

A young girl with dark hair and a purple shirt is looking out from a train window. She is holding onto the metal frame of the window. The background is slightly blurred, showing other people inside the train. The overall tone is somber and contemplative.

CHILD RIGHTS IN THE GLOBAL COMPACTS:

**Summary of recommendations for protecting,
promoting and implementing the human rights of
children on the move in the proposed Global Compacts**

The Steering Committee of the Initiative for Child Rights in the Global Compacts has drafted a working document entitled “Child Rights in the Global Compacts: Recommendations for protecting, promoting and implementing the human rights of children on the move in the proposed Global Compacts”. The working document – to be finalized in late June 2017 – draws upon the New York Declaration for Refugees and Migrants, the Sustainable Development Goals (SDGs), provisions in international law and other frameworks to put forth proposed goals, targets and indicators for inclusion in the Global Compact for Safe, Orderly and Regular Migration and the Global Compact for Refugees.

This synthesis of the working document aims to: (a) outline the six thematic areas around which the working document is structured; and (b) present the proposed goals and targets in each thematic area.

THEMATIC AREA 1 NON-DISCRIMINATION

Refugee and migrant children risk discrimination in all aspects of their lives, both because they are children and because of their status as migrants, refugees or asylum seekers, or members of particular religious, ethnic, racial or nationality groups. They are frequent targets of xenophobic crime, including both physical attacks and hate speech. They are frequently criminalized because of irregular entry or stay. They are regularly denied access to health, education, housing and other services, or to work simply because of their status. Migration status intersects with gender and disability-linked vulnerabilities to compound the risk of discrimination-related exploitation or violence, including in situations of sexual exploitation or trafficking. Age may also exacerbate discrimination. In addition, refugee and migrant children also routinely experience indirect discrimination.

Non-discrimination goals to be included in the Global Compacts

- I. Adopt and implement measures to foster an open and non-discriminatory society, including by preventing xenophobia, racism and discrimination against refugee and migrant children, starting from the moment of their arrival.
- II. Adopt and implement measures that proactively support reciprocal inclusion between host and refugee and migrant communities and the social inclusion of refugee and migrant children, including as regards their access to legal identity, nationality, education, health care, justice and language training.
- III. Repeal provisions that criminalize the provision of services to any refugee and migrant children or require service providers to share personal data for immigration enforcement.

Non-discrimination targets to be included in the Global Compacts

- i. By 2025, eliminate all provisions that discriminate against refugee and migrant children, including children who are stateless, with regard to laws, services and programs, in laws and policies, including those affecting stateless children.
- ii. By 2021, eliminate all criminalization of refugee and migrant children because of their migration, nationality or residence status.
- iii. By 2021, ensure access to justice and effective remedies for refugee and migrant child victims of discrimination, racism or xenophobia, on a par with national children and without legal or other repercussions on grounds of their residence status.
- iv. By 2025, ensure equal access to social, economic and political inclusion for refugee and migrant children, on a par with national children, without legal or other repercussions on the grounds of their residence or nationality status.

THEMATIC AREA 2 BEST INTERESTS OF THE CHILD

Throughout the migration cycle, all refugee and migrant children are routinely affected by policies and practices that do not take their best interests into account as a primary consideration. This failure has severe and enduring consequences for the children and for States’ ability to respect, protect and fulfill the human rights they owe to these children. Consideration of the best interests of the child includes a substantive right – namely, the right of the child to have his or her best interests assessed and taken into account as a primary consideration; a legal principle – namely, that if a legal provision is open to more than one interpretation, the interpretation that most effectively serves the child’s best interests should be chosen; and a rule of procedure – namely, that whenever a decision is made that will affect a specific child, group of children or children in general, the decision making process must include an evaluation of the possible impact (positive or negative) of the decision on the child concerned. All refugee and migrant children, whether accompanied or not, have the right to have their best interests taken into account as a primary consideration. They also have the right to participate fully in actions or decisions that affect them, and to grow up as part of a family. It follows that actions or decisions affecting refugee or migrant families as a whole have to take these rights into account.

Best interests goals to be included in the Global Compacts

- I. Ensure that the best interests of the child will be a primary consideration in all matters concerning refugee and migrant children, whether they are accompanied or unaccompanied.

Best interests targets to be included in the Global Compacts

- i. Between 2020 and 2030, achieve a 10% annual increase (compared to the previous year) in the proportion of refugee and migrant children benefiting from national laws, regulations, policies and procedures (local, regional or national) that explicitly state that the best interests of the child should be a primary consideration in all actions and decisions.
- ii. Between 2020 and 2030, achieve a 10% annual increase (compared to the previous year) in the number of States that have instituted measures to address the best interests of refugee and migrant children as they transition beyond the age of 18 and that have abandoned the practice of issuing residence permits to refugee or migrant children that are only valid until the age of 18.
- iii. By 2021, ensure that procedures are [or have been] enacted at local, regional or national level, to implement best interests assessments and best interests determinations in all their decision making processes affecting refugee and migrant children.
- iv. By 2025, improve access to free legal advice and representation for all refugee and migrant children who need or request it, by creating a dedicated budget by 2021 for supporting access to free legal advice and representation for refugee and migrant children (if one does not already exist) and ensuring a year-on-year increase in the number of cases supported.
- v. By 2025, ensure the appointment of qualified guardians and advisors for unaccompanied or separated refugee and migrant children and their participation in the BIA and BID process.
- vi. Between 2020 and 2030, achieve a 10% annual increase in the number of asylum and migration laws and policies that include child rights impact assessments.

THEMATIC AREA 3 CHILD PROTECTION

Throughout the migration cycle, refugee and migrant children face a heightened risk of violence, abuse and exploitation compared to national children. Child protection actors should therefore bear primary responsibility for refugee and migrant children as regards both service provision and decision making, whenever these children are in contact with migration authorities, starting from the time of first reception. The immediate identification and referral of refugee and migrant children, including all unaccompanied and separated children, to the child protection system is therefore critical in ensuring assessment of their immediate needs and protection against violence, exploitation, abuse and neglect.

Refugee and migrant children need referral to and support from a national child protection system based on a legal framework, including formal and informal structures, with the capacity to protect them from violence abuse, exploitation and neglect. A primary obligation of the child protection system for refugee and migrant children is to support family unity or reunification where this is in the child's best interests, and to provide safe referral systems, irrespective of their migration status (or that of their families), to appropriate services, information, assistance and protection. Where appropriate, the system should also assist these children in making safe and rights protecting choices for themselves.

Child protection goals to be included in the Global Compacts

- I. Enact national laws that ensure the protection of refugee and migrant children and their participation according to their age and maturity in all decisions affecting them, starting from the time of first reception, and continuing until family re-unification.
- II. Ensure all at-risk refugee and migrant children, including those who are unaccompanied or separated and those for whom remaining with parents or primary caregivers is not in their best interests, are immediately identified.
- III. Ensure appropriate and integrated child protection care and services for all at-risk refugee and migrant children, starting from the time of arrival.
- IV. Establish appropriate alternative care options for unaccompanied and separated children whenever necessary and appropriate, in the spirit of the UN Guidelines for the Alternative Care of Children.
- V. Ensure effective cross-border coordination between national child protection services to provide a continuum of protection throughout the migration cycle for refugee and migrant children.

Child protection targets to be included in the Global Compacts

- i. By 2021, ensure implementation of policies and practices that secure immediate identification of at-risk refugee and migrant children by all officials who come into contact with them, whether at the border or elsewhere, with a dedicated budget for this purpose.
- ii. By 2021, ensure immediate referral of all at-risk refugee and migrant children to the national child protection services, irrespective of migration status. Between 2020 and 2030, establish an annual referral increase proportional to the documented number of at-risk refugee and migrant children arriving in the State with a dedicated budget to fully fund the referral system.
- iii. By 2025, establish mechanisms for the comprehensive integration of refugee and migrant children into the national child protection system to ensure their full protection from violence, exploitation and abuse.
- iv. By 2025, ensure provision of appropriate care and services on a par with national children, to all refugee and migrant children from the time of arrival. Between 2020 and 2030, increase percentage of refugee and migrant children in need of alternative care who benefit from the alternative care system by 10% annually.
- v. Between 2020 and 2025, annually increase the number of participating countries included in this coordinated, cross-border child protection system to encompass all countries by 2025.
- vi. By 2021 establish effective international systems to prioritize family reunification, resettlement and relocation and provision of other humanitarian programs that prioritize children and their families alongside other people in a situation of vulnerability. Between 2020 and 2030, increase percentage of child and family reunification concluded cases by 10% annually.

THEMATIC AREA 4 CHILD IMMIGRATION DETENTION

The detention of children and families for reasons related to their migration status remains a growing, and concerning, feature of state migration management policies around the world. The Global Compacts provide an opportunity to build upon the commitment to work to end the immigration detention of children by agreeing to a clear set of targets and indicators for operationalizing this commitment and for implementing human rights-respecting alternative care and protection arrangements ("alternatives to detention") for refugee and migrant children, whether traveling alone or with members of their families.

In practice, States detain refugee and migrant children for reasons that are quite avoidable, such as to conduct routine health and identity screening; to maintain family unity; or to facilitate engagement with ongoing asylum or migration procedures. Regardless of the reasons for immigration detention, studies have shown that detaining children has a profound and negative impact on child health and well-being. There is consequently an urgent need to implement alternatives to detention for refugee and migrant children and families.

Child immigration detention goals to be included in the Global Compacts

- I. End the immigration detention of children and other practices that result in the deprivation of liberty of children for immigration-related reasons.

Child immigration detention targets to be included in the Global Compacts

- i. By 2021, identify and initiate implementation of alternatives to detention that respect the rights of the child (and are in their best interests) and allow refugee and migrant children to remain with their family members and/or guardians in non-custodial, community-based contexts while their immigration status is being resolved.
- ii. By 2023, enact legislation and/or policies to prohibit the detention of children—whether accompanied or unaccompanied—for reasons related to their or their parents' or guardian's migration status.

THEMATIC AREA 5 ACCESS TO SERVICES

To develop and flourish, children require access to a wide range of services, including those related to basic health and education, adequate accommodation, social protection and psychosocial needs. However, a wide range of administrative and other obstacles stand in the way of children accessing these services. Improved access can be brought about by measures to end discrimination or to give refugee and migrant positive rights to particular services.

Access to services goals to be included in the Global Compacts

- I. Grant immediate access to appropriate health services for refugee and undocumented migrant children arriving at reception facilities, including screening and treatment for physical or psychological abuse, and ensure that all refugee and migrant children have timely access to health and psychosocial services, including preventive care, regardless of their migration status and that of their parents.
- II. Provide safe shelter for refugee and undocumented migrant children upon arrival in a State.
- III. Register the birth of all refugee and migrant children with a civil authority and provide refugee and undocumented migrant children with appropriate documentation (to allow them to access services for which proof of identity is required).
- IV. Ensure all refugee and migrant children receive development care (focusing on children up to eight years of age) and quality education on an equal footing to national children and that new arrivals have access to (and are receiving) developmental care or education within two months of arrival.

Access to services targets to be included in the Global Compacts

- 1) By 2021, reception centers for refugees and undocumented migrants routinely check new arrivals for physical or psychological health problems, including trauma and stress, and make appropriate treatment and care available.
- 2) By 2021, implement measures to improve quality and safety of accommodation provided to refugee and migrant children and their families, including both temporary accommodation and long-term camps.
- 3) By 2023, review and amend policies and practices which have the effect of making migrants or refugees destitute or which exclude them and their families from decent accommodation.
- 4) By 2023, review administrative arrangements concerning the registration of births of children born to refugees or migrants to identify possible obstacles or disincentives to birth registration and take appropriate remedial action.
- 5) By 2025, administrative arrangements (known as “firewalls”) are in place between immigration enforcement and public services, thereby allowing refugee and migrant children and their families to report crimes and have access to justice, housing, health care, education, police, social and labor services without fear of detection, detention or deportation.
- 6) By 2025, measures have been taken and sufficient funding made available to ensure equal access for all refugee and migrant children to quality education in destination and transit countries and their regular attendance, including formal schooling (pre-school, primary, secondary and higher education); non-formal education programs for children for whom the formal system is inaccessible; adult education; on-the-job and vocational training; language training and lifelong learning opportunities.
- 7) By 2025, ensure that refugee and migrant children have access on a par with national children to national immunization schemes and to pediatric care.
- 8) By 2025, all women and girl refugees and migrants are included in national sexual, reproductive and family planning health care strategies and programs and consequently have access to the care and services provided to national women and girls.

THEMATIC AREA 6 SUSTAINABLE SOLUTIONS IN CHILDREN’S BEST INTERESTS

Sustainable solutions in children’s best interests determine long-term arrangements for refugee and migrant children, including those who are unaccompanied or separated and are the subject of a decision concerning their future by the authorities in a State other than their own. A range of options is available for refugee and migrant children, whether accompanied or unaccompanied. A fundamental principle is that they should be tailored to suit the individual child, and that the child, unless too young, should have a say in deciding which option is chosen. Furthermore, adopting a rights-based approach means that, during all phases of migration, accompanied children should not be separated from their parents or primary caregivers (unless this is in their best interests) and that accompanied children too should have their views taken into account when decisions are made about their future—decisions that make the child’s best interests a primary consideration.

Sustainable solutions goals to be included in the Global Compacts

- I. Develop and implement clear procedures for determining the status of refugee and migrant children and granting them secure residence status on a range of grounds, and include explicit provisions in relevant laws or policies confirming such children’s right to participate when decisions are made that concern them; the options available should include continued residence and integration when this option is found to be in the best interests of the child.
- II. Develop bilateral or multilateral agreements with other relevant States, which standardize approaches for identifying and implementing sustainable solutions for refugee and migrant children in keeping with their best interests.
- III. Develop the capacity of communities to provide solutions for migrants and refugees, including by providing extra resources from central government or international cooperation.
- IV. Agree an internationally recognized procedure for monitoring returns (of children, whether accompanied or unaccompanied) and for monitoring the subsequent re/integration of the children involved in their countries of origin.

Sustainable solutions targets to be included in the Global Compacts

- 1) By 2021, States review and, where appropriate, amend legislation or policies governing decisions concerning refugee or migrant children to ensure that the best interests of the child are a primary consideration in any decision affecting them (whether about an individual child or a child and other family members), that the child’s right to be heard is guaranteed explicitly and that any returns are both assisted and voluntary.
- 2) By 2023, States review and, where appropriate, amend legislation and policies affecting refugee and migrant children to clarify the pathways for permanent residence status and to enhance the sense of stability for refugee and migrant children and promote their ability to make plans for their own future as adults.
- 3) By 2023, States take evidence from monitoring reports into account when deciding on solutions for refugee and migrant children (i.e., evidence about what happens to accompanied and unaccompanied children after they are returned).
- 4) By 2025, all bilateral or multilateral agreements concerning unaccompanied or separated children promote the continuity of care and facilitate inter-country case management.