



Unaccompanied Children on the Move

The work of the International Organization for Migration (IOM)



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Publisher: International Organization for Migration
17 route des Morillons
1211 Geneva 19
Switzerland
Tel: +41 22 717 91 11
Fax: +41 22 798 61 50
E-mail: hq@iom.int
Internet: <http://www.iom.int>

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List of acronyms

AVR	Assisted Voluntary Return
AVRR	Assisted Voluntary Return and Reintegration
CRC	Convention on the Rights of the Child
EU	European Union
HIV/STI	Human Immunodeficiency Virus and Sexually Transmitted Infections
ICRC	International Committee of the Red Cross
IOM	International Organization for Migration
MiMOSA	Migrant Management and Operational Systems Application
MMM	Movement Management Manual
NGO	Non-Governmental Organization
OPI	Child Protection Officer
RCM	Regional Conference on Migration
UAMAS	Unaccompanied Minor Asylum-Seekers
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
VoT	Victim of Trafficking

Executive summary

This document aims to provide an overview of the scope of activities of the International Organization for Migration (IOM) in relation to the protection of unaccompanied migrant children and support for this group. It significantly draws on IOM's operational data and programmatic information, collected through internal knowledge management tools; at the same time, this information is supplemented by a mapping of the activities of IOM Field Offices covering the period 2009–2011. This paper also benefits from a review of existing international standards and policy frameworks as well as recent research conducted on the topic of unaccompanied migrant children.

The document is divided into four parts: Chapter 1 provides the introductory framework, together with an overview on the topic of unaccompanied migrant children and a summary of conclusions drawn from the work of IOM in this context. Chapter 2 presents a short overview of the international legal standards that exist in relation to unaccompanied migrant children. Chapter 3 highlights IOM's work for unaccompanied migrant children in the different fields of the Organization's migration-related activities. Chapter 4 explores the broader context of inter-organizational partnerships between IOM and other actors and international cooperation with regard to unaccompanied migrant children. In addition, an annex containing a more detailed legal framework is provided to complement the information provided in chapters 1–4.

I. IOM and unaccompanied migrant children:⁴⁰ an overview

Children and youth migrating – whether between or within countries and whether accompanied by their relatives or not – have become a recognized part of today’s global and mixed migration flows. Nevertheless, in research and policy debates, the migration of children and youth is considered a new area of concern and focus. Information on children who are migrating is consequently little reflected in global debates on migration. Often, academic and policy discussions tend to represent children as passive victims of exploitation, possibly even including trafficking situations, coerced to move and work in exploitative situations.

However, recent research and policy approaches to unaccompanied migrant children are revealing and addressing the varying experiences of children migrating – both positive and negative.⁴¹ Independent child migration is not necessarily an exploitative or damaging experience for children, but rather a multidimensional phenomenon.⁴² Children can be actively involved in the decision-making process regarding their future, including the decision to continue their education, to work or to combine both. Nonetheless, policy responses to support these unaccompanied migrant children are fragmented and inconsistent, and the lack of subject-specific expertise is a persisting problem.⁴³

In line with the increased attention paid to child migration as part of a larger phenomenon of family migration, transnational families and family

40 Unaccompanied migrant children (also called unaccompanied minors) are children, as defined in article 1 of the Convention on the Rights of the Child of 20 November 1989 (CRC), 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.

41 See http://www.migrationdrc.org/research/typesofmigration/child_migration.html and http://www.migrationdrc.org/news/reports/icm/Workshop_report_ICM_September2007.pdf.

42 Common differentiation is between “dependent children” and those under 18 years resident with adult parents, step-parents, adopted parents or adult siblings and “independent children” those without close family members or co residents. Independent child migration is the migration of children who are not refugees and are not coerced or tricked into moving by third persons, it is often carried out with the aim of seeking employment or education.

43 See International Conference on “Children on the Move”, held on 5–7 October 2010 in Barcelona and organized by the Global Movement for Children (GMC), <http://www.gmc.org/en/action-within-the-movement/gmc-actions/actions-by-imperatives/1-leave-no-child-out/current-actions/90> (accessed 21 January 2011).

reunification,⁴⁴ the work of IOM has substantially grown in relation to providing assistance to children on the move, particularly those who are unaccompanied. As a global agency working on migration, it is of major importance for IOM to strengthen and support coherent approaches to unaccompanied migrant children. In this regard, the Organization is collecting operational data and programmatic information⁴⁵ on this population of migrants to better address their needs.

Figure 1: IOM offices assisting unaccompanied children⁴⁶

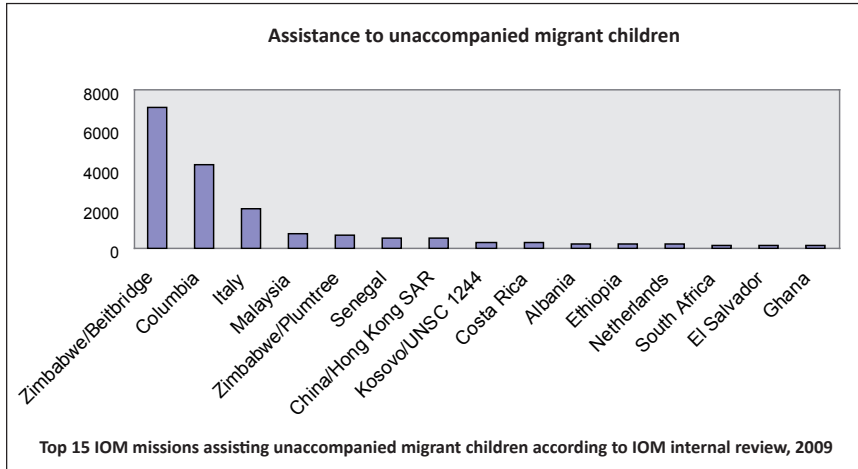


Figure 1 reflects the results of an internal review, according to which IOM offices throughout the world assisted approximately 20,000 unaccompanied migrant children between 2006 and 2009.⁴⁷ The largest numbers of unaccompanied migrant children were assisted through different projects implemented by IOM offices in the following countries: Albania, China, Colombia, Costa Rica, Italy, UNSC resolution 1244-administered Kosovo (hereinafter referred to as Kosovo/UNSC 1244), Malaysia, Senegal, and Zimbabwe.

⁴⁴ For more information, see the Research Network, <http://www.childmigration.net/index>, which gives an extensive overview as well as access to relevant links and resources.

⁴⁵ One important tool is the Migrant Management and Operational Systems Application (MiMOSA), which facilitates processing and monitoring of the operational part of assistance to migrants comprising registration/data entry, movement, medical examination, visa processing and migrant training for IOM offices and Headquarters. MiMOSA also allows IOM offices to share and consolidate data between activities and different offices.

⁴⁶ According to IOM Internal Review 2009.

⁴⁷ This data refers to an internal review of IOM's assistance towards unaccompanied migrant children that was conducted at the end of 2009. Since then, IOM has been continuously updating its data through a variety of instruments such as MiMOSA, but it has not conducted a similar overall review.

IOM’s activities with unaccompanied migrant children are part of the work that the Organization carries out with migrant children, often in cooperation with other organizations. These generally take place in the educational context, such as the project “Not Just Numbers”,⁴⁸ a teaching toolkit on migration and asylum in the European Union (EU) that is designed for educational institutions in European Member States, or the joint IOM–United Nations Children’s Fund (UNICEF) project launching an educational package to raise awareness of migrant children’s rights in Thai schools and among youth workers.⁴⁹

Figure 2: IOM projects providing assistance to unaccompanied migrant children⁵⁰

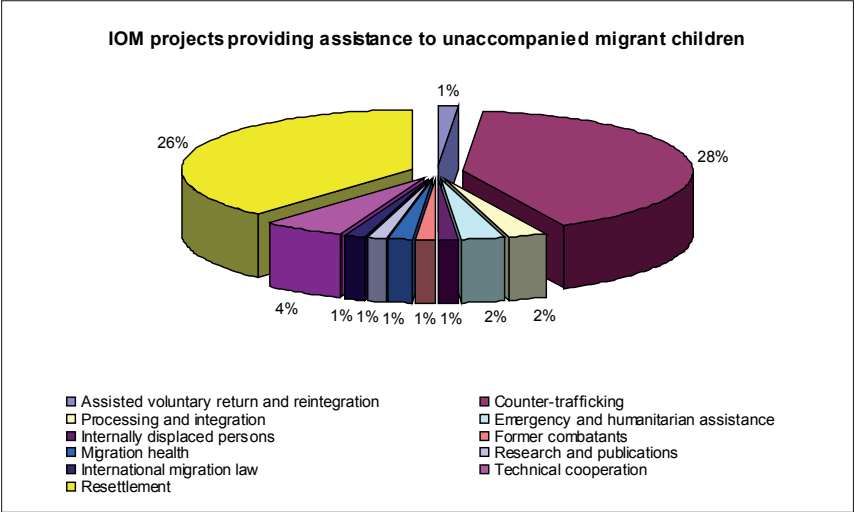


Figure 2 shows the broad variety of circumstances in which unaccompanied migrant children are assisted by IOM, covering both operational and analytical/academic contexts.

48 For more information, see: <http://www.iom.int/jahia/Jahia/not-just-numbers-educational-toolkit/lang/en>.

49 For more information, see: <http://www.iom.int/jahia/Jahia/pbnAS/cache/offonce?entryId=21751>.

50 According to an IOM internal review carried out in 2009.

IOM's work with unaccompanied migrant children extends throughout the world, with focal points identified in Central America; West, Central and South-Eastern Europe; South and Western Africa; and several Asian countries. Many IOM projects include capacity-building components that aim to strengthen the expertise of governmental and non-governmental actors involved in the work with unaccompanied migrant children.

Figure 3: Profiles of beneficiaries assisted within existing IOM programmes⁵¹

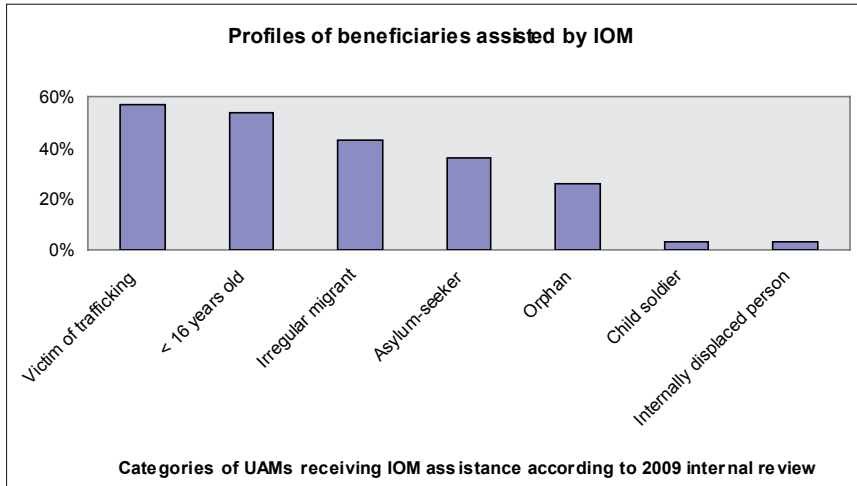


Figure 3 points out the broad range of IOM beneficiaries which can – although not necessarily – include unaccompanied migrant children. IOM's projects aim to provide tailored assistance responding to the specific needs of the target group concerned, be it child soldiers, victims of trafficking or asylum-seekers. However, an unaccompanied migrant child can often belong to two different categories at the same time (e.g. an orphan who was internally displaced and subsequently trafficked abroad). As a result, the assistance provided needs to be flexible, taking into account specific needs which arise from the individual experience of the child concerned.

⁵¹ The questionnaire, applied to IOM Missions in the context of the 2009 internal review, allowed Missions to give multiple answers to questions dealing with the profiles of their beneficiaries, that is, for cases where unaccompanied migrant children qualified at the same time as orphan migrant children and as VoTs, etc.

IOM operates within the relevant international legal framework for the protection of migrants, that is, in compliance with international migration law. The Organization is committed to promoting and protecting the rights of unaccompanied migrant children, having their best interests as the top priority in all of its activities. Without prejudice to their vulnerability and risks that unaccompanied migrant children may face, it is important to them as agents and important group in the current migration dynamic.

2. International standards with regard to unaccompanied migrant children

“‘Unaccompanied children’ (also called unaccompanied minors) are children, as defined in article 1 of the Convention on the Rights of the Child of 20 November 1989 (CRC), 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.”⁵²

“‘Separated children’ are children, as defined in article 1 of the CRC, who have been separated from both parents, or from their previous legal or customary primary caregiver, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members.”⁵³

A “child as defined in article 1 of the Convention” means “every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier.”⁵⁴

For the purpose of this document, all of the above groups are referred to as unaccompanied children. Furthermore, this document refers specifically to unaccompanied children who move within or outside the borders of their countries of origin, hence unaccompanied migrant children.

IOM’s work in relation to unaccompanied migrant children is, first and foremost, set in the framework of international migration law, in particular, but not exclusively, the International Convention on the Rights of the Child. Apart from the Convention, unaccompanied migrant children are entitled to international protection under international human rights law, international refugee law, international humanitarian law and various regional human rights instruments. It is important to note that these principles are interlinked and must be respected throughout the

⁵² Committee on the Rights of the Child, General Comment n°6, Treatment of Unaccompanied and Separated Children Outside Their Country of Origin, CRC/GC/2005/6, 1 September 2005, para. 7

⁵³ Ibid., para. 8.

⁵⁴ Ibid., para. 9.

migration process of all migrant children. These international standards are complemented by a multitude of regional and national standards. Within this framework, IOM's constituent documents have, since the Organization's inception, referred to the need for promoting the human rights of migrants. IOM's *de facto* protection mandate was more explicitly recognized by Member States in 2007 in the context of the adoption of the IOM Strategy.⁵⁵

Table 1 outlines the key parameters enshrined in the framework of international migration law; these parameters cut across all of IOM's activities involving unaccompanied migrant children and are vital at all stages of the migratory process. The table points out the need to identify unaccompanied migrant children at an early stage of the migration process in order to be able to respond to their specific protection needs; in addition, it shows the paramount role of the best interest determination for unaccompanied migrant children in order to identify the best solution for them (return to the country of origin, local integration, resettlement or adoption). Finally, the reference to measures that aim to prevent a child's separation from his family, family tracing and family unity confirm the primary goal of ensuring reunification of the unaccompanied child with his/her family, as long as this takes place in his/her best interests.

⁵⁵ IOM Council Ninety-fourth Session, IOM Strategy, footnote to point 9 (MC/INF/287).

Table 1: Principles, protection measures and long-term options

Principles: Non-discrimination – Best interests of the child – Life and full development – Family unity – Evolving capacities – Participation – Confidentiality	Measures to prevent separation
	<u>Initial assessment and measures:</u> <ul style="list-style-type: none"> • Non-refoulement obligation • Identification of child as separated or unaccompanied/ specific vulnerable groups (e.g. VoTs) • Registration • Family tracing
	<u>Specific protection needs:</u> Temporary care arrangements, including appointment of a guardian, child-appropriate accommodation, access to education, access to health care
	<div style="border: 1px solid black; padding: 10px; margin: 0 auto; width: 80%;"> <p style="text-align: center;">Best interest determination (BID)/long-term options</p> <pre> graph TD A[Best interest determination (BID)/long-term options] --> B[Return to the country of origin] A --> C[Local integration] A --> D[Resettlement in a third country] A --> E[Adoption] </pre> </div>

The principle of “best interests of the child” as laid down in the Convention is of particular interest to IOM’s work. The best interests of the child must be a primary consideration in all actions concerning children. The best interests determination becomes, thus, a very important tool and a precondition for IOM’s work. It is to be noted, however, that international law fails to provide a sufficient clarity as to what the process of the Best Interest Determination entails.

“The Committee [on the Rights of the Child]⁵⁶ has not provided guidelines for ascertaining a child’s best interests, aside from: underlining that the general values and principles of the Convention should be applied; reiterating that it should be considered as a whole; and emphasizing the interrelations between articles – in particular amongst the provisions elevated to the status of general principles (articles 2, 3, 6 and 12 (CRC)).”⁵⁷

⁵⁶ Note made by the author.

⁵⁷ International Organization for Migration (IOM) (2008), International Migration Law N°15, Human Rights of

It is nevertheless recognized that the appointment of a competent guardian as expeditiously as possible serves as a key procedural safeguard to ensure respect for the best interests of an unaccompanied child.⁵⁸

“Legal guardian” equally has no proper definition in international law largely because its “precise definition, function and manner of appointment varies from jurisdiction to jurisdiction”.⁵⁹ However, the main characteristics of the function include, inter alia: A designated individual or competent entity that under relevant national legislation has been formally assigned responsibility for the child and is vested with the legal right and responsibility to make decisions in the place of parents, in full consultation with the child. Entities/persons exercising such legal responsibility should have relevant knowledge of children’s issues, an ability to work directly with children and an understanding of any special and cultural needs of the children to be entrusted to them so as to ensure that the interests of the child are safeguarded and that the child’s legal, social, health, psychological, material and educational needs are appropriately covered. They should receive appropriate training and professional support in this regard. The overall role and responsibility of the designated entity/person is to ensure that the rights of the child are protected.⁶⁰

For a detailed description of existing definitions and standards guiding IOM’s intervention with unaccompanied migrant children, see the IOM information note on the protection of unaccompanied migrant children in annex II.⁶¹

Migrant Children, Geneva, p. 21.

58 Committee on the Rights of the Child, General Comment n°6, Treatment of Unaccompanied and Separated Children Outside Their Country of Origin, CRC/GC/2005/6, 1 September 2005, para. 21.

59 International Committee of the Red Cross (ICRC) (2004), Inter-Agency Guiding Principles on Unaccompanied and Separated Children, Geneva, p. 47.

60 Cf. United Nations High Commissioner for Refugees (UNHCR) (1997), Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum, article 5 (7); Cf. United Nations General Assembly, Resolution adopted General Assembly, 64/142. Guidelines for the Alternative Care of Children, paras. 101 to 104; Cf. Committee on the Rights of the Child, General Comment n°6, Treatment of Unaccompanied and Separated Children Outside Their Country of Origin, CRC/GC/2005/6, 1 September 2005, para. 33.

61 IOM Guidelines on the Protection of Unaccompanied Migrant Children, Information Note, IOM Geneva, 2011. For the full document, refer to annex II of this document.

3. IOM activities benefiting unaccompanied migrant children

This chapter provides an overview of IOM's activities globally. The Organization's field of operation in relation to unaccompanied migrant children covers many different programmatic areas, including: health and resettlement-related activities; reception and integration in the country of destination; return and reintegration in the country of origin or a third country; family tracing and reunification; and research and information campaigns.

3.1 Health

Health assistance is a core element of IOM's work overall and equally in relation to unaccompanied migrant children. The different phases of the migration cycle (pre-departure, movement and employment) in the country of destination and return can expose unaccompanied migrant children to travel health threats, particularly if they are undocumented. Unaccompanied migrant children are often not informed about the health situation in the destination country (e.g. HIV/STI prevalence) and they often lack the means to undergo proper health assessment before departure, which may affect their health-seeking behaviour⁶² in the new country.

Upon arrival in the country of transit or destination, unaccompanied migrant children often live in overcrowded settings; and they may be forced into work that exposes them to unsafe working environments, including exposure to chemicals, heavy agricultural labour, petty crime and, in some cases, even sexual exploitation. According to international migration law, all children are entitled to the right to health.⁶³ Nevertheless, to date there has been no overall study that examines the extent to which this right has been implemented by national laws worldwide.⁶⁴ Depending on the legal status of an individual (whether

⁶² "Health-seeking behaviour" refers to the way in which individuals engage with health services, seek attention/advice, etc.

⁶³ According to paragraphs 23, 24 and 39 of the UN CRC.

⁶⁴ Currently, EU law does include general provisions on social assistance to unaccompanied minors who are asylum-seekers. However, these provisions are not specifically tailored to the specific situation of child victims

a residence permit holder, an asylum-seeker or an undocumented migrant), basic health care that goes beyond emergency treatment is often almost impossible to access.⁶⁵ Access to mental health care poses additional challenges as the process is not always regulated.

Moreover, barriers to health care can relate to unaccompanied migrant children's lack of information on the health system, their fear of being reported to the police, their fear of deportation (on the basis of their undocumented status), language or logistical barriers, discriminative attitudes among health staff, or the lack of information among health providers on migrant children's entitlements.⁶⁶ The issue of return is also important, as unaccompanied migrant children receiving medical treatment for a chronic disease such tuberculosis (TB) are not always able to access the same kind of line treatment in their home country.

IOM's strategies geared towards promoting the health of unaccompanied migrant children focus specifically on the following aspects: advocacy, health policy development, health service delivery, capacity-building, revision of national migration and health laws, as well as research and dissemination of information. Importantly, these activities are implemented in cooperation with a range of stakeholders, including: governments in countries of destination, transit and origin; civil society organizations, including migrant associations; and the private sector.

In the context of general health promotion and assistance to migrants, IOM facilitates access to health care based on the specific needs of unaccompanied migrant children and in relation to their host communities. This can cover a wide range of areas such as sexual and reproductive health, mental health, immunization, and environmental

of trafficking or undocumented migrants. Further insight is given by the IOM publications *Migration and the Right to Health: A Review of European Community Law and Council of Europe Instruments* (2007) and *Migration and the Right to Health: A Review of International Law* (2009). In addition, the COM(2010)95 final 2010/0065 (COD) "Proposal for a Directive of the European Parliament and of the Council on preventing and combating trafficking in human beings, and protecting victims, repealing Framework Decision 2002/629/JHA" from March 2010 explicitly mentions health care and special provisions for children in article 3.1.3.

65 A publication of the Health for Undocumented Migrants and Asylum Seekers (HUMA) Network in coordination with Medecins du Monde, "Are undocumented migrants and asylum seekers entitled to access health care in the EU? A comparative overview in 16 countries" (November 2010), showed that the access to health care by undocumented migrants, and to a lesser extent by asylum-seekers, is not guaranteed in the EU, and out of 16 EU countries, nine (i.e. Cyprus, the Czech Republic, Germany, Greece, the Netherlands, Poland, Slovenia, Sweden and the UK) do not respect the right to health of the children.

66 For further information, see: <http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.30.en.pdf>, or http://www.unitar.org/ny/sites/unitar.org.ny/files/Pace_Final_NY_Youth%2C%2520Migration%2520and%2520Health%5B1%5D_2.doc.

hygiene and control, as well as prevention and assistance of HIV/STIs. Furthermore, health promotion and education on migration health, including the right to health and related rights for both unaccompanied migrant children and the professionals involved in the management of migration health issues, also fall under this category of capacity-building.

Apart from health assessments, IOM provides several other complementary travel and integration-oriented health promotion services to unaccompanied migrant children, including treatment, counselling, health education, and immunization and medical escorts for travel and relocation.

In Yemen, between 2006 and 2008, IOM and UNICEF partnered to build the capacity of government officials, police officers and social workers on promoting and increasing assistance to unaccompanied migrant children, including actual and potential victims of trafficking and smuggling. The specially tailored training programme included health assessments and medical assistance in shelters and referral (see sections 3.2, 3.3 and 3.4 for more information on referral assistance in the context of resettlement, return and reintegration).

In addition, IOM can provide specific health assistance for unaccompanied migrant children during and in the aftermath of emergencies. In the case of the earthquake in Haiti, for instance, this included managing health issues related to mass movements, human trafficking cases and minors, as well as arranging medical evacuation for individuals.

In view of mental health, major developmental and psychological vulnerabilities may accompany the experience of unaccompanied migrant children, eventually including lack of parental care, substance abuse and symptoms of depression. These factors may be further heightened by the unexpected reality of undocumented migration versus the migration myths previously pursued, and not least where relating to trafficking situations. The critical period of identity formation of any unaccompanied migrant children may be threatened by the transitional nature of their experience, caused by frequent uprooting, a lack of stability and a lack of positive role models.

In 2006, IOM Rome, in conjunction with IOM Chisinau and IOM Bucharest, organized a series of training and exchange activities to reinforce the capacity of municipal social services in both origin/return and destination countries, with a view to raising capacity on psychological assistance to former VoTs, including minors. The training focused on conducting a psychosocial assessment of the family; evaluating the possible reintegration of a child based on these conditions; and her/his own psychosocial attitudes towards return to the family. The training also covered the psychological implications of migration on unaccompanied migrant children.



An example of a successful post-conflict activity is the two-year project “Expanded Post-Conflict Family and Child Support Programme”, which was started by IOM Cambodia in late 2000 and funded by Terres Des Hommes. This project contributed to the psychological rehabilitation of Cambodian children and adolescents in rural communities that had high concentrations of internally displaced persons (IDPs) which had been

exposed to and affected by intense armed conflict over the previous 30 years. It tried to particularly encompass assistance in the case of unaccompanied migrant children.

By providing a stable and stimulating learning environment in a health centre and conducting specialized training for doctors and peer educators, including additional assistance, family support and therapy for those having serious mental health problems, the project was able to raise awareness of mental health problems and thereby prevent further mental health effects. During the first year of project implementation, 125 children were identified as having behavioural and emotional problems; 17 parents and 40 children were referred for further evaluation and management at the health centre; and 60 peer educators were trained.

3.2 Resettlement-related activities

IOM plays an integral role in assisting governments to resettle refugees⁶⁷ worldwide in partnership and collaboration with the United Nations High Commissioner for Refugees (UNHCR), non-governmental organizations (NGOs) and others. A resettlement country provides unaccompanied refugee children⁶⁸ with legal and physical protection, including access to civil, political, economic, social, health and cultural rights similar to those enjoyed by nationals.⁶⁹ Of the cases of unaccompanied refugee children registered by the organization in 2010, IOM resettled 874 unaccompanied refugee children, of which 427 were female and 447 were male. Most of the unaccompanied refugee children originated from Africa (558); 171 came from Asia and Oceania; and 62 came from the Middle East. Furthermore, 46 individuals from the Americas (Colombia, Cuba, Ecuador and the United States) were assisted by IOM with their resettlement, and 37 unaccompanied refugee children were resettled from Europe. The majority of these unaccompanied refugee children were resettled to North America and Canada (464 in total), of which 345 were resettled to the United States. A total of 328 unaccompanied refugee children were resettled to Europe and 77 children were resettled to countries in Asia and Oceania (of which 69 were resettled to Australia).⁷⁰

Prior to resettlement, IOM conducts health assessments to ensure that unaccompanied refugee children are fit to travel and meet the health requirements of the country of destination, providing referrals for treatment when necessary. In addition, the Organization conducts age-sensitive and gender-sensitive pre- and post-assessment counselling to ensure that unaccompanied refugee children understand the health assessment process.

⁶⁷ A refugee is a person who meets the eligibility criteria under the applicable refugee definition, as provided for in international or regional refugee instruments, under UNHCR's mandate, and/or in national legislation (Master Glossary of Terms, UNHCR, June 2006).

⁶⁸ All unaccompanied refugee children that are referred to in this section are considered refugees according to the United Nations Convention Relating to the Status of Refugees that was approved at a special United Nations conference on 28 July 1951 and entered into force on 22 April 1954 (also known as the Geneva Convention), as well as its complementing Protocol Relating to the Status of Refugees (also known as the New York Protocol), which entered into force on 4 October 1967.

⁶⁹ Traditional resettlement countries include the United States, Canada, Australia, and the European Nordic countries; these traditionally include unaccompanied migrant children. Emerging resettlement countries that have recently begun accepting unaccompanied migrant children include some European (Czech Republic, France, and Portugal) and Latin American countries (Argentina, Brazil, Chile, Paraguay, and Uruguay).

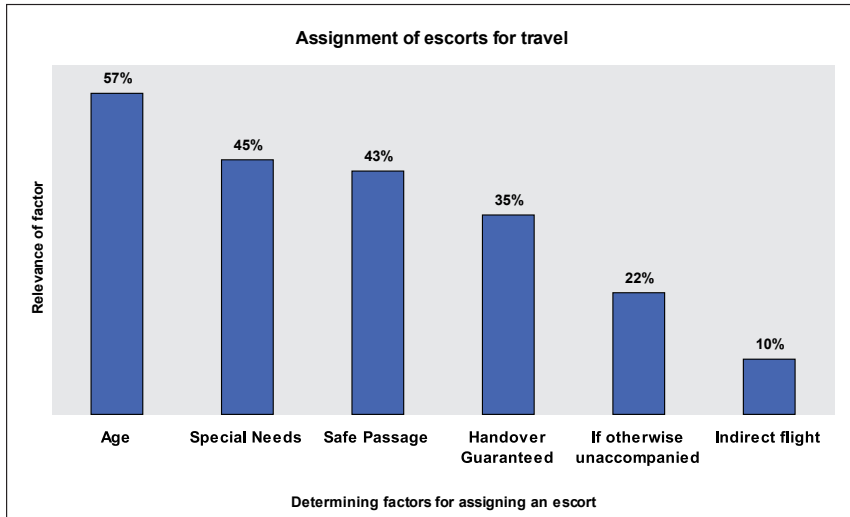
⁷⁰ These numbers are from the IOM MiMOSA Database 2010 that form part of the IOM programmatic and operational data (see footnote 8).

Apart from health assessments, IOM offers pre-departure cultural orientation training that is designed to provide unaccompanied refugee children with specifically tailored information about their country of destination. IOM also provides information that is designed to assist unaccompanied refugee children with the travel process; this includes information on in-flight safety and customs and security procedures – a critical type of information considering that most of the unaccompanied refugee children are first-time air travellers.

In general, pre-departure orientation focuses on the values and customs of the receiving country; it aims to prepare unaccompanied refugee children for migration by offering them opportunities to learn and reflect on the skills they will need to develop in preparation for their new life in the country of destination. Topics include, for example, time management, schedule-keeping, and the responsibilities of living in a household with shared roles. Moreover, education as the key to successful integration is a central topic of the pre-departure orientation sessions. With supplementary information designed to promote integration, IOM is in a position to provide the receiving agencies in the destination country with additional information on the background of refugees.

IOM's movement assistance includes transit and arrival assistance, and the arrangement of medical or non-medical escorts as necessary. In view of the particular vulnerability of unaccompanied children and to assure safe passage, escorts are contracted to accompany children on their flights to the respective country of return or resettlement (depending on the age or special needs of the children, or in case of an indirect flight). Escorts are selected according to the specific needs of the unaccompanied children. IOM Belgium, for instance, identifies escorts through the hospital and psychiatric institute, the refugee's network of relatives or the IOM Brussels Escorts' Database. In the case of Mexico, all unaccompanied children are accompanied by a child protection officer (OPI). When an escort is scheduled, the unaccompanied child is usually accompanied until his/her final destination. The handover to parents or an alternative legal guardian needs to be confirmed by the signature of a parent or a legal guardian. Unaccompanied children may also benefit from travelling with a larger group of refugees who share the same ethnicity or language.

Figure 4: Determining factors for assigning an escort within IOM⁷¹



IOM has developed an internal *Movement Management Manual* (MMM) that has a dedicated section on working with unaccompanied children to provide guidance to IOM operations staff. Regarding specific travel arrangements for unaccompanied children, operations staff in IOM offices are required to refer to this manual. The manual includes all standard operating procedures regarding movement preparation and assistance, as well as airline rules. The MMM moreover contains specific country chapters for traditional resettlement countries, sometimes with a specific paragraph on procedures relating to unaccompanied children.

⁷¹ IOM offices that participated in the Organization's internal review in 2009 were allowed to give multiple answers to the questions raised in the survey, considering that more than one factor could trigger the assignment of an escort. As a result, Figure 4 does not reflect responses 100 per cent, but rather the importance of each of the individual factors for the assignment of escorts.



IOM's work with Sudanese unaccompanied refugee children and adolescents – the so-called “Lost Boys and Girls” – between 5 and 26 years old who were resettled in the early 2000s illustrates the organization's role in the context of resettlement of unaccompanied refugee children.

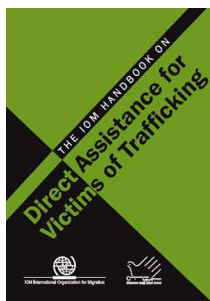
Having lost their parents in cattle raids through forced conscription into the Sudan People's Liberation Army and slavery, among others, this group of orphaned Sudanese children and young adults had spent most of their life in the Kakuma refugee camp in Kenya, where they were housed with older siblings or “caregivers”. IOM's Cultural Orientation Unit developed a special curriculum for this group; the curriculum focused on the role of the US foster family who would be sponsoring them upon their arrival to the United States, the US education and health care system, and the broad range of additional services that will be made available to them upon arrival.

Special emphasis on the rights of the child, as well as on US laws, rights and responsibilities, was also given. Five-day cultural orientation sessions addressed intergenerational conflict, peer pressure, negative influences within the school and the community, cross-cultural adaptation and coping mechanisms for dealing with cultural shock. While IOM provided the pre-departure cultural training, US resettlement agencies conducted most of the post-arrival integration activities. Out of a total of 3,361 Lost Boys and Girls resettled to the United States between 1999 and 2002, 524 were unaccompanied refugee children.

3.3 Reception and integration

IOM's assistance to unaccompanied migrant children in transit and destination countries is another major area of activity for the Organization. This can relate to short-term reception and/or protection of unaccompanied migrant children (in shelters), but also to longer-term assistance to support local integration, family tracing, or the preparation to return a child to his/her country of origin. In each case, these services are dependent on the best interest of the child as determined by the relevant authorities (see annex II for the information note on the legal framework).

IOM's activities within this area of work include the identification of unaccompanied migrant children, and specific needs assessments and/or health assessments (see sections 3.1 and 3.2). Extensive activities on providing shelter and reception take into account a psychosocial approach in shelter management; moreover, they relate to conducting recreational and counselling activities.



The *IOM Handbook on Direct Assistance for Victims of Trafficking* is an important tool for IOM's work from the point of referral to protection. With specific sections on minors, the Handbook serves as a reference and training tool for IOM staff and other partners working in shelters, identifying victims of trafficking, providing health and psychological assistance for victims of trafficking and cooperating with law enforcement officials. To date, the Handbook

has been translated into 12 different languages, including Albanian, Arabic, Chinese, Korean, Mongolian, Russian, and Turkish, with further translations being pursued.

The “Programme for the Protection, Return and Reintegration of Trafficked Women and Children in Western Balkans and Main Countries of Origin”, implemented by IOM Macedonia, provides reception and assistance to (potential) child victims of trafficking. From 2003 to 2009, the Ministry of Interior operated a well-established shelter for this vulnerable group, including a large number of at-risk minors. With IOM’s technical support, the NGO For A Happy Childhood included a support team and schedule of activities specifically tailored to children in the shelter, including psychological, vocational, recreational and art therapeutic activities.



The work of IOM’s office in Zimbabwe focuses on reception, interim care, and temporary shelter. At the child centres located within the Reception Support Centres at the border between South Africa and Botswana to Zimbabwe, IOM provides humanitarian assistance to irregular migrants who are returned in large numbers

across the border by South African and Botswana authorities every month. Until the year 2006, some of the returned migrants, including un-accompanied migrant children, were left with the Zimbabwean police at the border without assistance. The child centres currently focus on the provision of assisted voluntary return and reintegration (AVRR) assistance to unaccompanied migrant children. With funding from the Governments of the United Kingdom, the Netherlands, Japan and Sweden, IOM provides food, shelter, and counselling and information on HIV/AIDS, safe migration and the risks of human trafficking, as well as general support where it is most needed. As a result of extensive training and advocacy efforts by IOM and its partners, forced returns of unaccompanied migrant children have decreased dramatically, which shows that authorities have become more sensitive to the vulnerable situation of unaccompanied migrant children and their particular needs.

In terms of reception and integration of unaccompanied migrant children, IOM is implementing tailored capacity-building measures for all stakeholders involved, together with searching for potential possibilities for the local integration of unaccompanied migrant children into the country of destination, for example, with a foster family, a legal guardian or a responsible authority (e.g. social institutions or an orphanage). According to the specific needs of a child, IOM's activities include vocational training and support when referring an unaccompanied migrant child to a particular educational system or when conducting cultural orientation training to support timely integration (see section 3.2 for information on IOM's work on cultural orientation).

Focusing on reception and integration, the two-year Central European regional project of IOM "Improving the Quality of UAMAS' Guardianship and Care in Central European Countries", which started in September 2010 and is funded by the European Refugee Fund, aims to contribute towards the enhancement of the quality of guardianship and overall care of unaccompanied asylum-seeking children in Central European countries, in line with the EU Action Plan on Unaccompanied Minors, EU law and international law.

In order to promote common measures to address the specific needs of vulnerable groups among asylum-seekers and persons entitled to international protection, in particular unaccompanied asylum-seeking children, the project led to the development of the *Guardian and Caregiver Training Manual through Training of Trainers*, as well as the delivery of national training and dissemination of information.

3.4 Assisted voluntary return and reintegration

Assisted voluntary return and reintegration (AVRR) is a core activity of IOM and provides vital assistance to large numbers of migrants returning home every year. The vast majority of States recognize the value of AVRR as an essential component of an effective and humane migration management framework. IOM now implements AVRR programmes in all continents, in host and transit countries, as well as in countries of origin. One of the most challenging programmatic areas for IOM and its partners has been that related to the return and reintegration of unaccompanied migrant children.

Unaccompanied migrant children are especially vulnerable and require specific care and safeguards. Assisting the voluntary return of unaccompanied migrant children can be a complex undertaking for all stakeholders involved in the process of return. IOM has provided vital assistance to unaccompanied migrant children willing to reunite with their parents or relatives back in their countries of return or, alternatively, in a third country (in case the parents/legal guardians of an unaccompanied migrant child or youth are found to be legally resident in a third country). Consequently, an increasing number of IOM offices worldwide are becoming very engaged in implementing family assessments, family tracing, and facilitating family reunification. An integral part of this type of assistance is the provision of reintegration assistance that is viewed as having a long-term, positive effect on the child and his/her family. The role of the legal guardian is paramount to IOM's work and the best interest of the child is a primary consideration during the whole AVRR process (see chapter 2 for the international legal framework in this regard).

In the area of AVRR, IOM provides specifically tailored assistance to respond to the individual situation of an unaccompanied migrant child. This assistance includes information and return counselling (very often a useful tool to support legal guardians in conducting best interest determination; see chapter 2 and section 3.3 of this chapter), making travel arrangements (including escort assistance), reception assistance in countries of origin, facilitation of family reunification, and provision of reintegration assistance to the child (in some instances with support to the families as well).

Legal guardianship

The role of the legal guardian is paramount to IOM's work in the context of return of an unaccompanied migrant child from the country of destination to the country of origin (or a third country).

For AVRR assistance, IOM requires the confirmation of the legal guardians both in the country of origin and in the host country, in order to secure concrete arrangements for care and to define custodial responsibilities for unaccompanied migrant children in the country of return. In the absence of parents, the identity of a legal guardian is verified depending on the national law of the country of destination and the country of return.

In the majority of countries of destination where IOM assisted unaccompanied migrant children with AVRR, the role of the legal guardian is assigned to the relevant social services. In a smaller number of cases, private persons are appointed by the respective States as legal guardian (e.g. trustees, tutors); NGOs may take on this function, as well as shelter management services. Other IOM offices dealt with ministries (often the Ministry of Justice) or immigration authorities as the official entities designated by the State to assume the functions of legal guardianship. In the process of AVRR, the legal guardians in the country of origin are mostly the respective parents and, to some extent, the close relatives of the unaccompanied migrant child.

Social services, NGOs and relevant welfare departments in both host countries and countries of origin play important roles and have been proactively involved in assisting AVRR-related activities, such as family tracing, facilitating family assessments, preparing return documentation, organizing travel escorts, family reunification, reintegration activities, and follow-up monitoring.

Apart from generic AVRR guidelines and the Global Movement Management Guidelines (see section 3.2), several standard operational procedures on AVRR have been developed by IOM offices in Europe and Latin America. In Europe, work in this area has been most recently undertaken by IOM Belgium and IOM Switzerland. For the Latin American region, IOM took part in the Puebla Process (or Regional Conference on Migration⁷²) to develop specific guidelines for the assisted voluntary return (AVR) of Central American unaccompanied migrant children and adolescents, especially those who come from Mexico.

IOM in the Netherlands has built up extensive experience on assisting and counselling unaccompanied migrant children in the host country, as well as in assisting voluntary returns to the countries of origin. Within the framework of the project “Return and Emigration of Aliens from the Netherlands” (REAN), IOM The Hague has, since October 2009, sought to realize sustainable voluntary return of unaccompanied and aged-out migrant children (i.e. those over 18 years old and who thereby do not fit the definition of unaccompanied migrant children). Within the project, IOM The Hague provides support during the informed decision-making process with regard to voluntary return, concrete preparation for return, return travel, housing, education and/or employment after return. This project is implemented in collaboration with the Government of the Netherlands, the countries of return, NGOs and other relevant stakeholders. Moreover, the project ensures that sustainable reintegration opportunities are open to each individual. Experience has shown that the sustainability of a reintegration project largely depends on active participation by the unaccompanied migrant child himself/herself and, when possible and relevant, by the family back home.

72 The Regional Conference on Migration (RCM), or the Puebla Process, is a regional consultative process. For more information, please visit the official website of the conference: <http://www.rcmvs.org/> and see <http://www.iom.ch/jahia/Jahia/regional-consultative-processes>.



Within the context of the project “Return and Reintegration of Unaccompanied Minors”, IOM El Salvador has built on local capacity created through previous activities to focus on the protection of children returning to El Salvador from the United States. It also has strengthened local capacity for inter-institutional coordination of referral of returnees. IOM is working closely with the governmental Technical Commission in El Salvador in the areas of return to communities of origin, family reunification, reintegration and social reinsertion, prevention in communities and schools, and research and monitoring.

To date, 52 children and adolescents nationwide have benefited from an integrated approach that provides them with assistance and educational opportunities at their home communities, in coordination with the Government of El Salvador. In addition, the project focuses on strengthening governmental capacities to provide better follow-up to the reintegration of unaccompanied migrant children; an instrument has been created to identify the needs and aspirations of child and adolescent returnees; and documents have been published to guide the process of reintegration of unaccompanied migrant children and adolescents in the future.

3.5 Family tracing

Family tracing⁷³ is an area that has gained predominance within IOM's work in relation to unaccompanied migrant children in recent years.

Although family tracing is usually an integral part of AVRR, IOM conducts specific projects for family tracing aimed at a wider scope of migration management, by assisting countries of destination to conduct best interest determination for unaccompanied migrant children. By providing information on the socio-economic context of the minor in the origin country and the causes and expectations related to his/her migration, those in direct contact with the minor in the host country (e.g. social workers, legal guardians) can tailor integration paths that better respond to the minor's aspirations and needs.



⁷³ Family tracings are used to assess the socio-familial context of a child. It usually develops specific recommendations on the feasibility and sustainability of return, as well as proposals for unaccompanied migrant children's reintegration, based on the opportunities assessed in the context of origin. Usually, they are carried out by using a multilingual "interview protocol" and the information gathered is collected in a dedicated database. It is important that IOM is not involved in providing family assessments; these should rest ultimately with the guardians/competent authorities, with activities on the ground possibly aided by competent service providers. (Source: IOM Rome)

In emergencies and mass population displacements resulting from armed conflicts, natural disasters and other crises, children can become separated from their families or from other adults responsible for them. In these situations, child protection coordination arrangements also vary according to the situation of a given country and the composition of the stakeholders present. Therefore, care options must be explored among the relevant partners, and responsibilities, including the initiation of family tracing activities, should be clearly identified among those involved. Coordination and information sharing are central elements of the family tracing process to ensure that child protection standards are effectively met.

In the context of AVRR, IOM's activities include the implementation of family tracing and direct support towards family reunification. These activities are always preceded by a family assessment, in order to evaluate the impact of the return and reintegration of the child or adolescent in the family and the broader socio-economic context.

Within IOM, the area of family tracing has been largely developed by the IOM office in Rome and, since 2008, it has established a large regional outreach.⁷⁴ The Mission facilitates family tracing for unaccompanied migrant children in Italy (non-asylum-seekers), and offers assisted voluntary return and reintegration (AVRR) upon the request of the child. The psychological dimension and effects of return are first explored through family tracing, which is carried out through a qualitative interview with the child's family at their place of residence. This allows for an accurate assessment of the child's specific personal and migratory story, and his/her needs, as well as for the possible identification of vulnerabilities. Family tracings are implemented through the use of an interview protocol and are often complemented by the observations of IOM interviewers of the social

⁷⁴ This includes IOM offices in Europe (Albania, France, the former Yugoslav Republic of Macedonia, Germany, Greece, Kosovo/UNSC 1244, the Republic of Moldova, Serbia, Spain, Turkey, Ukraine), Northern and sub-Saharan Africa, (Algeria, Lebanon, Libya, Tunisia, Burkina Faso, Senegal, Guinea Conakry, Ghana, Nigeria, Cameroon, Ivory Coast and Togo), South Asia (Afghanistan, Bangladesh, Sri Lanka and Pakistan) and South America (Chile, Bolivia, Peru, Brazil and El Salvador).

context in which the family lives, by contacting local social services, community and/or religious leaders, and neighbours. From April 2008 to August 2011, 1,324 family tracings have been carried out based on children's profiles provided by the Italian Committee for the Foreign Minors. Importantly, the number of AVRRs carried out during the same period is considerably smaller: 13 minors returned voluntarily to the following countries: Kosovo/UNSC 1244 (2), Albania (1), the Republic of Moldova (1), Spain (1; as a third country of residence of legal guardians), Egypt (1), Brazil (2), Ghana (1), Dominican Republic (1), Bolivia (1), Chile (1), and Turkey (1). Four of these AVRRs involved female minors and nine involved male minors. The reason for such small figures is the fact that AVRRs from Italy are implemented only if both of the following conditions are satisfied: 1) a minor requests return, and 2) the return is considered by Italian authorities to be in the minor's best interests.

3.6 Research and information campaigns

Since unaccompanied migrant children remain a relatively unknown phenomenon, the undertaking of comprehensive research, together with the implementation of tailored information campaigns for both unaccompanied migrant children and communities in countries of origin, transit and destination, is an essential field of activity for IOM. In addition, sound research is a necessary tool for the development of specifically tailored assistance measures and intervention methods.

Research and publications

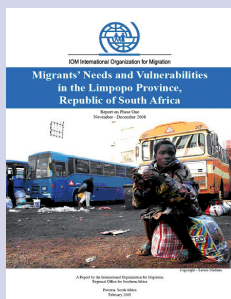
Within this particular field of work, IOM's involvement comprises the assessment and compilation of country-specific information; the assessment and analysis of relevant actors in the field through primary interviews with children, conversations and round tables with the stakeholders involved; and the analysis and presentation of these findings. All research, including data collection as well as the results of personal interviews, strictly adheres to IOM's data protection principles.



The IOM publication *Human Rights of Migrant Children* (2008) gives an overview of the international legal framework containing norms relevant to the protection of child migrants. Particular focus is on the International Convention on the Rights of the Child (CRC), since this widely ratified instrument constitutes the most all-encompassing basis for the protection of children, including children who are outside their State of origin. The publication provides a detailed examination of rights found in the CRC which are of particular relevance to migrant children. Furthermore, a review of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families in the context of working children, and of other human rights and international criminal law instruments, are included.

The publication aims to provide a comprehensive picture of the international norms that form the legal basis for the effective protection of children on the move, taking into consideration the specific situation of these children, their resourcefulness and their vulnerability alike.

In 2006, IOM Brussels implemented the project “Exchange of Information and Best Practices on First Reception, Protection and Treatment of Unaccompanied Minors” (EUAM I & II) with funding from the European Commission-DG Justice, Freedom and Security. The 12-month project was conducted in order to improve the efficiency of national agencies and service providers in relation to the treatment of unaccompanied migrant children in full compliance with EU law. With Austria, Belgium, Bulgaria, the Czech Republic, Poland and Romania, six countries were directly targeted by the project. By promoting visits and exchange of information and knowledge amongst national experts of the six selected countries, this project led to the design of the *Manual of Best Practices and Recommendations*.⁷⁵



IOM Pretoria conducted a study on *Migrants' Needs and Vulnerabilities in the Limpopo Province, Republic of South Africa* in two phases. Phase I of the study was conducted from November to December 2008, while Phase II was done from February to March 2009. The aim of the study was to understand migration trends and challenges faced by migrants when entering South Africa. The

findings, recommendations and stories of unaccompanied migrant children's experiences in the study outlined their vulnerability, specifically by examining migrants' access to basic services such as health care and shelter and further exploration of the specific situations that migrants face during transit, repatriation and detention. These include aspects of gender-based violence, safety and protection. For example, nearly one third of the 169 children and youths interviewed indicated that they had experienced violence or robbery during their migratory journey. The study emphasizes the importance of providing comprehensive protection and assistance throughout all stages of the children's journey.

IOM participated actively in the empirical research for the study *Separated, Asylum-seeking Children in European Union Member States - Comparative Report*,⁷⁶ funded by the Fundamental Rights Agency (FRA) of the European Commission. The research included 336 separated children from different countries. Simultaneously implemented in 12 EU Member States, this study examines the experiences and views of separated, asylum-seeking children and those of the adults responsible for their care. It addresses the need to incorporate children's views and accounts of their experiences into the work of all relevant stakeholders and to inform policy action.

76 The study is available online at http://www.fra.europa.eu/fraWebsite/attachments/FRA-fullreport-sep-asylum-conference-2010_EN.pdf.



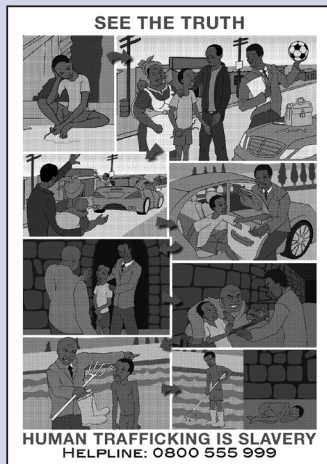
The 2011 study *Child and Adolescent Migrants from Central America in Southern Mexico Towns*, conducted by IOM Mexico, looks at the plight of children and adolescent migrants in Mexico's southern border region.

In order to better understand the background of the large but unknown numbers of irregular children from Central America in transit to the United States or living in the country, the IOM study includes interviews with children working on farms, as domestic workers and as street vendors. It reveals situations of physical, verbal abuse and exploitation. As the first study of its kind in Mexico, the study highlights the difficult situation that young Central American migrants face, particularly those who remain for extended periods in the southern border region of Mexico. The study is part of a larger regional project that includes a series of national workshops to discuss research findings, culminating in a regional workshop to be held in El Salvador in 2011.

Information campaigns

For developing tailored information campaigns, IOM's activities in this area range from assessing the specific needs and interests of the target group (unaccompanied migrant children themselves, other stakeholders involved or the community at large). On that basis, priority needs, constraints and recommendations are developed and implemented through different media and materials, events, and cultural activities to raise awareness about the issue.

The information campaign *Solidarité Avec Les Enfants du Maroc* (SALEM), which the IOM office in Rabat implemented in coordination with IOM Rome, aimed to prevent unaccompanied migrant children from travelling through irregular migration channels by raising their awareness of irregular migration and potential links to human trafficking. The campaign was set up to strengthen the local child protection system and services in Morocco to reduce the exposure of at-risk children to trafficking and irregular migration. Its main pillar was the reinforcement of social services and network of services to offer viable alternatives to the migratory project of children and their families. Under the second pillar of activities – *animation sociale* – specialized social workers reached out to youths by offering an opportunity for them to actively participate in cultural, sport or other leisure activities, and by identifying educational and vocational training options.



IOM Pretoria developed a series of cartoons to raise awareness of trafficking for forced labour, trafficking for sexual exploitation and trafficking for domestic servitude, by showcasing the plight of child victims of trafficking who often end up in an unaccompanied situation. The cartoon messages were developed for rural populations in Southern Africa and piloted in the Pretoria townships with adults and children by engaging them during the design phase. The cartoon series, which featured a help-line for

reporting trafficking cases, was funded by the Bureau for Population, Refugees and Migration of the US Department of State, as well as the Norwegian Embassy in South Africa.

4. Inter-organizational partnerships and international cooperation

IOM's activities are often implemented within an inter-organizational framework that includes governmental and non-governmental counterparts and international organizations and other important actors such as UNICEF, Save the Children, UNHCR, Terre des Hommes (TdH) and the International Committee of the Red Cross (ICRC). IOM plays an active role in different national and international working groups, where discussions revolve around crucial areas of intervention related to the assistance and protection of children on the move.⁷⁷



Since 2006, IOM has implemented the “Programme of Assistance for the Return and Reintegration of Trafficked Children in West Africa”, funded by the Bureau for Population, Refugees and Migration of the US Department of State. In partnership with children’s shelters, NGOs and child protection associations in West Africa, the programme has since assisted 565 trafficked children to return home and reintegrate into their communities of origin. In collaboration with its partners, IOM provides psychological counselling and health care, support for school enrolment, and vocational training for returned children.

⁷⁷ Presently, IOM is part of two global working groups tackling issues related to unaccompanied children: The Tripartite Working Group in Geneva includes IOM, UNICEF and UNHCR; the Working Group “Children on the Move” chaired by Global Movement for Children (GMC) and including UNICEF, ILO, UNHCR, Save the Children, Oak Foundation, World Vision, and TdH; and the Global Migration Group (GMG).

Income-generation projects are also provided for families and communities. The programme has moreover included a capacity-building component, namely the training of relevant government officials and service delivery organizations to enable them to assess, evaluate and improve their responses to child trafficking, in general, and the protection of child victims, in particular. Based on its good practices, the programme has become an established regional platform for regional cooperation, exchange of expertise and capacity-building.

In the framework of IOM's International Dialogue on Migration (IDM), the workshop "Migration and Transnationalism: Opportunities and Challenges" was held in March 2010 in Geneva, Switzerland. As an interactive forum for IOM Member and Observer States, as well as international and non-governmental organizations and other partners, this workshop was an opportunity to discuss the implications of transnationalism and migrant networks for States, societies and individuals. The workshop focused on the impact of transnationalism on families, exploring how the concept of family changes in the light of transnationalism and analyzing the experiences of separated families in the light of specific governmental policies and programmes.



The regional project "Protecting Unaccompanied Migrant Children" provides specialized training to migration officials and other relevant authorities in the Central American region on child protection. The

training focussed on the specific situations of the different countries as places of origin and/or transit of unaccompanied migrant children travelling to the United States. Partner countries of the project are Mexico, Guatemala, Honduras, El Salvador, Nicaragua and the

Dominican Republic. IOM is implementing the project activities by providing technical input for training, developing a training module and referral documents that aim to increase protection standards during the process of detention and return of unaccompanied migrant children to the countries of origin. IOM also aims to help create specialized task forces in the different countries of Central America, following the example of the child protection officers (OPI) group set up by the Government of Mexico in 2008. The OPIs (migration officers) are currently key actors in Mexico in the identification of possible victims of trafficking, victims of kidnapping or other vulnerable persons in need of international protection. Since 2009, training has been conducted jointly with UNICEF and UNHCR for relevant authorities in Guatemala, El Salvador, Honduras and the Dominican Republic. In 2011, similar training activities will be organized in Nicaragua, Costa Rica and Panama, with the support of the Government of Mexico and as part of an agreement of the RCM⁷⁸ process.

The cooperation between IOM and other agencies, as well as civil society, has been critical to reinforcing understanding of the needs of unaccompanied migrant children and to sharing good practices across countries and regions. At the same time, partnerships have greatly nurtured IOM's assistance to unaccompanied migrant children around the world, allowing IOM to strengthen and tailor its work to different contexts in countries of origin, transit and destination.

⁷⁸ The Regional Conference on Migration (RCM), or the Puebla Process, is a multilateral regional forum on international migration which involves countries that, from different perspectives, share a common problem, based on experiences relating situations of origin, transit and destination for migration. The RCM is one of the concrete outcomes of the Summit of Presidents called Tuxtla II, held on February 1996. Today the member countries are: Belize, Canada, Costa Rica, El Salvador, United States, Guatemala, Honduras, Mexico, Nicaragua, Panama and the Dominican Republic. IOM is one of the regional and international observer organizations. For more information, please visit the official website of the conference.

Annex I: Publications by the International Organization for Migration (IOM)

- 2011 *IOM Guidelines on the Protection of Unaccompanied Migrant Children*. IOM Geneva.
- 2010a *Migration Health: Report of Activities 2008–2009*. IOM Geneva.
- 2010b *Niños, Niñas y Adolescentes Migrantes Centroamericanos en Poblaciones del Sur de México*. Estudio México, IOM México DF.
- 2009a *Migration and the Right to Health: A Review of International Law*. IOM Geneva.
- 2009b *World Migration Report 2010 - The Future of Migration: Building Capacities for Change*. IOM Manila.
- 2008a *Exchange of Information and Best Practices on First Reception, Protection and Treatment of Unaccompanied Minors: Manual of Best Practices and Recommendations*. European Commission DG JFS ARGO Programme (2006), IOM Brussels.
- 2008b *International Migration Law N°15 - Human Rights of Migrant Children*, IOM Geneva.
- 2007a *Migration and the Right to Health: A Review of European Community Law and Council of Europe Instruments*, IOM Geneva.
- 2007b *The IOM Handbook on Direct Assistance for Victims of Trafficking*. IOM Geneva.
- 2006a *Resource Book for Law Enforcement Officers on Practices in Combating Child Trafficking*. IOM Vienna, http://publications.iom.int/bookstore/index.php?main_page=product_info&products_id=153.
- 2004a *International Migration Law N°1 - Glossary on Migration*. IOM Geneva.
- 2004b *Trafficking in Unaccompanied Minors in Ireland*, IOM Dublin, <http://www.iomdublin.org/Publications/Trafficking%20in%20Unaccompanied%20Minors%20in%20Ireland.pdf>
- 2003 *Trafficking in Unaccompanied Minors in the European Union: Research and European Conference*, IOM Paris.

- 2002 *Children First – Minors in the Asylum Process: A Training Programme for Officials*, IOM Helsinki.
- 2001 *Trafficking in Unaccompanied Minors for Sexual Exploitation in the European Union*, IOM Brussels.

Annex II: IOM Guidelines on the Protection of Unaccompanied Migrant Children

Information Note

(January 2011)



Promote the positive affirmation of children's rights, in particular the right to their own identity, the right to grow up in secure conditions, the right to care, the right to a family, the right to be loved and to play, and the right to health, education, social inclusion, equal opportunities, sport and a clean and protected environment and the right to obtain information on such issues, with a view to establishing a child-friendly society, in which children can feel protected and actively involved.⁴⁰

⁴⁰ European Parliament resolution of 16 January 2008: Towards an EU strategy on the rights of the child (2007/2093(INI)).

I. Definition of unaccompanied and separated children

“Unaccompanied children’ (also called unaccompanied minors) are children, as defined in article 1 of the Convention on the Rights of the Child of 20 November 1989 (CRC), 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.”⁴¹

“Separated children’ are children, as defined in article 1 of the CRC, who have been separated from both parents, or from their previous legal or customary primary caregiver, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members.”⁴²

A “child as defined in article 1 of the Convention” means “every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier.”⁴³

II. Principles

Unaccompanied children are entitled to international protection under international human rights law, international refugee law, international humanitarian law⁴⁴ and various regional instruments, and it is essential that they are provided with effective protection and assistance in a systematic, comprehensive and integrated way. Obligations deriving from the Convention on the Rights of the Child vis-à-vis unaccompanied and separated children include the obligation to develop national legislation, establish administrative structures, carry out research and data compilation, and provide comprehensive training.

The following principles must be respected throughout the migration process of all children.

41 Committee on the Rights of the Child, General Comment n°6, Treatment of Unaccompanied and Separated Children Outside Their Country of Origin, CRC/GC/2005/6, 1 September 2005, para. 7.

42 Ibid., para. 8.

43 Ibid., para. 9.

44 See annex I.

1. Principle of non-discrimination

States shall “respect and ensure” rights for children set out in the Convention to all children in their jurisdiction without discrimination (article 2, CRC). Unless otherwise explicitly stated in the Convention, the enjoyment of rights is not limited to national children but must be available to all children, including asylum-seeking, refugee and migrant children, irrespective of their nationality, immigration status or statelessness.⁴⁵ “This principle, when properly understood, does not prevent, but may indeed call for, differentiation on the basis of different protection needs such as those deriving from age and/or gender.”⁴⁶

2. Best interests of the child

Best interests of the child are a primary consideration in all actions concerning children, including the search for short and long-term solutions (article 3, CRC). “The principle must be respected during all stages of the displacement cycle. At any of these stages, a best interests determination must be documented in preparation of any decision fundamentally impacting on the unaccompanied or separated child’s life.”⁴⁷ This determination “requires a clear and comprehensive assessment of the child’s identity, including her or his nationality, upbringing, ethnic, cultural and linguistic background, particular vulnerabilities and protection needs.”⁴⁸

The appointment of a competent guardian as expeditiously as possible is a key procedural safeguard to ensure respect for the best interests of an unaccompanied or separated child.⁴⁹ In large-scale emergencies, where it will be difficult to establish guardianship arrangements on an individual basis, the rights and best interests of separated children should be safeguarded and promoted by States and organizations working on behalf of these children.⁵⁰ In cases where children are involved in asylum procedures or administrative or judicial proceedings, they should, in addition to the appointment of a guardian, be provided

⁴⁵ General Comment n°6, op. cit., para. 12.

⁴⁶ Ibid., para. 18.

⁴⁷ Ibid., para. 19.

⁴⁸ Ibid., para. 20.

⁴⁹ Ibid., para. 21.

⁵⁰ Ibid., para. 38.

with legal representation.⁵¹ At all times, children should be informed of arrangements with respect to guardianship and legal representation, and their opinions should be taken into consideration.⁵²

3. *Life and full development*

Under article 6 of the CRC, the right to life, survival and development is recognized. Many of the obligations of the Convention, particularly those related to health, adequate standard of living, education, leisure and play (articles 24, 27, 28, 29 and 31) are relevant to ensuring the maximum development of the child.⁵³ The Convention provisions protecting the child from violence and exploitation (in particular articles 19 and 32–39) are as vital to maximum survival and development as those on the provision of services.⁵⁴

4. *Family unity*

No one shall be subjected to arbitrary interference with his or her family. The family, as the natural and fundamental group unit of society, is entitled to protection by the State (article 16, CRC; articles 14 and 44, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW)⁵⁵).⁵⁶

All efforts should be made to return an unaccompanied or separated child to his or her parents except where further separation is necessary for the best interests of the child. These efforts should also take full account of the right of the child to express his or her views (article 12, CRC).⁵⁷

5. *Non-refoulement*

The receiving State must respect its international obligations, in particular its *non-refoulement* obligation. It must not return a child to a country

51 *Ibid.*, para. 36.

52 *Ibid.*, para. 37.

53 K. Touzenis, *Human Rights of Migrant Children*, International Migration Law Series No. 15, IOM, 2008, p. 23.

54 *Implementation Handbook for the Convention on the Rights of the Child*, UNICEF, 2002, p. 104.

55 See article 14, ICRMW, 18 December 1990, U.N.G.A. Res. 45/158.

56 See also articles 12 and 16(3), Universal Declaration of Human Rights (UDHR); article 10(1), International Covenant on Economic, Social and Cultural Rights (ICESCR); and articles 17 and 23, International Covenant on Civil and Political Rights (ICCPR).

57 General Comment n°6, *op. cit.*, para. 81. See also articles 10(1), CRC and article 44(2), ICRMW.

where there are substantial grounds for believing that there is a real risk of irreparable harm to the child (article 33, Convention relating to the Status of Refugees;⁵⁸ article 3, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT),⁵⁹ articles 6 and 37, CRC). The assessment of the risk of such serious violations should be conducted in an age and gender-sensitive manner and should, for example, take into account the particularly serious consequences for children of the insufficient provision of food or health services.⁶⁰

6. Evolving capacities

Article 5 of the CRC mandates that State Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the Convention. The Committee on the Rights of the Child has frequently expressed concern where countries do not appear to have fully accepted the concept of the child as an active subject of rights, relating this to article 5 and to article 12 of the CRC. National lawmakers and administrators should be mindful of the capacity of the child to exercise his or her rights to nationality (article 5, CRC); that the Convention requires protection of and care for children; and that a child should be considered a bearer of rights.⁶¹

7. Participation

The views of children should be given “due weight in accordance with the age and maturity of the child” (article 12, CRC).

8. Confidentiality

Confidentiality of the information received in relation to an unaccompanied or separated child should be protected, consistent with the obligation to protect the child’s rights, including the right to privacy (article 16, CRC).⁶²

58 See article 33, Convention relating to the Status of Refugees, 28 July 1951, 189 U.N.T.S. 150.

59 See article 3, CAT, 10 December 1984, U.N.G. A. Res. 39/46, 1465 U.N.T.S. 85.

60 General Comment n°6, op. cit., para. 26–27.

61 K. Touzenis, op. cit., pp. 22–23.

62 General Comment n°6, op. cit., para. 29.

III. Initial assessment and measures

Actions required for the care and protection of unaccompanied children should include: measures to prevent separation; early identification of a child as unaccompanied; proper registration; temporary care arrangements and tracing of family members, assessment for family reunion and long-term solutions such as family reunion (where possible and if in the child's best interests) or alternative long-term placement. The children should also have access to education during the status assessment/family tracing. A State should have staff specially qualified to deal with children.

The specific situation of each child (ethnic and migratory backgrounds, cultural diversity, etc.) should be taken into consideration on a case by case basis. Particular attention should be given to the vulnerable situation faced by VoTs.

1. Identification

Identification of a child as separated or unaccompanied immediately upon arrival or as soon as his/her presence in the country becomes known to the authorities should be prioritized (article 8, CRC).

2. Registration

Registration and documentation must be carried out as soon as possible after a separated child is identified.⁶³ Establishing his/her identity and providing him/her with personal identity documentation are paramount. An initial interview should be conducted in an age-appropriate and gender-sensitive manner, in a language understood by the child, by professionally qualified persons in order to ascertain the identity of the child, including the identity of both parents and siblings, as well as the nationality of the child. During the interview, particular attention shall be given to the reasons for being separated or unaccompanied (e.g. parents are still in the country of origin, were lost during travel or died) as well as to the identification of particularly vulnerable children (e.g. those with disabilities, victims of trafficking in persons, victims of trauma (former

child soldiers)). Asylum-seeking children, including those who are unaccompanied or separated, shall enjoy access to asylum procedures and other complementary mechanisms providing international protection, irrespective of their age.⁶⁴

3. Family tracing

Tracing of family members shall be commenced as early as possible after a child has been identified as separated or unaccompanied and be proactive. Even if immediate reunification is not possible, tracing should be carried out on behalf of every separated child with a view to at least restoring contact with close or extended family members, or with previous primary caregivers.⁶⁵

However, the safety of the child and his/her family must be paramount. “Tracing is an essential component of any search for a durable solution and should be prioritized except where the act of tracing, or the way in which tracing is conducted, would be contrary to the best interests of the child or jeopardize fundamental rights of those being traced.”⁶⁶

IV. Specific protection needs

1. Appointment of a guardian

In order to secure the proper representation of an unaccompanied or separated child’s best interests, a guardian should be appointed as soon as the unaccompanied or separated child is identified. With a view to ensuring the respect of the best interests of the child, the guardianship should normally be assigned to an accompanying adult family member or non-primary family caretaker unless there is an indication that it would not be in the best interests of the child to do so. In cases where a child is accompanied by a non-family adult or caretaker, suitability for guardianship must be scrutinized more closely.⁶⁷

64 General Comment n°6, op. cit., para. 66. *UNHCR Guidelines on International Protection: Child Asylum Claims under articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*, UNHCR, 22 December 2009.

65 *Inter-agency Guiding Principles on Unaccompanied and Separated Children*, op. cit., p. 35.

66 General Comment n°6, op. cit., para. 80.

67 *Ibid.*, para. 34.

2. Accommodation arrangements

The Convention on the Rights of the Child imposes an obligation on States Parties to also provide alternative care arrangements for unaccompanied children outside their country of origin.

When choosing among the options mentioned in article 20, paragraph 3 of the CRC, due regard should be given in particular to the ethnic, religious, cultural and linguistic background of the children.⁶⁸ In addition, priority should be given to community-based solutions that build on existing social structures, whereas institutions should be always considered as a last resort, even during emergencies.⁶⁹

3. Access to quality education

The access to quality education should be maintained during all phases of the migration cycle. Unaccompanied children should attend local school; where educational training is not locally available, facilities provided to unaccompanied children should also be available to other children.⁷⁰ The education should also include vocational training for both girls and boys. Access to quality education should also be ensured for children with special needs, in particular children with disabilities.

All unaccompanied and separated children have the right to maintain their cultural identity and values, including the maintenance and development of their native language.⁷¹

4. Health

Unaccompanied children should have the same right to access to health care as national children.

In line with the right of the child to the enjoyment of the highest attainable standard of health, recognized by article 24 of the CRC, the health facilities should be capable of taking in due consideration the

68 Ibid, para. 40.

69 *Inter-agency Guiding Principles on Unaccompanied and Separated Children*, ICRC, IRC, Save the Children, UNICEF, UNHCR, op. cit., p. 46.

70 Ibid., p. 49.

71 General Comment n°6, op. cit., para. 42.

particular mental and physical vulnerability of unaccompanied children and to properly address the psychological stress or traumas suffered by many of them. The mental health care provided should also be culturally appropriate and gender-sensitive. Qualified psychosocial counselling should also be provided.⁷²

5. Legal and practical measures to address the particular vulnerability to exploitation of unaccompanied children

Unaccompanied or separated children in a country outside their country of origin are particularly vulnerable to exploitation and abuse. Necessary measures include identifying unaccompanied and separated children; regularly inquiring as to their whereabouts; and conducting information campaigns that are age-appropriate, gender-sensitive and in a language and medium that is understandable to the child.⁷³ The adoption of an adequate legislation to counter the activity of the criminal organizations responsible for trafficking or other types of child exploitation should also be considered a priority.

6. Specific measures for child soldiers

The special protection measures for child soldiers should include: prevention of recruitment, appropriate support services to former child soldiers to enable reintegration into normal life, strict application of the non-refoulement principle and granting of refugee status.⁷⁴

7. Detention

In 2010, the United Nations Human Rights Council's Working Group on Arbitrary Detention stated that although administrative detention as such of migrants in an irregular situation is not in contravention of international human rights instruments, "immigration detention should gradually be abolished". If there has to be administrative detention, the Working Group recalled that "the principle of proportionality requires it to be the last resort" and that "strict legal limitations must be observed and judicial safeguards be provided for". In addition, in the Working Group's view: "the detention of minors, particularly of unaccompanied

72 Ibid., paras 46–48.

73 Ibid., para. 52.

74 Ibid., paras 54–60.

minors, requires even further justification. Given the availability of alternatives to detention, it is difficult to conceive of a situation in which the detention of an unaccompanied minor would comply with the requirements stipulated in article 37 (b), clause 2, of the Convention on the Rights of the Child, according to which detention can be used only as a measure of last resort.”⁷⁵

On the basis of article 37 (b) of the CRC, the Committee on the Rights of the Child has affirmed that: “Unaccompanied or separated children should not, as a general rule, be detained” and, in any case, “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”.⁷⁶ In compliance with article 37 (b), the Committee also recalled that “all efforts, including acceleration of relevant processes, should be made to allow for the immediate release of unaccompanied or separated children from detention and their placement in other forms of appropriate accommodation”.⁷⁷

Moreover, a child deprived of his or her liberty is to be treated with humanity and respect for the inherent dignity of the human person, in a manner which takes into account the particular needs of the child’s age and its rights: to be separated from adults unless it is considered in the child’s best interests not to do so; to be allowed contact with family, through correspondence and visits, save in exceptional circumstances; to have prompt access to legal and other appropriate assistance; to challenge the legality of the deprivation of liberty before a court or other competent, independent and impartial authority; and to have a prompt decision.⁷⁸

Finally, the Special Rapporteur on the human rights of migrants recalled that deprivation of liberty of children in the context of migration should never have a punitive nature.⁷⁹

⁷⁵ U.N. G.A., Human Rights Council, 13th Sess., Report of the Working Group on Arbitrary Detention, Chairperson-Rapporteur: El Hadji Malick Sow, U.N. Doc. A/HRC/13/30 (Jan. 15, 2010) at pp. 24–25, paras 58–61. See also the Working Group’s earlier Deliberation No. 5 on the situation regarding immigrants and asylum-seekers (U.N. Doc. E/CN.4/2000/4, annex II (Dec. 28, 1999) at pp. 29–30).

⁷⁶ General Comment n°6, op. cit., para. 61.

⁷⁷ *Idem*, in fine.

⁷⁸ *Implementation Handbook for the Convention on the Rights of the Child*, op. cit., p. 540.

⁷⁹ The Special Rapporteur on the human rights of migrants, Annual Thematic Report to the Human Rights Council, A/HRC/11/7 of 14 May 2009; Annual Report to the General Assembly A/64/213 of 3 August 2009.

8. Juvenile offenders

Unfortunately it may happen that criminal proceedings need to be brought against a child non-national – either based on irregular entry or due to illegal activities in the host state.

In these cases it is important to follow the international standards laid down in the CRC and in the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (known as the Beijing Rules).⁸⁰

Article 40 of the CRC covers the rights of all children charged or sentenced under the penal law. Thus, it embraces treatment from the moment an allegation is made, through the investigation, arrest, charge, any pre-trial period, trial and sentence. The article requires States to promote a distinctive system of juvenile justice for children (i.e. up to 18 years or the age of majority), with specific positive rather than punitive aims set out in paragraph 1.⁸¹ Article 40 lists minimum guarantees for the child and requires States Parties to set a minimum age of criminal responsibility, to provide measures for dealing with children who may have infringed the penal law without resorting to judicial proceedings, and to provide a variety of alternative solutions to institutional care. In all cases, it is important to apply a child-focused approach, so that migrant children are not seen as delinquents but rather as individuals in need of protection, as reflected in the development of international law, which has merged juvenile justice with welfare services and protection.⁸² In any case involving a child, States should ensure that the child is treated in a manner consistent with their sense of dignity and worth.

9. Employment of children

It has to be recognized that children who migrate very often do so with an economic project in mind and put this into a context of protection. National children often have jobs before they turn 18 and as long as this is carried out without harm to the child it is acceptable. There has to be a difference between “work” and “exploitation”.

⁸⁰ GA Resolution A/RES/40/33 from 1985.

⁸¹ CRC, art. 40(1): States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

⁸² G. van Bueren, *The International Law on the Rights of the Child*, p. 1995.

Article 10 of the ICESCR states that:

States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development... States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular: a) Provide for a minimum age or minimum ages for admission to employment; b) Provide for appropriate regulation of the hours and conditions of employment; c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

This article is integrated into the CRC. Article 32 recognizes that work which is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health, physical, mental, spiritual, moral or social development, shall be prevented.

Minimum age and regulation of hours and conditions of employment are especially crucial with regard to children. The fact that the article does not provide details for the content of these regulations is a weakness.⁸³ Detailed regulations should be enacted and enforced for all children who find themselves in the labour market. ILO Convention No. 138 establishes that States should set a minimum age for employment or work, which should be no lower than the age of compulsory schooling and in any case not lower than 15 years.⁸⁴ Moreover, the ILO Convention aims to protect children from any type of employment or work, which by its nature is likely to jeopardize the health, safety or morals of children.⁸⁵

10. Training of personnel dealing with unaccompanied children

The training of officials working with separated and unaccompanied children and dealing with their cases is of the utmost importance for the effective implementation of the rights of unaccompanied children. The training programmes should include the following elements: principles and provisions of the Convention, knowledge of the country of origin of separated and unaccompanied children, appropriate interview techniques, child development and psychology, cultural sensitivity and intercultural communication.⁸⁶

⁸³ The details are to be found in ILO Recommendation n°146, para. 12, which recommends that the conditions under which persons under the age of 18 are employed should be maintained at a satisfactory standard and supervised closely. However, the Recommendation does not specify the exact number of hours permissible. It does recommend that the hours be strictly limited both on a daily and a weekly basis. Such limitations are obviously valid for all children. Nevertheless, the provisions leave much too broad a margin of appreciation.

⁸⁴ ILO Convention 138, article 2(4) allows for an initial minimum age of 14 years in relation to States with an insufficiently developed economy; article 2(5) goes on to state that: Each Member which has specified a minimum age of 14 years in pursuance of the provisions of the preceding paragraph shall include in its reports on the application of this Convention submitted under article 22 of the Constitution of the International Labour Organization a statement: (a) That its reason for doing so subsists; or (b) That it renounces its right to avail itself of the provisions in question as from a stated date. One hundred and fifty-seven States are parties to this Convention.

⁸⁵ ILO Convention 138, art. 3.

⁸⁶ General Comment n°6, op. cit., para. 96.

V. Long-term options

1. *Return to the country of origin*

All returns must be consistent with respect for the rights (including the rights to dignity and privacy) of the child. Steps to ensure sustainable return include evaluating the safety, security and other conditions, including socio-economic conditions (effective access to basic social rights such as education, training and health), awaiting the child upon return, which may require home study conducted by social network organizations. In other words, they may only be returned to country of origin if, on arrival, adequate reception and care are available (based on their needs, age and degree of independence). Care can be provided by parents or other adults responsible for the child, or by governmental or non-governmental bodies, it should be obligatory to ensure that a legal guardian is available in the country of origin.

Ideally, the return of separated children, regardless of their status, should be on a voluntary basis. Return will be more realistic if it is voluntary because the child will assist in the necessary processes. This should facilitate better preparation and planning, which in turn should serve to safeguard the child's immediate well-being and to ensure a long-term and durable solution. Regardless of the level of support, separated children facing forced or involuntary return may opt out of official procedures and avoid statutory support.⁸⁷ The consequence of such action is that some separated children may find themselves in the "underground" economy, where the likelihood of harm or abuse will increase. When it is believed that there are exceptional circumstances, the decision to return a separated child against his or her will should always be made in a court rather than during immigration procedures.

2. *Local integration*

Local integration is the primary option if return to the country of origin is impossible on either legal or factual grounds. Local integration must be based on a secure legal status (including residence status) and be governed by the Convention on the Rights of the Child's rights that are

fully applicable to all children who remain in the country. Once it has been determined that a separated or unaccompanied child will remain in the community, the relevant authorities should conduct an assessment of the child's situation and then determine the appropriate long-term arrangements within the local community and other necessary measures to facilitate such integration.⁸⁸

3. Resettlement in a third country (emigration)

Resettlement (emigration) in a third country may offer a durable solution for an unaccompanied or separated child who cannot return to his/her country of origin and for whom no long term solution can be envisaged in the host country.

Resettlement is particularly appropriate if it is the only means to effectively and sustainably protect a child against refoulement, persecution or other serious human rights violations in the country of stay. Resettlement is also appropriate if it serves family reunification in the resettlement country.⁸⁹

4. Adoption⁹⁰

Adoption should only be envisaged once it has been established that all efforts with regard to tracing and family reunification have failed, or that the parents have consented to the adoption in conformity with the standards set up in the Convention on Protection of Children and Cooperation in respect of Intercountry Adoption.⁹¹ The consent of parents and the consent of other persons, institutions and authorities that are necessary for adoption must be free and informed. This supposes notably that such consent has not been induced by payment or compensation of any kind and has not been withdrawn.

Unaccompanied or separated children must not be adopted in haste at the height of an emergency.

⁸⁸ General Comment n°6, op. cit., para. 89.

⁸⁹ Ibid., para. 92.

⁹⁰ See article 21, CRC.

⁹¹ Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption, 29 May 1993.

Priority must be given to adoption by relatives in their country of residence. Where this is not an option, preference will be given to adoption within the community from which the child came or at least within his or her own culture.⁹²

Selected Instruments

- Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War, Geneva, 12 August 1949
- Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977
- Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977
- ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 20 November 1989
- Convention on the Rights of Child, 20 November 1989
- CRC General Comment No. 6: Treatment of Unaccompanied and Separated Children Outside their Country of Origin, September 2005
- Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, 25 May 2000
- Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, 25 May 2000
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 18 December 1990
- Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption, 1993
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the 2000 United Nations Convention against Transnational Organized Crime
- Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the 2000 United Nations Convention against Transnational Organized Crime

Unaccompanied Migrant Children



IOM International Organization for Migration