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Child rights Bridging Paper – the 5 year action plan for collaboration from a child rights perspective

Leave no one behind:

the first year of the SDGs for children on the move
and other children affected by migration.

This paper is part of the second edition of the child rights bridging papers commented at the Civil Society Days of the Global Forum on Migration and Development (Dhaka, Bangladesh, 8 to 10 December 2016) and an output of the Civil Society Days. It examines specificities affecting children on the move and other children affected by migration related to the 2030 Agenda for Sustainable Development.



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The bridging documents can be downloaded on www.terredeshommes.org,
www.destination-unknown.org and www.madenetwork.org/documents
Correspondence: info@terredeshommes.org

 Global Forum on
MIGRATION & DEVELOPMENT

Recommendations

- 1** Send civil society and UN agency reports to the UN human rights treaty bodies and UPR to monitor the implementation of the SDGs which affect children, especially children on the move and other children affected by migration.
- 2** Develop a data collection system which can be used by different stakeholders, which includes disaggregated data by age and gender, take into account the views of children, and incorporate a system of delisting migrants who move to a new country.
- 3** Framed by the global strategy to end violence against children (mainly SDG 16.2), support models and uptake for inter-sectoral cooperation on responding to violence and abuse with a special attention to children on the move and other children affected by migration
- 4** Create a system for children, including those in the context of migration, to provide their views on the implementation of the SDGs and the development of the global compacts. This should be linked to the monitoring which children already take part in for the CRC.
- 5** The potential and impact of internal migration should be included in debates on policies and programmes to achieving the 2030 Agenda on Sustainable Development.
- 6** The link between internal and external migration (including children) with SDG 8 should be incorporated in policies for decent job creation and entrepreneurship, improving labour standards and providing protection and assistance in cases of abuse and exploitation.
- 7** Address the barriers which prevent children on the move and other children affected by migration from accessing services such as health and education, including those related to their migratory status and documentation.

Context

'Leave no one behind' is at the heart of the (SDGs). One of the vulnerable and marginalised groups which should not be left behind are children in the context of migration. These children are part of the largest documented movements of people, in certain regions, of the past 50 years. Globally, 28 million children have been forcibly displaced and there are 20 million other international child migrants.¹ These figures do not include the millions of children whose parents have migrated.

As the beginning of the implementation of the Sustainable Development Goals (SDGs) coincides with these large movements of migrants and refugees, the link between the goals and children affected by migration is essential. Obvious goals include those related to health (3.7 and 3.8), education (4.1 and 4.4), violence (5.2, 16.1 and 16.2), forced labour and trafficking (8.7), labour rights (8.8), facilitating migration and remittances (10.7 and 10.7c) as well as disaggregated data (17.18). Yet there are less obvious SDGs which should be considered, such as goal 9 (9.3) to build resilient infrastructure, promote inclusive and sustainable industrialisation and foster innovation. Goals such as these not only affect these children through the impact it has on their parents, but also on their opportunities as they grow older.²

Children affected by migration provide a particular challenge when planning and implementing the SDGs, as their status is transient in terms of age and migratory situation. Children who are over four in 2016 will be adults by 2030, so the implementation of the SDGs must take into account their evolving capacities and needs as they reach adulthood. The SDGs should also be linked with other frameworks or standards relevant to these children, including the New York Declaration for Refugees and Migrants and its future compacts as well as the Convention on the Rights of the Child (CRC) and the work of the Committee on the Rights of the Child (the Committee).

These children should not be solely considered as vulnerable. They can contribute to implementing the SDGs provided they are taken into account in implementation plans to turn these goals into realities.

1 UNICEF, Uprooted: the growing crisis for refugee and migrant children (2016)

2 This is not an exhaustive list of relevant goals.

Key challenges and issues

This paper examines a select number of issues relevant to these children in relation with the SDGs.

Overarching issues

To achieve the SDGs, there are key elements to which are essential to measure progress, including comprehensive accountability mechanisms and robust and disaggregated data.

1. Monitoring Implementation

The meeting of the high-level political forum on sustainable development in July 2017 will be the first review of the implementation of the SDGs. Its thematic focus of “Eradicating poverty and promoting prosperity in a changing world” will cover certain SDGs (1,2,3,5,9 and 14) related to many root causes of migration as well as issues relevant to children in the context of migration (e.g. related to health and gender equality).

Amongst the relevant organs which can feed into the high-level political forum, there are the human rights treaty bodies, such as the Committee on the Rights of the Child, or the Universal Periodic Review (UPR). The rights which are relevant to children in the context of migration and the SDGs are reviewed by the Committee on a periodic basis in 196 States, while all human rights in all UN member States are reviewed under UPR every 4.5 years. They therefore provide an opportunity to review the rights which are relevant to the SDGs. This can also be done with other treaty bodies for certain issues relevant to children in the context of migration.

When it reviews States’ progress towards implementing the CRC, the Committee provides detailed concluding observations on progress achieved, main areas of concern and recommendations. However, there is no implementation mechanism to follow up the Committee’s recommendations. By linking the SDGs to the human rights monitoring mechanisms, the SDGs can advance children’s rights and the treaty bodies monitor progress made to achieve certain SDGs.

A number of the SDGs and thematic clusters of the CRC, which are particularly relevant to children in the context of migration, overlap. These include the ones on health, education and violence. To clarify the link between the two, UNICEF mapped³ the SDGs against the articles of the CRC. The Committee also started incorporating the SDGs into its recommendations to States. However, one major challenge affects both the SDGs and the Committee, namely access to reliable data. This needs to be addressed to ensure that they are monitoring the real situation rather than the limited information available. To contribute to gaining a full picture, the human rights reporting processes should be used by UN agencies and civil society.⁴

3 UNICEF, [Mapping the Global Goals for Sustainable Development and the Convention on the Rights of the Child](#), 2016.

4 To find out the up-coming countries which will be reviewed under the CRC, go to http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/SessionsList.aspx?Treaty=CRC

Robust and disaggregated data on children in the context of migration

SDG 17.18 *By 2020, enhance capacity-building support to developing countries, including for least developed countries and small island developing States, to increase significantly the availability of high-quality, timely and reliable data disaggregated by income, gender, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national contexts.*

Progress towards achieving the SDGs will be judged by whether interventions reduce inequality and reach the most vulnerable children and communities. Robust and disaggregated data play a crucial role in identifying and reaching children on the margins of society, such as children in the context of migration. The complexity of collecting data on these children has been exemplified during the current migratory crises. Different agencies or States use different methodologies and indicators to collect data. Furthermore, due to the inherent transience of childhood and migration, data rapidly becomes out-of-date. There are considerable registration problems at borders, as a child may register in one country before going to the next and register again. Some countries delist children as they leave, while others do not, leading to uncertainties regarding the actual number of children, including missing ones. A coherent registration system is needed across the countries, especially those on the same migratory route. Meanwhile, other children will avoid registering altogether or until they reach their final destination to avoid getting stranded in a third country. Finally, a migrant child in one country may become a migrant adult in the next.

The NY Declaration emphasises the importance of strengthening data collection in the following paragraph:

40. “We recognize the importance of improved data collection, particularly by national authorities, and will enhance international cooperation to this end, including through capacity -building, financial support and technical assistance. Such data should be disaggregated by sex and age and include information on regular and irregular flows, the economic impacts of migration and refugee movements, human trafficking, the needs of refugees, migrants and host communities and other issues. We will do so consistent with our national legislation on data protection, if applicable, and our international obligations related to privacy, as applicable.”

The Committee on the Rights of the Child consistently requests States Parties to develop a system of data collection and indicators consistent with article 4 of the CRC on the general measures of implementation.

Migration status should go beyond the information citizenship, place of birth, time spent in host country to include information about the child’s or youth’s administrative situation. In doing so, we should avoid creating “policy siloes.” The absence of comprehensive information about migrant children’s immigration status gives rise to major problems in public and policy debates and do not enable to systematically assess their protection needs. The SDGs and CRC emphasise the interlinkages and integrated nature, which should be taken into account, including when collecting data.

Specific issues related to children in the context of migration

The following section looks at four examples of SDGs, relevant sections of the NY Declaration and children’s rights regarding specific issues faced by children in the context of migration.

2. Violence against Children on the Move

SDG 16.1 *Significantly reduce all forms of violence and related death rates everywhere.*

SDG 16.2 *End abuse, exploitation, trafficking and all forms of violence against and torture of children.*

SDG 5.2 *Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation.*

Children on the move or affected by migration can be subject to violence whether they are in countries of origin, transit or destination at the hands of a range of different people from relatives, employers to State employees. In addition to the SDG targets 16.1 and 16.2 which affect children in the context of migration, SDG 5.2 emphasises the added risks for girls. These include the increased likelihood of trafficking, abuse and exploitation as well as working in the informal sector (e.g. domestic work), where they are more likely to be subject to violence.

These three targets were taken up in the NY Declaration under paragraphs:

29. “We recognize and will take steps to address the particular vulnerabilities of women and children during the journey from country of origin to country of arrival. This includes their potential exposure to discrimination and exploitation, as well as to sexual, physical and psychological abuse, violence, human trafficking and contemporary forms of slavery.”
33. “Reaffirming that all individuals who have crossed or are seeking to cross international borders are entitled to due process in the assessment of their legal status, entry and stay, we will consider reviewing policies that criminalize cross border movements. We will also pursue alternatives to detention while these assessments are under way. Furthermore, recognizing that detention for the purposes of determining migration status is seldom, if ever, in the best interest of the child, we will use it only as a measure of last resort, in the least restrictive setting, for the shortest possible period of time, under conditions that respect their human rights and in a manner that takes into account, as a primary consideration, the best interest of the child, and we will work towards the ending of this practice.”
36. “With a view to disrupting and eliminating the criminal networks involved, we will review our national legislation to ensure conformity with our obligations under international law on migrant smuggling, human trafficking and maritime safety. We will implement the United Nations Global Plan of Action to Combat Trafficking in Persons. We will establish or upgrade, as appropriate, national and regional anti- human trafficking policies. We note regional initiatives such as the African Union-Horn of Africa Initiative on Human Trafficking and Smuggling of Migrants, the Plan of Action Against Trafficking in Persons, Especially Women and Children, of the Association of Southeast Asian Nations, the European Union Strategy towards the Eradication of Trafficking in Human Beings 2012-2016, and the Work Plans against Trafficking in Persons in the Western Hemisphere. We welcome reinforced technical cooperation, on a regional and bilateral basis, between countries of origin, transit and destination on the prevention of human trafficking and migrant smuggling and the prosecution of traffickers and smugglers.”
58. (...) “It should also respect the rules of international law and must in addition be conducted in keeping with the best interests of children and with due process.” (...)
60. “We recognize the need to address the special situation and vulnerability of migrant women and girls by, inter alia, incorporating a gender perspective into migration policies and strengthening national laws, institutions and programmes to combat gender-based violence, including trafficking in persons and discrimination against women and girls.”

The Global Partnership to End Violence Against Children, which is working to confront the unacceptable levels of violence that children suffer, is addressing issues of violence affecting children on the move. The report ***Children on the Move: An Urgent Human Rights and Child Protection Priority***⁵ and INSPIRE (an evidence-based resource) provide strategies to prevent and respond to the violence children face in the context of migration.

These goals and commitments cover a range of articles of the CRC, including on the right to life, survival and development (art. 6), protection from violence (art. 19), economic (art. 32), sexual (art. 34) and other forms of exploitation (art. 36), abduction, sale and trafficking (art. 35), torture (art. 37) and their entitlement to physical and psychological recovery and reintegration (art. 39).

5 Bhabha, Jacqueline, et al. *Children on the Move: An Urgent Human Rights and Child Protection Priority*. Boston: Harvard FXB Center for Health and Human Rights, 2016

3. Access to health services

SDG 3.8 Achieve universal health coverage, including financial risk protection, access to quality essential health-care services and access to safe, effective, quality and affordable essential medicines and vaccines for all.

Children on the move face distinctive vulnerabilities to poor health as well as fundamental policy gaps in addressing their health needs. Children on the move are confronted with various factors which contribute to ill health, including poverty, hunger, poor sanitation, inadequate accommodation and infectious diseases. In their countries of origin, their poor living conditions and limited access to basic healthcare are likely to impact their health. For instance, many of them may not have received basic vaccinations against tetanus, diphtheria, measles, mumps and rubella and other diseases. Whether they are on the move or in a country of destination, they can face psychological problems linked to their migratory process or uncertain status, such as depression and anxiety (e.g. post-traumatic stress disorder).⁶ Yet despite their health needs, they are less likely to access healthcare due to 'migrant-unfriendly or migrant-indifferent' legal frameworks and health systems and by the perception of public health security threats to host communities. Children who are undocumented, stateless or have an irregular status may be prevented from registering with a healthcare provider, increasing the prevalence of certain diseases.

The NY Declaration has the following paragraph on this issue:

59. We reaffirm our commitment to protect the human rights of migrant children, given their vulnerability, particularly unaccompanied migrant children, and to provide access to basic health, education and psychosocial services, ensuring that the best interests of the child is a primary consideration in all relevant policies.

This SDG target and paragraph are in line with art. 24 of the CRC on ***the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.***

4. Access to education

SDG target 4.5 ***By 2030, eliminate gender disparities in education and ensure equal access to all levels of education and vocational training for the vulnerable, including persons with disabilities, indigenous peoples and children in vulnerable situations.***

In times of crises, such as the current migration ones, less than 2% of humanitarian aid is allocated to education. Yet being outside of education, even for a few months can have a long-term negative impact on children. In the context of migration, children can find themselves outside education for an extended period of time and for a number of reasons. These include frequent movement, irregular status also for children in destination countries) or the need to work and contribute to the household income.

The NY Declaration expands on SDG 4.5. for children in the context of migration. This is covered in the following paragraphs:

81. "We are determined to provide quality primary and secondary education in safe learning environments for all refugee children, and to do so within a few months of the initial displacement. We commit to providing host countries with support in this regard. Access to quality education, including for host communities, gives fundamental protection to children and youth in displacement contexts, particularly in situations of conflict and crisis."
82. "We will support early childhood education for refugee children. We will also promote tertiary education, skills training and vocational education. In conflict and crisis situations, higher education serves as a powerful driver for change, shelters and protects a critical group of young men and women by maintaining their hopes for the future, fosters inclusion and non-discrimination and acts as a catalyst for the recovery and rebuilding of post-conflict countries."

These goals and commitments are in line with key rights related to education enshrined in the CRC, including on non-discrimination (art. 2), refugee children to receive appropriate protection and humanitarian assistance (art. 22.1), education (art. 28) and personal development (art. 29.1). In addition to the long-term impact, education can also reduce the risks during the migratory process relevant to child rights violations, such as early marriage, child labour and trafficking.

6 Elzbieta M. Gozdzik, Children and migration: disease and illness, www.academia.edu/5361725/Child_migrants_and_health

5. Forced labour, slavery and trafficking

SDG 8.7 *Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms.*

This SDG, the relevant sections of the NY Declaration and the cluster on special protection measures of the CRC are all interlinked. The issues covered are grave violations of children's rights and are the focus of considerable attention of UN agencies and civil society organisations.

The most relevant paragraphs of the NY Declaration include:

35. "We recognize that refugees and migrants in large movements are at greater risk of being trafficked and of being subjected to forced labour. We will, with full respect for our obligations under international law, vigorously combat human trafficking and migrant smuggling with a view to their elimination, including through targeted measures to identify victims of human trafficking or those at risk of trafficking. We will provide support for the victims of human trafficking. We will work to prevent human trafficking among those affected by displacement."
57. "We will consider facilitating opportunities for safe, orderly and regular migration, including, as appropriate, employment creation, labour mobility at all skills levels, circular migration, family reunification and education-related opportunities. We will pay particular attention to the application of minimum labour standards for migrant workers regardless of their status, as well as to recruitment and other migration-related costs, remittance flows, transfers of skills and knowledge and the creation of employment opportunities for young people."
84. "Welcoming the positive steps taken by individual States, we encourage host Governments to consider opening their labour markets to refugees. We will work to strengthen host countries' and communities' resilience, assisting them, for example, with employment creation and income generation schemes. In this regard, we recognize the potential of young people and will work to create the conditions for growth, employment and education that will allow them to be the drivers of development."

According to Alliance 8.7, which is focusing specifically on this SDG, 168 million children are estimated to be in child labour. Forced and child labour and trafficking take place in all regions. Children in the context of migration are particularly at risk of being subject to these violations. However, children do not have to migrate outside their country's borders to be subject to these violations.

Internal migration can put children at risk, especially if they are internally displaced persons (IDPs), but also migrants to urban areas. Yet these two groups were not captured in the NY Declaration and receive less attention in the current discussions of the migration crises. However, the link between internal and external migration of children needs to be incorporated in the development of policies, especially those addressing the root causes.

Children who migrate to cities, whether they are accompanied or not, face similar challenges to those who cross borders in terms of access to adequate social protection or basic services. For instance, if they have not been registered at birth, they may not be able to register for school or access health care if they need documentation to do so. Rural to urban migration impacts on the achievement of SDG 8, which has direct and indirect effects on children. Recognising the positive impact and challenges faced by children affected by internal migration is important to achieve SDG 8 as well as the rights enshrined in the CRC.

The CRC cluster on special protection measures which is particularly relevant to SDG 8, includes articles on economic (art. 32), sexual (art. 34) and other forms of exploitation (art. 36), abduction, sale and trafficking (art. 35), torture (art. 37), armed conflict (art. 38) and recovery and reintegration of victims (art. 39).

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