

ADDRESS BY UNICEF REPRESENTATIVE

ISS Open day, 28 May 2009
Cape Town International Convention Center

“International Child Protection in relation to unaccompanied minors”

- Programme Director,
- Director General of the Department of Social Development
- Secretary General of International Social services
- Distinguished delegates

As South Africa commemorates its annual “Child Protection Week”, it is my pleasure to address you, the delegates representing the global network of social services. I congratulate you on your work in protecting, defending and assisting children, who as a result of migration, international displacement or other circumstances have been separated from their families across international borders.

Distinguished delegates, ladies and gentlemen,

At UNICEF we have learned that issue of unaccompanied migrant children presents unique challenges that social welfare services are often ill-equipped to address, and the South Africa country situation illustrates these challenges well.

Migration to South Africa is a high risk affair, and especially so for children. Apart from the peril of drowning in the Limpopo River, or of being attacked by wild animals while trudging through the bush, children can be targeted by criminal gangs who, in the guise of “facilitating” the crossing, abuse them and strip them of their money and possessions.

On arrival, many live a precarious existence characterized by sleeping in rough taxi ranks or in the bush; by illness and fear of seeking medical care; and by doing odd jobs in the informal sector where they can be subject to violence, abuse and exploitation.

ADDRESS BY UNICEF REPRESENTATIVE

We know that as the crisis in neighboring Zimbabwe has deepened, the influx of unaccompanied children has reached proportions resembling a humanitarian emergency. In the small town of Musina located on the border of Zimbabwe, for example, informal estimates suggest there may be as many as 2,000 unaccompanied children in the area. Most are boys, but some – particularly girls – are absorbed as workers in homes or farms and become “invisible”. Of course, there could be hundreds or even thousands more seeking shelter in other locations across the country that we do not know about.

The South African Government has demonstrated its commitment to extending the same protective measures to foreign children as it would extend to any South African child. Within its **Constitution**, Section 28 of the Bill of Rights specifically provides for the protection of all persons within the territory of South Africa, including the specific child rights of children.

South Africa’s Constitutional Court has interpreted this clause as a guarantee of the rights of foreign children, irrespective of legal status in the country. In its judgment, the Court ruled “... that the State is under a direct duty to ensure basic socio-economic provision for children who lack family care, as do unaccompanied foreign children.” The Court has also ruled that “...persons within our territorial boundaries have the protection of our Courts and Constitution.”

Other legislation such as the **Children’s Act** and the Refugee Act treat unaccompanied foreign children as “children in need of care”, and oblige the State to deliver services for care and protection.

Above all, these rights are enshrined within the almost universally ratified **Convention on the Rights of the Child** which celebrates its 20th anniversary this year. The rights set forth in the Convention are to be respected by States without discrimination of any kind, including the national origin of the child. Article 2 provides that “States parties shall respect and ensure the rights set forth in the Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child’s or his or her parent’s or legal guardian’s race, colour, sex, language religion, political or their opinion, national, ethnic or social origin, property, disability birth or other status.

In line with the provisions of the Convention and its responsibility to uphold the rights of all children, UNICEF works closely with the Government of South Africa and NGO partners to ensure the protection of

ADDRESS BY UNICEF REPRESENTATIVE

the rights of unaccompanied migrant children through the provision of emergency assistance in the form of identification and documentation, shelter, psychosocial care and access to basic services such as education. It works to strengthen national capacity through training and the development of guidelines for the integration of unaccompanied migrant children into the country's national care and protection systems. This work has brought forth valuable lessons which, in concluding, I would like to share with you today:

- Priority should be given to identifying unaccompanied migrant children, where possible at ports of entry. The identification and documentation process should be carried out by professionals and the interviews should be age- and gender-sensitive, in a language the child understands. Information sought should include: the identity and citizenship of the child and of both parents and siblings; the reason for being separate/unaccompanied and assessment of any vulnerabilities and need.
- The child should be registered and provided with identity documentation and a qualified guardian appointed to safeguard the child's interests until his or her majority.
- Our experience shows that interventions have a higher chance of success if they are consistent with the child's own project, rather than only serving to frustrate their survival strategies. We must build upon the informal safety net structures of the migrant community.
- In accordance with the Constitution, the state should facilitate equal access of unaccompanied children to educational opportunities, including being registered with the school authorities as soon as possible, and provided with appropriate educational certificates where return is likely. They should also have adequate standard of living and the same access to health care as children who are nationals. In particular, psychosocial care and other rehabilitation services should be provided for children who have been the victim of abuse or trauma.
- Given the vulnerability of these children to trafficking, measures need to be in place to conduct regular checks on the children's situation and their whereabouts.
- All the above cited measures can't be effectively without the existence of a network of well-trained social workers. UNICEF has sought to build capacity to address the need to scale up social work systems to deal with caseloads of emergency proportions. In the border areas, the Government has deployed an emergency team of social workers dedicated solely to this work.
- A centralized database has been established for registration, documentation and follow-up on the caseload; and a number of temporary shelters have been established or expanded under temporary

ADDRESS BY UNICEF REPRESENTATIVE

agreements to provide emergency care for children. New systems have also been developed to facilitate the rapid reunification of children.

- Where there is an enabling environment for safe and voluntary repatriation, efforts should be made to trace the family of unaccompanied migrant children and reunite them, unless this is contrary to the child's interests.
- Finally, UNICEF recognizes the need for continued monitoring and advocacy. The rights of migrant children are poorly understood. Despite the existence of clear legal frameworks, foreign migrant children continue to face discrimination, denial of access to public services and illegal detention and deportation, even from some elements of the social work profession.

Since our initial involvement with this emerging situation, we have found a keen and open partner in the International Social Services Bureau of the Department of Social Development. We hope that the sharing of experiences and international best practices at this meeting will help us in scaling up appropriate responses.

Thank you for your attention.

ends