



**PROPOSALS FOR A
GLOBAL COMPACT FOR
SAFE, ORDERLY AND
REGULAR MIGRATION**

**WORLD EVANGELICAL ALLIANCE - GLOBAL TASK FORCE ON
REFUGEES**

Key terminology:

Convention on the Rights of the Child (CRC) Article 1 “For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.”¹

UN Committee on the Rights of the Child General Comment No. 6 “Separated Children are children, as defined in article 1 of the Convention, who have been separated from their parents, or from their legal or customary caregiver, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members.”² Inter-Agency Guiding Principles on Unaccompanied and Separated Children (adopted by the International Committee of the Red Cross (ICRC), International Rescue Committee (IRC), Save the children UK (SCUK), United Nations Children’s Fund (UNICEF), United Nations High Commissioner for Refugees (UNHCR) and World Vision International (WVI)).³

Separated children are those separated from both parents, or from their previous legal or customary primary care-giver, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members.⁴

Unaccompanied children (also minors) are children who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so.⁵

¹ European Union Agency for Fundamental Rights, *Separated, Asylum-Seeking Children in European Union Member States - Comparative Report* (2010), p.16.

² Ibid.

³ Ibid.

⁴ Ibid.

⁵ Ibid.

Proposal 1

Ensure that all refugees and migrants who choose to migrate are provided with safe and orderly migratory channels such as through embassies and consulates in the host countries of asylum; allowing refugees and migrants to apply for visas in the areas of labour migration, family reunification and humanitarian visas.

Proposal 2

For UN Member States to ensure every refugee child and every migrant child has access to free, equitable and quality primary and secondary education in line with target 4.1 of the Sustainable development Goals.⁶

United Nations Convention on the Rights of the Child Article 28

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular: (a) Make primary education compulsory and available free to all; (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need; (c) Make higher education accessible to all on the basis of capacity by every appropriate means; (d) Make educational and vocational information and guidance available and accessible to all children; (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.⁷

Proposal 3

For UN Member States to ensure every refugee/migrant child has access to quality early childhood development, care and pre-primary education so that they are ready for primary education in line with target 4.2 of the Sustainable Development Goals.⁸

Proposal 4

For UN Member States to ensure that all refugee/migrant youth and a substantial proportion of refugee/migrant adults, both men and women, achieve literacy and numeracy in line with target 4.6 of the Sustainable Development Goals.⁹

Proposal 5

The protection of labour rights and promotion of safe and secure working environments for all migrant and refugee workers, in particular women, and those in precarious employment in line with target 8.8 of the Sustainable Development Goals.¹⁰

⁶ <https://unstats.un.org/unsd/statcom/47th-session/documents/2016-2-IAEG-SDGs-E.pdf>. p.19.

⁷ <http://www.dignityinschools.org/content/convention-rights-child-crc-articles-28-and-29>

⁸ <https://unstats.un.org/unsd/statcom/47th-session/documents/2016-2-IAEG-SDGs-E.pdf>. p.19.

⁹ Ibid., p.20.

¹⁰ Ibid., p.24.

Proposal 6

To end abuse, exploitation, trafficking and all forms of violence against and torture of refugee/migrant children in line with target 16.2 of the Sustainable Development Goals.¹¹ To prevent sexual violence in refugee camps and ensure the protection of vulnerable groups, namely women and children. To provide safe and adequate shelter for women and children in an enclosed area of the refugee camp that is separate from men. In the enclosed area there is the provision of safe drinking water and adequate sanitation.

Proposal 7

For developed countries, to implement fully their official development assistance commitments in line with target 17.2 of the Sustainable Development Goals.¹²

For “developed countries to fully implement their official development assistance commitments, including the commitment by many developed countries to achieve the target of 0.7 per cent of ODA/GNI to developing countries and 0.15 to 0.20 per cent of ODA/GNI to least developed countries; ODA providers are encouraged to consider setting a target to provide at least 0.20 per cent of ODA/GNI to least developed countries.”¹³

These commitments are to be fulfilled by developed countries to ensure that greater support is given where needed to communities hosting refugees to ensure the needs of both refugees and host communities are met.

Proposal 8

Every child along the migration journey is issued with a waterproof wrist band which states vital information (for example: family name and the mobile number of a parent or a family member) so that if a child loses their parent or family member during their migration journey they can easily be traced and reunited.

United Nations Convention on the Rights of the Child Article 10

1. Applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.¹⁴

2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents.¹⁵

¹¹ Ibid., p.34.

¹² Ibid., p.36.

¹³ *Report of the Inter-Agency and Expert Group on Sustainable Development Goal Indicators*, (E/CN.3/2017/2), p.23.

¹⁴ European Union Agency for Fundamental Rights, op.cit., p.38.

¹⁵ Ibid.

In the light of Article 22, paragraph 2, it is imperative that the UNHCR, UNICEF, intergovernmental organisations and other non-governmental organisations ensure every child is protected and assisted in the tracing of parents or other family members.

Article 22

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.¹⁶

2. For this purpose, States Parties shall provide, as they consider appropriate, cooperation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations cooperating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.¹⁷

Proposal 9

To call on the UN to ensure that countries of origin, transit and destination adopt a child-sensitive and rights-based approach to protect the human rights of children at all stages of the migration process.

Children on the move are particularly at risk of discrimination, violence and abuse.¹⁸ International law provides that all “children be seen and protected as children first and foremost, rather than letting their migratory status, or that of their parents, dictate their access to protection and assistance.”¹⁹ It also states under international law, “the best interest of the child” should be the primary consideration for measures related to migrant children.²⁰

Proposal 10

For the implementation of a reliable and integrated international family tracing and reunification system, guaranteed by law and adhering to the best interests of the child.²¹ It is imperative that the concept of ‘family’ should be interpreted

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ www.ohchr.org/EN/NewsEvents/Pages/RightsOfMigrantChildren.aspx

¹⁹ www.ohchr.org/EN/NewsEvents/Pages/RightsOfMigrantChildren.aspx

²⁰ www.ohchr.org/EN/NewsEvents/Pages/RightsOfMigrantChildren.aspx

²¹ J. Bhabha and M. Dottridge, *Child Rights in Global Compacts: Recommendations for protecting, promoting and implementing the human rights of children on the move in the proposed Global Compacts*, Working Document (24th June, 2017), paragraph. 4.4.ii.

more broadly to include not only the nuclear family but other relatives as well, especially where relatives find themselves in emergency situations.

Proposal 11

For UN Member States to implement a 48 hour enhanced rapid response mechanism to ensure unaccompanied and separated children on arrival are identified, registered, screened for any international protection needs, receive access to the assessment and provision of international protection, receive access to qualified guardians and legal representation, access to health care and psychosocial services.

The Committee on the Rights of the Child's, General Comment 6 states that unaccompanied and separated children outside their country of origin are particularly vulnerable to exploitation and abuse. It notes that special protection and assistance obligations of States to ensure that these children are protected from trafficking and from sexual and other forms of exploitation, abuse and violence.²²

Proposal 12

For UN Member States, to implement protection measures for unaccompanied or separated children. This includes the provision of safe accommodation with appropriately screened, trained and monitored staff. Unless it is not appropriate accompanied children should be accommodated with their parents or primary caregivers.²³

Proposal 13

For UN Member States to ensure that the best interests of the child will overarch all areas pertaining to refugee and migrant children, albeit accompanied and unaccompanied.

States are required as a matter of binding international law to treat the best interests of the child as a primary consideration in all actions concerning them. The best interests principle is universal, one of four general principles articulated in the Convention on the Rights of the Child.²⁴ This principle asserts that "in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration." Several soft law commitments also assert the primacy of the best interests principle with respect to particular

²² See Committee on the Rights of the Child, General Comment No. 6 on the treatment of unaccompanied and separated children outside their country of origin, paragraph 50-51. This general comment notes that both negative and positive obligations are incumbent upon signatories of the CRC, including the prohibition of abuse and exploitation as well as efforts to identify unaccompanied children and attempt to trace their families. In addition, it reiterated the principle of non-refoulement of children on the move and provides guidelines on the range of protections that should be afforded to them, including protection from exploitation and abuse and from military recruitment. The General Comment also emphasizes the need for specialized training for staff who deal with child protection issues and for accurate data collection.

²³ Ibid., paragraph. 4.1.

²⁴ UN General Assembly, Convention on the Rights of the Child, article 3 together with article 2 (non-discrimination), article 6 (right to life, survival and development) and art. 12 (right of the child to express his or her views freely).

categories of children, including stateless children, unaccompanied and separated children, and refugee and asylum seeking children.²⁵

The New York Declaration commits signatories to ensuring that the best interests of the child will be a primary consideration in all matters concerning the child.²⁶

Proposal 14

For UN Member States to ensure refugee and migrant children are referred and supported through a national child protection system which is based on a legal framework, inclusive of informal and formal structures, with the capacity to protect them from violence abuse, exploitation and neglect.²⁷ The child protection system is to support family unity or reunification where this is in the child's best interests, and to provide safe referral systems to appropriate services, assistance, information and protection.²⁸

Article 19 of the CRC requires State Parties to “take all appropriate and legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse.” Article 20 of the Convention notes that “[a] child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.” The CRC also obligates State parties to prevent trafficking and sexual and other forms of exploitation, abuse and violence, and to take measures to promote recovery and social reintegration.²⁹ The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol against the Smuggling of Migrants by Land, Sea, and Air also address the child protection needs of refugee and migrant children in the contexts of trafficking and smuggling.³⁰

The New York Declaration includes several commitments to ensure the child protection needs of refugee and migrant children. It states: “We will refer their care to the relevant national child protection authorities and other relevant authorities...We will strive to provide refugee and migrant children with a nurturing environment to the full realization of their rights and capabilities.”³¹ In addition, the Declaration commits

²⁵ See Committee on the Rights of the Child, General Comment No. 6 on the treatment of the unaccompanied and separated children outside their country of origin; UNHCR, Guidelines on Determining the Best Interests of the Child, 2008, <http://www.unhcr.org/4566b16b2.pdf>; UNHCR, Field Handbook for the Implementation of UNHCR BID Guidelines, 2011, <http://www.unhcr.org/protection/children/50f6d27fg/field-handbook-implemetation-unhcr-bid-guidelines.html>.

²⁶ UN General Assembly, New York Declaration for Refugees and Migrants, UN document A/71/L.1 of 13 September 2016, paragraph. 32.

²⁷ UN General Assembly, United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice, General Assembly resolution 69/194 of 18 December 2014, UN document A/RES/69/194 of 26 January 2015, paragraph. 6(b).

²⁸ J. Bhabha and M. Dottridge, op. cit., paragraph. 4.1.

²⁹ Convention on the Rights of the Child, arts. 34, 35, 36 and 39.

³⁰ Protocol against the Smuggling of Migrants by Land, Sea and Air, also supplementing the UN Convention against Transnational Organized Crime, 15 November 2000.

³¹ New York Declaration, paragraph. 32.

States, to the extent possible, to ensuring the measures are in place to provide the care and services needed by affected children.³²

Proposal 15

The implementation of universal guidelines for all authorities involved in conducting age assessments when a child's age is in doubt. It is imperative that a comprehensive assessment takes into account both the physical appearance and the psychological maturity of the child. In cases where there is uncertainty about the age of the individual they will be considered a child.

To ensure that the global compact for safe, regular and orderly migration is based on the recognition that all migrants, regardless of their status, must receive the protection, respect and fulfilment of their human rights as provided in the nine core international human rights instruments and related standards, including all relevant ILO conventions, and to consider the ratification and effective implementation of those instruments.³³

Proposal 16

For UN Member States to ensure the registering of the births of all refugee and migrant children with a civil authority and to provide the refugee and undocumented migrant children with the necessary documentation.³⁴

Proposal 17

End the immigration detention of children and other practices that in turn result in deprivation of liberty of children for immigration-related reasons.³⁵

In its General Comment on unaccompanied and separated children, the Committee on the Rights of the Child confirmed that “the application of article 37 of the Convention and the principle of the best interests of the child, unaccompanied or separated children should not, as a general rule, be detained. Detention cannot be justified solely on the basis of the child being unaccompanied or separated, or on their migratory or residence status, or lack thereof.”³⁶

In the analysis of the rights of children in the context of international migration in 2012, the Committee on the Rights of the Child underlined this principle to all children, albeit accompanied or unaccompanied. The Committee highlighted that “...children should not be criminalized or subject to punitive measures because of their parents' migration status. The detention of a child because of their or their parent's migration status constitutes a child rights violation and always contravenes the principles of the best interests of the child. In this light, States should expeditiously and completely cease the detention of children on the basis of immigration status.”³⁷

³² Ibid. paragraph 32; Annex 1, paragraphs 5(a); 5(3) and 7(b).

³³ United Nations General Assembly - Report of the Secretary General, *In safety and dignity: addressing large movements of refugees and migrants* (21 April 2016), p.26.

³⁴ J. Bhabha and M. Dottridge, op. cit., paragraph. 6.4.111.

³⁵ Ibid, paragraph. 5.4.1.

³⁶ Committee on the Rights of the Child, General Comment No. 6, 2005, op. cit., paragraph. 61.

³⁷ Committee on the Rights of the Child, Report of the 2012 Day of General Discussion, The Rights of All Children in the Context of International Migration, 2012.

Proposal 18

Trafficking victims who fear persecution or other serious human rights violations and cannot return home must receive international protection as provided for in the 1951 Convention, in international human rights law or complementary forms of protection under national law. This entails most notably protection against refoulement and in many instances granting of asylum or another protection status.

Persons who have been or are at risk of being trafficked may have a well founded fear of persecution or be at risk of serious harm. Member States must ensure that appropriate and effective referral mechanisms are in place between authorities involved in anti trafficking activities and those responsible for granting of international protection. Such measures must ensure full compliance with the principle of non-refoulement.³⁸

Proposal 19

Special measures are needed to ensure that the specific protection needs of child victims of trafficking are addressed. Such measures should include, but not be limited to, a formal determination of the best interest of the child and a systematic assessment of the child's international protection needs.³⁹

Proposal 20

To prevent refugees and other persons of concern (asylum seekers, returnees, stateless and internally displaced persons) from becoming victims of human trafficking, and to address the needs of persons of concern who have fallen victim thereto.⁴⁰

Proposal 21

To ensure that international protection needs of trafficking victims (or those at risk of being trafficked) which may arise as a result of their trafficking experience are properly identified, and to assist States in ensuring that trafficking victims who are without identity documents are able to establish their identity and nationality status in order to prevent them from being rendered stateless, and to protect stateless victims of trafficking.⁴¹

Proposal 22

Specific safeguards for the protection of boy and girl victims of trafficking should be established including:

- (a) A formal determination of the best interest of the child;⁴²
- (b) The adoption of child-specific protection measures, such as the appointment of guardians;⁴³
- (c) The gathering of information on the role parents might have played in the trafficking situation of their children;⁴⁴

³⁸ UNHCR'S Perspective Conference Paper: Ministerial Conference on *Towards Global EU Action Against Trafficking in Human Beings* (Brussels, 19-20 October 2009).

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Ibid.

⁴³ Ibid.

(d) Issues of tracing and family reunification, and⁴⁵

(e) The observance of specific safeguards in cases of the repatriation of unaccompanied or separated children.⁴⁶

Proposal 23

To ensure the protection of forced migrants they are to be issued with humanitarian visas.

For some groups of forced migrants the issuing of humanitarian visas could provide an effective means of protection. Where persons can access an embassy or consulate of a UN Member State, be it in their countries of origin or in transit countries, they could be provided with a visa authorising them to travel to a UN Member State. Upon the applicant's arrival in the country of destination, the usual asylum procedure would follow. The issuing of humanitarian visa under this model should not depend on a definite assessment of the protection request.⁴⁷

Proposal 24

In special cases the implementation of private sponsorship to allow forced migrants to come to UN Member States.

This model works for example in Canada and is starting to be used by some EU Member States such as Germany and Sweden. Private sponsorship allows for access to EU territory on invitation by a legal resident in an EU state, whether there are family links or in other circumstances (for example an NGO, a Church entity or a group of people living in the member state decides to sponsor one person or one family from Syria). The sponsor is responsible for the asylum seeker, e.g. guaranteeing her/his living costs for a specific period so that there is less impact on the local social welfare system. The model should, however, not be considered as a general solution to the existing problems but rather as a 'tool' to be applied in special cases. It should be avoided, on the other hand, that refugees become dependent on private sponsors for gaining access to protection.⁴⁸

Proposal 25

For UN Member States to fully implement measures to ensure a non-discriminatory society, including preventing racism, discrimination, persecution and xenophobia against refugees and migrants, starting from their arrival.

⁴⁴ Ibid.

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Caritas Europa, CCME – Churches' Commission for Migrants in Europe, COMECE – Commission of the Bishops' Conferences of the European Community, Eurodiaconia, ICMC – International Catholic Migration Commission, JRS-Europe – Jesuit Refugee Service Europe, QCEA – Quaker Council for European Affairs, *Recommendations for the Safe and Legal Paths to the Protection of the EU* (Brussels, November 19th 2014).

⁴⁸ Ibid.

Proposal 26

For UN Member States to fully implement measures that ensure refugees and migrants have access to legal identity, nationality, health care, education, justice, language training and the right to work.