

# Recommended principles to guide actions concerning children on the move and other children affected by migration<sup>1</sup>:

June 2016

## **1. Children on the move and other children affected by migration shall be considered children first and foremost and their best interests shall be a primary consideration in all actions concerning them.**

Children affected by migration should be ensured the same rights as all other children, including birth registration, proof of identity, a nationality and access to education, health care, housing and social protection. Those responsible shall not assume that standard solutions work for all children; rather they are required to conduct individual and family assessments prior to making a durable decision about each child. Children at the border shall not be refused entry without an adequate and individualized analysis of their request and due guarantees consistent with a best interests determination.

## **2. All children have the right to life, survival and development.**

All children have a right to a standard of living adequate for their physical, mental, spiritual, moral, educational and social development. States have a duty to anticipate and prevent harm, including with respect to the triggers of child migration and to invest in robust search and rescue operations to avert harmful migration outcomes, Sustained investment in material and social assistance, and in livelihood opportunities is a critical prerequisite to prevent life threatening journeys and enabling the child to develop.

## **3. Children have the right to liberty of movement within their State, and to leave their State and any other.**

Children have the right to migrate in search of family life, safety or opportunity. In particular, they have a right to flee violence and danger.

## **4. The detention of children because of their or their parents' migration status constitutes a child rights violation and always contravenes the principle of the best interests of the child.**

States should expeditiously and completely cease detention of migration affected children and allow children to remain with family and/or guardians in non-custodial, community-based contexts while their immigration status is being resolved.

1. The term 'children on the move' refers to children moving for a variety of reasons, voluntarily or involuntarily, within or between countries, with or without their parents or other primary caregivers. 'Other children affected by migration' refers to children remaining in the country of origin after their parents have migrated, and to children living with their parents in the destination country

## **5. Children during all phases of migration shall not be separated from their parents or primary caregivers (unless this is in their best interests).**

States shall not separate children from their families, for example by instituting onerous and protracted family reunification procedures, denying the portability of accrued social security benefits, detaining irregular migrants accompanied by children, deporting parents of minor citizens, or refusing to allow children to accompany migrant worker parents. Conversely forced expulsion of a child should never be considered an acceptable means of family reunification or assumed automatically to be in the best interests of the child. Any expulsion of a child must be safe, and in the child's best interests. Where the expulsion concerns a child separated from family, it shall be accompanied and monitored.

## **6. No Child is Illegal – Children should be protected against all forms of discrimination.**

The criminalization and stigmatization of children on the move and other children affected by migration violate this principle. States and other actors should use non-discriminatory terminology when referring to migrants and their children.

## **7. Child protection systems shall protect all children, including children on the move and children affected by migration.**

In their design and implementation, national child protection systems shall take into account the distinctive needs and views of children on the move and other children affected by migration. States shall protect children against exploitation, violence, abuse, and other crimes, and against resorting to crime or sexual exploitation to meet their basic needs. States and regional organizations have a responsibility to ensure a continuum of protection between local government authorities and States through which children travel, and to promote harmonized protection practices developed by local communities where appropriate.

## **8. Migration management measures shall not adversely affect children's human rights.**

States shall respect the rights of children guaranteed by international human rights, refugee and humanitarian law, including the principle of non-refoulement, and any child specific protection measures. States have a duty to ensure accurate identification of children, to evaluate the impact of laws and policies on children on the move and other children affected by migration and to avoid adverse impacts. Deliberately making transport unsafe to deter migrants from travelling can never be justified. Children require security and stability for healthy development. States that only consider the best interests of the child or grant children authorization to remain on their territory until age 18 have an adverse impact on children's rights.

## **9. Children have a right to express their views freely in all matters affecting them and to have their views taken into consideration in accordance with their age, maturity and understanding of the options available.**

States shall ensure that children affected by migration, whether or not in their State of origin, have effective access at all stages of migration to quality information and free of charge legal representation, interpretation, and, if they are unaccompanied or separated, to guardianship.