

STATE OBLIGATION TO PROTECT

Unaccompanied children seeking asylum and the risk of human
trafficking in Norway



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1 INTRODUCTION

1.1 Justification of study

Human trafficking in relation to women has been on the political agenda for the Norwegian government for quite some time. During the past decade, the issue of trafficking children has been given increased attention by the media in Norway. As a result, this has also attracted the Norwegian governments awareness and attention

Trafficking is a violation of the United Nations (hereafter UN) Convention on the Rights of the Child (hereafter CRC), 1989, amended to Norwegian legislation through appendix 7 and 8 to law number 30/1999, Human Rights Act. I will in this thesis look at human trafficking from a human rights perspective.

The Human Rights are written agreements, which let each state decide whether they want to comply by signing the agreement, or not.¹ These agreements are called treaties and/or conventions. States that decide to comply with one or more of these agreements, in fact, choose to cede a part of their sovereignty as a state. By complying, the state itself (and not its individuals), undertake an obligation to treat each and every individual inside their jurisdiction in accordance with such. From this perspective, the Human Rights can be considered as international law with effect on individuals.²

The Committee on the Rights of the Child (hereafter the Committee), states in their General Comment No. 6 (Hereafter GC No. 6), which addresses “treatment of unaccompanied and separated children outside their country of origin” that there is a need to draw attention to the particularly vulnerable situation of unaccompanied children.³

¹ Høstmølingen (2005) p.8

² *Ibid.*

³ CRC GC No. 6 (2005) p.1

The issuing of the GC was motivated by the Committees observation of an increased number of children in such situations.⁴ The Committee argues that there are several reasons for why a child is unaccompanied, one of these reasons are exploitation by trafficking. The Committee also notes that there are numbers of protection gaps in the treatment of such children.⁵

Based on these grounds, I wanted to perform a study on the Norwegian state and find to what extent it fulfills its obligation, as set out by the CRC. For protecting unaccompanied children seeking asylum in Norway in cases related to suspected human trafficking or in cases where there is suspicion that the child has been a victim of human trafficking.

My motivation for choosing to write my thesis on human trafficking of unaccompanied children, is because I am of the opinion that research is scarce on this matter, and because children should be protected against human trafficking. My focus will be on unaccompanied children seeking asylum in Norway in the age group between fifteen and eighteen. Unaccompanied children are in a particular vulnerable situation, as they rely on Norwegian legislation and the people responsible for carrying it out, for care.

In compliance with the CRC, confer, article 34, article 35 and its second optional protocol, all children in Norway are entitled to protection from the exploitation of human trafficking.⁶ Article 34 proclaim that; “State Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse.”⁷ Article 35 states that; “State Parties shall take all appropriate national, bilateral, multilateral measures to prevent the abduction of, the sale of traffic in children for any purpose or in any form.”⁸ The CRC optional protocol II article 1 sets out that “State Parties shall prohibit the sale of children, child prostitution and child pornography”.⁹ These articles obligate State

⁴ CRC GC No. 6 (2005) p.1

⁵ *Ibid.*

⁶ CRC (1989) Article 34 and op II

⁷ *Ibid.* Article 1

⁸ CRC (1989) Article 35

⁹ *Ibid.* op II Article 1

Parties to protect children not only against sexual abuse but also against exploitation by trafficking.

Human trafficking is seen as the third largest illegal trade in the world, only superseded by drugs and weapon trade. UNICEF stated in 2004 that more than 1.2 million children are being trafficked each year.¹⁰ There are different methods used to exploit people by trafficking. One is through the institution of asylum processing.

A Norwegian documentary program “Brennpunkt” highlighted, on October 13, 2009 that KRIPOS (The National Police Unit on Organized and other Crime in Norway) suspected in 2008, that 250 children were exploited by trafficking in Norway.¹¹ In addition, Kirsten Kvalø states that between the time-period from 2000 to 2008, approximately 600 unaccompanied asylum-seeking children disappeared from Norwegian reception centers, and no one knows what happened to them.¹² In 2009, the number of such disappearances was 71.¹³ The organization Save the Children Norway has worked hard to put children on the agenda. They experienced a struggle working on this, as people do not want to believe that such a thing happen in Norway.¹⁴

We will in this thesis look into how we in Norway treat cases of disappearance or suspicion of human trafficking when it comes to unaccompanied children between fifteen and eighteen who seeks asylum.

1.2 Research question

To answer the research objective of this thesis, the below questions will be investigated.

1. Does the Norwegian State fulfill their ‘obligations to protect’ set out by the Convention on the Rights of the Child?
2. Are the routines, guidelines and international human rights followed in a way that is satisfying from the view of available literature on human trafficking,

¹⁰ UNICEF (2004) p.26

¹¹ NRK (2009)

¹² Kvalø (2009)

¹³ Figenschou (2010)

¹⁴ Nilsen (2009)

experts working in non-governmental organizations, legal guardians and others working in direct contact with the unaccompanied children between fifteen and eighteen years of age?

This research will be conducted from a legal and political point of view, since my background is political science.

1.3 Methodology

The scope of this research is to look into the theory, and to see if it matches what is experienced in the field. Is the theory of the framework for how to deal with such cases followed in practice by the responsible authorities? To illuminate the research question, I decided to explore the theme both theoretically and empirically.

1.3.1 Theoretical method

First I have decided to do research on how the course of these cases are suppose to be handled due to what different Norwegian instances has taken on of responsibility, and what the State has assigned these same actors to handle. I will also look into the laws that Norway as a state has obligated themselves to follow. This is my theoretical part of this study, and will be researched through available literature and some brief contact with different instances to clarify. Data has been collected to provide an overview of previous research and statistics. It has been gathered trough different databases, especially the United Nations web pages. The theoretical part of my thesis present the formal regulation in the area of human trafficking of unaccompanied children. My primary sources will be International Human Rights documents, United Nation reports, Norwegian legislation, as well as reports from Non- governmental organizations engaged in the matter. The UN CRC and optional protocol II to the CRC will be used as primary source of international law, while the Human rights act, Child welfare act, the Penal code, guidelines from the Immigration Directorate (hereafter UDI) and police guidelines are the primary sources of Norwegian legislation. The framework of the Norwegian system is addressed thoroughly, other systems, as for example the European will also be mentioned briefly. To get some pointers for important articles and reports

written on the matter I have also been discussing my collected data with people working in direct contact with the issue in question. For example through organizations like; Save the Children, PRESS Save the Children Youth (hereinafter PRESS) and Norwegian Peoples Aid. I have also gotten some pointers from officials at the human trafficking team, located at Hvalstad reception center.

1.3.2 Qualitative research method

In my empirical part of this study I employ a qualitative methodology since this approach is regarded as suitable in the study of how human beings think and relate to their lives and experiences.¹⁵ Qualitative methods are well suited in the examination of fields that have not been the subject of much research. I have chosen to highlight practical experience from non-governmental organizations as Save the Children and PRESS, as well as the human trafficking team at Hvalstad reception center, and people working as legal guardians. These are all people working close with the children's point of view. I will carry my research out through personal in depth-interviews. My agenda is to look for the informants personal experiences and knowledge on the matter. This, to be able to explain how the unaccompanied child's protection is provided in practice. The method is therefore grounded in phenomenology, to get in the depth of what happens in these matters. The research design is not suitable to study statistical prevalence in a population, but gives insight when searching to describe in depth meaning and personal experiences like the thoughts, feelings and knowledge of each informant. Such personal interviews are typically used to acquire detailed qualitative information from a relatively small number of individuals.¹⁶

By performing a qualitative research method, the intention was to find underlying clarifications and recommendations on how the different instances with responsibility

¹⁵Thagaard (2003) p.11- 13

¹⁶ Hair (2003) p.139

deals with the problem and how people with experience in the field believe we can deal with the problem. Qualitative research helps describe the world “out there”.¹⁷

My sample consists of seven key informants, but in addition to them I talked to many others working on the issue during my fieldwork. For example I was lucky to attend a presentation held by Kari Madsen, who has broad experience from working at Hvalstad reception center. The people I talked to had experiences with cases where human trafficking of children were suspected. I was seeking a strategic sample of informants with qualifications and knowledge connected to my research question. Three of my key informants were legal guardians, working with children suspected of being victims of human trafficking and who had experience with disappearances. The guardians were all women between 40 and 60 years, and they all live nearby Oslo. In order to establish contact with potential informants I sought the assistance and advice from Hilde Krogh, who is in charge of the legal guardian association in Oslo. With her network I was fortunate enough to get access to the irreplaceable knowledge and experience of three legal guardians with direct experience with the problem represented in my research question. Due to the nature of the thesis, anonymity was essential but also requested by the guardians that participated in the interviews.

In addition to the three legal guardians, I interviewed four key informants as experts on the field. From the human trafficking team at Hvalstad reception center, Tone Salthe carried out the expert opinion. In addition I interviewed Brynjar Sagatun Nilsen from Save the Children and Kirsten Kvalø from PRESS. The last expert informant asked to be anonymous, and I choose to include this person in my sample. In order to respect this anonymity I have specifically chosen not to disclose information that might identify this person. There are few experts working with this topic in Norway, and therefore providing details such as age, sex and location can have implications on divulging this person's identity.

¹⁷ Gibbs (2007) p.x

Prior to each interview, I gave a short presentation of the thesis and explained the objective of the interview. I made sure that they all gave their consent, and knew that they could withdraw this at anytime during the work on this thesis.

I made two interview guides (see annex 1 and 2), one specific for the legal guardians and one for the expert informants. This, because the informants held some different angles to the topic in question. The interviews were conducted in Norwegian. The questions were based on available literature and theory, the core topics which seemed relevant for the research was; 1) clarifying the role of the responsible authorities and who they are, 2) personal experience, and 3) suggestions for improvements.

The goal was not to ask every question in the interview guide, but rather to cover certain angles of the topic. Like in any semi-structured interview, not all of my questions were phrased ahead of time and I had the flexibility to probe for further details. The core topics are also important tools when I systemize and interpret the findings afterwards.

The interviews lasted between 45 minutes and one hour and were carried out in October and November 2010, and March and April 2010. During all of the interviews, I kept a log of the answers, a procedure that was approved by the informants beforehand. The interviews were carried out without any intermissions and disturbances, and by one interviewer. There were no particular incidences during the interviews and every informant answered to all of my questions. At the end of every interview the informants were asked about their experiences and thoughts on the interview situation. Several of the informants revealed an appreciation for the fact that they could tell their stories, and none of the informants reported that the interview had been a negative event.

I will analyze the interviews through repeated readings and select quotes from the collected data material to present. My selection will be based on what the informants and I evaluate as important to illuminate the research question and the core topics of the thesis.

1.3.3 Limitations

One limitation is that the kind of data I acquired was to a degree influenced by my prior interests and the questions I asked. Hence, the question is whether my presumptions and theoretical preconceptions have provided me with data that only served to confirm those same preconceptions. The question is whether the interviews were open enough to leave room for surprises and unexpected twists. The answer to these questions is yet another question; is it at all possible to approach a novel phenomenon without leaning on previous knowledge? I had my hypotheses regarding the issue and these were involved in shaping the interview questions. However, as mentioned I used a semi structured interview that opened up for novel and surprising data and whenever a new phenomenon were introduced by the informants I pursued it.

There is also the question of the generalizability of the study. This becomes pressing when one considers the fact that I had one person helping me to get in contact with three of my key informants (the legal guardians). In other words; it is no coincidence which people agreed to participate in the study in the end. The issue of generalizability is legitimate and would challenge my findings if the goal was to reach a conclusion that is valid for all the people working with this issue. I am not under the illusion that the findings are valid for every person working with unaccompanied children seeking asylum, were there are suspected trafficking in the picture. On the other hand I will argue in accordance with Willig and colleagues¹⁸ that even though I do not know how many milieus share the particular experiences I have identified, I know that these experiences are available within a social context and thus are potentially subject to generalization. In other words; the general processes and dynamics that I describe in my thesis can perhaps have generalizability beyond the seven informants I have spoken to.

It is important also to point out that I have used several Norwegian reports as literature, and a number of these are written in Norwegian, I have tried not to loose information through the translation process. The exceptions to this is the Norwegian legislation, because all of the Norwegian Acts are official translations found at www.lovdato.no

¹⁸Willig (2001) p.17

The names of ministries are also official translations from the government, found at www.regjeringen.no.

1.4 Terminology clarification

The definition that will be used in the thesis describing human trafficking is from the UN Palermo protocol, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the UN Convention Against Transnational Organized Crime, 2000*.¹⁹ In Norwegian legislation this definition is found in the penal code §224.²⁰

Under the protocol, human trafficking means:

“The recruitment, transportation, transfer, harboring or receipt of persons, by means of threat or 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 funding or receiving of payment 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 labor or services, slavery or practices similar to slavery, servitude or the removal of organs.”²¹

Because the UN protocol is currently the main point of reference for political and academic debates on human trafficking, many actors have adopted the protocol definition of human trafficking as their working definition.²² I have also chosen to use this definition referring to human trafficking throughout this thesis. Since the CRC is a part of Norwegian law, all people up to 18 years of age is in this thesis described as children, confer article 1 of the Convention. However, the Norwegian Government has

¹⁹ UN Palermo Protocol (2000)

²⁰ Penal Code Section 224

²¹ *Ibid.* p.2

²² Tyldum (2005) p.11

split the group of unaccompanied asylum seekers into two. They divided the group at the age of fifteen. The group under fifteen of age are taken care of by child welfare services (hereinafter CWS), the older group on the other hand, between fifteen and eighteen are the responsibility of the UDI.

Defining the group of children arriving in Norway all by themselves, without family, I will continue to use definitions made by the UN. The Committees General Comment No. 6 (2005) has named this group: unaccompanied children seeking asylum or unaccompanied minors.²³ I will in this thesis refer to them as unaccompanied children. General Comment no. 6 from 2005 by the Committee defines unaccompanied children as children defined in article one of the CRC, who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so.²⁴ Norwegian legislation has approximately the same definition. Therefore I have been, and will continue using this definition when describing these children.

1.5 Organization of thesis

This thesis is organized into seven chapters, and I will in short present the content and order of these. First, though, I want to point out that I needed to make some limitations to my study. This was due to timeframe, size limit and my research question. So before I start I want to explicitly point out that this is not a thesis on describing the unaccompanied children's personal experience with their situation, or their personal opinions regarding this topic. I hope though this thesis will be inspiration for someone to do research on that matter. The opinion of Governmental bodies has not been researched either, by me. However, I have read up on previous findings by different media, and will slightly touch this theme when it is related to my research question.

²³ CRC GC No. 6 (2005) p.2

²⁴ *Ibid.* p.2

The first chapter in my thesis is the introduction. Here I have included why this topic is important to look into, my research question, explaining in short my methods, describing some limitations to the methods, clarifying terminology and presenting the organization of my thesis. In chapter two, the matter of trafficking will be presented, both on an international and a national level. Describing what trafficking is and to what extent it to our knowledge happen. Trafficking of unaccompanied children will also be presented in chapter two. Accommodation options for unaccompanied children arriving in Norway will be addresses in chapter three. In chapter four, on the other hand, human rights protection against exploitation of unaccompanied children will be explored. Chapter five deals with Norwegian procedures within the responsible actors in cases where there is suspicion of human trafficking, and when unaccompanied children disappear from reception centers. In chapter six there will be a presentation of findings from my interviews, as well as some practical examples, and I will compare them through some discussion to the theory of what the Norwegian government has obligated themselves to - in accordance with international treaties presented in the former chapters. In chapter seven I will try to make some conclusions.

2 TRAFFICKING

2.1 Human trafficking – the international perspective

“Human trafficking has become a global business, reaping huge profits for traffickers and organized crime syndicates, generating massive human rights violations, and causing serious problems for governments.”²⁵ Despite the magnitude of the problem, however, it has only in the previous six- seven years seized policy makers' attention.²⁶

“The Protocol to Prevent, Suppress and Punish Trafficking in Persons came into effect in December 2003 and has inspired widespread legislative response with 117 signatories and 137 parties.”²⁷ As of November 2008, 63% of the 155 countries and territories examined by the UN office on Drugs and Crime (Hereinafter UNODC) had passed laws against trafficking in persons addressing the major forms of this offence. The report shows that governments all over the world are creating a wider acknowledgement and offence for human trafficking.²⁸ The same report shows that sexual exploitation is by far the most commonly identified form of human trafficking, with around 79%, followed by forced labour with 18%. The exploitation of women tends to be more visible, in city centers and along highways. For this reason it is more frequently reported. Consequently, sexual exploitation has become the most documented type of trafficking in aggregate statistics. Forced or bounded labour, domestic servitude and forced marriage, organ removal and the exploitation of children in begging, sex trade and warfare are more hidden and might therefore not be reported that frequently.²⁹

The UNODC report shows that there has been raised awareness on this matter over the years. However, According to United States Government-sponsored research completed

²⁵ IOM (2005)

²⁶ *Ibid.*

http://publications.iom.int/bookstore/index.php?main_page=product_info&CWSt=1&products_id=160

²⁷ UNODC (2009) p.8

²⁸ *Ibid.* p.8

²⁹ *Ibid.* p.6

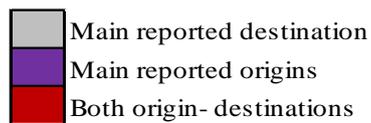


Figure II Reported human trafficking: main origins, transit and destination countries.³³

2.1.1 Modern day slavery

Victims of human trafficking are often economic migrants who are deceived or coerced into forced labour. Contrary to popular belief, human trafficking is not necessarily an underground phenomenon run by criminal syndicates. Instead, trafficking is the clear and visible result of inadequate or faulty government policies that place certain groups of migrants and workers at greater risk of abuse and with little hope for redress. “Anti-trafficking efforts must target and reform these policies.”³⁴

“The increased scale of human trafficking in Europe in recent years has often been attributed to the specific migration situation that emerged after the break-up of the communist bloc and the ratification of the Schengen Treaty. The abolition of border controls in many EU countries opened a wide territory in which monitoring movement is difficult - this gives new opportunities to organised criminal groups.”³⁵

Trafficking in human beings is a complex, multi-layered problem. To understand the reason behind this matter, we must identify and analyze the more immediate, precipitation causes and its underlying, structural determinants. Political, economic, social and cultural factors and the interplay between them all play a part.³⁶

³³ UNODC GP (2006) p.17

³⁴ Varia (2007) <http://www.hrw.org/en/news/2007/10/17/international-trafficking-persons-taking-action-eliminate-modern-day-slavery>

³⁵ Uherek (2001) p.1

³⁶ DGD (2003) p.15

2.1.2 Economic causes

People become victims of human traffickers mainly due to inequitable resource allocation and the absence of viable sources of income. “Families have no assets and incomes are inadequate.”³⁷ “Poor people have great difficulty obtaining credit unreasonable terms and there is still no access to micro- credits, in particular for young women without assets of their own.”³⁸

“There is a growing pressure of migration while many borders are becoming impermeable.” Economic restructuring is driving people from the countryside into the cities and from poorer to richer countries.”³⁹ Immigration into many high-income countries is coming under increasingly strict regulation at a time when a growing proportion of guest workers and immigrants are women. “The principal economic causes on the demand side of the equation include the substantial profits to be made in the sex trade and the call for cheap labour.”⁴⁰ There is also a demand for cheap, compliant labour intended for criminal activities. In some regions and industries there is a marked for child labour, which is usually cheaper and easier to exploit than adult labour, often they are exploited as accomplices in different criminal activities.⁴¹

2.1.3 Socio- cultural causes

“The oppression of women and children within particular family and social structures, in which women are subordinated to men, is of the main reason why they fall prey to traffickers.”⁴² Girls are frequently prevented from going to school and women have less say in family matters than men. In many circumstances, women cannot own or rent land. The oppression of women has recently acquired new forms of exploitation to trafficking, as for example sale of women to become brides over the internet. “Attitudes

³⁷ DGD (2003) p.15

³⁸ *Ibid.* p.16

³⁹ *Ibid.* p.15

⁴⁰ *Ibid.*

⁴¹ *Ibid.*

⁴² *Ibid.* p.17

to sexuality of women are a crucial factor, one aspect is a common desire among men to control women and girls sexual activity."⁴³

Pornography has become far more pervasive, after the development of internet. This development has reinforced the idea that bodies may be bought for money. New traditions such as buying brides also increase the danger of falling into the hands of traffickers. Many women are broken by the conditions they are living under, they may get the impression that anything is better than their situation and are therefore easier from the traffickers to exploit.⁴⁴ Poor people are not often treated with respect from their government. "Widespread denigration and attitudes towards the poor in society lay ground for exploitation and abuse."⁴⁵

2.1.4 Legal and political causes

The lack of adequate legislation and well- functional government with effective judiciary are the most obvious case of human trafficking when it comes to legal and political causes.⁴⁶

Although most counties are signatories to the international instruments that are set up to deal with this problem, several countries has not made them a part of national legislation. Many countries therefore lack relevant legislation and good policies to protect people from exploitation. In countries where there is legislation against this, it is often not followed up, also in countries were human trafficking is a criminal offence, numbers of convictions are low. The respect for human rights and protection of vulnerable groups are low. Immigration laws are often stringent, forcing people to illegal means to cross borders. Groups that already are vulnerable are therefore more likely to fall into the hands of traffickers.⁴⁷

⁴³ DGD (2003) p.17

⁴⁴ *Ibid.*

⁴⁵ *Ibid.*

⁴⁶ *Ibid.* p.18

⁴⁷ *Ibid.* p.19

2.2 Trafficking in Norway

2.2.1 Norwegian plans of action

As a response to the growing international and national focus on combating human trafficking, Norway developed its first action plan on trafficking for the period 2003, 2005, followed up by a second to cover the period of 2003-2008, which was replaced by a third for the period of 2006-2009. Several ministries and governmental agencies are involved in the implementation of the action plans. The Ministry of Foreign Affairs (hereinafter MFA) is responsible for supporting initiatives and efforts taken internationally, whereby MFA has special responsibility for the prevention of trafficking, and the reintegration of victim's further knowledge and evidence, promote interdisciplinary cooperation, and strengthen international frameworks and cooperation.⁴⁸ "A total amount of approximately NOK 252 million is allocated and planned for combating human trafficking in the period 2000-2010."⁴⁹ "This financial support is provided in accordance with the Government's current interdepartmental action plans against human trafficking during the period."⁵⁰ The ministry of Justice is responsible for measures to combat human trafficking in Norway.

On the first of January 2009, the Norwegian government promulgated legislation prohibiting the buying of sex and said the main objective was to combat trafficking. This legislation was based upon measure 19 in the third plan of action (2006-2009) "Go through legislation that effects human trafficking to consider needs for change".⁵¹

⁴⁸NORAD (2009) p.23

⁴⁹ *Ibid.* p.8

⁵⁰ *Ibid.* p.1

⁵¹ KRÅD (2007) p.6

2.2.2 The Norwegian Penal code

Under Norwegian legislation, the specific offence of trafficking in persons comes under section 224 of the penal code (appendix 3).⁵²

This provision, which was introduced in 2003, is based on the UN Palermo protocol. Article 224 covers exploitation for the purpose of prostitution and forced labour, including begging, or trade in human organs. Human trafficking for the purpose of stealing organs can arguably be covered by article 231 about voluntary manslaughter⁵³ and article 232 about crimes that are performed on a person in a particular painful way⁵⁴. The latest action plan to combat human trafficking in Norway, covers the period 2006-2009.⁵⁵

Human trafficking for prostitution is the area that has gotten most attention in the newest action plan, but compared to the two previous plans, there is a stronger emphasis on children exploited by human trafficking and a wish for a stronger focus on victims of organ removal and forced labour.⁵⁶

In 2005, eight cases of trafficking for sexual exploitation were investigated in Norway; in 2006, the number increased to twenty- nine, and one case of trafficking for forced labour/ servitude/labour exploitation was investigated. “Seven persons were convicted of trafficking in 2005-2007.”⁵⁷ Three of these were Norwegian citizens.

“Norwegian authorities’ report that in practice people involved in human trafficking will often have contravened several provisions in the Penal Code.

⁵² Official translation of the Penalty Code Section 224

⁵³ *Ibid.* Section 231

⁵⁴ *Ibid.* Section 232

⁵⁵ UNODC (2009) p.268

⁵⁶ *Ibid.*

⁵⁷ *Ibid.*

Section 202 (the procurement section), section 222 (coercion), section 223 (deprivation of liberty) and section 225 (slavery), section 227 (threats), section 228 et seq. (physical abuse), section 192 et seq. (sexual crime) and section 47 of the Immigration Act."⁵⁸

2.2.3 Victim protection

"State authorities and Non- governmental organizations (hereafter NGOs), provide temporary stay permits, housing and shelter, medical and psychosocial assistance and other services to the victims of human trafficking."⁵⁹ In 2006, the Government extended the reflection period⁶⁰ so that assumed victims of human trafficking may be granted a temporary residence and work permit of up to six months. If the person exploited by human trafficking has broken away from the people responsible for human trafficking, and a police investigation is initiated against the perpetrators, a new temporary work permit for one year may be granted.⁶¹

The Ministry of Justice designed a project, called the ROSA- project (Reestablishment, Residence, Security, and Assistance) as the national coordinator for assistance for female victims of trafficking. The project was established in January 2005 as a part of the second plan of action against trafficking covering the years 2003-2005.⁶² In 2007, the project was in contact with 37 people that had been exposed by trafficking, two of these were males.⁶³

2.2.4 Development of protection measures

Since 2003, there has been a positive development of legislation to protect against human trafficking in Norway. Nevertheless, there is still a long way to go. The "Coordination unit for victims to human trafficking" (hereafter KOM) is a project

⁵⁸ UNODC(2009) p.268

⁵⁹ *Ibid.*

⁶⁰ Six month period granted by the government where people exploited by trafficking can break contact with the trafficking network

⁶¹ UNODC(2009) p.268

⁶² *Ibid.*

⁶³ *Ibid.*

permitted by measure 29 in the governments plan of action 2006-2009. Their job is to coordinate all work with aid and protection of victims of human trafficking in Norway, in addition to contribute to increasing information and knowledge about human trafficking and develop aid and protection propositions for victims. The project is based in Oslo and is administered by the Directorate of the Police.⁶⁴ KOM wrote a report about the situation of human trafficking in Norway during 2009. They found that registered victims are from 43 different countries, both gender, adults and children was presumed victims of human trafficking during last year. This group is presumed to be victims of different forms of forced labour. The positive thing that shows through the report is that, the increased effort from the Norwegian Government and organizations has resulted in more victims seeking help to break away from their situation.⁶⁵

Year	Total	Woman over 18 years	Girls assumed under 18 years	Men over 18 years	Boys assumed under 18 years	Prostitution or other form of sexual exploitation	Forced labour / Begging	War-duty	Organ-removal	Unknown form of exploitation
2007	203	139 (68 %)	35 (17 %)	10 (5 %)	19 (9 %)	162 (80 %)	32 (16 %)	0	0	9 (4 %)
2008	256	146 (57 %)	49 (19 %)	16 (6 %)	45 (18 %)	180 (70 %)	71 (28 %)	0	0	5 (2 %)
2009	292	191 (65 %)	50 (17 %)	32 (11 %)	19 (7 %)	198 (68 %)	80 (27 %)	1 (0,5 %)	1 (0,5 %)	12 (4 %)

Figure III show possible victims for human trafficking in Norway. Gender, age and the presumed form of exploitation. Between 2007 and 2009.⁶⁶

2.3 Trafficking of unaccompanied children seeking asylum

UNICEF stated in 2008 that Article 3 of the UN Palermo protocol specifies that children under the age of eighteen cannot consent to being trafficked.⁶⁷

⁶⁴ Politiet (2009) https://www.politi.no/strategier_og_analyser/strategier_og_tiltak/Tema_18.xml

⁶⁵ KOM (2010) p.30

⁶⁶ *Ibid.*

⁶⁷ Palermo Protocol Article 3

*“During the last years, there have been several reports of unaccompanied foreign minors that have disappeared from reception centers and residential care, often without a trace. These disappearances have become an emerging issue of concern among social workers, practitioners, and the media. Immediate action is required to prevent such disappearances and protect children at risk.”*⁶⁸

The CRC GC No. 6 notes that unaccompanied children are in a particularly vulnerable situation and there are varied and numerous reasons for a child being unaccompanied, including:

- 1) persecution of the child or relatives,
- 2) international conflict and civil war
- 3) trafficking in various contexts and forms, including sale by parents
- 4) and the search for better economic opportunities.⁶⁹

“Unaccompanied children face greater risks of inter alia, sexual exploitation, military recruitment, child labour (including for their foster families) and detention.”⁷⁰ They are also often discriminated against and denied access to food, shelter, housing, health-services and education. Unaccompanied girls are of particular risk of gender-based violence, including domestic violence. These children have in many situations no access to identification, documentation, family tracing, guardianship systems or legal advice.⁷¹ Unaccompanied children are also denied entry and detained by border and immigration officials. “In other cases, they are admitted to the country but denied access to asylum procedures or their asylum claims are not handled in an age- and gender sensitive

⁶⁸ UNICEF (2008) p.14

⁶⁹ CRC GC No. 6 (2005) p.45

⁷⁰ *Ibid.* p.5

⁷¹ *Ibid.* p.14

manner.”⁷² Many unaccompanied children are granted only temporary status, which ends when they turn eighteen, and there are few effective return programs.⁷³

In some countries, it is impossible to find reliable data on the number of children who go missing, not to mention any analysis as to why they leave and what risks await them once they are on their own.⁷⁴

The United Nations Children’s Fund (hereinafter UNICEF) created a guide called Reference Guide on Protecting the Rights of Child Victims of Trafficking in Europe. This report notes that the absence of meaningful data makes it difficult to assess whether traffickers subsequently exploit children that disappear and, if so, what kind of intervention and protection measures can prevent such abuse.⁷⁵ UNICEF argues that there are numbers of concrete steps that can be taken to help explain these alarming disappearances like the registering of meaningful data, to help determine the most effective ways to assist and protect all vulnerable children.⁷⁶ Another step might be to ratify the CRC and fulfill the obligations to protect as set out in the Convention.

2.3.1 Norwegian statistics

In Norway during 2009, 69 assumed unaccompanied children were followed up for being a possible victim for human trafficking. The reason for saying assumed is because age and identity still is uncertain. These persons are treated after the European Convention against Trafficking.⁷⁷

⁷² CRC GC No. 6 (2005) p.5

⁷³ *Ibid.*

⁷⁴ *Ibid.*

⁷⁵ UNICEF (2006) p.68

⁷⁶ CRC GC No. 6 p.14

⁷⁷ KOM (2010) p.23

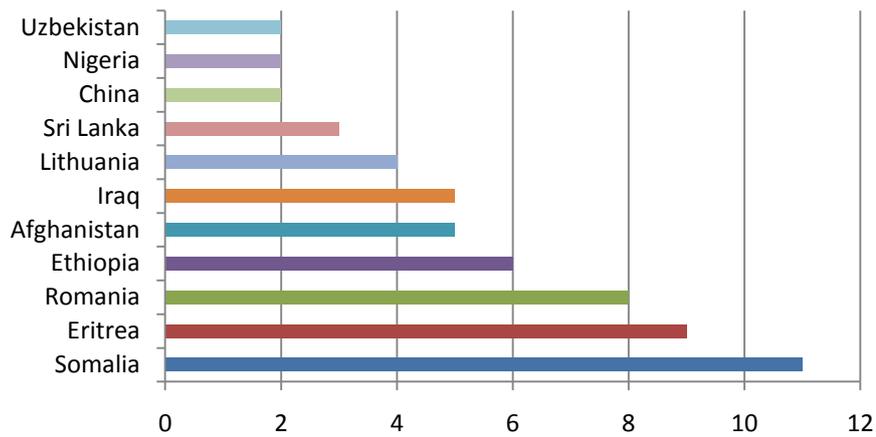


Figure III Shows represented nationalities, represented with two or more children assumed exploited to trafficking in Norway in 2009.⁷⁸

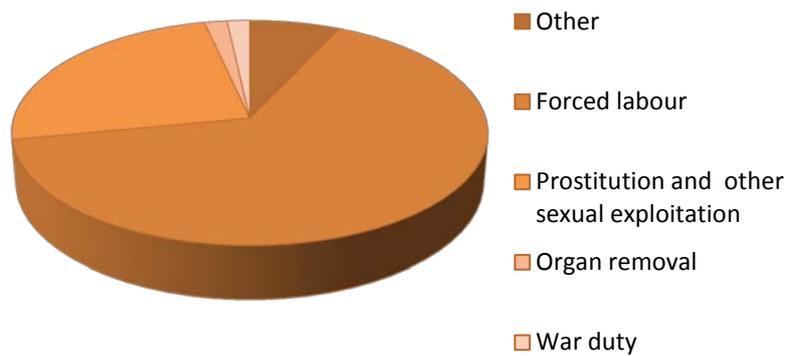


Figure V shows children after assumed form for exploitation.

2.3.2 The situation in Europe

“All European countries have ratified the CRC and ILO Convention No. 182 on the ‘Worst Forms of Child Labour.’⁷⁹ Despite differences in their national definitions, the vast majority of European countries have in addition to the CRC and the ILO

⁷⁸ KOM (2010) p.23

⁷⁹ UNICEF (2008) p.iv

convention, adopted a definition of trafficking in human beings that is framed by the UN Palermo Protocol, which has been ratified by 42 European countries and the European Community.⁸⁰

However, children are still exploited by human trafficking within and across borders in Europe.⁸¹ Few European governments provide official statistics on children identified as victims of human trafficking, within or out of their territory. “Existing numbers vary from a few cases to several hundred, and existing data seldom provide details about the age, gender and national origin of identified victims or the ways in which they were exploited.”⁸²

Europe has designed a Program especially for separated children, called The Separated Children in Europe. The Program was established in 1997 as a response to a steady rise in the numbers of separated children arriving into Europe. Experience showed that the treatment they receive upon and after arrival is at best, not adequate and at worst, potentially damaging. The program aims to improve the situation of separated children through research, policy analysis and advocacy at the national and regional levels. It is a joint initiative of United Nation High Commissioner for Refugees and Save the Children.⁸³

We have seen that unaccompanied children seeking asylum in Norway are in a particular vulnerable situation and are in need of special protection. The next section will demonstrate that there are flaws regarding to their accommodation options.

⁸⁰ UNICEF (2008) p.iv

⁸¹ *Ibid.* p.1

⁸² UNICEF (2008) p.6

⁸³ Save the Children. http://www.savethechildren.net/separated_children/about_us/scep_programme.html

3 ACCOMMODATION OPTIONS IN NORWAY

By becoming a part to the CRC the Norwegian State has undertaken an obligation to follow this statement by the Committee:

“Irrespective of the care arrangements made for unaccompanied children, regular supervision and assessment ought to be maintained by qualified persons in order to ensure the child’s physical and psychosocial health, protection against domestic violence or exploitation.”⁸⁴

3.1 Child Welfare Service

The legislation concerning Child Welfare Services (hereinafter CWS) was created 17 July 1992, nr. 100.⁸⁵ “The provisions of the Act regarding services and measures apply to all persons who are present in the realm”⁸⁶, confer section 1-2, which states that the law apply for every child within the country. CWSs most important assignments is to care for the most vulnerable children within the State. Their task is to protect the children from negligent care, and to protect against physical and mental abuse of children. If the CWS receives information regarding a child in such conditions as mentioned above, legislation states that the CWS, immediately need to investigate on the child in question’s situation, and if necessary take appropriate measures to ensure the child’s wellbeing and see to that the child is improved to an acceptable standard.⁸⁷ One of the reasons why the CWS was established in the first place was the need to provide safety for children who do not have providers that offer a satisfying level of care. So in other words, the child welfare act is specifically tailored to look after children’s needs.⁸⁸

⁸⁴ CRC GC No. 6 (2005) p.14

⁸⁵ CWA Section 1-2

⁸⁶ Official Translation Child Welfare Act Section 1-2

⁸⁷ Ministry of Children, Equality and Social Inclusion (2001) p.1

⁸⁸ NGOU (2006) p.6

The child's right to asylum is regulated by the immigration act. The asylum procedure shall be held separately from the child's care situation while the child is in Norway.⁸⁹ The asylum process will not be discussed in this thesis, as this study focuses on the protection of unaccompanied children against exploitation to human trafficking.

3.1.1 Unaccompanied children below 15 years of age

In 2007, a new chapter was introduced to the child welfare act. This chapter covers regulation of care centers for the unaccompanied children (chapter 5A). Article 5A-1 points out that the regulation concerns only unaccompanied children below the age of fifteen when they apply for asylum.⁹⁰ Hereby the CWS is responsible for these children. With these changes, the CWS are responsible from the time when these children have entered Norway, and during the time, they are waiting a decision on their asylum application.⁹¹ The responsibility ends when these children are either granted asylum and established in Norway, or until they are returned to their country of origin. The ministry of children, equality and social inclusion are the superior ministry for the CWS.

This group of asylum seekers are placed in care centers under the authority of the CWS. In addition, the CWS are responsible to make sure that each and every child of the group in question, are provided with their own individual caseworker. Together, the caseworkers and the care centers have the responsibility to follow up on the individual child's right to health checks, school and activities. The ambition is that these children should be able to live a life as normal as possible, with the aim of generating healthy development.⁹² The CWS standards are of higher quality than the standards on reception centers, CWS provide higher care quality and a higher level of security.⁹³

⁸⁹ NGOU (2006) p.6

⁹⁰ CWA article 5A-1

⁹¹ *Ibid.*

⁹² NGOU 2006 p.9

⁹³ NGOU 2006 p.8,9

3.2 Immigration authorities

Children between fifteen and eighteen years old are also given public care, but by another instance, the immigration administration. Their mandate is to administer Norwegian foreign policy, not to care for children. Ministry of labour and social inclusion has the superior responsibility, but has delegated this task to the Directorate of Immigration (Hereafter UDI)⁹⁴ The UDI was established in January 1988. In 2000 were assigned to interview asylum seekers, this job was previously carried out by the police. The UDI is also the instance responsible for deciding upon the asylum applications.⁹⁵

Several NGOs have worked for numerous of years to move the group of unaccompanied children under the responsibility of CWS. Arguing that protection of this group is inadequate. Further arguing that the CWS provide a better protection of children, because CWS institutions are regulated by the CWS act, which provide children satisfying protection.⁹⁶ Among other things, the CWS act request living environment standards and education within the area of children.⁹⁷ At the reception centers standards are set out by instructions and changes after what the government finds as justifiable.⁹⁸ PRESS, Save the Children and Norwegian Peoples Aid are some of the NGOs that have been active in this area.

The Soria Moria declaration by the Norwegian Government, 2005 says, “the government wants to: make standards better for unaccompanied children that arrive in Norway and transfer the care responsibility to CWS.”⁹⁹ In 2007, this was only provided for children under the age of fifteen. NGOs were waiting for new accommodation options for the group of unaccompanied children between fifteen and eighteen, and in

⁹⁴ NGOU 2006 p.8,9

⁹⁵ UDI (2009) <http://www.udi.no/Om-UDI/Kort-om-UDIs-historie/>

⁹⁶ Kvalø (2009)

⁹⁷ CWA article 5-10

⁹⁸ Kvalø (2009)

⁹⁹ Soria Moria (2005) p.71

October 2009 the state budget was presented. Expectation from different NGOs was high, however they did not receive good news. The government argued that “if CWS are to take responsibility for the unaccompanied children between 15- 18, would it mean from prognosis about asylum seekers, that 20 care centers must be built in 2009”. The Government therefore reach the decision that in practice it will not be possible to transfer the care responsibility for unaccompanied children over the age of fifteen to CWS during 2009.¹⁰⁰

The Soria Moria Declaration II 2009- 2013 the government argues that their ambition is to transfer the care responsibility from the Immigration Authorities to the CWS. However, they argue that this will not be possible during the next four years.¹⁰¹

3.2.1 Unaccompanied children between 15 and 18 years

This group of children are first moved to a transit¹⁰² reception center, where they stay for some weeks until they have been interviewed by the UDI. Next, they are moved to another reception center where they will stay until they receive an answer on their asylum application.

The conditions of these centers do not hold the same standard as the institutions governed by the CWS, and do not comply with the provisions of the Child Welfare’s Act. The reason seems to be insufficient allocated funds, which in turn can lead to few employees. Therefore, there is not enough staff to ensure that the provisions of the care responsibilities are carried out in the same manner as the CWS.¹⁰³

Article 2 of the CRC concerning non- discrimination, does not mention discrimination on the grounds of age. However, article 1 of the CRC states that all people up to

¹⁰⁰ State Budget 2009 (2009)

¹⁰¹ Soria-Moria II (2009) p.78

¹⁰² Reception center where the children live from arrival in Norway, until they are transferred to another reception center after the interview at the UDI

¹⁰³ NGOU (2006) p.9

eighteen years are children. The choice made by the Norwegian government to separate this group is not well received by organizations working for children's rights in Norway. The leader of PRESS, Kirsten Kvalø, argues that this care responsibility arrangement makes the group between fifteen and eighteen more available for exploitation by human trafficking.¹⁰⁴

The Committee on the Rights of the Child expresses concern in their Concluding Observations on Norway's fourth report about the fact that Norway has limited the responsibility of the CWS to children under the age of 15. Leaving older children with reduced assistance.¹⁰⁵ They further recommend to, expand, as planned, the responsibility of the CWS to children aged 15, 16 and 17.¹⁰⁶ These recommendations show that measures taken by the Norwegian State does not provide sufficient protection for this vulnerable group.

¹⁰⁴ Kirsten Kvalø (2009)

¹⁰⁵ CRC Concluding Observations p.11

¹⁰⁶ *Ibid.* p.

4 HUMAN RIGHTS PROTECTION AGAINST HUMAN TRAFFICKING

One of the most fundamental principles of human rights, that is stipulated in several international treaties and declarations, is the right to life. This right is a natural starting point for all human rights, since they must start and end with life.¹⁰⁷ The right to life is among those found in the International Covenant on Civil and Political Rights (1966), (hereafter CCPR), which states in article 6 that “every human being has the inherent right to life”.¹⁰⁸ The CCPR also includes the right to freedom from abuse and torture, which is connected to the right to life. This right is encapsulated in article 7, which states “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”. The right to freedom is also an important basic right. Freedom is a broad concept, therefore, to narrow it down and specify we can say, freedom from slavery and forced labour, freedom of movement and personal freedom and security.¹⁰⁹ The concept of personal freedom from forced labour is crucial to this study, owing to the fact that in cases of human trafficking is often related to exploitation for monetary gain. In the following Chapter, I shall introduce the existing international regulations which cover the issue of human trafficking, including the CRC and its most relevant articles, and how they relate to Norway.

4.1 International regulation on trafficking

For any successful response to human trafficking to occur, international cooperation is essential. Trafficking in persons takes place across borders and cannot be addressed without joint international efforts and international cooperation. Therefore, states must collaborate combating in order to create an effective response. The reality is that criminal groups operate across borders, and therefore, judicial systems must do the same. Several United Nations conventions and regional instruments form the international legal framework within which States must define their own laws in order

¹⁰⁷ Høstmælingen (2005) p.27

¹⁰⁸ CCPR (1966) Article 6

¹⁰⁹ *Ibid.* p.34

to address the matter of human trafficking effectively and protect people from exploitation.¹¹⁰

International consensus on the need to combat human trafficking was consolidated in December 2000 when States signed the Palermo Protocol. This Protocol was the first international legal instrument defining State responsibility to prevent, suppress and punish human trafficking. This protocol has become the primary reference tool used when countries develop their national approaches to combat, shape policy frameworks and to guide international cooperation in this field. In February 2009, 124 countries had ratified the protocol.¹¹¹

In addition, a variety of international Conventions adopted over the years contain provisions that address trafficking in persons, and as such constitute a commitment on the part of States parties to combat this human rights violation. Together with the Palermo Protocol these Conventions constitute an integral part of the international regulation on protection against human trafficking.¹¹²

The Convention for the Suppression of the Traffic in Persons and for the Exploitation of the Prostitution of others (1949), which requires States parties to “undertake, to adopt or to maintain such measures as are required, in terms of their obligations under the present Convention, to check the traffic in persons of either sex for the purpose of prostitution”. Set out by article 17 of the Convention. The same article states, “to make such regulations as are necessary for the protection of immigrants or emigrants, and in particular, women and children, both at the place of arrival and departure and while en route”.¹¹³ This Convention shows that it has long been established that immigrants and children were a vulnerable group.

¹¹⁰ UNODC GP (2006) p.8

¹¹¹ UNODC (2009) p.2

¹¹² *Ibid.*

¹¹³ *Ibid.*

Additionally, the Convention on the Elimination of All Forms of Discrimination against Women adopted by the General Assembly in 1979, calls upon States parties to “take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.”¹¹⁴ While women are not the specific topic of this study, the inclusion of this article is relevant owing to the obligations placed on states to take all appropriate measures to combat trafficking.

In addition to this international framework, there are a number of regional agreements which aim to combat human trafficking. Of particular relevance to Norway is the Council of Europe’s Convention on Action against Trafficking in Human Beings. This Convention attempts to ensure greater protection and assistance for victims of trafficking, and children are mentioned several times as being a vulnerable group in need for extra protection.¹¹⁵ As Norway is a state party to this Convention, the Norwegian Government is obliged to uphold the stipulations therein.

Another Convention that protects against human trafficking is the International Labour Organizations Convention from 1999, The Convention to eliminate the worst forms of Child Labour. This Convention prohibits “all forms of slavery or practices similar to slavery, such as sale and trafficking of children” in its article 3. The International Convention on the Protection of the Rights of all Migrant workers and Members of their families states in its article 11, “no migrant worker or member of his or her family shall be held in slavery or servitude and that none of them shall be required to perform forced or compulsory labour.”¹¹⁶

¹¹⁴ CEDAW (1979) Article 6

¹¹⁵ Convention against Trafficking (2005)

¹¹⁶ Child Labour Convention(1999) Article 3

4.2 Convention on the Rights of the Child

*“The Convention is not limited to children who are citizens of a state party and must therefore, if not explicitly stated otherwise in the Convention, also be available to children including asylum- seeking, refugee and migrant children-irrespective of their nationality, immigration status or statelessness”.*¹¹⁷

The CRC sets out the civil, political, economic, social and cultural rights of children. States that ratify the Convention are bound to it by international law. The monitors compliance. The Convention was adopted by the General Assembly of the United Nations by its Resolution 44/25 November 20, 1989. This was the end of a process, which had begun with the preparations for the 1979 International Year of the Child.¹¹⁸ The Convention has the highest number of ratification of the UN Conventions, with 193 state parties. Only the USA and Somalia are not party to this Convention.¹¹⁹

The preamble of the convention emphasizes the importance of creating specific rights to protect children. Children are recognized as a vulnerable group within society “needing special consideration”, and “should be afforded special protection and assistance”. Not being of eligible age to protect their own rights, the CRC sets out to “extend particular care to the child” creating an internationally binding document ensuring their protection.¹²⁰

The CRC states that children, with their physical and mental immaturity, require special protection measures and care, and the CRC also contains a clarification of all the general human rights that also apply to children. The fact that the Convention is ratified of almost all countries in the world gives meaningful political and moral strength, in

¹¹⁷ CRC GC no. 6 (2005) p.7

¹¹⁸ *Ibid.*

¹¹⁹ UN Treaty Collection http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en

¹²⁰ CRC (1989) preamble

addition to legal strength.¹²¹ The Conventions is a document were the articles must be read in relation to each other.¹²² The Committee underlines in their GC No. 6 that article 34 and 35 must be read in conjunction with special protection and assistance obligations to be provided according to article 20 (about children deprived of their family environment) of the Convention, in order to ensure that unaccompanied children are shielded from trafficking.¹²³

The CRC sets out these rights together with two Optional Protocols. The Convention states the basic rights that children everywhere should have. Article 2 requires that state parties shall ensure that children are not subject to discrimination. Article 3 requires that in all situations the best interests of the child be the primary deciding factor. The child's fundamental right to life is guaranteed by Article 6, while Article 12 requires that states assure the right of the child to express their views freely and to have their opinion respected. Article 20 is of particular significance to this study, and states that:

“A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the state.”¹²⁴

The four general principles of the Convention are non-discrimination, devotion to the best interests of the child, the right to life, survival and development, and respect for the views of the child. Every right spelled out in the Convention is inherent to the human dignity and harmonious development of every child. The Convention protects children's rights by setting standards in health care, education, and legal, civil and social services.¹²⁵

¹²¹ Smith. L. (2008)p.16

¹²² *Ibid.* p.17

¹²³ CRC GC No. 6 (2005)p.16

¹²⁴ CRC (1989) Article 20

¹²⁵ UNICEF (2008) <http://www.unicef.org/crc/>

The CRC, stipulates that State parties must “take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form” in article 35 of the Convention.¹²⁶

“In May 2000 the second optional protocol to the Convention were adopted. This optional protocol on the sale of children, child prostitution and child pornography defines what is meant by these terms and requires ratifying states to take all possible measures to criminalize them as offences and to prosecute offenders domestically.”¹²⁷

The protocol also obligates States to “take all necessary steps to strengthen international cooperation by multilateral, regional and bilateral arrangements for the prevention, detection, investigation, prosecution and punishment of those responsible for acts involving the sale of children, child prostitution, child pornography and child sex tourism.”¹²⁸ The Committee at the time did not think it was necessary with this second optional protocol, the protection it was suppose to provide was already addressed in the Convention. Nonetheless the desire for more detailed state responsibilities to tackle these forms of child abuse, particularly as regards the prosecution and extradition of “sex tourism”, ultimately ensured the second Optional protocols adoption.”¹²⁹

In the next section, the most relevant articles of the CRC for protection for children not being exploitation by human trafficking will be discussed.

¹²⁶ CRC (1989)Article 35

¹²⁷ UNICEF (2007) Handbook p.669

¹²⁸ CRC op II article 10

¹²⁹ UNICEF (2007)Handbook p.669

4.3 Article 35

“State parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form”.

“Article 35 of the CRC is the fail- safe protection for children at risk of abduction, sale or trafficking.”¹³⁰ Children in poor countries can be sold into the equivalent of slavery, through bounded labour or debt repayment, and they can be trafficked for the purpose of begging, all of which are in violation of article 35. “Children can also be trafficked for the purpose of sex, into prostitution or the production of pornography, or through traditional practices.”¹³¹ Article 35 is set out to provide double protection for children in this area since main forms of human trafficking are dealt with in other articles, but this article also requires action on abduction, sale or trafficking for any purpose or form.¹³²

In the drafting of the Convention article 35 was introduced because the sale or trafficking of children was wider in scope than of article 34, which relates to all forms of sexual exploitation or abuse.¹³³ Article 35 includes the phrase “for any purpose or in any form”, and therefore, this includes trafficking of children for labour, adoption, sexual exploitation, trafficking in time of conflict when children are particularly vulnerable, and trafficking for organ transplant.¹³⁴ Due to the many forms of trafficking this article entails, State Parties must take multiple measures, bearing in mind the different ways a child is vulnerable to exploitation.

¹³⁰ UNICEF (2007) Handbook p.531

¹³¹ *Ibid.* p.532

¹³² *Ibid.*

¹³³ *Ibid.*

¹³⁴ *Ibid.* p.532-538

4.4 Protection articles in the CRC

Article 19 and 34 are the two main articles in the CRC that oblige the State to take measures for the protection of children against violence, abuse and exploitation.

4.4.1 Article 19

Article 19 of the CRC clarifies children's rights to protection from what is arbitrarily defined as "abuse" in different societies, and furthermore establishes effective protective measures. Article 19 requires children's protection from "all forms of physical and mental violence" while in the care of parents or others.¹³⁵ As a principle, this article is linked to the right to life and to maximum survival and development under article 6.¹³⁶

*"Article 19 requires states to take a variety of measures, legislative, administrative, social and educational- to protect children from all forms of violence. Paragraph 2 sets out possible protective measures, acknowledging that social and educational measure, and especially the provision of appropriate support to children and families, are relevant to the protection of the child from violence, abuse and exploitation."*¹³⁷

The Department for Global Development highlights the vulnerability of families with low incomes to those involved in human trafficking. Appropriate support for children and their families is significant, because people become victims of human traffickers mainly due to inequitable resource allocation and the absence of viable sources of income.¹³⁸ "Families have no assets and incomes are inadequate. Households become increasingly vulnerable as margins shrink. Social security schemes are either lacking or do not reach the poorest, most disadvantaged sections of the community."¹³⁹ Therefore, parents may not have resources to take care of their children and must choose other

¹³⁵ UNICEF (2007) Handbook p.249

¹³⁶ *Ibid.*

¹³⁷ *Ibid.*

¹³⁸ DGD (2003) p.15

¹³⁹ *Ibid.*

ways to protect them, for example sending them to another country together with someone who promises them a better life.

Although trafficking is not directly stated in Article 19, the wording of this article makes children indirectly protected from trafficking. The Palermo Protocol directly states that exploitation is the main indicator of someone being trafficked, and as we have explored previously, trafficking in itself strongly implies that a child is subjected to violence, abuse and exploitation. Therefore, Article 19 obligates State Parties to take a variety of measures to protect children from ever being in this position.

4.4.2 Article 34

Article 34 obliges States to protect children from “all forms of sexual abuse” and to take measures against the three particular and linked forms of exploitation – sexual abuse, prostitution and use in pornography. Set out in paragraphs (a), (b) and (c). The exploitative use of children in prostitution and pornography is linked to the sale of and traffic in children.¹⁴⁰

The Committee notes that article 34 of the Convention must be read in conjunction with special protection and assistance obligations to be provided according to article 20 of the Convention. This is to ensure that unaccompanied children are among other things shielded from trafficking.¹⁴¹ Further, the Committee comments that “re- trafficking” in cases where a child already has been a victim of trafficking, is a great danger to unaccompanied children, bearing in mind that trafficking in children is a threat to the fulfillment of their rights to life, survival and development as article 6 of the Convention sets out.¹⁴²

Article 34, does not either mention the word trafficking, but the Palermo protocol definition of trafficking says that exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation. Article

¹⁴⁰ UNICEF(2007) Handbook p.513

¹⁴¹ CRC GC No. 6 (2005) p.16

¹⁴² *Ibid.*

34 clearly states that State Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse, therefore this article is highly applicable for the protection of unaccompanied children against exploitation by human trafficking.

4.5 Optional protocol II

In 1994, the committee on the Rights of the Child noted the decision of the UN Commission on Human Rights to establish an open-ended working group to prepare guidelines for a possible draft optional protocol to the Convention, on the sale of children, child prostitution and child pornography, as well as basic measures needed for their prevention and eradication.¹⁴³ This protocol is supposed to reinforce the protection set out by article 35.¹⁴⁴

CRC Optional Protocol No. II relates to the sale of children, child prostitution and child pornography. The preamble of the optional protocol expresses concern regarding the significant and increasing international trafficking of children for the purpose of the sale of children, child prostitution and child pornography. The preamble also refers to the widespread and continuing practice of sex tourism, to which children are especially vulnerable, as it directly promotes the sale of children, child prostitution and child pornography. The drafters of the Convention believed that efforts to raise public awareness were needed to reduce consumer demand for the sale of children, child prostitution and child pornography.¹⁴⁵

4.5.1 Monitoring of the CRC

The Committee is established by article 43 of the CRC, and consists of eighteen experts of high moral standing and recognized competence in the field covered by the Convention.¹⁴⁶ The State parties to the Convention elect members for four year terms. One of the Committee's assignments is to interpret the different regulations that the Convention sets out. The Committee publishes its interpretation of the content of human

¹⁴³ UNICEF (2007) Handbook p.514

¹⁴⁴ UNICEF (2007) Handbook p.531

¹⁴⁵ *Ibid.*

¹⁴⁶ CRC (1989) Article 43, 44

rights provisions, in the form of General Comments on thematic issues, which also clarify the obligations on State Parties. The GCs are also guidelines for the State Parties on how to report back to the committee.

The Convention on the Rights of the Child is monitored primarily by the reporting system. State Parties undertake to submit reports every five years to the committee (art 44). These reports should include sufficient information to provide the committee with a comprehensive understanding of the implementation of the Convention in the Country concerned. In drafting concluding observations, the best interest of the child (article 3) and the principle of non- discrimination (article 2) underpin the realization of the rights. Unlike the other reporting systems in the UN, this Committee requires that governments publish the report within their jurisdiction and disseminate the observations of the Committee.¹⁴⁷

At the time this thesis was written, the Committee could not consider individual complaints. Despite this, child rights may be raised before other Committees with competence to consider individual complaints, for example the Human Rights Committee that monitors the CCPR.¹⁴⁸ However, at its 11th session, on 17 June 2009, the UN Human Rights Council adopted resolution A/HRC/RES/11/1 by which it decided to establish an open-ended Working Group. This group was set to explore the possibility of elaborating an optional protocol to the CRC to provide a communications procedure complementary to the reporting procedure under the Convention.¹⁴⁹

4.5.2 General Comments from the Committee on the Rights of the Child

So far, the Committee has provided twelve GCs. In this thesis, the Committees GC No. 6 is highly applicable as it addresses situations of unaccompanied children. The Committee underlines that there are varied and numerous of reasons for a child being unaccompanied or separated, and that trafficking in various contexts and forms is one of

¹⁴⁷ Smith (2007) p.74

¹⁴⁸ *Ibid.*

¹⁴⁹ OHCHR (2009) <http://www2.ohchr.org/english/bodies/hrcouncil/OEWG/index.htm>

them, including sale by parents and the search for better economic opportunities.¹⁵⁰ The GC No. 6 argues that unaccompanied children are vulnerable to various risks that affect their life, survival and development such as trafficking for the purpose of sexual or other exploitation.¹⁵¹ The Committee notes that the issue of trafficking of children is beyond the scope of the GC, but underlines that there often is a link between trafficking and the situation of unaccompanied children.¹⁵² The Committee argues that practical measures should be taken at all levels to protect children from risk, including discrimination or exposure to violence. The Committee also makes suggestions of what such measures should include, for example:

“Priority procedures for child victims of trafficking, the prompt appointment of guardians, the provision of information to children about the risks they may encounter, and establishment of measures to provide follow-up to children particularly at risk. These measures should be regularly evaluated to ensure their effectiveness.”¹⁵³

In accordance with article 35 of the Convention, State parties should take appropriate measures to prevent such trafficking. This includes identifying unaccompanied children, pass adequate legislation, and establish effective mechanisms of enforcement with respect to labour regulations and border crossing.”¹⁵⁴

“Noting that risks are great for a child that has been exploited by human trafficking, that has resulted in the status of being unaccompanied. These children should not be penalized and should receive assistance as victims of a serious human rights violation.”¹⁵⁵ If there is a risk of “re-trafficking”, children should not be returned to

¹⁵⁰ CRC GC No. 6 (2005) p.5

¹⁵¹ *Ibid.* p.9

¹⁵² *Ibid.* p.6

¹⁵³ *Ibid.* p.10

¹⁵⁴ *Ibid.* p.11

¹⁵⁵ *Ibid.*

their country of origin unless it is in the child's best interest as article 3 of the Convention sets out, if so appropriate measures for the child's protection must be taken.¹⁵⁶

4.6 Other human rights instruments

The Committee's GC No.6 encourages States to ratify other international instruments that address issues relating to unaccompanied children.¹⁵⁷ This section will give a brief presentation of other international instruments related to this issue that are applicable in Norway.

On May 16, 2005, the Council of Europe's Convention on Action against trafficking in human beings opened for signatures. The Convention applies to all victims of trafficking, women, men and children. Confer article 4 (d) a "child shall mean a person under eighteen years of age." The convention also defines victim in article 4 (e) "victim, shall mean every natural person that is subjected to trafficking in human beings..."¹⁵⁸

*"The consent of a victim to the exploitation is irrelevant. The Convention applies to all forms of exploitation: sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude and removal of organs; and it covers all forms of trafficking: national and transnational, related or not to organized crime."*¹⁵⁹

Article 28 (3) of the Convention States that that "A child victim shall be afforded special protection measures taking into account the best interests of the child."¹⁶⁰

¹⁵⁶ CRC GC No. 6 (2005) p.16

¹⁵⁷ CRC GC. No, 6 (2005) p.7

¹⁵⁸ European Convention on action against trafficking (2005) Article 4

¹⁵⁹ *Ibid.*

¹⁶⁰ *Ibid.* Article 28(3)

The Universal Declaration on Human Rights requires generally that, “no one shall be held in slavery or servitude, slavery and the slave trade shall be prohibited in all their forms”.¹⁶¹ This is repeated in article 8 of the CCPR, which also covers “forced and compulsory labour”.¹⁶² The Human rights Committee monitoring the CCPR, in its GC No. 6 on article 24 of the CCPR notes the need to protect children from being by means of forced labour or prostitution.¹⁶³ The International Convention on Economic, Social and Cultural Rights in its article 10, articulates “Children and young person’s should be protected from economic and social exploitation”.¹⁶⁴

4.6.1 European Court of Human Rights

A particularly important Convention for Norwegian citizens is the European Convention for the Promotion and Protection of Human Rights and Fundamental Freedoms, due to the fact that individual cases may be brought against Norway in the European Court of Human Rights which monitors the Convention.¹⁶⁵ While this can also take place within relevant UN bodies, the majority of cases against Norway have been held in the European Court. The Courts assignment is to secure that all states parties to the Convention fulfill their obligations, meaning that citizens of these countries can try their case to the European Court if they are of the opinion that their national court has made a decision that does not comply with the European Convention on Human Rights. The European Court has the power to decide upon complaints with binding effect for the States. Members States can also make a complaint about another state to the Court.¹⁶⁶

¹⁶¹ UDHR (1948) Article 4

¹⁶² CCPR (1966) Article 8

¹⁶³ HRC GC No. 17 (1989) p.184

¹⁶⁴ CESC (1966) Article 10

¹⁶⁵ Court Administration p.12

¹⁶⁶ *Ibid.*

The Case of *Rantsev v. Cyprus and Russia* dealt with prohibition of slavery under Article 4 of the European Convention, and the obligations on states concerning protection against human trafficking. In this case, the Court held that there had been a violation of Article 4 due to the fact that Cyprus failed to afford the applicant practical and effective protection against trafficking and exploitation in general, and had not taken the necessary specific measures to protect the alleged victim to human trafficking. There was an additional breach of the same article by Russia, as it had not followed the appropriate procedural obligations to investigate an alleged instance of trafficking.¹⁶⁷ This case shows that State Parties to the European Convention are obligated to take specific measures to protect people against human trafficking and to adequately investigate cases where there have been allegations of human trafficking.

4.7 Norway

The Norwegian penal system states that all violence is prohibited. The system is a high-quality protective system. Violence against children, like sexual abuse are especially protected by the penal code articles 95- 201. Article 224 of the Penal Code prohibits human trafficking, and its different forms including begging and sexual purposes. While this article is not specific to the case of children, it is also applicable to them.¹⁶⁸

The Police are Norway's law enforcement power, and as such they are the actors that arrest and investigate cases where there has been or is suspicion of an illegal act.

4.7.1 Norway and the Convention on the Rights of the Child

The Norwegian legal system is dualistic, this means that the Norwegian states obligation to human rights is relevant, but they are not applicable without further incorporation into Norwegian legislation. The duties human rights put on Norway depend on the Norwegian legislation, and as such, human rights and Norwegian

¹⁶⁷ *Rantsev v. Cyprus and Russia* ECHR (2010)

¹⁶⁸ See annex No. 3 for Article 224

legislation are separate.¹⁶⁹ Norway ratified the CRC on January 8 1991, and twelve years later the CRC was incorporated into Norwegian legislation. The first Norwegian report to the Committee on the Rights of the Child was sent in 1993. The Convention is *lex superior* to Norwegian law in the case of a judicial conflict.¹⁷⁰

The Committee has requested that the Norwegian State strengthen measures to ensure that adequate support and supervision are provided for children living in reception centers.¹⁷¹ In Norway's forth-annual report to the Committee (2008), the State recognized the consideration of children as one of the foremost challenges in the area of immigration, and that it was an area the Government intended to prioritize. In addition, the report stated that the Government was aiming to transfer the responsibility for unaccompanied minor asylum seekers between the ages of fifteen and eighteen, from the UDI to the CWS, in the course of 2009.¹⁷²

4.7.2 Human Rights Act

In 2003, the CRC was incorporated into Norwegian legislation by a change in the Human Rights Act. The Human Rights Act serves to the strengthen the status of human rights in Norwegian law.¹⁷³ Section 2 of the Human Rights Act lists "the following Conventions that shall have the force of Norwegian law insofar as they are binding for Norway"¹⁷⁴, with Article 2(4) (a) and (b) relating to the role of the CRC and its two Optional Protocols. Section 3 of the act sets out the Conventions role in Norwegian legislation "the provisions of the conventions and protocols mentioned in section 2 shall take precedence over any other legislative provisions that conflict with them."¹⁷⁵ This

¹⁶⁹ Lilleholt (1998) p.19

¹⁷⁰ HRA Section 3

¹⁷¹ Forth Periodic Report to UN (2008) p.120

¹⁷² *Ibid.* p.125

¹⁷³ HRA (1999) Section 1

¹⁷⁴ Official Translation HRA Section 2

¹⁷⁵ *Ibid.* Section 3

implies that in the event of CRC requirements coming into conflict with, for example, with the Norwegian Immigration law, the CRC is prioritized.

4.7.3 Implementation of the protection articles

When a State becomes a party to the CRC, it undertakes an obligation to implement the rights of the Convention. Governments have clear and direct obligation towards human rights, they are also the primary duty-bearer under international law. Asbjørn Eide argues that State parties obligations to human rights conventions have three different levels of obligations, to respect, protect and fulfill.¹⁷⁶

“The obligations to respect requires the state, and thereby all its organs and agents, to abstain from doing anything that violates the integrity of the individual or infringes on her or his freedom. The obligation to protect requires from the State and its agents the measures necessary to prevent other individual or groups from violating the integrity, freedom of action or other human rights of the individual. The obligation to fulfill requires the state to take the measures necessary to ensure for each person within its jurisdiction opportunities to obtain satisfaction of those needs, recognized in the human rights instruments, that cannot be secured by personal effort.”¹⁷⁷

When a State becomes a party to the CRC it obligates itself, in front of a global audience, to treat individuals within the state in a certain way. However, for persons to enjoy their human rights, the state must also use other measures that they have available to ensure their protection.¹⁷⁸ Therefore, the Norwegian state has to use available measures to implement the CRC and the rights the Convention sets out.

¹⁷⁶ Eide (1989) p.37

¹⁷⁷ *Ibid.*

¹⁷⁸ Høstmølingen p.80

The UNICEF Implementation Handbook sets out general measures for the implementation of articles 19, 34 and 35. Such measures suggest in order for these rights to be fulfilled, states should include the following:

- budgetary analysis and the location necessary resources
- for the development of a mechanism for monitoring and evaluating
- make the implications of the three articles widely known to adults and children
- identify relevant non- governmental organizations/civil society partners
- do a comprehensive review to ensure that all legislation, policy and practice is compatible with the article, for all children in all parts of the jurisdiction.¹⁷⁹

This shows that in theory several protection measures are set out to protect unaccompanied children against exploitation by human trafficking. The question remains if the Norwegian state fulfills these obligations adequately.

¹⁷⁹ UNICEF (2007) Handbook p.274,528,540

5 NORWEGIAN PROCEDURES: RESPONSIBILITIES WHEN SUSPICION OF HUMAN TRAFFICKING

In Norway, the responsibility for the care and upbringing of children lies for the most part with the parents. However, sometimes parents might need assistance to take care of their child for a shorter or longer period because they found themselves in a difficult stage in their life. Some parents may not manage to provide their child with the care and protection needed. In these cases, the CWS has a duty to help.¹⁸⁰ This applies to all children in Norway up to the age of eighteen years. However, unaccompanied children between the ages of fifteen and eighteen do not fall under the responsibility of the CWS. Their care is delegated firstly to the UDI, and then further to reception centers. As a result, different legislation applies to unaccompanied children in reception centers and Norwegian children, in general, of the same age group.

5.1 The Directorate of Immigration

The UDI has expert employees that are responsible for cases of human trafficking. Their responsibility includes maintaining contact with the reception center that has reported a concern about a child, and is then responsible for establishing contact with the local police authorities and the CWS. The UDI guidelines establish a procedure in cases of suspected human trafficking, which shall now be described.

- The assigned employee at the reception center in question files a report of concern and sends copies to the local police authorities, KRIPOS (The National Police Unit on Organized and other Crime in Norway), the CWS and the UDI. The UDI will then give notice to the particular person within the UDI responsible for making the decision on the child's application for asylum in Norway.¹⁸¹

¹⁸⁰ Ministry of Children, Equality and Social inclusion (2001)

¹⁸¹ UDI (2007) p.6

- Further, the Official coordinator of the Department for Regional Reception Center, which is located in Trondheim, will also receive a copy.¹⁸²
- Next, the assigned employee must give direct feedback on the particular case to the person responsible for distribution and placement of this particular group of asylum seekers. The person responsible for distribution must take into consideration whether the unaccompanied child can be transferred to another reception center, or if the child in question, needs to be placed in a strengthened facility, which would provide special accommodation with extra attention, provided by the CWS - outside the regular systems of accommodations for asylum seekers.¹⁸³
- If the unaccompanied child is moved, the child shall keep the same contact person that was assigned to them by UDI, even if moved to another region. If the unaccompanied child stays under the care of UDI, The Public Guardians Office in the new region must be notified about the situation, so they can appoint a new legal guardian for the child. The manager at the new reception center must contact the new legal guardian and provide relevant information about the child's situation.¹⁸⁴

5.2 Reception centers

Guidelines provided by the UDI in 2007 state that if it is suspected that a resident of a reception center has been the victim of human trafficking, attention must be brought to the officials responsible for such cases at that particular reception center. It is then up to this official, together with the manager of the reception center, to determine how the child in question can be cared for in the best possible way. Further, they will decide whether it is necessary to inform external authorities, and if so, what information they need to provide. An evaluation from a health clinic, and if applicable, a statement from a lawyer should be taken into consideration. If they agree on taking the case further, the

¹⁸² UDI (2007) p.6

¹⁸³ *Ibid.*

¹⁸⁴ *Ibid.*

manager of the reception center must contact the appointed official for human trafficking cases with the following three actors; the local police authorities, the health care center and the CWS.¹⁸⁵

The next step in the process is that the manager of the reception center must send a letter to the three actors mentioned above, and describe the situation thoroughly. A copy is sent to the child's legal guardian, in addition the manager must maintain a log with all cases where there is, or has been, suspicion of human trafficking. If a child would like to report a case of human trafficking to the police, staff at the reception center are obligated to assist them. Co-operation with the local police authorities and the UDI must be maintained throughout. It is also of great importance that the reception center and the legal guardian are able to work closely together, establishing a safe environment of care and the best possible protection for the child.¹⁸⁶

The UDI and reception center are both obligated to inform the police confer the penal code article 139 that states, "any person who fails to try to prevent, by timely warning to the proper authorities or otherwise, although he has received reliable information that the felony was impending or being committed at a time were the felony or its consequences could still have been prevented, shall be liable to fines or to detention or imprisonment."¹⁸⁷

5.3 The Police

The local police authority with jurisdiction where the reception center is located is responsible for reported cases. KRIPOS, on the other hand, are responsible for keeping a national overview.¹⁸⁸ The responsibility of the police is to prevent, reveal, investigate and persecute networks and persons that are responsible for human trafficking. They shall also identify victims, and work out a consideration of what level of danger the

¹⁸⁵UDI (2007) p.3

¹⁸⁶ Circular 2001-67 (2006) p.3

¹⁸⁷ Official translation of the Penal Code Section 139

¹⁸⁸ *Ibid.* p.6

victim is in. The police are also responsible for carrying out measures that are necessary to ensure the persons safety, which may include providing necessary protection for the victims when persecuting suspected offenders in a trial, for instance, witness protection programs.¹⁸⁹

5.4 Child Welfare Services

A local branch of the CWS is responsible for all children within their jurisdiction, confer law concerning child welfare article 1-2, they can also initiate measures.¹⁹⁰

In most cases, the reception center or the health clinic is the first instance in close contact with a child that may have experienced exploitation by human trafficking. If there is reason to believe that the child is in a situation with negligent care or abuse, or if the child appears to have serious behavioral problems, these actors are obliged to report to the CWS, confer law concerning child welfare article 6-4, second and third paragraph.¹⁹¹ Exploitation by human trafficking is a clear circumstance of a child in a situation of negligent care or abuse.¹⁹²

If the local CWS receives information about a child that might be, or is, exploited by human trafficking, they shall investigate the situation rapidly. In cooperation with the police, the CWS must consider the level of danger in the particular child's situation, and necessary measures must be applied to secure the child in the best possible way.¹⁹³

The principal rule in an emergency is that the child should be placed in an institution or in an emergency home. If the risk exists that those responsible for the trafficking were able to find the child, it may be necessary to provide an anonymous location. The local CWS must together with the national child welfare office make sure that the child has a safe place to stay adequate to the needs of the child.¹⁹⁴ The UDI is still responsible for

¹⁸⁹ Politiet (2009) https://www.politi.no/strategier_og_analyser/strategier_og_tiltak/Tema_18.xhtml

¹⁹⁰ *Ibid.*

¹⁹¹ Circular Q-11(2006) p.11

¹⁹² Circular Q-11(2006) p.8

¹⁹³ *Ibid.*

¹⁹⁴ *Ibid.* p.14

the child's asylum application, regardless whether the local CWS initiate such measures for the child or not.¹⁹⁵

5.5 Legal guardian

When a child arrives in Norway without their parents, they are what is defined as an unaccompanied child applying for asylum. Since they are without persons with care responsibilities, the public guardians' office must appoint a legal guardian, confer the law about guardianship.¹⁹⁶ The legal guardian's responsibility is to secure the child's legal protection.¹⁹⁷ The legal guardian is a replacement for the parents when it comes to legal matters concerning the child, and represents the child before the public government.¹⁹⁸ Therefore, in a situation involving suspicion of human trafficking, the legal guardian shall work together with the other actors and make sure that decisions are made in the child's best interest and that the child is protected.

5.6 Health care

The transit reception centers are connected to a health clinic, either a clinic that is part of the reception center or the local clinic. The clinic carries out the first health check, performs necessary help, and carries out a mandatory tuberculosis test. The health clinic may be the first place to pick up indications that may show exploitation by human trafficking. For this reason they are an important collaborator for the reception centers and the UDI.¹⁹⁹

As a part of the routine health check, the employees at the clinic have a conversation with the child. During this conversation, information may become evident that suggesting that the child has been exploited by human trafficking. If that is the case, the employees at the clinic will ask for written consent from the child, so that the

¹⁹⁵ Circular Q-11(2006) p.14

¹⁹⁶ GA Section 16

¹⁹⁷ *Ibid.* p.5

¹⁹⁸ *Ibid.* p.6

¹⁹⁹ UDI (2007) p.2

information that has been discovered can be communicated further to the UDI, the manager at the reception center and to the child's lawyer.²⁰⁰

5.7 Lawyer

All unaccompanied children are provided with a lawyer in the asylum process. In cases involving suspicion of human trafficking, the lawyer is contacted by the asylum reception center. He or she is responsible for giving information and explaining to the child what kind of danger the situation they are in represents. The lawyer should also give advice to the child regarding what kind of assistance the lawyer and the police authorities can perform on their behalf.²⁰¹ Several groups are obligated to report about incidents where there is suspicion about human trafficking, confer the law about child welfare services article 6-4. This obligation is valid regardless of professional secrecy.²⁰² The unaccompanied child has access to the lawyer for three hours, however if the unaccompanied child is exploited by human trafficking it is possible to apply for more hours with a lawyer.²⁰³

5.8 Norwegian procedures in cases where a child has disappeared

During 2009, 21 children went missing from the Hvalstad reception center. In spite of all of the Norwegian Governments safeguards and obligations, these children are still missing. The employees at the reception center do not have any information on why or how these children have gone missing.²⁰⁴ Nationally, 71 unaccompanied children disappeared from reception centers in 2009.²⁰⁵

Kari Madsen from Hvalstad points out that an unknown quantity of the missing children might have left their fingerprint in a previous country. Therefore, they risk being sent

²⁰⁰ UDI (2007) p.2

²⁰¹ *Ibid.*

²⁰² Circular Q-11(2006) p.11

²⁰³ Schjatvet (2009)

²⁰⁴ Salthe (2010)

²⁰⁵ Figenschou (2010)

back if this information is disclosed, due to Dublin agreement. This agreement, between the European Union member countries including Norway and Island, requires that the first country an asylum applicant registers in must do so by fingerprint, and that consequently, that country is responsible for the asylum application. This is to prevent people from applying for asylum in several countries. Instead of waiting to be returned, they choose to elope and travel alone to avoid being sent back to their first point of entry into Schengen.

Children are classified as missing from the reception center after there is uncertainty regarding the child's whereabouts for 24 hours, in which case, the child shall be reported missing to the police.²⁰⁶

In cases where children disappear, the very same actors that have been described above, shall become involved. Basically, these actors have the same responsibilities as they do in cases with suspicion of human trafficking. A notable difference however, is that the reception centers procedures also include, (if applicable) that the child's relatives be informed and that missing-persons report is filed. The procedure states that this report must be filed on the UDIs form for "missing unaccompanied children". In addition, the reception center must contact the address where the child told reception officials that he or she was going shortly before their disappearance.²⁰⁷

The local police must, in each case of disappearance, consider the necessity of broadcasting a missing person report. In addition, they must give their recommendation regarding this to the police foreign unit. If they receive information about a particular case, the police foreign unit and the UDI office in Trondheim must be informed. The police foreign unit is responsible for registering all unaccompanied children that disappear from asylum reception centers, and shall retain relevant information of the number of unaccompanied children that are missing at all times. They are obligated to

²⁰⁶Circular 2001- 067 (2006) p.1

²⁰⁷ *Ibid.* p.3

question the local police regarding what kind of investigation that has been carried out, and subsequently follow up on the case.²⁰⁸

5.9 Suspicion of human trafficking

“During 2009, 1490 children passed through Hvalstad reception centre in Asker, Norway. Of these 1490 children, 41 were suspected to have been victims of human trafficking.”²⁰⁹ When suspicion exists that a child has previously suffered exploitation by human traffickers, it is vital that measures are taken to protect the unaccompanied child to prevent their disappearance and possible re- trafficking.

Identifying possible victims of human trafficking is carried out through observation and conversation. Kari Madsen is a part of the human trafficking team at Hvalstad reception center, and she argues that this team is dependent on the environment around the children to help them identify possible victims of human trafficking. When they do, the police, CWS, the child’s lawyer, the guardian and the UDI are notified.²¹⁰ Regardless of the fact that several actors are involved, it is very unclear where the responsibility lies for effectively providing protection for the unaccompanied child in situations of human trafficking.

As we can see through this presentation, KRIPOS, and both the local and immigration police units are involved, both in cases of suspicion of human trafficking and cases where an unaccompanied child disappears. UDI and police guidelines set out the theoretical part of how to handle the situation. The practical question remains of who is responsible for practical action in these situations.

²⁰⁸ Circular 2001- 067 (2006) p.3

²⁰⁹ Salthe (2010)

²¹⁰ *Ibid.*

6 INTERVIEW FINDINGS, PRACTICAL EXAMPLES AND DISCUSSION

In this chapter, I shall present the results from interviews with my key informants, along with other practical examples, and present a discussion of my findings.

Human Trafficking is a complex matter, and one that is not easy to expose. Children exploited by human trafficking are under the control of perpetrators who dictate and control what they can and cannot say. In order for the Norwegian State to be able to provide protection for this particular group, it is essential that measures applied reach out to these children in a way that makes them feel safe.

6.1 Someone to trust

The Norwegian procedures described in chapter five outline what action to take when there is suspicion of human trafficking. Norwegian procedures dictate the process that should occur in a case involving a child who would like to talk about such a situation, or if a case indicates that the child has possibly been a victim of trafficking. Consent from the child is required if more actors are to be informed.

In 2009 NRK1, (Norway's largest TV channel), highlighted Human Trafficking in their documentary series "Brennpunkt".²¹¹ This program documented the testimony of a girl that UDI suspected had been a victim of trafficking based on her asylum application interview. Subsequently, she was sent from Hvalstad reception center in the south of Norway, to Salangen reception center, in the north. This measure was taken in order to provide her with adequate protection, while she was waiting for a response to her asylum application. However, Salangen's reception center was not informed about the suspicion of trafficking, and did not receive any information regarding her need for special protection measures. Nonetheless, officials at Salangen reception center also believed there were suspicious circumstances, and tried to persuade the girl to tell UDI her whole story. However, she chose not to disclose any details of her situation, and due

²¹¹ NRK (2009)

to the UDI's failure to share their information regarding their suspicions of human trafficking, special security measures were not applied at Salangen reception center.

The girl's asylum application was ultimately rejected, contrary to the fact that the UDI deemed it necessary to apply protection measures, as they believed the girl to be in danger. The reason for the declined application was that she had not provided sufficient information during her UDI interview. If she in fact was being victimized, she could have been entitled to protection in Norway. Shortly after, the girl disappeared from the reception center, and has not been seen since. An employee at the reception center at Salangen stated that this story is not unique.

The Committee on the Rights of the Child notes that "States shall not return a child to a country where there are substantial grounds for believing that there is a real risk of irreparable harm to the child."²¹² On one hand, without performing a thorough investigation of the suspected trafficking, one may say that the existing protection measures are not adequate. On the other hand, it might be in the unaccompanied child's best interest to be sent back to the country of origin, in which case, appropriate measures to ensure the child's protection must be taken.²¹³

One of the informants utilized in this thesis was Brynjar Nilsen, the leader of Save the Children's trafficking project. He confirms that one of the major challenges in uncovering children exploited by trafficking is getting the unaccompanied child to talk and to tell their story in full.

"The unaccompanied children don't want to talk, they deny the situation that they are in and do not want to point out the traffickers. There are several reasons for this. One huge issue is that the children are afraid that the traffickers will take revenge on them, or on their families back in their home country. Another issue, is that the traffickers invest a lot of money smuggling the

²¹² CRC GC No. 6 (2005) p.10

²¹³ *Ibid.* p.16

children to the destination where asylum was applied for. They are in no way willing to let the children go without getting a return/yield on their investments.”²¹⁴

To overcome this challenge Eileen Fursland, the author of “guidelines on how to look after a young person who has been exploited by trafficking”, suggests that establishing trust is essential:

“A young person who has been trafficked will need sympathy, support, patience and understanding. He or she has been through traumatic experiences at the hands of adults, and will find it hard to trust anyone. It is important to win the young person’s trust.”²¹⁵

In the event that a traumatized child is suspected of being a possible victim of human trafficking, special guidance will be required in order for them to understand that they are eligible for help from Norway. By first building a child’s trust in the Norwegian system, they may eventually be willing to share their experiences. However, precautions must be taken. It is crucial to ensure that the victim is able to cope when sharing traumatizing experiences.²¹⁶ Practitioners noted that children and young people find it hard to disclose information about their experiences, or that they are silenced by their traffickers. It is important to remember that if these children have established trust and shared stories of child trafficking, that practitioners respond to these situations. However, the fault may lay with practitioners. Practitioners might not identify cases, believe what they hear, or be able to respond to the needs presented.²¹⁷ It should be emphasized that it may not be that the caseworker does not wish to help, but their inexperience with these situations affects their ability to take action. The insecurity of caseworkers may, therefore, play a large role in reporting potential cases of exploitation.

²¹⁴ Nilsen (2009)

²¹⁵ Fursland (2009) p.6

²¹⁶Neumayer (2006) p.47

²¹⁷Pearce (2009) p.9

The UN has noted that traffickers use a range of methods to manipulate, coerce and force children into being trafficked. Interviews and case files show that traffickers use subtle manipulation and overt physical, sexual and emotional abuse and neglect as methods of control. “Traffickers might also make children believe that they owe them money or payment through other means. As a result, the child may be injured, confused and/or traumatized.”²¹⁸ Invariably, they are silenced by this abuse, through fear of repercussions for themselves or their friends and family, through manipulation, or because the information is too painful to disclose. The child may even have blocked out details as a coping mechanism. Breaking this silence can (often) only happen with time, through building a relationship of trust, and through engaging with the child, using language that they can understand and to which they can relate.²¹⁹

Research by The Norwegian Institute of Public Health concerning children arriving in Norway alone between 2000 and 2007, shows that many of the unaccompanied children seeking asylum arrived from countries in state of war or internal conflicts.²²⁰ The same research shows that 75 % of the children that arrived in Norway during these years had experienced war. Some of them had been soldiers and some had seen their family killed. “Armed conflict, political persecution, separation from parents, poverty and trafficking are the most important reasons for children arrive in Norway as asylum seekers and refugees.”²²¹ In other words, these children have been exposed to the most strained and traumatic experiences.

Nilsen argues that cases like this are very difficult to investigate. While there is reason to believe that 50-100 children are exploited by trafficking in Norway every year, there have only been two legal cases brought to the courts. A precise number for how many children that have been exposed to trafficking in Norway does not exist.²²²

²¹⁸ Fursland (2009) p.6

²¹⁹ *Ibid.*

²²⁰ Oppedal (2008) p.15

²²¹ *Ibid.*

²²² Nilsen (2009)

This discussion shows that discovering victims of human trafficking is not easy, especially when they are young and at a vulnerable age. Therefore, it is important to give special attention to children that may have been victims of trafficking. It is possible that the girl who disappeared from the Salangen reception center would have told her story if she felt more secure, and if she had someone she could trust within the asylum system.

6.2 Experience from guardians

The legal guardian is often the person who has the closest relationship with an unaccompanied child throughout their asylum process. Therefore, I chose to interview legal guardians that have had experience with suspicion of exploitation by human trafficking and disappearances from reception centers. In the process of researching this thesis, I interviewed three legal guardians, and I shall now discuss my subsequent findings.

All three of the interviewees agreed that UDI needed to take into consideration that the unaccompanied child did not want to inform on the perpetrators, and that, out of fear, children did not want to explain their situations. My informants highlighted this, because they all believed that this was not due to the the children lying, or attempting to deceive the Norwegian system, but rather that such children feel the need to protect themselves. The guardians were all clear on the point that if the goal is to find the perpetrators, then cases of human trafficking needs to be considered differently.

These quotes provide a good description of how the guardians experienced the situation:

“Suddenly I was in a situation that I as a legal guardian did not know how to go around.” Guardian, 49 years.

“The Police send out a picture on their database saying, youth missing, and I think that’s about it.” Guardian, 49 years.

“They are so preoccupied on what the decision of the asylum application will be that they don’t want to talk about anything else” Guardian, 60 years.

“It is a big difference about writing things down on paper and actually doing something, does it protect the child just writing things down?” Guardian, 60 years.

“One of the children I was a guardian to, disappeared, I got a letter from the UDI saying that he was deleted from their system.” Guardian, 49 years.

Another critical issue is that of time. The guardians pointed out that children may require months to build up a relationship of trust before they can tell their stories, my informants therefore suggest that the asylum application should be put on hold if there is a suspicion of human trafficking. They argue that time is a very important factor in child protection. Time allows guardians to establish trust, and therefore if human trafficking is suspected, more protection should be offered. Time is also necessary to stabilize the potentially devastating impact on the child of removing emotional walls or coping mechanisms that deal with their trauma. One guardian relayed the story of an unaccompanied child under her care, who was suspected of being a victim of human trafficking and potentially suicidal, and subsequently required constant supervision.

The legal guardians also shared common opinions of the different reception centers. They all felt that the Hvalstad reception center handled suspicious cases efficiently. However, regarding cases at other reception centers in Norway, the Guardians did not believe they had the ability to identify possible cases of human trafficking. These opinions were based on their personal encounters and experiences at such reception centers. One of the guardians pointed out that she had spent a lot of time at a reception center outside Oslo, where all of the unaccompanied children were without supervision, if they did not seek supervision on their own. She had observed cars driving up to this

reception center, picking up children and driving off. Sometimes the children came back, and sometimes they did not. This informant had also experienced the disappearance of a child she was a guardian to. After three months, she received a letter from UDI saying that the case had been dismissed, the child was no longer registered in the system, and that the responsibility of the legal guardian had been terminated.

In the course of interviewing the guardians, all felt that the creation a specific legal guardian group to combat this matter, to share knowledge, and to provide children with better protection, would be of great benefit to the situation as it now stands. This would additionally save time when deciding how to handle difficult cases, by centralizing who to contact. Such a group would consist of experienced caseworkers, and therefore, provide better protection for the unaccompanied child than the situation that is currently being provided.

All agreed that there is a lack of knowledge on the problematic issue of suspected human trafficking within the asylum system. It is very hard for those employed in the system to get information on how to handle such situations, even when contacting the police and UDI. Two of the informants were guardians for unaccompanied children who are now under the care of CWS. They both stated that if they had not received help from the human trafficking team at Hvalstad, they would not have known how to handle the situation at all.

My findings through the course of this investigation indicate that there is a need for a specialized group of guardians to work with human trafficking cases. Such a group would also help to secure the child's legal protection. This would also assist the guardians to feel more secure in the situations that they experience. One anonymous informant stated that the implementation of a specialized group of guardians was just as important as having specialized groups within the Police, UDI and at the reception centers. My informant points out that here, as in all other jobs, it is important to have experience and to improve one's knowledge. Therefore, when it comes to the difficult matter of human trafficking, it is even more crucial. My informant also pointed out that

experience shows that guardians are sometimes compelled to make promises they cannot keep, in order to coerce the children to talk about their situation. The use of such tactics is due to the lack of knowledge and experience in tackling these situations. Since there are considerable differences between reception centers and their expertise on the matter, it may prove beneficial to provide appropriate training and education for guardians throughout Norway. My informant also points out that, at present, there is requirement for a police certificate to prove good conduct for registration as a guardian. This increases the importance of educating a specialized group of guardians. It is crucial for Norway to implement these restrictions in order to provide better protection for the child. These children need someone to trust, and to help them cope with their situation, and expert guardians could take on such a role.

6.3 Other examples

When a child disappears in Norway, not only are search teams (comprised of both police and voluntary participants) assigned to the case, but the media is also very much involved, to keep the public updated and aware of the situation. However, in the case of an unaccompanied child disappearing from a reception center, such measures are not taken. Occasionally, the media will write an article about the total of unaccompanied children that disappeared the year before,²²³ yet the amount of media attention given to such situations remains far less.

In 2008, PRESS published a report concerning unaccompanied children that had disappeared from reception centers, titled “Out of Sight, Out of Mind”.²²⁴ In this report, they argue that both attitudes and lack of knowledge within the police force might be the problem behind dismissing the cases of disappearances. When in contact with different police districts, PRESS’s reporters were told for example; “there is more reason to be worried if a Norwegian child disappear”, “often age and name are

²²³ Several Norwegian newspapers wrote about unaccompanied children that has disappeared from the reception centers 23. February 2010, one of them was abs news,

<http://www.abcnyheter.no/nyheter/politikk/100223/bekymret-over-asylbarn-som-blir-borte>

²²⁴ PRESS (2008) p.15

incorrect, so we do not know where to look”, and “there is a difference when seven year olds disappear compared to seventeen year olds.”²²⁵ Their survey shows that cases like these are treated very differently from other disappearance cases in general, and they are simply not prioritized, as police guidelines are not clear. The Ministry of Justice and the Police published a report based on PRESS’s survey. This report shows that in some cases the children are not even registered as missing in the police records. Several cases were dismissed without the police starting, let alone conducting, an investigation.²²⁶ According to official police records, only eleven missing persons have so far been identified as possible victims of human trafficking.²²⁷ One of the the guardians I interviewed believed that many people who work within the system are of the impression that the police do not conduct any investigation at all when an unaccompanied child disappears.²²⁸

In February 2010, Pål Lønseth, from the Ministry of Justice, stated that the government carried out several measures to decrease the number of children who disappeared from the asylum reception centers in 2009. One of the measures taken was the appointment of an official in all reception centers, to be responsible for cases involving unaccompanied children who were suspected victims of human trafficking.

After contacting all 47 UDI registered reception centers to find out how the Norwegian Government policy on human trafficking is implemented, I found that 25 of the reception centers had one person responsible for cases concerning human trafficking. Their competency, qualifications and background varied. Some of them were nurses and social workers, while others were political scientists or graphical designers. In 4 out of these 25 centers, the manager of the reception center was also the person responsible concerning such cases. Contrary to government policy, 12 of the 47 reception centers did not have specifically assigned officials responsible for cases concerning human

²²⁵ PRESS (2008)p.14

²²⁶ Ministry of Justice and Police, report. p.29

²²⁷ *Ibid.* p.34

²²⁸ Anonymous informant (2010)

trafficking. One reception center stated that they were not aware that they needed an assigned official. Despite several attempts, I was not able to get in contact with nine out of the 47 centers on UDIs registry.²²⁹ However, one of the reception centers I was able to contact, told me that their center was about to close down. This could also be a plausible explanation for other reception centers that I was unable to contact.

6.4 Experience from the Netherlands

Tone Salthe from the human trafficking team at Hvalstad Reception Center went on a field trip to The Netherlands autumn of 2009 to learn more about the system they have for covering and protecting possible victims of human trafficking. She found that work against human trafficking has a high priority in The Netherlands. Unlike Norway, they have chosen to introduce a Dutch National Rapporteur²³⁰ on trafficking in human beings. From an independent position, the Rapporteur and her bureau reports on the progress of the work against human trafficking to the Dutch government. They also publish annual reports on the nature and extent on trafficking with the help of the statistics from an organization called CoMensha.²³¹ This organization also has a hotline, which provides information about human trafficking including legal procedures and other practical information to victims. They also have a network system, where the police, shelters, public health organizations, legal assistance, victim assistance, social works and the organization of legal guardians meet on a case-by-case basis.²³²

Every district of the Netherlands has at least one specialized group of police working especially against human trafficking. Police officers are not allowed to talk to potential victims without passing a special course on how to communicate appropriately with a victim of human trafficking. These experts also investigate all the trafficking cases in

²²⁹ Sited 16.03.2010

²³⁰ An expert on this area with high moral standing within the community

²³¹ Salthe (2009) p.1

²³² *Ibid.* p.3

the region. Their work has, on several occasions, resulted in the arrest of perpetrators behind human trafficking.²³³

Unlike Norway, asylum seekers in the Netherlands have the right to apply for asylum again if there is new evidence in their case. If the applicant did not provide accurate information during their first interview, due to pressure or other reasons connected to human trafficking, the old asylum application is not taken into consideration during the second procedure. They are thereby entitled to begin their application process anew.²³⁴

The CWS, in the Netherlands, only plays a minor role for victims of trafficking. Children suspected of being victims of human trafficking are sent to a children's center for victims of trafficking immediately after applying for asylum. These shelters are especially created for the needs of this group, and are staffed with experts in this field. These shelters were created after several victims of trafficking disappeared after applying for asylum, and were initially a part of a project to reduce such disappearances. The shelters focus mainly on two things, security and creating an alternative future for these children, thereby reducing the risk of re-trafficking.²³⁵

These centers do not allow the use of mobile phones or the internet. This helps to maintain security, and minimize the risk of disappearance. The Dutch have experienced, as they have in Norway, that mobile phones can be used by traffickers to control the children involved. All calls must be made on the shelters' house phone, which are then monitored to prevent contact with anyone other than the child's legal guardian or the lawyer. In addition, an adult must always accompany minors from the shelter if leaving the center, for example to attend school.

²³³Salthe (2009) p.4

²³⁴*Ibid.* p.6

²³⁵ *Ibid.* p.8

An argument that was repeatedly mentioned in my interviews was the need for a specialized group made up of guardians and other actors who come in contact with the unaccompanied child. This could be a crucial point for providing improved protection for these children, as it is vital that when talking to the child, that this is done in the correct way.

Findings presented in this chapter show that the trafficking of unaccompanied children is not easy to uncover, therefore, it is also difficult to take measures to protect the child from human trafficking. Throughout my interviews, three main points that the guardians thought would provide better protection for these children were repeated: trust, time and increased knowledge/experience. This can be seen as important measures, but one can also think that in order to provide effective protection measures, it may be necessary to build shelters modeled on those used in the Netherlands. That may be the most efficient way to ensure that this group of unaccompanied children can not be found by their traffickers. On one hand, one might say that either way we protect them, it is most crucial to get the child to tell the truth. On the other hand, one might argue that it is in the child's best interest to not have to go through the difficult experience one more time, if the suspicion of trafficking is so strong that this is not necessary. The guardians argued allowing the children time to develop trust and await the asylum application. This might help uncover cases with trafficking and therefore help to provide protection. A contrary argument to that is that it is better to use less time, in order to move the child more swiftly to a safer place.

Pål Lønseth stated that one of the protection measures taken to prevent disappearances of unaccompanied children from reception centers was to put one employee at all reception centers for unaccompanied children in charge of cases with human trafficking. While one might argue that this will prevent disappearances, trafficking is a complex matter and my findings revealed that some of those responsible at the reception centers did not have the educational background that qualified them for working with children in difficult situations, with traumatic backgrounds.

Building knowledge within the Police, and training experts in the area of human trafficking, as has been done in the Netherlands, might provide better protection for these children. However, having experts among several of the actor groups, in different instances, that have contact with the unaccompanied child may prove to strengthen the protection even further.

7 CONCLUSION

If you were to ask an average Norwegian: is there trafficking of children in Norway? The response would be no. This is because according to the UN, Norway is a country that has the highest living standard in the world. Through its rich natural resources, Norway is considered a strong economic country. However, with power comes responsibility. Norway serves as a beacon of light by adamantly promoting and protecting human rights standards worldwide. In Norway, Norwegian legislation and policies thoroughly protect and provide individuals to lead a life of value. Therefore, in theory there is a good protection against human trafficking. However, the thesis has demonstrated that this is unfortunately not the case.

Human trafficking happens in Norway. This is in part due to human trafficking inherent nature of being complex, intricate and difficult to abolish. Traffickers adapt to varying contexts, and are able to find systematic and structural loopholes to proceed with smuggling. Therefore, it is essential to create legislation, which can adapt to varying situations and cases. This thesis does not imply that Norway does not fulfill its international human rights obligations. Norwegian legislation is set out in good faith to protect individuals from human trafficking. However, it should be of the utmost concern of Norway that from the time-period 2000-2009, approximately 671 unaccompanied asylum seeking children disappeared from Norwegian asylum reception centers, and no one knows what happened.

One of the main goals of this thesis was to describe why there are strong reasons to believe that unaccompanied children are at risk to be subjected to human trafficking whilst in Norway. They might not be Norwegian children, but regardless they are under the responsibility of the Norwegian state. When taking into consideration the high level of standards of human rights expected from Norway, the systematic disappearances of unaccompanied children should be considered disgraceful. It could be argued that it is unfair that more is expected from Norway than other States, however it is within Norway's abilities and capacities to provide more protection for these at risk children.

Unaccompanied children are divided into two categories. The first category consists of children below the age of fifteen years, and the second category consists of children between the ages fifteen and eighteen. This thesis has focused on the second category and has done so because of the lack of protection measures for individuals in these categories. This group is under the care responsibility of the UDI.

Article 19 of the CRC states that “all appropriate measures” and “effective procedure” must be taken to protect children. Therefore the Norwegian state has taken several implementation measures to protect this group of children. As we noticed throughout this thesis more measures must be taken in order to appropriately and effectively protect these children.

Firstly, it has been noted that there is a general lack of knowledge on this area within several actors. Therefore, there is a need for specialized groups in each actor that dealt with these cases. Over time, this will lead to increased awareness, knowledge and experience when facing a new potential case.

Secondly, throughout this thesis, it has been noted that these children need a figure to trust and confide in. If this is not available to unaccompanied children, they will often not be willing to talk about their situation. Since the legal guardian is often a person who has the most contact with the child, it is recommended that they are designated this task. In any such manner, there is a pressing need for experienced specialized groups to be designated the task to talk to children suspected of being exposed to trafficking. The findings throughout this thesis demonstrate that training, and gaining of expertise in this area is especially crucial for guardians that have gained responsibility and emotional attachment to these children.

Thirdly, the accessibility of the reception center creates a situation that makes a child more susceptible to exploitation. Traffickers can easily find the reception center and pick up the children without notice. Therefore, shelters with the same structure as those

in the Netherlands should be constructed in order to provide better protection for this group.

Norway does attempt to fulfill the standards of “all appropriate measures” and “effective procedure” stated in the CRC and other human rights instruments with regards to trafficking. However, it should be remembered that Norway needs to adapt to the techniques and methods of traffickers. Building knowledge, capacity and expertise is essential to tackle trafficking in Norway. Its current measures are therefore not adequate. It should be remembered that these are manageable challenges for a country in Norway’s position, take for example the Netherlands, and means should be taken to fully comply with its international legal obligations to human rights. Norway has to review into their protection measures when it comes to trafficking of unaccompanied children to improve their fulfillment of the human rights standards developed to protect these children, especially the obligations set out by the CRC.

This thesis is therefore significant in the manner that it attempts to address the situation of child trafficking in Norway. Child trafficking in Norway is not a thoroughly researched or acknowledged topic. Therefore collecting information and informants was challenging. These limitations were overcome by using interviews and practical examples to demonstrate what practitioners found as major challenges with Norway’s fulfillment of their obligations. It is important to note that the implications of this type of study aim to demonstrate to the Government of Norway, fellow researchers, and members of the public that this situation exists in Norway. For the actors involved in the matter of unaccompanied children, this thesis provides recognition of the daily challenges they face.

By establishing areas in which the Norwegian government can improve its obligation, it is now up to the Government to address the lack of protection for unaccompanied children aged between fifteen and eighteen. Only in that way, Norway can be a place where *all* children are protected.

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9 Annex

Annex 1

Interview Questions: Experts

Background information of interviewee:

Name:

Sex:

Educational background:

Interview date:

Time:

Length:

Location:

- What is the level of co-operation between different actors involved in the process?
 - Police
 - Reception Centers
 - Guardians
 - UDI
 - Child Welfare Services
 - Lawyer

- What measures are taken in order to protect the child in cases where there is suspicion of human trafficking?
 - Police
 - Reception Center
 - UDI

- Child Welfare Services

- What is the level of knowledge concerning human trafficking within the different involved actors?
 - Police
 - Reception Center
 - UDI
 - Child Welfare Services
 - Guardians
 -

- What are some examples of potential human trafficking situations?

- What are areas that can be improved? How can they be improved?

- Are there any general comments that are not already covered in the questions posed?

Annex 2

Interview Questions: Guardians

Background information of interviewee:

Background information of interviewee:

Name:

Sex:

Educational background:

Interview date:

Time:

Length:

Location:

Number of legal guardian assignments:

Assumed age of the child:

Childs country of origin:

Did the child confirm the suspicion of human trafficking, or wished to talk about the situation?

Did the child talk about his/her situation with anyone?

- What were different measures that varying actors took to protect the child?
 - Police
 - Reception center
 - Directorate of Immigration
 - Child Welfare Services

- Did you feel involved in the situation?

- Did the child at any point disappear?

- If yes -> has anyone been searching for the child's whereabouts?

- Has the suspicion of exploitation by human trafficking had an effect on the asylum application?

- Would you like to get more training in this area?

- What protection measures were implemented?

- What are your suggestions for improvement?

- Are there any general comments that are not already covered in the questions posed?

Annex 3

Section 224 of the Norwegian penal Code

“Any person who by force, threats, misuse of another person’s vulnerability, or other improper conduct exploits another person for the purpose of

- a) prostitution or other sexual purposes
- b) forced labour
- c) war service in a foreign country, or
- d) removal of any of the said persons organs,

or who induces another person to allow himself or herself to be used for such purposes, shall be guilty of human trafficking and shall be liable to imprisonment for a term not exceeding five years.

Any person who

- a) make arrangements for such exploitation or inducement as is mentioned in the first paragraph by procuring, transporting or receiving the person concerned,
- b) in any other way aids or abets such exploitation or inducement, or
- c) provides payment or any other advantage in order to obtain consent to such exploitation from any person who has authority over the aggrieved person, or who receives such payment or other advantage shall be liable to the same penalty.

Any person who commits an act referred to in the first or second paragraph against a person who is under 18 years of age shall be liable to a penalty independently of any use of force or threats, misuse of a person’s vulnerability, or other improper conduct. Gross human trafficking is punishable by imprisonment for a term not exceeding ten years. In deciding whether the offence is gross, particular importance shall be attached

to whether the person exposed to the act was under 18 years of age, whether gross violence or coercion was used or whether the act led to considerable gain.²³⁶

²³⁶ Official translation of the Penalty Code Section 224