

Save the Children's key recommendations for the Global Compact on Refugees

Children are estimated to constitute more than 50% of the overall refugee populations in any refugee context. This reality requires a strong acknowledgement in the Global Compact for Refugees, and notably in the drafting of the Programme of Action. The Programme of Action should recognize that refugee children are children first and foremost, with specific rights, needs and vulnerabilities. The protection of children, their best interests and their rights should always take priority and refugee children should benefit from the most protective legal and policy framework available.

Save the Children calls on member States to ensure that any institutional change or new governance structures be adopted through the Global Compact for Refugees entail child-focused and concrete measures that guarantee children's universal rights, notably their access to education, a strong child protection framework and integrated and durable solutions to refugee children based on the principles of the best interests of the child and non-discrimination.

1. The Global Compact should guarantee that no refugee child is out of school for more than one month

Education is one of the key sectors of interventions that should be prioritized as of the onset of any refugee movement. All possible measures should be taken to ensure that refugee children have access to quality learning opportunities within 30 days of their arrival. This means that the Programme of Action should include the following measures¹:

- ***Increase access:*** States should develop plans and enact policies to ensure that all refugee children are able to access relevant, quality learning opportunities that are part of and recognized by the national system of their host country. Host countries must be supported to remove policy and administrative barriers that prevent refugee children from attending the formal school system.
- ***Invest:*** additional resources must be directed at improved planning and preparedness so that communities that receive refugees have in place what they need to provide additional services when refugees arrive. Host country governments should be incentivized to include refugee education in national education sector plans, including through dedicated funding for refugee populations and local communities from e.g. the Global Partnership for Education. Humanitarian and development financing should invest in early development, primary, secondary and tertiary education and in vocational training for refugee children and youth
- ***Improve quality:*** the quality and relevance of learning should be improved to ensure refugee student learning and well-being. This includes scaling up of the provision of pre-primary learning opportunities for refugee and host communities, capacity building for teachers and increasing certification pathways.

2. The Global Compact should ensure that children are protected with their best interest as the primary consideration

The protection of children, their best interests and their rights should always take priority. Children on the move, notably refugee children, should benefit from the most protective legal and policy framework available. The New York Declaration includes explicit commitments to the protection and care of refugee children, their access to care and their best interests. In order to deliver on such commitments, the Programme of Action should include specific measures for States to establish protection systems that respond to the specific needs of refugee children as well as national child sensitive asylum procedures for children seeking asylum. This means:

- ***National child protection framework:*** Ensuring that national legal frameworks in relation to child protection apply to refugee children without discrimination. It should include specific and explicit provisions

¹ For more details on the measures, see Save the Children's reports "Restoring hope, rebuilding futures", "Losing out on learning" and Save the Children/Pearson/UNHCR's Promising Practices on Refugee Education synthesis report and case studies.

for appropriate reception and care; best interest's assessment and determination procedures; access to protection services for children victims of or at risk from violence, exploitation and abuse; case management and referral systems; and alternative care for unaccompanied children. In particular:

- **Strong best interest's procedures:** Enacting procedures at local, national or regional level, to implement best interest's assessments and determinations with the view of identifying age and gender-specific vulnerabilities and needs, taking into account the child's views and aspirations; establishing timely referral pathways, appropriate case management systems and non-discriminatory access to health, psychosocial, legal and care services and identify durable solutions. Such measures should be formalised in law, policy and practice.
- **Child-sensitive refugee status determination procedures:** Establishing concrete measures to establish child sensitive asylum procedures and procedural safeguards for children, according to their age and maturity. Such measures include the urgency principle in procedures involving children, provision of appropriate information to children, legal advice and assistance, child-sensitive assessment of protection needs taking into account persecution of a child-specific nature. Asylum decisions must be made on a case-by-case basis that fully considers the child's individual circumstances and takes account of child-specific country of origin information.
- **Effective and functioning guardianship** for unaccompanied and separated children.

➤ *Ending child immigration detention*

The New York Declaration recognizes that the detention of children for the purposes of determining their migration status “is seldom, if ever, in the best interest of the child” and makes the commitment to “work towards the ending of this practice”. Yet, the detention of children and families for reasons related to their migration status remains a growing, and concerning, feature of state refugee management policies around the world. The Programme of Action should call on States to:

- **Review existing or develop new national legislation and policies** prohibiting the practice of child immigration detention
- **Formulate, fund, implement and monitor national plans** for the elimination of child immigration detention;
- **Establish and monitor alternatives to detention** by providing a legal and policy basis for the development and implementation of non-custodial alternatives to the immigration detention of children, tailored to protect and promote the best interest of all children on the move, whether trafficked, separated, unaccompanied or accompanied.²

The Programme of Action should ensure safe child sensitive reception provisions. This means ensuring appropriate short and long-term systems for reception and care that are child sensitive and respond to relevant child protection standards and the UN Guidelines on Alternative Care. Care placement should ideally be family-based.

➤ *Providing cross-border continuum of care, protection and support*

An appropriate response to the needs of children who move across international borders relies on effective *cross border* cooperation between public and private actors, based on the best interests of the child. Improved and increased cooperation is a key commitment within the New York Declaration. The Programme of Action should

² Alternatives to detention exist and can be developed. The International Detention Coalition has published a [guidance](#) needed to successfully avoid unnecessary detention and to ensure community options are as effective as possible. Alternatives include Foster Care for unaccompanied children (available for example in **France, UK, and Malaysia** amongst many other countries) or group homes for older children. **All European Union countries**, except for Cyprus and Malta, have legislated that alternatives to detention must be pursued prior to any decision for detention. The 2004 immigration law of the Bolivarian Republic of **Venezuela** prohibits detention and provides several alternatives that may be adopted within a deportation procedure. In **Austria** the law calls “more lenient measures” that can be used to achieve the same purpose. In **Mexico**, a new care model based on non-detention techniques has been tried using community and family options based on field work and referrals, as well as transition shelters based on first needs and Best Interest Assessments.

ensure that *mechanisms for effective cross border coordination and cooperation* are in place between child protection actors in countries of origin and asylum to provide a continuum of protection and systems of referrals for vulnerable children throughout their displacement cycle. Such coordination should be established with full respect for appropriate child safeguards and with data protection to avoid potential exposure of separated children to harm.³

3. The Global Compact for Refugees should ensure durable solutions for children

Durable solutions are an essential element of global refugee governance. A durable solution is realized when a refugee no longer has any specific assistance and protection needs linked to their displacement, and can enjoy their rights without discrimination resulting from their displacement.

Member States should seek durable solutions for a child, whether within a family or as an unaccompanied or separated child. A durable solution is one that, to the greatest extent possible, caters to the *long-term best interests and welfare of the child* and is *sustainable and secure* from that perspective. The outcome should ensure that the child is able to develop into adulthood, in an environment which will meet his or her needs and fulfil his or her rights as defined by the Refugee Convention and the Convention on the Rights of the Child and will not put the child at risk of persecution or serious harm.⁴

The Programme of Action should include the following:

- **Best interest determination procedures:** This applies to any decision, being it to return a child to their country of origin or to resettle a third country or decisions about local integration in the primary country of asylum.
- **Expanding resettlement and complementary pathways**
 - **Resettlement:** The Programme of Action should reinforce commitments in the New York Declaration to promote third country solutions, i.e. by increasing the size of resettlement programmes. The protection of family unity, procedures to respond to urgent and emergency protection needs of children and expansion of vulnerability criteria should be at the core of resettlement programmes.
 - **Family reunification:** The Programme of Action should expand opportunities for families to move together safely and regularly and for family reunification opportunities - after a thorough assessment of the best interests of the child and of the family to provide care for the child. This includes broadening of the definition of family to include parents, grandparents, aunts and uncles, brothers and sisters, and others who have been the child's main carers, when in the best interest of the child; giving priority to applications for family reunification involving children; expanding family reunification rights for children under subsidiary protection, and the allocation of adequate resources.
 - **Other complementary pathways**, such as increased access to humanitarian admission and humanitarian visas, worker mobility across skill levels, student visas, private sponsorship programmes. These complementary pathways must meet criteria for a durable solutions, i.e. resumption of status and access to full material, physical, and legal safety.
- **Safe, voluntary and dignified returns for children:** the Programme of Action should contain the following standards:

³ As an example, UNHCR and child protection partners jointly developed a Regional Framework for the Protection of South Sudanese and Sudanese Refugee Children in 2014. This Framework set a common vision for protection of South Sudanese and Sudanese refugee children in Ethiopia, Kenya, South Sudan, Sudan and Uganda. It supported a coordinated and predictable response for refugee children across the region and promoted the harmonization of activities and implementation of child protection minimum standards.

⁴ See UNHCR/UNICEF, *Safe & Sound: what States can do to ensure respect for the best interests of unaccompanied and separated children in Europe*, October 2014, p. 22, available at: <http://www.refworld.org/docid/5423da264.html>

- Any decisions relating to the potential return of a child should be based on the outcome of individualised best interest’s determination procedures, including for children travelling with their families.
 - The prohibition of refoulement as enshrined in the 1951 Convention should be upheld. In considering the refoulement principle, child-specific forms of persecution should be included
 - If return is considered to be in the best interests of the child, *individual plans for the child’s sustainable return should be developed and comprehensive child sensitive return assistance provided*. This includes, support for the family and the child in the pre-return phase such as counselling, information and appropriate time to prepare for return; safe return procedures; procedures for transfer of care, where relevant; support to returnees and their receiving communities including appropriate reception, access to services such as education, counselling and psychosocial support for children and families, where relevant, and adequate and ongoing post-return evaluations that analyse the long-term impacts of return on children.⁵
- **Maintain local integration as a Solution for Children:** Durable solutions include full legal, physical, and material integration of a child into the community in the country they have reached. A comprehensive refugee response needs to provide appropriate resources and build the capacity of both host and refugee communities to promote reciprocal inclusion and resilience-building from the outset of a refugee response⁶ through to the medium and long-term.
 - Children of all ages and their families need access to key services such as education, livelihood options and healthcare and clear pathways for permanent status to realize the end of their status as displaced.
 - Local authorities, host communities, the diaspora and children themselves should be empowered to promote such reciprocal inclusion.
- 4. The Global Compact should establish an accountability mechanism that is fit for children and a responsibility-sharing mechanism that prioritizes children**

The Compact should ensure transparent, accessible, inclusive, child-friendly and responsive processes at national, regional and global level as part of the follow-up and review framework. It should support the meaningful participation of all relevant stakeholders, particularly migrant children in those processes.

The Global Compact, notably the Programme of Action, should set up 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 border

⁵ The IASC Framework on Durable Solutions for IDPs is a solid reference point for indicators of successful return and could meaningfully be adapted to the Programme of Action.

⁶ IRC & ReDSS (2016) [Early Solutions Planning in Displacement](#)