migrant population that often challenge westernised ideas of childhood, home, care and protection and the development of appropriate service provision. Literature points to their role as actors in constructing livelihoods, often in contravention of norms associated with childhood as well as pointing out the potential vulnerabilities in which their migratory status sometimes places them (Bhabha, 2008; Breuil, 2008). Some of these children are vulnerable to exploitation and are likely to suffer socially and psychologically as a result of their separation from family and friends (Ombudsman for Children in Ireland, 2009).

The paper will explore findings of a research project on child protection policies and practices in Ireland and their contribution to safeguarding separated migrant children. It begins with a discussion on separated migrant children in Ireland, provides some sense of the recent momentum with regard to legislation and policy developments, as well as service responses that seek to meet the challenges posed by this phenomenon. Then it draws on research undertaken with service providers and child care/protection agencies in Ireland that are involved in the identification, care, and support of separated migrant children who are vulnerable to being trafficked. The paper makes links to broader trends in the treatment of separated children across Europe. The *EU Agenda for the Rights of the Child (2011)* provides an important policy context from which to consider the rights of separated children and appropriate responses in policy and practice. It is a useful document for us to analyse the current framework in Ireland. We conclude the paper by considering suggestions on the development of a protective environment that are being proposed to address issues arising for this group of children and young people.

Research Methods

Our focus in this paper is to explore the position of separated children and their potential vulnerability to human trafficking brought about by limited understanding and acknowledgement of their realities in policy and practice in Ireland. It is informed by the outcomes of fifteen qualitative interviews undertaken between September 2009 and March 2010 with service providers and child protection agencies who come in contact with separated minors and/or child victims of trafficking in Ireland. It is also informed through literature and policy developments in the areas of migration and child trafficking. With regard to our research, participants were professionals working in the area of child trafficking, including key Non-Governmental Organisations (NGOs), childcare professionals and immigration officials employed by statutory agencies. Interviews were also conducted with project workers in refugee support services and NGOs who have contact with separated children.

The interviews investigated the procedures with regard to the identification of and responses to children who have been victims of trafficking or are vulnerable to being trafficked. Themes addressed in the research interviews relevant to this article include a focus on the care arrangements for separated children in Ireland, current policies and

practices and issues relating to the agency and the rights of trafficked children. We were aware throughout the process of our ethical responsibilities in carrying out research on this sensitive topic. It is evident that people and organisations working in the field are themselves developing their understanding and responses to the challenges posed by child trafficking. In consideration of this, comments made by research participants have been made anonymous, and the research does not identify any individual person, organization or geographical area. In referring to the research participants we have allocated numbers to participants according to the order of the interviews and in the text we differentiate between NGO and statutory agency participants. We have also attempted to highlight the issues arising within this process rather than engaging in critiques of specific agencies in order to further contribute to meeting the challenges posed by child trafficking.

Separated children and service provision in Ireland

In Ireland once separated children come to the attention of the State, according to the provisions of the Childcare Act (1991), they are placed under the care of the Health Service Executive (HSE) which is the statutory authority in Ireland with responsibility for the welfare of children. Between 2000 and 2010, there were 5,952 children referred to the HSE as separated children and of these 2865 were placed in care (Arnold, 2011). The number of separated children presenting to the HSE reached a peak of 1,085 children in 2001 and declined to 291 between January and November 2009 (HSE in Smyth, 2011). Approximately half of those separated children were placed in state care and the other half were reunited with family members. A small number were either assessed as being 18 or older, sent back to other EU jurisdictions under Dublin II Regulation, or were found to be accompanied by an appropriate adult (Smyth, 2011).

Depending on the section of the *Child Care Act, 1991* under which separated children are taken into care, differentiated care arrangements are made and as yet it is not clear what the practice and policy implications are for the care of separated children (Horgan, Martin and O'Riordan, 2011). Some are treated as abandoned children under Section 4 where the HSE takes a child into its care. Separated children might also be treated as homeless and placed in hostel accommodation under Section 5. In such instances they

may not be the subject of a care order or benefit from the support of an allocated social worker (Ombudsman for Children's Office, 2009). Children can also be taken into care under sections 15-17 where there are welfare concerns.

Until December 2010, the majority of separated children placed in the care of the HSE had been accommodated outside mainstream child care services. Most of them were placed in private hostels in Dublin that were not registered or inspected by the HSE and which provided minimal adult supervision or support for the separated children. The use of such hostels began in the early 2000s, initially as an emergency accommodation response for this new cohort of children in care, but then continued throughout the decade. Criticisms of such practice were voiced from a number of sources, such as the UN Commissioner for Human Rights (Hammerburg 2008), the Ombudsman for Children (2009), as well as from Children's Rights and migrant advocacy groups. There have been continuing concerns about the quality of care and accommodation provided for separated children. All expressed concerns for the lack of safety and protection that such arrangements provided, drew attention to the limited access by these children to HSE social workers, and highlighted the potential risks they faced, because of such arrangements. Joyce and Quinn (2009) in a review of policies for separated children in Ireland highlighted deficits in their care arrangements and concluded that these deficits represented 'a lack of equity with the level of service provided to Irish children in care' (Joyce and Quinn, 2009:69).

Then in 2009, the Implementation Plan (Office of the Minister for Children and Youth Affairs 2009) for the *Commission to Inquire into Child Abuse*¹ recommended that the HSE stop using private hostels for separated children and implement an 'equity of care policy' to accommodate all separated children in mainstream care on a par with other children in the care system. Following this, arrangements were put in place to accommodate the children, largely, in foster care, and the hostels were closed in December 2010. However, this has raised concerns similar to those already identified for separated children who are ageing out. In such instances young people nearing the

¹ The Commission to Inquire into Child Abuse (2009) was established to investigate all forms of child abuse in Irish child care institutions from 1914 onwards. The majority of the allegations investigated by the Commission related to sixty residential Industrial and Reformatory Schools operated by Catholic Church orders and funded and supervised by the Department of Education.

age of 18 are subject to a 'dispersal' policy, whereby they are relocated to care settings which are often nearby direct provision centres for asylum seekers (Arnold, 2011). Concerns related to this include erosion of informal support mechanisms that have developed, largely, through activist support organisations in the Dublin area, as children are now being placed throughout the country. Some of our research participants questioned to what extent children are being placed in proximity to psychological/medical support services with experience in dealing with separated children. Issues have also arisen regarding their schooling, where children have been moved during the school year, disrupting their studies. All of this may represent a loss of 'communities of care' which have developed around the needs of separated children in the Dublin region (Arnold, 2011; Horgan, Martin and O'Riordan, 2011).

Missing and Trafficked Children in Ireland

One of the concerns regarding the care of separated children throughout the 2000s was the ease with which they could go missing. From January 2000 to December 2010, 513 separated children went missing from the care of the State. Seventy-Seven of these children were subsequently accounted for (HSE in Smyth, 2011). These figures provide evidence that the majority of separated children who have gone missing were never found once they have left the care of the HSE. While guidelines, *Children Missing from Care; A Joint Protocol between An Garda Síochána and the Health Service Executive* (2009), were introduced to assist the work of the Gardaí and the HSE with all children who go missing from HSE care and the numbers missing seem to be decreasing, issues remain, in particular those regarding weekend and evening unavailability of HSE social workers (Barnardos, 2011). The Garda Missing Persons Unit has suggested that children may have entered Ireland illegally to be reunited with family members already living in Ireland or another EU country (Hauser, 2009). However, there is concern about the practice of reuniting children with family members based on very little proof of blood ties or kinship connections, perhaps further increasing children's vulnerability. Corbett (2008) suggests that in a minority of cases there is concern that family reunification may have resulted in the sexual exploitation of some children or exploitation through domestic servitude. Bhabha (2004) argues that internationally, there is 'growing

evidence of the involvement of traffickers in a significant minority of child asylum cases' (p. 142) and that in some countries traffickers are encouraging children to use the asylum process to gain entry into a country.

Human trafficking is a recognised part of the international migration process. The Irish Government recently published the first official report on Human Trafficking in Ireland and reported 68 incidents of human trafficking which came to the attention of the Irish police force (An Garda Síochána), including 17 minors, five of whom were separated children in HSE care (Anti-Human Trafficking Unit, Department of Justice, Equality and Law Reform 2010). These figures reinforce arguments about the vulnerabilities associated with the care arrangements for separated children (Horgan, Martin and O'Riordan, 2011). Earlier, Conroy (2003) in her report on human trafficking into Ireland, identified sixteen specific cases of children trafficked originally from the Balkans, West Africa and Romania. At this time she also found that only 10% of all separated children arriving in Ireland were subject to investigation as being trafficked. Also, a number of non-governmental sources have indicated human trafficking activity in Ireland since the early 2000s (Sheehan, 2008; Nicholson, 2008; O'Connor and Pillinger, 2009). Deception has been identified as a key factor in the migration of these children and young people to Ireland and many had experienced prostitution and sexual violence since arrival. The number of trafficked children arriving in Ireland may be impossible to quantify accurately; however, as the phenomenon is illegal and hidden, the above figures are likely to be an under-estimation of the total number of children trafficked into the country. A key challenge in meeting the needs of separated migrant children is how to understand and address associated risks within the contexts of their migratory lives.

International Developments and the Politics of Migration

There is an onus on the Irish State to ensure that its legal frameworks and policies reflect international legislation and internationally recognised best practice so that all children receive the care and protection they need. The Palermo Protocol (2000), which Ireland ratified in 2010, provides a common definition of trafficking and gives children special status. However, difficulties arise in relation to the lack of clear circumstances that can be classified as child trafficking, especially in view of the fact that key concepts

such as exploitation, coercion, and vulnerability remain undefined. An additional limitation inherent in the Protocol is its focus on crime prevention rather than the welfare or human rights of children (Bastia, 2005). Anderson and Andrijasevic (2008) are critical of the role of state-imposed migration controls in increasing the vulnerability of migrants to exploitation and abuse and, in particular, the Palermo Protocol, which they claim focuses on prosecution and punishment of traffickers through strengthening state borders to prevent trafficking and smuggling rather than providing human-rights-based protection for victims. The Palermo Protocol imposes the need to define people according to their status as victims of trafficking, to make them eligible for receiving protection and support from the government of whichever country in which they find themselves, although eligibility for such rights is not guaranteed (Bastia, 2005). The Protocol does not address children's decisions and actions, but merely constructs them in the passive role as victims (Breuil, 2008). Such a denial of citizenship rights reflects current discourses which perpetuate the social construction of the victim of trafficking as passive and vulnerable, and deny the trafficked person any agency. Breuil (2008) examines how implicit notions in the concepts of "children" who are often represented as dependant and innocent beings needing protection and care from adults; and "home" which is regarded as territorialised, unchangeable and safe, can oversimplify trafficked and migrating children's experiences. These social constructions are not necessarily untrue, but they are normative, and thus historically and culturally specific. Moreover, she argues that these concepts may be adult-centred and inconsistent with children's own experiences. These images have become institutionalised and thus can often determine how we perceive and treat trafficked children (Breuil, 2008:232). However, as Bastia (2005) suggests, children experience varying degrees of powerlessness or control over their trafficking situations. The study of and policy responses to child trafficking might benefit from considering migration as less a physical movement from one place to another, but rather as a form of social movement within networks of unequally distributed power. In recognition of the agency of trafficked children, Moosa-Mitha (2007) argues for approaches which move beyond constructing the child as a passive victim of the adult offender and instead offers an alternative perspective which politicises child trafficking as involving 'complex phenomena that take into consideration the economic, structural and cultural realities within which child trafficking occurs' (Moosa-Mitha, 2007:317).

There has been recent activity at an EU level in relation to this area. The EU Commission's 2010 *Action Plan on Unaccompanied Minors* puts forward a common approach towards unaccompanied or separated children coming from outside the EU. The Action Plan identifies child-specific reception measures and procedural guarantees that should apply from the moment the child is found until a durable solution is found. It also stresses the importance of appropriate representation of the child, proposes actions to address the shortcomings in the care provided to unaccompanied asylum-seeking children in the EU and to avoid the disappearance of unaccompanied children who are in the care of public authorities.

Furthermore, the *EU Agenda for the Rights of the Child (2011)* recognises separated children as a key group and proposes specific principles for addressing their needs. It stresses the importance of recognising the specific needs of children in the development of policy on human trafficking (European Commission, 2011). The overall purpose of the document is to reaffirm the strong commitment of all EU institutions and of all Member States to promoting, protecting and fulfilling the rights of the child in all relevant EU policies and to turn it into concrete results. It states that, in the future, EU policies that directly or indirectly affect children should be designed, implemented, and monitored taking into account the principle of the best interests of the child enshrined in the EU Charter of Fundamental Rights and in the UNCRC (2011:3).

While addressing many of the identified shortcomings in relation to the treatment of separated children in Ireland, we have yet to see how influential these two documents will be.

Irish Policy and Legislative Developments

Irish action in the field of human trafficking has gained considerable momentum in the recent years. The Irish national legislative context has focused on measures to reduce human trafficking, largely through the conviction and punishment of traffickers, rather than promoting the agency and welfare of children who are trafficked. For example, the *Child Trafficking and Pornography Act 1998*, the *Amendment Act 2004* and the *Illegal Immigrants (Trafficking) Act 2000* all focus on prohibition and punishment. Efforts to

deter this type of criminal activity were reinforced with the introduction of the *Criminal Law (Human Trafficking) Act 2008*, which creates separate offences of trafficking in children for the purpose of their labour, exploitation or the removal of their organs, and trafficking in children for the purpose of their sexual exploitation. It also makes it an offence to sell, offer for sale, purchase, or offer to purchase, any person, adult or child, for any purpose. This law goes beyond the recommendation of the *Council of Europe Convention (2005)* by removing the issue of consent in cases involving victims with mental disabilities. In comparison with other jurisdictions, it provides more severe penalties for traffickers, and at present Ireland is the only state in Europe that can imprison a trafficker for life.

However, it must be noted that potentially important steps have recently been taken to address the discrepancy in emphasis between punishment and protection in national policy with the *Immigration, Residence and Protection Bill (IRP) 2010* which provides for the identification of victims of trafficking (Section 139). It proposes to establish two new types of permits of residence specifically designed for those who are identified as victims of trafficking: the Recovery and Reflection permit of up to 60 days (Section 139;2). This can be followed by a Temporary Residence permit of six months (Section 139;6) which can be renewed by the Minister on certain conditions. Such provision, however, are dependent on co-operation with authorities in assisting investigations / prosecutions. The Bill also proposes to empower immigration officers to check whether the adult accompanying the child has the authority to do so (Section 28, 2a). Aspects of IRP 2010 have been criticised. ASCI (2010) argue that it falls short in key areas including not clearly defining separated children, and failing to take the opportunity to comprehensively incorporate the best interests of the child into its provisions for residency and protection. It also falls short in guarantees of protection to suspected victims, such as accommodation, medical care and legal aid. Furthermore, the provisions of the Bill apply only to non-EU/European Economic Area (EEA) nationals. Finally, it does not outline any special consideration for children who are victims of trafficking with regard to temporary residence permission. ASCI recommend that provision for provision for temporary residency on humanitarian grounds be included for children, regardless of co-operation with authorities.

A key development in Ireland's response was the establishment of the Anti-Human Trafficking Unit in the Department of Justice, Equality and Law Reform in 2006 to coordinate efforts in human trafficking at a national level. It is responsible for the publication of the *National Action Plan to Prevent and Combat Trafficking of Human Beings in Ireland: 2009-2012* (NAP) which proposes a child-sensitive approach in the development, implementation and assessment of anti-human trafficking policies and programmes. It signals a change in practice from accommodating separated children in hostels to placing them in families in order to reduce the risk of exploitation. A key recommendation of the NAP is the development of a protective environment focused on reducing the vulnerability of separated children. Identification, protection, recovery and assistance of children, as well as residency and repatriation of child victims of trafficking form the other major themes of the plan. However, we argue elsewhere (Horgan et al, 2011) that the crucial role of a Guardian *ad Litem* for trafficked children is not fully acknowledged by the *National Action Plan* (NAP) or the *IRP Bill 2010* which reflects a failure to recognize children's agency and limits the potential for their realities and experiences to be expressed and heard (Horgan et al, 2011). The *National Children's Strategy* which was published by the Irish Government as far back as 2000 includes a commitment to appointing a guardian *ad litem* for all separated children. However, in reality this service has rarely been made available to separated children (Corbett, 2008; Shannon, 2009). The guardian *ad litem* service could provide independent support to separated children and act as an advocate for children during the asylum process. In Ireland, as in England and Wales, the role of guardian *ad litem* has been narrowly interpreted largely in terms of representing children in legal proceedings. Hammarberg (2008) in his report on Ireland recommended that each separated child should have an appointed guardian *ad litem* and the Report of the Ombudsman for Children (2009) recommended a wide role for guardian *ad litem*s, following the advice given in the *Separated Children in Europe Programme Statement of Good Practice* (Save the Children/UNHCR, 2004). In its concluding observations on Ireland the UNCRC expressed concern that unaccompanied children or children separated from their parents might still not receive adequate guidance, support and protection during the asylum process, in particular with respect to access to services and an independent representation. (UNCRC, 2006, p14)

Therefore, notwithstanding the developments outlined above, there remain many questions both about how particular 'childhoods' and children are valued in Ireland and the standard of child care services for separated and trafficked children.

Research Findings

One of the statements made in the *EU Agenda for the Rights of the Child 2011* is that 'effective access to justice and participation in administrative and court proceedings are basic requirements to ensure a high level of protection of children's legal interests'. (2011:6) Some of our research participants expressed concerns that suspected victims of trafficking were being dealt with primarily under the criminal justice system rather than the child protection system. To ensure a child-sensitive approach as recommended in the National Action Plan (2008), the research participants made the following suggestions. They recommended the use of multi-disciplinary teams including psychological supports at all ports of entry, robust development of child sensitive immigration and trafficking policies, and ensuring that children are aware of their rights to protection and assistance. Also, one of the participants suggested the use of child-friendly interview suites for children similar to the one employed by the Gardai and the HSE in the investigation of sexual abuse. These views of the research participants area were echoed by Feijen (2008) who suggests that European countries adopt a child-sensitive entry management system in relation to immigration, and in particular, applications for asylum. An essential element of such proposals is the appointment of a legal representative and/or guardian as part of the reception process. The crucial role of *a Guardian ad Litem* for trafficked children is not fully acknowledged by the *National Action Plan* (NAP) or the *IRP Bill, 2010*.

Conflicts between migration policies and child protection policies

Some research participants highlighted conflicts arising between migration and child protection polices, supporting the views expressed by (Abunimah and Blower, 2010: Crosscare, 2010). Research participants highlighted a lack of clarity regarding which State agency is responsible for identifying victims of child trafficking. This resulted in suspected victims of child trafficking being subject to multiple interviews (Refugee Legal Service, Gardaí, HSE) and expected to re-tell their experiences.

You have to go through it with Refugee Support Agency, and your social worker and possibly the guards and all these different things they have to go through and re-tell and worrying they won't be believed, having a different story to increase believability even though their original story might be horrendous anyway. Research Participant 1

Also, concerns were raised about the procedures for reuniting children with family members and the lack of subsequent follow-up mechanisms after family reunification.

When it comes to family reunification we would have raised a lot of concerns about the procedures in other parts of the country where the young person is being reunited with adults who say they are family, and social workers are asked to sign off and say these families are being reunified based on sketchy evidence. Research Participant 7

They also expressed concerns that suspected victims were being dealt with primarily under the criminal justice system rather than the child protection system, indicating the possibility of the precedence of the former. There are fundamental tensions between child welfare/protection policies and systems and migration policies that have been designed to assess individuals' status in relation to national citizenship, reiterating Mosha Mitha's contention that their status influences trafficked children's rights to equal child protection supports and services (Mosha Mitha, 2007).

Voice and status for separated children

Similar to the concerns expressed by the Ombudsman for Children in Ireland (2009), some of the NGO participants in our study were concerned about social workers' ability to make decisions related to the legal status of separated children.

...if somebody is here illegally and they are not in the system – you don't just keep your head down and hope it'll all go away and “sure they are going to school and everything”. Things aren't grand; the number one thing that anyone should think about is “what is their legal status?”. They [social workers] are in court getting care orders, but when I ask what is the child's status here, they say, “well it's ok because they have a care order” Research Participant 4

They highlighted the possibility that children might have an ambiguous legal status due to a reluctance by their social worker to apply for Refugee status, and while the social

worker may have good reason to not want to put the child through this adult centred asylum system, lack of status results in the young person becoming more vulnerable and again highlights the need for an independent guardian. In particular, the lack of status is very problematic for separated children once they reach eighteen, as they no longer have access to the care and protection offered by a Care Order under the Child Care Act 1991 and services they were entitled to as minors are discontinued.

Participants in our research also emphasised the need for a guardian to address the legal issues of migration law; and it was felt that this was something to which social workers did not give sufficient priority.

The guardian ad litem is a model that works very well within the court system. There is a need for children to have an independent advocate where there is an issue of dispute or conflict. All the children who go through the system and are age-disputed should have a guardian ad litem. Research Participant 8

The lack of a guardian *ad litem* for separated children who would act as an advocate for the voice of the child during the asylum process is problematic and reflects a failure to recognize children's agency. The development of the guardian *ad litem* service would support the expression of children's voices and consideration of their experiences (Martin et al, 2011).

These issues can be within broader critiques of the asylum process in Ireland and, in particular, the lack of a child-centred asylum policy. This situation is not unique to Ireland as Bhabha (2004) contends that internationally children often find it more difficult to gain asylum than adults. It could be argued that within the 1951 United Nations Convention Relating the Status of Refugees there is 'a normative assumption that refugees are adults' (ibid, p.143).

Creating a Protective Environment for Separated and Trafficked Children

One of the general principles of the *EU Agenda for the Rights of the Child 2011* is making the rights of the child an integral part of the EU's fundamental rights policy & targeting EU action to protect children when they are vulnerable. In recognising

children as active agents and meaning makers, we argue that policy development should be grounded in children's lived experiences. Because of the multiple chasms into which separated and trafficked children fall, the value of this approach is even more important, where conventional child protection measures and assumptions about childhood have been shown to increase rather than decrease their vulnerability. A useful framework for understanding the responses required to protect trafficked children is the model of the Protective Environment which has been developed by UNICEF. The Protective Environment approach is a human-rights based model which recognises the agency and centrality of the individual child and acknowledges that child trafficking cannot be addressed in an isolated manner (O'Brien, 2008). Nationally and internationally such a model is being promoted as a means of addressing child trafficking and the Irish *National Action Plan to Prevent and Combat Trafficking of Human Beings in Ireland* (2009) states that the creation of a protective environment for children will be a key goal of the strategy. The *UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children* (2000) requires states to take measures to alleviate poverty, underdevelopment and lack of equal opportunity which lead to the vulnerability of persons, especially women and children to trafficking. It points out that an important factor in the creation of an environment which is protective of all children is eliminating the demand for children as objects for sexual exploitation, or as a source of cheap labour, and suggests that this can be done through educational and social measures which reinforce the unacceptability of such practices (ibid, p168). Furthermore, the *Council of Europe Convention* (2005) obliges states to take specific measures to reduce children's vulnerability to trafficking by creating a protective environment for them. Finally, the *EU Agenda on the Rights of the Child* (2011) proposes many aspects of the protective environment as its key principles.

The Protective Environment is a web of eight interconnected elements which influence the lives of children and the types of protections and risks which they may experience. These elements include government commitment, children's life-skills, attitudes, capacity, legislation and monitoring, media awareness and rehabilitation. While various aspects of the protective environment are currently in place in the Irish State, there are a number of areas which should be further addressed such as children's life-skills, capacity, legislation and monitoring and rehabilitation.

Central to the construction of this protective environment, according to UNICEF (2005) guidelines, is the co-ordination of key agencies that are likely to come in contact with victims of child trafficking including the police, border and immigration authorities, health, education and social welfare agencies and NGOs. Research participants were critical of the current system where there is a lack of a multi-disciplinary ethos and as one participant contended the response of statutory agencies has been one of 'shifting responsibility'. UNICEF (2008) contends that all children should be able to access services for recovery and integration on a non-discriminatory and equal basis. However, as already discussed there has been differentiated treatment of separated children seeking asylum and Irish born children in the care of the HSE until quite recently. In this instance the issue of residency status appears to influence the treatment of such vulnerable children and impact on their experience of the protective environment. Kanics (2008) asserts that in developing this protective environment the Irish government need to focus on the issue of safe and secure accommodation and ensure that services are provided on a 'consensual and informed basis' which considers both the child's vulnerabilities and their rights (p397).

In relation to rehabilitation and recovery, Van de Glind and Kooijmans (2008) suggest that such responses should be "child-centred, and include individual needs assessments followed by tailor-made remedial action" (p163). While the limitations of the Palermo Protocol have been outlined in this article, the Protocol does provide a number of positive supports for the victims of trafficking. Also, it requires that in situations where a victim of trafficking wishes to be repatriated this should be facilitated in a manner that primarily ensures the victim's rights and safety. In regard to these commitments Ireland has signed and ratified both the 2000 *Palermo Protocol on Trafficking* and the Optional Protocol on the UN *Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography*.

Conclusion

Good communications between all responsible departments and agencies is essential for the provision of quality childcare services. This is particularly important and challenging in the context of separated and trafficked children, due to the complex

nature of the problem and the involvement of such a large number of state agencies and concerns, including Justice, Immigration and Child Protection agencies. It is further complicated due to the trans-national nature of human trafficking. The various responses of the Irish Government to evidence that Ireland is both a transit and destination country for child trafficking need to consider the rights and agency of children as central to any policies or services put in place. In this respect, there has been a number of positive policy and legislative responses, including the implementation of legislation, the establishment of the Irish Anti-Human Trafficking Unit and the development of the NAP on Trafficking.

An essential element of providing for the child's voice to be heard is the provision of the Guardian *Ad Litem* service for all children involved in the care and refugee application process. As discussed, such provision is lacking in the Irish context. Child participation is essential to the full implementation of the UNCRC and a key element in developing a comprehensive protective environment as well as a core principle in the Irish government's *National Children's Strategy* (2000). While Ireland is a signatory to the UN CRC, its rights-based ethos is not reflected in Irish social policy, as children are not recognised as rights holders and are not adequately afforded a voice under the Irish Constitution. Fundamental and urgent change needs to be made in relation to policy as well as to the Constitution in order to develop a comprehensive protective environment for children. In this respect, Ireland has recently appointed a Minister for Children (as a full Ministerial position at cabinet) who has made a commitment to developing a new child protection agency as well as holding a referendum to insert explicit rights for children into the constitution. Any change will only be effective if it is grounded in and informed by the lives of all children, including separated and trafficked children.

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