

The Rights of All Children in the Context of International Migration

- 1. A child is first and foremost a child. The rights enshrined in the Convention on the Rights of the Child should be guaranteed to all children in the context of migration.** The Convention on the Rights of the Child (CRC) provides a comprehensive normative framework underpinned by the principle of non-discrimination. States are obliged to guarantee the rights enshrined in the CRC to *all* children under their jurisdiction, regardless of their or their parents' migration status, and address *all* violations of those rights. Children in the context of migration are entitled to the same treatment, services and protection as child nationals.
- 2. Children in the context of migration should be addressed as a holistic group and from a comprehensive human rights-based approach.** For analytical, legal or administrative purposes, children in the context of international migration are often divided into various categories such as 'undocumented', 'unaccompanied and separated', 'trafficked', 'left behind', etc. Due to the complexity of migration dynamics, categories are fluid and temporary, and children affected by migration may transition between various categories within the course of their childhood. Initiatives based on categorization can result in children in similar situations of vulnerability facing different levels of rights protection, fulfilment and remedy. The CRC requires a comprehensive approach whereby the rights enshrined in the CRC are guaranteed to all children.
- 3. Children matter in migration decision-making.** States need to effectively evaluate the impact of migration policies, practices and decisions on the rights, well-being and development of children to ensure that the fundamental principles of the CRC—the best interests of the child, non-discrimination, the right to life, survival and development, and the right to participation and being heard—are effectively prioritized and meaningfully implemented. The best interests of the child should always take priority over migration policy considerations.
- 4. Empower children as individual rights-holders.** Age-appropriate programs should be promoted to enable children in countries of origin, transit and destination to access child-friendly information on safe migration, their rights, and how to (re)claim these rights. All children, including children accompanied by parents or other legal guardians, must be treated as individual rights-holders, and their child-specific needs and rights considered equally and individually. Children should be granted the right to be heard in proceedings concerning their or their parents' admission, residence and expulsion, and have access to administrative and judicial remedies against their own or their parents' deportation, to ensure that all decisions are in their best interests.
- 5. Law and policy reform are required to ensure access to civil, economic, social and cultural rights and basic services for all children in the context of migration, regardless of their or their parents' migration status.** Children affected by migration, particularly undocumented children, whether unaccompanied, separated from, or with their families face numerous legal and practical barriers to enjoying their rights and accessing basic services. States should reform legislation, policies and practices that prevent children affected by migration from accessing rights and services, and make their rights explicit in legislation. Laws and policies should be designed to ensure that no child is left stateless. Effective inter-ministerial coordination is necessary to ensure coherent and comprehensive rights-based responses for all children in the context of migration. Attention should be paid to addressing the gender-specific impacts of reduced access to services, such as sexual and reproductive health rights and security from violence. The sharing of personal information between service providers and immigration authorities should be prohibited by law and in practice.

- 6. Children affected by migration should be included in social protection systems.** Child migration is both a protection and a public policy issue. Policies, programmes and other measures aimed at protecting children from poverty and social exclusion in countries of origin, transit and destination should include children in the context of migration, regardless of status, and target their particular needs and vulnerabilities. Administrative implementation and monitoring systems and processes must be non-discriminatory and effectively implemented, regardless of status or nationality. The capacity of social protection systems to detect, refer and support situations of vulnerability related to migration should be strengthened, and children affected by migration made a specific target group of social policies and programmes in countries of origin, transit and destination. *Countries of origin* should develop comprehensive social protection policies that include specific provisions to support families and caregivers in their child-rearing responsibilities, including community-based social services, as well as special services for children living outside a family environment, including measures aimed at mitigating the psycho-social impacts of migration on children. *Countries of destination* should guarantee effective access to health care and education benefits, long-term social security benefits, and social assistance, among others, to children affected by migration and their families, regardless of status or nationality.
- 7. The well-being of children is intimately linked to that of their parents.** States must take into account that policies, practices and decisions that have an impact on the living and working conditions, health, and well-being of adults affected by migration also have an impact on their children, regardless of their children's residence status. Deprivation of economic, social and cultural rights of parents based on migration status impedes the fulfilment of their parental obligations towards their children's right to an adequate standard of living. Likewise, such deprivation negatively impacts family life.
- 8. Promote and protect the right to family life.** Families should never be separated by State action or left separated by State inaction, unless this is determined to be in the best interests of the child. In cases regarding the deportation of irregular migrant parents, States should ensure respect for children's right to private and family life, for example by exploring the possibility of granting residence status to the parents. Family reunification policies in transit and destination countries should enable children left behind to join their parents (or parents to join their children) in the destination country. States should ensure positive, humanitarian, and expeditious attention to family reunification applications. States should abide at all times by the United Nations Guidelines for the Alternative Care of Children.
- 9. Children should never be criminalized or subject to punitive measures because of their migration status.** Children in the context of migration should never be detained. Detention is never in the best interests of a child. Detention of migrant children cannot be justified to preserve family unity. In the context of migration enforcement measures and proceedings, the fundamental principles of the CRC and the right not to be separated from parents (article 9) must be duly taken into consideration and guide authorities' decisions at all times. Detention of parents can severely impact migrant children's rights and development, including their right to family life. Depriving children of their liberty is a violation of their human rights and using detention as a punitive measure is a violation of the principle of the best interests of the child. Alternatives that fulfil the best interests of the child, along with their rights to liberty and family life, should be adopted. Such alternatives should be very carefully designed and developed in line with the United Nations Guidelines for the Alternative Care of Children and other human rights standards. States should always use the least restrictive means necessary, and put in place community-based and non-custodial measures. Children released from detention centres should be provided with appropriate alternative care, and not be left destitute.

- 10. Children in the context of migration are more vulnerable to violence in countries of origin, transit and destination.** This vulnerability is due to specific, migration-related factors such as parental absence, legal and social exclusion, and xenophobia. Some of these vulnerabilities are gender-based. In order to address these risk factors and rights challenges, States should review and reform their national violence-prevention legal frameworks, policies and programmes to ensure that they explicitly include children in the context of migration and address their particular vulnerabilities. In particular, countries of origin should ensure that children left behind can benefit from affirmative actions under national social protection policies and programs, and that their caregivers can access public services and benefits aimed at strengthening their capacity to protect the children in their charge from violence. Countries of destination should ensure that xenophobic attitudes, discourse and actions by civil servants and public institutions (school, health care system, courts, police, etc.) and communities are effectively addressed, publicly rejected, and progressively eradicated.
- 11. States should strengthen their efforts to combat xenophobia, racism and discrimination and to promote the integration of families affected by migration into society.** Improving knowledge and addressing negative perceptions of migrants, in particular at the local level, is a key element to protect children and their families from violence and discrimination, and to promote access to rights, equity, and respect. Ensuring equitable access by migrants to swift and effective redress mechanisms will make protective frameworks for children and their families a reality, reducing impunity and fulfilling States' commitment to non-discrimination.
- 12. Children and their parents should be able to migrate through regular migration channels and by choice. Access to regular and safe migration channels and secure residence status should be promoted.** The lack of channels for regular migration means that those who migrate do so in more vulnerable conditions, which can result in protracted family separation and other violations of child rights. Living with the fear and uncertainty of insecure residence prevents integration into host societies and has long-term implications for children's development and health, in particular mental health. States should make available regular migration channels and design and implement permanent, accessible mechanisms for children and their parents to access long-term regular migration status. Requirements that discriminate against women and girls should be eliminated, and asylum and immigration procedures expedited in the best interests of the child.
- 13. States are urged to enhance and expand data collection, analysis and dissemination on the impacts of migration on children.** Detailed data disaggregated by age, sex, country of origin, education, occupation, skill level and other relevant information such as migration status, issuance of entry, exit and work permits, and changes in nationality should be collected and disseminated, and the results from the 2010 round of population censuses made available ahead of the 2013 High-Level Dialogue on International Migration and Development.