



CHILD-SENSITIVE APPROACH: PROTECTING, INCLUDING AND EMPOWERING ALL CHILDREN

Globally, there are an estimated 36 million international child migrants.⁴ Millions more are affected by migration without ever leaving their homes, including children left behind by migrating parents and children living without regular migration status.

The GCM recognizes children and young people as central to migration governance and provides States with a practical tool to better meet their legal obligations to protect, include and empower all children and youth regardless of status.

“The Global Compact promotes existing international legal obligations in relation to the rights of the child, and upholds the principle of the best interests of the child at all times, as a primary consideration in all situations concerning children in the context of international migration, including unaccompanied and separated children (GCM, para. 15 (h)).”

In other words, the GCM calls on States to recommit to the Convention on the Rights of the Child (CRC) in the context of migration and to treat every child first and foremost as a child, not based on their migration status. The Compact offers governments an action plan to transform migration into a positive and empowering experience for children, because migration policies that work for children also benefit States.

4. UNICEF, “Child Migration/Displacement and COVID-19: Migration” (2021).

THE IMPORTANCE OF A CHILD-SENSITIVE APPROACH

The fact that the rights of children is a guiding principle across all 23 objectives of the GCM is significant in and of itself. Children are not a footnote or an afterthought in migration policy, neither are they exclusively approached through the lens of vulnerability. The Compact reflects the multiple ways in which migration impacts children, whether they move unaccompanied, separated from their families or with their parents, and whether they have regular status or are undocumented.

Implementing the GCM in a child-sensitive manner must start with acknowledging that children and their rights are central to good migration governance. Governments must pay attention to children not only because they need protection, but because laws, policies and practices that ignore them are ineffective. When children fall through the cracks, migration systems fail.

At the core of child-sensitivity is the principle of the best interests of the child as “a primary consideration in all situations concerning children” (CRC, art. 3). This means that the child’s interests have a high priority and that the child’s best interests should take precedence over considerations relating to their migration status. The CRC Committee explains the child’s best interests as a threefold concept:⁵

a. A substantive right: The right of the child to have his or her best interests assessed and taken as a primary consideration when different interests are being considered in order to reach a decision on the issue at stake and the guarantee that

5. CRC Committee, “General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration” (2013).

this right will be implemented whenever a decision is to be made concerning a child, a group of identified or unidentified children or children in general. Article 3, paragraph 1, creates an intrinsic obligation for States, is directly applicable (self-executing) and can be invoked before a court.

b. A fundamental, interpretative legal principle: If a legal provision is open to more than one interpretation, the interpretation which most effectively serves the child's best interests should be chosen. The rights enshrined in the Convention and its Optional Protocols provide the framework for interpretation.

c. A rule of procedure: Whenever a decision is to be made that will affect a specific child, an identified group of children or children in general, the decision-making process must include an evaluation of the possible impact (positive or negative) of the decision on the child or children concerned. Assessing and determining the best interests of the child require procedural guarantees.

Furthermore, the justification of a decision must show that the right has been explicitly taken into account. In this regard, States parties shall explain how the right has been respected in the decision, that is, what has been considered to be in the child's best interests; what criteria it is based on; and how the child's interests have been weighed against other considerations, be they broad issues of policy or individual cases.

The other core principles of the CRC are non-discrimination, participation and the right to life, survival and development.⁶

6. CRC Committee, "Joint general comment No. 3 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 22 (2017) of the Committee on the Rights of the Child on the general principles regarding the human rights of children in the context of international migration" (2017).

These should also be at the centre of States' migration policies and procedures and are unpacked in the below actions.

CHILD-SENSITIVE APPROACH IN PRACTICE



Bring children and young people to the table as partners in the implementation, follow up and review mechanisms of the Compact. Listen to them carefully and do nothing about them without them. Include unheard voices in the conversation through interpretation, professional facilitation, intercultural mediation and skills development. When we take them seriously, children and young people are part of the solution and contribute to designing better migration policies.



Ensure non-discrimination on the basis of nationality or migration status. Discrimination is at the core of many migration policies and practices that put children at risk, despite the clear CRC obligation for all States to fulfil the rights of every child in their territory, not of their territory. This results in migrant children not having access to national systems and ending up in parallel structures, often under the care of immigration authorities. Discrimination explains, for example, why so many unaccompanied and separated children are kept in residential care, even in countries that have well-established family-based alternative care systems.⁷ It is also why child immigration detention is often justified as a protective

7. Lumos Foundation, "Rethinking care: Improving support for unaccompanied migrant, asylum-seeking and refugee children" (2020).

measure – a reasoning that would be unacceptable for national children in similar circumstances (for example, to ensure the child’s safety, prevent child trafficking, ensure family separation, assess the child’s age or conduct a vulnerability assessment) – and why States rarely grant undocumented migrant children the level of healthcare that they afford to their own citizens.



Include migrant children in national and local systems and services. Migrant children will not be seen and treated as children first unless States invest in making migration governance child-sensitive and child protection and other national systems and services migration-sensitive. The first step in this direction is ensuring that migrant children are referred as soon as possible to child protection authorities and that these services have the capacity to address the specific needs of these children, along with teachers, healthcare professionals, social workers and other key actors. Allocating resources to places, people and processes that bring together migration and child protection systems and actors is likely to yield tangible results.



Convene or join smart partnerships to pilot, share and replicate concrete solutions that work to protect children and youth on the move and unlock their potential. Cooperation and peer learning among stakeholders should be led by governments and bring together local authorities, civil society, United Nations entities, trade unions, the private sector and migrant children and youth, connecting ideas and experiences between the national and the local levels

and across countries and providing a platform for States to identify challenges that can be addressed through technical support from partners.



Generate more reliable, timely and accessible high-quality data and evidence disaggregated by age. Despite greater efforts over the past decade, there are significant gaps in even the most basic data about children in migration. For example, 23 per cent of the global migrant stock data is not disaggregated by age.

CHILD-SENSITIVE APPROACH RESOURCES

A variety of resources that support a child-sensitive approach to GCM implementation can be found on UNICEF's website, www.unicef.org, including:

- Guidance for assessing the situation of children on the move in a national context
- Guidelines on adolescent participation and civic engagement
- Children uprooted: What local governments can do
- Agenda for action for uprooted children
- A call to action: Protecting children on the move starts with better data
- Quick tips on COVID-19 and migrant, refugee and internally displaced children
- Taking and inspiring action: UNICEF practices for children on the move during COVID-19

Other UNICEF resources that support a child-sensitive approach to GCM implementation, including in the context of COVID-19 and SDG implementation, are available at www.unicef.org/migrant-refugee-internally-displaced-children and www.unicef.org/sdgs/resources. These resources detail practical guidance to assess the overall situation of migrant and displaced children in any given national context, which is a necessary initial step in child-sensitive GCM implementation.