

Submitted by members of the
Initiative for Child Rights in the Global Compacts

**Contribution to Thematic Discussion 4:
Measures to be taken in pursuit of solutions (14 November 2017)**

The present contribution is submitted on behalf of the members of the **Initiative for Child Rights in the Global Compacts**. This 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 the position adopted by the members of the initiative and outlined in its [working document](#) "**Protecting, promoting and implementing the human rights of children on the move in the proposed Global Compacts**", which is available in printed form in this room and online on the UNHCR website.

We commend the work of the High Commissioner for Refugees for the leadership taken towards developing an effective and timely Global Compact on Refugees; for supporting the application of the Comprehensive Refugee Response Framework; and for the development of a Programme of Action.

Over half of the world's refugees are children. Yet, too often, their vulnerabilities care and development needs go unmet, unprotected and unreported. **Measures aimed at identifying and implementing sustainable solutions must be child-focussed and child-sensitive. They should be grounded on the principle of the best interests of the child and on the protection and fulfilment of the rights of the child. Such decisions need to be tailored to suit the individual child.**

PANEL 1: How can we support voluntary and sustainable return?

This statement focuses on **what measures should be taken in pursuit of solutions, with a particular focus on voluntary and sustainable returns.**

In order for returns to be in the best interests of the child and for them to result in durable solutions, they need to be safe, voluntary and matched with comprehensive preparation and reintegration efforts.

In any consideration on sustainable solutions, the Initiative recommends that:

1. **The Global Compact on Refugees confirms the prohibition of *refoulement*** as enshrined in the 1951 Convention. The principle of non-*refoulement* also protects the refugee and asylum-seeking child against return to a transit country, when in this country there are risks of exposing the child to serious human rights violations, including subsequent return to the country of origin. We note that the Committee on the Rights of the Child extends the non-*refoulement* principle to protection of the child against harm. Forms of harm include amongst others, substantiated risk to the child's

life, survival and development as well as deprivation of liberty. In considering the *refoulement* principle, child-specific forms of persecution should be included.

2. Any decisions relating to the potential return of a child should be based on the outcome of **best interests determination procedures**, including for children travelling with their families. This applies to any transfer, being it to a child's country of origin or the country to which the child is being resettled or transferred.
3. Such best interests procedures should **be formalised in law, policy and practice, and should be individual and robust**. Best interests determination procedures must be multi-disciplinary in nature, and involve a range of relevant agencies. Civil society organisations and other agencies do and can contribute to such processes. The outcome of this determination must, as a minimum, be informed by:
 - The length of stay and level of integration of the child in the host country, his/her language skills, enrolment in school, vocational training, amongst others.
 - An extensive child rights assessment in the country of origin.
 - Whether the child can access a safe and protective environment upon return, which will enable each individual child to fulfil his or her needs and rights and develop into adulthood.
 - An assessment of the care options for the child. In line with the UN Guidelines on Alternative Care, institutionalised care is only a last resort and it is not a long-term care for children.
 - A careful social assessment of the family situation in the home country including their agreement to care for the child.
 - A careful assessment concerning access to food, housing, health care, education, vocational training and employment opportunities in the country of origin.
 - The views and opinions of the child should be heard throughout the process and properly taken into account in determining the child's best interests.
4. **No child should be detained** whilst their status is being determined or pending their return/removal. Alternatives to detention should be put in place and children should continue to access basic services such as education and health care.
5. If return is considered to be in the best interests of the child, **individual plans for the child's sustainable return should be developed, including provision of support** to prepare him/herself for return and **adequate and ongoing post-return evaluations** that analyse the long-term impacts of return on children.
6. Such principles should be **at the core** of any bilateral, regional or international **agreements** relating to returns, their implementation and actions of **groups** tasked with improving conditions in return areas.
7. **Technical, financial and other support** provided should focus on establishing best interest procedures and the training of relevant stakeholders; protection systems that respond to the needs of refugee and other vulnerable children; appropriate services

such as education, healthcare, social protection; and investment in creating an environment where children can be cared for, learn and thrive.

PANEL 2: How can we expand access to resettlement?

This statement focuses on **what measures should be taken in pursuit of solutions, with a particular focus on expanding access to resettlement.**

Resettlement plays a critical role in providing durable protection and solutions for the most vulnerable refugees, such as children. The number of vulnerable refugees who require solutions is increasing, but resettlement is not keeping pace with the global resettlement needs: at the end of 2016, there were 22.5 million refugees of concern to UNHCR around the world, but in the same year, less than 1% (0.8 %) refugees were resettled.

Resettlement is a core element of global responsibility sharing. Importantly, for vulnerable children and adolescents, resettlement can be one of the few durable solutions that responds to their specific protection needs. This might be the case, for example, if resettlement allows reunification of the child with members of their family that can care for him or her; if the child or other members of their family has specific medical needs, including mental health needs; if the child has become a main carer, or is at risk or a survivor of harmful traditional practices; harmful work; *refoulement*; violence, abuse or exploitation, including sexual and gender-based violence (SGBV).

The Initiative for Child Rights in the Global Compacts recommends that the Global Compact for Refugees and the Programme of Action ensure that:

- 1. As part of a comprehensive response, a cooperation framework for responsibility-sharing for refugees is established.** It should be based on human and **child rights principles** and allow for a swift, predictable, equitable, flexible and adequate response to major movements of children and families across borders.
- 2. Formalised best interests of the child policies procedures as well as case management procedures are at the core of resettlement programmes:** best Interests determination procedures need to be in place to determine if resettlement is in the best interests of the individual child. Such determinations should take into account the specific vulnerability of children and their families.
- 3. The principle of family unity is at the core of resettlement programmes.** In any decision concerning resettlement, the principle of family unity is central. This means that the possibility to reunite the child with their family should be a key factor in the decision whether to resettle a child. At the same time, resettlement programmes should not undermine or seriously hamper future reunion with a child's family. Family tracing and reunification procedures should be in place.
- 4. Appropriate support is in place upon arrival in country of resettlement.** Such support should include, amongst others: appropriate accommodation; family-based care which responds to the UN Guidelines on Alternative Care for unaccompanied

children; counselling and psychosocial support, if appropriate; access to healthcare, education and other services amongst others.

- 5. Protection systems in countries of asylum and destination are strengthened.** A comprehensive response needs to include the strengthening of systems that protect refugee children, including unaccompanied and separated children, wherever they are, in countries of asylum and in countries of resettlement. This means strengthening the protective environment to prevent and respond to violence, exploitation, abuse and neglect of refugee children. This protective environment should bring together refugee and host communities, thereby minimising the risks associated with large-scale resettlement programmes.
- 6. Procedures to respond to urgent and emergency protection needs of children are in place.** Resettlement programmes must be able to operate with speed and efficiency to respond swiftly and in a timely manner to cases that require urgent or emergency action given the nature of the protection needs of the child and/or their family. The Programme of Action should promote the establishment and mainstreaming of such procedures.
- 7. Review and expand vulnerability criteria** including for children in families and in single-parent households to ensure they are flexible and respond to the situation and protection needs of children in order to find sustainable solutions in the best interests of each child.
- 8. Engage members of the diaspora** in the design and implementation of policies to foster integration and access to service in countries of asylum and destination.

PANEL 3: How can we expand access to complementary pathways for admission?

This statement focuses on **what measures should be taken in pursuit of solutions, with a particular focus on expanding complementary pathways for admission.**

Lack of access to safe and regular pathways for admission means that children and families embark in very dangerous journeys.

Children escaping violence, conflict, persecution are too often forced to put their lives at further risk or becoming victims of violence, exploitation or trafficking. For many families, this also means that they become separated before, during or after their journey, not least because opportunities for families to move together safely and regularly are scarce.

The Initiative for Child Rights in the Global Compacts strongly recommends that the Programme of Action include a commitment by states to the timely establishment or expansion of complementary pathways for admission of refugees, including:

- Expanding options and accelerating procedures for family reunification;
- Increasing access to humanitarian admission and humanitarian visas;
- Facilitating worker mobility across skill levels, allowing families to move together thereby respecting the key UNCRC principle of family unity;
- Expanding numbers of student visas and private sponsorship programmes;

- Implementing resettlement and relocation schemes;
- Establishing a cooperation framework for responsibility-sharing for refugees, based on human- and child-rights principles and allowing for a predictable, equitable, flexible and adequate response to major movements of children and families across borders.

In considering such schemes, we would like to draw particular attention to the importance of preserving family unity for children and family reunification both as a complementary pathway of admission and as a protective measure.

In a humanitarian situation, the risks of separation are very high. In these dramatic circumstances, for children, being with their family members means protection, support and a sense of stability. Separation negatively impacts children's capacity to cope and integrate into host communities. For this reason, we recommend that the Programme of Action include commitments by states to:

- **Expand opportunities for families to move together safely and regularly**, to prevent unnecessary family separation and related risks for children.
- **Ensure families separated due to conflict, persecution, violence and environmental degradation and disasters are reunited in line with the child's best interests.** A thorough assessment of the family to provide care for the child should take place.
- **Apply a broad definition of family** where it is in the child's best interests to do so. 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.
- **Address obstacles to family reunification:** income thresholds, documentation requirements, tight deadlines, specific embassies from where it is possible to submit a family reunification application, etc.
- **In humanitarian situations, ease the procedures and conditions required and give priority to applications for family reunification involving children, and apply accelerated procedures in cases involving children.** Children should be reunited with their family in a timely manner, when this is in the child's best interests.
- **Expand family reunification rights for persons under subsidiary protection.** Humanitarian and protection needs are similar for refugee children and for children granted subsidiary protection. Thus, children with subsidiary status and refugee children should benefit on equal grounds from favourable entitlements to family reunification. All children should grow up in a family environment and be entitled to family reunification, when in their best interests.
- **Allocate further resources to adequately respond to and process family reunification requests.**
- **Invest in guidance and training** on child rights for officials who consider family reunification applications.

In order to ensure these complementary pathways are child-focussed, states, with the support of other stakeholders, including civil society and other relevant agencies, should ensure that:

- **Best interests assessments and determinations procedures** are in place and are conducted by trained professionals with the full involvement and participation of the child, taking into account his or her age and maturity.
- The **urgency principle** in procedures involving children is applied.
- Such pathways include full **child protection and safeguarding assessments, procedures and guarantees**.
- **Child-friendly information** on such schemes is provided to children by trained professionals in a language they can understand.
- **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.
- **Cooperation** between relevant actors across borders is improved and is based on a child **protection agenda** and is founded on best interests assessments and determinations that fully respect **data protection** to avoid potential exposure of children to harm. Cross border cooperation is key, for example, to improve 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.

PANEL 4: How can we make local solutions work for refugees and the communities in which they live?

This statement focuses on **what measures should be taken in pursuit of solutions, with a particular focus on how can we make local solutions work for refugees and the communities in which they live.**

Sustainable solutions include integrating children (and, when relevant, their families) into the community in the country they have reached. For this to happen, a key goal of a comprehensive refugee response needs to be developing the capacity of communities to provide solutions for refugees, including by providing extra resources to local and regional authorities from central government or humanitarian and development assistance.

To develop and flourish, children of all ages need access to basic health, education, including early childhood education, primary, secondary and vocational training, and psychosocial services, safe accommodation, adequate nutrition, and access to livelihoods and work opportunities for their families.

Children and families should be enabled to develop plans for the future. This means giving the child stability (and the ability to plan ahead) through safe and stable and predictable status determination procedures. The negative impacts of irregularity and changing status on children are long lasting. More and more children on the move spend their whole childhoods

in a limbo; especially as protracted displacement situations become more common and long lasting with an average length of displacement of 10 years, spanning across the entire childhood.

For the individual child in care, this means preparing a personal care plan for and with the individual child and his or her family, which covers schooling, training and employment opportunities, access to appropriate health care, accommodation, care and protection, and integration. In addition, for unaccompanied children, a care plan should set out steps for the proper and formal transfer of care and custodial responsibilities, to enable them to leave care and to integrate them into a family and community. Yet, a wide range of administrative, political and financial obstacles still stand in their way.

The Initiative for Child Rights in the Global Compacts recommends that the Global Compact on Refugees and the Programme of Action facilitate the following measures:

1. Review and, where appropriate, amend legislation and policies affecting refugee children and their families to clarify the **pathways for permanent residence** status, enhance the sense of stability for refugee children, and promote their ability to make plans for their own future as adults.
2. Ensure the **asylum system is child-sensitive** and allows children and their families to fully participate and have access to information relating to their legal status in a language they can understand.
3. Provide **safe shelter, accommodation and care** for refugee children upon arrival in a country. As soon as possible and unless inappropriate, this should be in a family-like environment, in line with the UN Guidelines on Alternative Care. Minimum child protection standards and child safeguarding policies should be implemented in any reception and accommodation centre, and personnel trained accordingly.
4. **Register the birth** of all refugee children without documentation with a civil authority and **provide refugee children with appropriate documentation** (to allow them to access services for which proof of identity is required).
5. Remove administrative barriers and make available sufficient funding to ensure **equal access for all refugee 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.
6. Ensure that refugee children have access, on a par with national children, to **health care**, including national immunisation schemes, paediatric care, sexual and reproductive health care. Such access should go beyond access to only emergency care.

7. Ensure 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 labour services without fear of detection, detention or deportation.
8. 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.
9. 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. Local and regional authorities play a key role in this respect and should be provided appropriate resources and support.
10. **Repeal provisions that criminalise** the provision of services to any refugee and migrant children or require service providers to share personal data for immigration enforcement.