



# Almost every child matters?

## Ensuring equal rights for trafficked children

Joint briefing by ECPAT UK & World Vision UK – February 2007 (update)

### Yen's\* Story

Yen lived alone with her mother in a poor rural village in **Vietnam** and was sold by her mother to a stranger. She was then trafficked to the UK by lorry, spending three long months on the road. On arrival, Yen was taken to a brothel where she was shown pornographic videos to groom her for a life of prostitution. Luckily, she managed to escape and, after being on the streets for a short while, was taken to a police station. However, despite being in obvious distress with clear mental health concerns, no counseling or specialist support was provided and her asylum claim was refused.

\* Name has been changed

### Introduction – does every child matter in the UK?

Although the UK Government recognises that human trafficking is a major concern for the UK and is preparing to launch an Action Plan to tackle it, much has still to be done to ensure that trafficked children receive the care and protection they deserve. As there is currently no national mechanism for the identification and care of children who have been trafficked, most are simply 'processed' as unaccompanied asylum-seeking children and are dealt with under the immigration system. Unfortunately, at present this means them being treated more like unwanted immigrants than children with particular needs and vulnerabilities. Indeed, despite government assurances that asylum-seeking children in the UK 'receive adequate care, protection and support', evidence from a variety of sources suggests that this is not the case and that many vulnerable children are being failed by the system.<sup>1</sup>

### Child trafficking in the UK – still a hidden problem

The true nature and extent of child trafficking into and through the UK is still very much unknown. With no mandatory collection of data on child trafficking and no national mechanism for the identification of children who have been trafficked, estimates of the scale of the problem are based on anecdotal evidence and case studies.<sup>2</sup> Such evidence suggests that children have been trafficked from countries in sub-Saharan Africa, Eastern Europe and East Asia for both labour and sexual exploitation, although there appears to be 'no clear or constant trend demonstrating a pattern on the routes or nationalities involved'.<sup>3</sup>

Clearly there needs to be a much more comprehensive strategy for victim identification and data collection to enable annual reporting and analysis of emerging trends. Such information is essential if the UK is to ensure that child victims of trafficking receive appropriate care, support and protection. In order to guide and manage this process, an independent national Child Trafficking Rapporteur should be appointed with responsibility for annual reporting on national statistics, trends and emerging issues.

### Ensuring equal rights for trafficked children

Although the Government has asserted that 'the best interests of all children, including unaccompanied children who may have been trafficked, are taken into account', evidence from a variety of sources suggests that many children who are subject to immigration control are being failed by the system. Underlying this failure is the UK Government's determination to maintain strict and effective immigration control, regardless of the consequences for those, including children, who fall foul of it. This ethos is clearly reflected in the UK Reservation to the UN Convention on the Rights of the Child (CRC) on Immigration and Nationality which states that the UK will not be bound by the Convention in matters concerning children under immigration control and therefore accepts no responsibility for upholding their rights.

<sup>1</sup> Government Responses to Reports from the Committee in the last Parliament, Eighth Report of Session 2005–06, HL Paper 104, HC 850, paragraph 29

<sup>2</sup> ECPAT UK (January 2006), *Evidence from ECPAT UK to the Joint Committee on Human Rights Inquiry on the Human Rights of People Trafficked into the United Kingdom*, p.4

<sup>3</sup> ECPAT UK (2005), *Crossing Borders: The Trafficking of Children into the UK*, p.3

The UK Reservation states that:

*'The United Kingdom reserves the right to apply such legislation, in so far as it relates to the entry into, stay in and departure from the United Kingdom of those who do not have the right under the law of the United Kingdom to enter and remain in the United Kingdom, and to the acquisition and possession of citizenship, as it may deem necessary from time to time.'*<sup>4</sup>

Despite consistent pressure from campaigners over the years, the UK Government has refused to budge on this issue and continues to justify the Reservation as being 'necessary to maintain effective immigration control'.<sup>5</sup> Even increased recognition that some asylum-seeking children are being trafficked into the country, or are at risk of being trafficked once they arrive, has done little to encourage the Government to reconsider its position. This is particular concern for the following reasons:

### **1. The Reservation is against the object and purpose of the Convention and is therefore impermissible and invalid in international law**

The broad nature of the Reservation allows for the principles of the Convention to be disregarded in decisions relating to immigration. As the Committee on the Rights of the Child itself concluded in its observations to the UK's first report, *'the reservation relating to the application of the Nationality and Immigration Act does not appear to be compatible with the principles and provisions of the Convention'*.<sup>6</sup> Furthermore, given that the Vienna Convention on the Law of Treaties states that a Reservation must not be incompatible with the treaty's objects and purposes, the UK's Reservation is actually invalid.

### **2. The Reservation undermines the principle that the best interests of the child should always be a primary consideration**

As long as the UK Government can justify treating asylum-seeking children as immigrants rather than children, their best interests will not be served. Although the Government is *'satisfied that asylum-seeking children in the UK receive adequate care, protection and support'*<sup>7</sup> evidence from a variety of sources suggests otherwise. For instance, in their 'Ringling the Changes' report (2005) the Refugee Council note the continuing *'lack of consistency in local authorities' response to asylum-seeking children and young people who are on their own in the UK'*.<sup>8</sup> The report goes on to conclude that *'many of the local authorities contacted felt that they were not getting the support they need from DfES to ensure that unaccompanied young people are appropriately supported'*.<sup>9</sup>

### **3. By discriminating against asylum-seeking children, the Reservation undermines efforts to combat child trafficking**

As there is currently no national mechanism for the identification and care of child victims of trafficking, most trafficked children are simply 'processed' as unaccompanied asylum seekers and, as Yen's story shows, fail to receive the specialised support they need. This has led to the Joint Committee on Human Rights to conclude that the need for the Reservation to be removed *'is further strengthened by its potential effect in relation to child trafficking victims if their best interests are not to be compromised'*.<sup>10</sup>

### **4. The Reservation is unnecessary and is not needed to maintain effective immigration control**

The UK Government has expressed concern that without the Reservation *'the interpretation of the UNCRC might come into conflict with the UK's own domestic legislation on immigration.'* despite believing that its immigration laws are fully compatible with the Convention on the Rights of the Child and already ensure that vulnerable children have *'the protection of law'*. This is clearly a contradiction as the Reservation would not be needed if this were the case. Indeed, legal experts have concluded that *'the Government will be able to withdraw the Reservation without detriment to existing policy choices in respect of the care and support of unaccompanied asylum-seeking children.'*<sup>11</sup>

---

<sup>4</sup> *Declarations and Reservations*, [http://www.unhchr.ch/html/menu3/b/treaty15\\_asp.htm](http://www.unhchr.ch/html/menu3/b/treaty15_asp.htm)

<sup>5</sup> Baroness Scotland of Asthal, response to a Parliamentary Question, 28<sup>th</sup> October 2004, quoted in Save the Children (2006) *Righting the wrongs: The reality of children's rights in Wales*

<sup>6</sup> Concluding observations of the Committee on the Rights of the Child: United Kingdom of Great Britain and Northern Ireland. 15/02/95. CRC/C/15/Add.34, paragraph 7

<sup>7</sup> *Government Responses to Reports from the Committee in the last Parliament, Eighth Report of Session 2005–06*, HL Paper 104, HC 850, paragraph 29

<sup>8</sup> Dennis J. (2005) *Ringling the Changes: The Impact of Guidance on the Use of Section 17 and 20 of the Children Act 1989 to Support Unaccompanied Asylum-Seeking Children*. Refugee Council, London

<sup>9</sup> *Ibid*, p.37

<sup>10</sup> Joint Committee on Human Rights, *Twenty-sixth Report of Session 2005-06, Human Trafficking*, HL Paper 245-I HC 1127-I, paragraph 35

<sup>11</sup> *Ibid*, paragraph 41

## Council of Europe Convention on Action against Trafficking in Human Beings

Building on previous international agreements, the new Council of Europe Convention on Action against Trafficking in Human Beings 'seeks to strengthen the protection afforded by those instruments and to raise the standards which they lay down'.<sup>12</sup> The Convention identifies trafficking as a violation of human rights and aims to provide a common, binding policy that States can be held accountable to.

After much deliberation, the UK Government has finally agreed to sign the Council of Europe Convention with Tony Blair announcing that it "will enable us to give victims every support and strengthen our efforts to prosecute traffickers".<sup>13</sup> However, if this is to become a reality the Government must make its commitment legally binding by ratifying the Convention and encouraging other countries to do the same. Having been signed by 34 of the 46 member states of the Council of Europe and ratified by just three, the Convention requires another seven ratifications to enter into force. In commemorating the bicentenary of the abolition of slavery, the UK Government has a unique opportunity to confirm its commitment to the protection of victims of trafficking as well as leading other member states to ratify so that the Convention enters into force across Europe as soon as possible.

## Conclusion

All children, regardless of their immigration status, have a right to be protected from abuse and exploitation. Yet, although the UK Government has recognised the need for coordinated action to tackle child trafficking, its level of commitment to ensuring care, support and protection for the victims themselves is in doubt. Although the Government has agreed to sign the Council of Europe Convention, it has yet to ratify and make the agreement legally binding. At the same time, its dogged determination to maintain a Reservation to the Convention on the Rights of the Child on Immigration and Nationality suggests a continuing desire to be led by immigration concerns rather than the best interests of the children who are being trafficked into and through the UK. Many vulnerable children have already been failed by the system and decisive action is now needed to prevent the suffering and neglect of many more.

## Key Recommendations

1. That the UK Government immediately withdraw its **Reservation to the UN Convention on the Rights of the Child on Immigration and Nationality** in order to ensure that the right to protection of all children trafficked into the UK are guaranteed and upheld.
2. That the UK Government **ratifies** the **Council of Europe Convention on Action against Trafficking in Human Beings** since it stipulates the basic standards of victim protection.
3. That an independent national **Child Trafficking Rapporteur** is appointed and responsible for annual reporting on national statistics, trends and emerging issues.

## For further information, please contact:

Helen Young Policy & Public Affairs World Vision UK <a href="mailto:helen.young@worldvision.org.uk">helen.young@worldvision.org.uk</a> Tel: 01908 244492	World Vision UK Opal Drive Fox Milne Milton Keynes MK15 0ZR	Christine Beddoe Director ECPAT UK <a href="mailto:c.beddoe@ecpat.org.uk">c.beddoe@ecpat.org.uk</a> Tel: 020 7233 9887	ECPAT UK Grosvenor Gardens House 35-37 Grosvenor Gardens London SW1W 0BS
--	---	--	--

<sup>12</sup> Council of Europe (2006), *Action against Trafficking in Human Being*, brochure downloaded from [http://www.coe.int/t/dg2/trafficking/campaign/Docs/Brochures\\_en.asp](http://www.coe.int/t/dg2/trafficking/campaign/Docs/Brochures_en.asp)

<sup>13</sup> The announcement was made at a reception on January 22<sup>nd</sup> 2007 to mark the start of the commemoration of the bicentenary of the abolition of slavery. 10 Downing Street Press Release: <http://www.pm.gov.uk/output/Page10814.asp>