

Recommendations on the Global Compact on Refugees

Initiative for Child Rights in the Global Compacts

The present contribution is submitted on behalf of the members of the Initiative for Child Rights in the Global Compacts (hereafter “the Initiative”).

The Initiative is a multi-stakeholder partnership bringing together 30 UN, civil society as well as philanthropic organisations around a shared agenda: to ensure that children’s rights are at the heart of the two global compacts on migration and on refugees and to create a continuum of care, protection and support for migrant and refugee children.

This contribution is based on positions adopted by the members of the initiative and outlined in its publication “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”. This document is available at:

http://www.childrenonthemove.org/wp-content/uploads/2017/12/working_document_En_171201.pdf

This contribution refers to the agenda items to be discussed during the first formal consultation on the zero draft of the Global Compact on Refugees (13-14 February 2018), namely: 1) the Programme of Action and modalities for responsibility-sharing; 2) applying the Comprehensive Refugee Response Framework (CRRF); and 3) follow-up arrangements.

We commend the work of the High Commissioner for Refugees for the leadership taken to develop a zero draft of the Global Compact on Refugees (hereafter “the Compact”) for supporting the application of the Comprehensive Refugee Response Framework and for developing a Programme of Action.

THE INITIATIVE’S RECOMMENDATIONS FOLLOWING THE ZERO DRAFT OF THE GLOBAL COMPACT ON REFUGEES

Overarching Recommendations

Over half of the world’s refugees are children. Yet, too often, their care and development needs go unmet, unprotected and unreported. To protect refugee children, we must look at all protection challenges and possible responses through the lens of children’s specific needs and vulnerabilities. In any situation of displacement, these needs and vulnerabilities will vary depending on myriad factors, including a child’s age, gender, ethnicity, nationality, physical and psychosocial health, educational level and whether he or she is stateless, unaccompanied or has been separated from their family.

With this in mind, all sustainable solutions, services, policies, planning and mechanisms -- locally, nationally and transnationally – must be child-sensitive and founded upon the principles of child rights and protection. A child is a child, and all children, regardless of their status, deserve protection and the opportunity to thrive.

Recommendations on Modalities for Responsibility-Sharing

- **Measures aimed at improving protection, assistance and durable solutions for refugees must be child-focused and child sensitive.** The Initiative supports the Programme of Action (PoA) being guided by age, gender and diversity considerations, as well as for it to be informed by the best interests of the child, promoting gender equality and empowering women and girls. However, we are concerned that the zero draft, as articulated, is not ambitious enough and risks lowering standards including those set in the Convention on the Rights of the Child which has been ratified by all countries bar one. To ensure that the best interests of boys and girls are meaningfully considered in the PoA, the rights and best interests of children need to be at the very core of all stages of action, and not be an afterthought of a comprehensive refugee response. Children should be fully protected but also empowered as agents of change, in line with the Convention on the Rights of the Child (CRC) and relevant international and regional standards.
- **Explicit references to human rights standards, including to the UN Convention on the Rights of the Child (UNCRC), must be mainstreamed throughout the entire PoA.** This is crucial considering that the Compact is intended to build upon the international refugee protection regime, which is fundamentally founded upon humanitarian and human rights principles. It is crucial that the PoA strengthen the protection framework for refugees, and in this sense, we believe that the right to asylum and the *non-refoulement* principle should be at the forefront of the PoA and the Compact. It is key that the circumstances and vulnerabilities and forms of persecution that affect specific groups, including children, are an integral part of the PoA's application.
- **The Initiative believes that the Compact and the PoA should lead to equitable and predictable responsibility-sharing. Within this, the best interests of the child should be a primary consideration. We believe that the term "burden-sharing" should be replaced by "responsibility-sharing",** and that sharing responsibilities when it comes to refugees means investing in their capacity to thrive, contribute to and enrich host communities.
- **The Initiative recommends that the PoA provide additional details on the Global Platform to provide strategic support and facilitate more responsibility-sharing among states.** We recommend that the PoA outline in greater detail how this platform would contribute to supporting responsibility sharing and solidarity, while promoting human rights and the principle of the best interests of the child at its core.
- **The Initiative welcomes the recognition civil society's role and wishes to see explicit mention of refugee-led and community-based organisations, including youth and child-led organisations.** The PoA should promote the adoption and implementation of measures that proactively support inclusion between host and refugee communities. Local and regional authorities play a key role in this respect and should be provided appropriate resources and support.
- **The Initiative welcomes reference in the PoA to national and regional coordination mechanisms to outline policy priorities, institutional arrangements, resources and solutions.** It will be crucial that an analysis of the needs of specific groups, including children, and of local capacities are part of the planning and coordination process. Regional institutions can support initiatives within their ambit, which can reinforce cross-regional dialogue and cooperation to ensure a continuum of care and support for children all along migratory routes.

Recommendations on Applying the Comprehensive Refugee Response Framework (CRRF)

The initiative recommends that the Compact and the zero draft lead to expanded protection for children.

Whilst we appreciate that the first part of the PoA refers to protection systems and the best interests of the child, we regret to see that child rights are still only partially included in the draft. In particular:

- **The Initiative welcomes the reference to mobilising and deploying resources to assist in identifying and registering specific needs, including those of unaccompanied and separated children.** This should be extended to the registration and identification of all children. However, we are concerned that the PoA only suggests that such support *"could"* be provided for best interests determination procedures, appropriate care arrangements and the child protection system. We recommend that the PoA indicate that mobilised resources *"will"* be provided for such key procedures, which are the foundations for fulfilling and implementing rights and state obligations as per the UNCRC.
- **The Initiative notes, however, that the essential reference to establishing arrangements and standards that are child- and gender-sensitive is currently missing.** This is absolutely crucial, considering that children represent half of the refugee population.
- **The Initiative also notes that no mention is made of the issue of detention, and in particular, no details are provided on what steps can be taken to deliver on the New York Declaration's commitment to work to end the immigration detention of children and towards child-sensitive alternatives.** Promising practices on alternatives to child immigration detention exist, and the Initiative recommends that the PoA refer to these. The goal of ending child immigration detention, in accordance with the New York Declaration, should be specifically referred to and key milestones for achieving this should be outlined. The recent [Joint general comment No. 4 \(2017\) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families](#) and [No. 23 \(2017\) of the Committee on the Rights of the Child](#), on the rights of children in the context of international migration, provides clear guidance in this respect, and the Initiative recommends that the PoA refer specifically to it.
- The Initiative believes that the suggested establishment of the Asylum Capacity Support Group could be a positive step. We recommend that the PoA explicitly state that human rights, as well as child- and gender-sensitive considerations, will guide the action of this group.
- **It is absolutely crucial that investments are encouraged to expand and strengthen national systems for child protection as well as education; health, including mental health; and jobs.**
- **The Initiative welcomes the PoA's recommendation for "host countries to include refugee children and youth in national education systems."** In doing so, the Initiative encourages that states improve access to and quality of education, tackle barriers to education, and expand the education system to include refugee children, as recommended by many civil society and inter-agency initiatives.
- **The Initiative wishes to see the PoA consider the following recommendations, which aim for meaningful protection of refugee children and their fundamental right to education:**

- Adding a reference to early childhood development (referenced in para. 82 of the [New York Declaration for Refugees and Migrants](#))
 - Removing the term "where appropriate" in para. 52 of the zero draft. Refugee children and youth in education systems is a right and should therefore be appropriate in *all situations*, in accordance with international human rights norms. For example, in General Comment No. 3 of the Committee on Economic, Social and Cultural Rights (CESCR), the Committee emphasized that "all children within a State, including those with an undocumented status, have a right to receive education". The same General Comment also reaffirmed that the failure to provide access to education would, in certain circumstances, constitute a violation of the Covenant on Economic, Social and Cultural Rights, from which derogation is not possible.
 - Making explicit references to non-formal education programmes for children for whom the formal system is inaccessible; adult education; on-the-job and vocational training; language training and lifelong learning opportunities. Emphasis must be placed on ensuring that girls are supported to equal access of safe and inclusive quality education.
 - Clarifying and providing more information about the "innovative financing mechanisms to increase investment in education", mentioned in para. 52.
- **The Initiative is very concerned that the sections on solutions do not make any specific reference to children, child protection, child rights or determination of the best interests of the child to assess the appropriateness of options on returns, reintegration, resettlement and regularisation.** In particular:
- Any decisions relating to the potential return or resettlement of a child should be based on the outcome of best interests determination procedures. These procedures should be individualised and robust and formalised in law, policy and practice.
 - The principle of family unity should be explicitly referred to as being at the core of resettlement, return and (re)integration programmes.
 - Family tracing and reunification procedures should be in place.
 - The PoA should promote mainstreaming of procedures to respond to the urgent and emergency protection needs of children, and vulnerability criteria for children should be expanded.
 - individual plans for the child's sustainable return should include support to prepare him/her for return as well as adequate and ongoing post-return evaluations that analyse the long-term impacts of the child's return.
 - Before considering the return of a child, an extensive child rights assessment in the country of origin should be conducted, and this should cover access to services such as education, counselling, psychosocial and lively support.
- **The Initiative is pleased to see a reference to family reunification mechanisms that include broadened eligibility criteria and simplified procedures.** For children, being with their family members means protection, support and a sense of stability. However, we think that family reunification should be a key pillar within the Solutions section. In particular:
- - **The Initiative recommends that the PoA make more specific references to expanding opportunities for families to move together safely and regularly, to prevent unnecessary family separation and related risks for children.**
 - **The Initiative recommends that the PoA make more specific references to broadening the definition of family where it is in the child's best interests to do so,** as a way of broadening

eligibility criteria and expanding opportunities for family reunification. A family should include, though is not limited to, parents, grandparents, aunts and uncles, brothers and sisters, and others who have been the child's main carers. A thorough assessment of the family to provide care for the child should take place.

- **The Initiative recommends applying accelerated procedures and priority to family reunification applications involving children and expanding family reunification rights for persons under subsidiary protection.**
- **Vulnerability criteria** to assess the need for resettlement or other complementary pathways are **expanded** to include a number of specific factors that compound children's vulnerability, such as gender-based violence, mental health, disability, domestic violence, single-headed households, statelessness, etc
- **Cross border cooperation for child protection** should be improved to enhance family tracing and reunification, ensure appropriate transfer of care as children cross borders; to establish and strengthen case management across borders; establish common standards and exchange good practices
- **Invest in guidance and training** on child rights for officials who consider family reunification applications.

Recommendations on Follow-Up Arrangements

- **The Initiative welcomes the suggestion In the PoA for a monitoring framework.** More information and details are needed in the PoA on which aspects of the Compact will be monitored by the "key set of indicators to monitor and evaluate progress and outcomes of the global compact" suggested in the text. **We recommend that specific and time-bound targets are included in such a framework.**
- The Initiative recommends that the proposed indicators for measuring the protection of the children on the move be considered as indicators for measuring progress on the broader Compact. These indicators cover the following six areas: 1) non-discrimination; 2) the best interests of the child; 3) access to services; 4) ending child immigration detention; 5) durable solutions; and 6) child protection. They are outlined in the Initiative's publication "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", available here: http://www.childrenonthemove.org/wp-content/uploads/2017/12/working_document_En_171201.pdf

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