

POSITION PAPER ON MIGRANT AND REFUGEE CHILDREN



SOS CHILDREN'S
VILLAGES
INTERNATIONAL



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INTRODUCTION

There are more people on the move today than ever before. According to recently published data, the number of international migrants reached 244 million¹ in 2015, while the number of refugees was 21.3 million². People forcibly displaced by war and persecution reached a record high of over 65 million³. A UNHCR report⁴ noted that on average in 2015, 24 people were forced to flee their homes every minute – four times more than 10 years ago. Large-scale movements of people involve highly diverse groups, which move for different reasons. Poverty, inequality, conflict, violence and persecution, natural disasters and climate change are the main causes for people leaving or fleeing home, amongst others. Until these root causes are addressed, real and permanent change will not happen.

People on the move are entitled to universal human rights under any circumstance, just like everyone else. International law provides special protections⁵ to migrants, asylum seekers and refugees to ensure they can exercise such rights in countries of origin, transit or destination alike. In practice however, their rights are often violated and they are subjected to discriminatory and arbitrary treatment. Children are no exception to this, although the Convention on the Rights of the Child (A/RES/44/25, esp. § 22.1) places on States the duty to ensure that all children enjoy their rights, regardless of their migration status or that of their parents. The practice of holding migrant or refugee children in detention for weeks or months, reported in both developing and more prosperous States, is only one example of child rights violations happening worldwide.

Children are affected by migration in at least three ways: they move with their family; they migrate alone, without their parents or legal guardians; or they are left behind by migrant parents who have no other option than going abroad to secure the means of subsistence for their family. In all these cases, children face specific challenges to the rights to special protection and care. Thus, it is vital that policy and programme responses to the movement of refugees and migrants include provisions that grant children the continuum of care and access to relevant support services. Only in this way can children continue to flourish amidst migration and be positively integrated in whatever community they live in.

International NGOs like SOS Children's Villages have decades of experience in supporting States and local communities to ensure quality care and protection for children in vulnerable situations, and increasingly in the context of large-scale mixed migration movements. SOS Children's Villages member associations operate in over 130 countries and territories to prevent unnecessary separation of children from their families; to provide practical support for children and their caregivers displaced from home, so that they can stay together whenever it is in the best interest of the child; to form partnerships lending our expertise in child care to governmental agencies and non-governmental organisations; and, to provide suitable alternative care options for unaccompanied and separated⁶ children whenever necessary and appropriate, in the spirit of the Guidelines for the Alternative Care of Children (A/RES/64/142).

¹ United Nations, Population Division, Department of Economic and Social Affairs (UN DESA), International Migration Report 2015.

² United Nations High Commissioner for Refugees (UNHCR), Statistical Data Sets.

³ United Nations High Commissioner for Refugees (UNHCR), Global Trends. Forced Displacement in 2015.

⁴ Ibid.

⁵ For example, under the 1951 Refugee Convention and 1967 Protocol, and the 1990 Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, they are entitled to protection from persecution and inhuman treatment and have the right to a dignified reception and not to be detained arbitrarily.

⁶ Separated children: children who are victims of emergency situations are separated from a previous legal or customary caregiver, but who may nevertheless be accompanied by another relative. Unaccompanied children: children who are victims of emergency situations and are not cared for by another relative or an adult who by law or custom is responsible for doing so. (UN Guidelines for the Alternative Care of Children, A/RES/64/142, §29, i and ii).

RECOMMENDATIONS

In order to ensure that children continue to receive appropriate treatment and care, regardless of their migration status or that of their parents, and in line with international standards, SOS Children's Villages recommends taking the following actions:

1. Treat children as children, regardless of their migration status or that of their caregivers

United Nations Member States must explicitly prioritise the rights and best interests of children before any other political or administrative consideration. State Parties must affirm clearly that under no circumstance is it acceptable that children end up alone, destitute, on the street, in detention, in squalid camps or any other inhumane condition. Child-sensitive and child-centred approaches, recognising that children should always be treated in respect of their universal human rights and case by case according to their specific needs as individuals, must be mainstreamed in all Member States' laws, policies, practices, procedures and monitoring systems that involve migrant and refugee children.

2. Grant safe regular channels for migrants and refugees

United Nations Member States must prioritise saving lives by expanding safe regular channels for migrants and refugees, including resettlement. This will ensure that more migrants and refugees are no longer forced to rely on smugglers and can move towards their destinations in human conditions, without risking their lives or the lives of their children.

3. Enhance cross-country cooperation, and cooperation between governmental and non-governmental actors, to prevent and combat any form of violence against children, regardless of their migration status

States should enhance international cooperation, among countries and with NGO partners, to detect and prevent trafficking and all forms of violence, abuse and exploitation of children. This is particularly rife in mixed migration contexts, especially when children are unaccompanied or separated from their primary caregivers and are more easily subjected to physical attacks, robberies, criminal groups' activities and other dangers during their journey.

States must also grant special assistance to children who were victims of violence, regardless of their migration status, and ensure they have timely access to relevant health and psychological rehabilitation services.

4. End immigration detention of children and their caregivers

Many of our member associations have reported detention of migrant children and families because of lack of documents to enter or remain in a transit or destination country. This practice is to be considered a form of violence against children⁷, because it discriminates and criminalises children on the basis of their migration status, and threatens children's health and development. Among other things, detention exposes children to abuse and neglect, denies their access to good education and relevant services, and undermines children's psychological and physical well-being, with negative long-lasting impact on their cognitive development.

SOS Children's Villages urges States to end immigration detention of children, consistent with their Convention on the Rights of the Child obligations; and to replace this practice with non-custodial, community-based alternatives, in which children can live together with their parents or primary caregivers (principle of family unity) while authorities complete their immigration status assessment.

When children are unaccompanied or separated, States should provide a range of alternative care arrangements that fulfil children's needs and best interests, such as family and community-based solutions.

5. Ensure that human rights and basic needs of migrant and refugee children are met

Children form a considerable part of large population movements. According to recent estimates on refugees, 51% are children (UNHCR, 2016). Poor and unsafe conditions in mixed migration contexts can have traumatic effects on children's health, psychological recovery and long-term development, which can be mitigated if adequate child care and protection responses are put in place timely.

While recognising that States have a right to control their borders, SOS Children's Villages calls on all countries to ensure that their border management policies do not prevent access to international protection. States as well as regional and local authorities should cooperate among each other and with non-governmental partners to ensure food, shelter, sanitation, medical care, education, and child friendly spaces. Moreover, greater investment should be put in psychological rehabilitation and emotional care: this should be provided case by case to all children in need – especially those unaccompanied or separated – but also to their caregivers.

6. Protect every child's right to quality care, regardless of migration status

Growing numbers of children leave their country without their parents, or are separated from them along the way. Among the asylum seekers applying for international protection in 78 countries in 2015, unaccompanied or separated children were 98,400 (UNHCR, 2016). The European Union alone reported 88,300 unaccompanied children in 2015 – nearly four times more than in the period 2008-2013 (Eurostat, 2016). States have the duty to take appropriate actions to ensure quality care for every child, in accordance with international or domestic law and procedures. The following actions should be given priority:

⁷ 2012 Joint report of OHCHR, UNODC and SRSG on Violence against Children on prevention of and responses to violence against children within the juvenile justice system (A/HRC/21/25).

Prevent unnecessary family separation

All efforts should be made to keep migrant and refugee children in, or return them to, the care of their family and within the community, unless this is assessed to be against the best interest of the child. Authorities should put policies and procedures in place that ensure this is done in the shortest time possible, in order to reduce the psychological and emotional trauma associated with separation from the family.

Grant guardianship to migrant and refugee children deprived of their family

As soon as an unaccompanied child is identified, States should appoint an independent and qualified guardian with legal authority or where necessary representation by an organisation responsible for his or her care and well-being, to accompany the child throughout the status determination (Guidelines for the Alternative Care of Children, §145). The guardian should help the child to keep safe and access the necessary services, but also to ensure that the child's best interests stay central to any decision-making process affecting his or her life. The child should be enabled to participate and have a voice in such a process.

Increase support of and remove barriers to family reunification

Recalling the principles of the Guidelines for the Alternative Care of Children (especially §146) and of the UNHCR Guidelines on Reunification of Refugee Families, States should make all reasonable efforts to trace a child's family as soon as an unaccompanied or separated child is taken into care, and re-establish family ties in the shortest possible time, unless this is not in the best interests of the child and would endanger those involved. Any restriction to the family reunification procedure should be removed, in order to avoid unnecessary separation of children from their family.

Devise return policies that prioritise the best interest of the child

The Guidelines for the Alternative Care of Children (especially §148) establish clear international standards for the return of unaccompanied or separated children. These children must not be returned to their country of habitual residence if there are reasons to believe that their safety and security would be in jeopardy; if no suitable caregiver in the country of origin has been identified prior to the return; and if, for any other reasons, competent authorities assess that return is not in the best interest of the child.

Provide quality family and community-based care to unaccompanied and separated children

According to the Guidelines for the Alternative Care of Children, States must provide individualised family and community-based care to all children who have temporarily or permanently lost parental care, and refugee and migrant children are no exception. In order to do so, States should implement the Guidelines, and in particular: (a) remove barriers to the provision of family and community-based care to unaccompanied and separated children, such as discrimination based on the origin of children, or lack of financial resources or professionals prepared to deliver specialised alternative care; (b) identify and work together with transparent and trusted service providers to ensure a range of alternative care options for children in need, with family and community-based care as preferable options; (c) avoid institutionalisation of children; (d) invest in training of professional and voluntary caregivers in the areas of child protection, care and human rights, so that alternative care meets international standards set out in the Guidelines; (e) constantly review the decision on the type of care to be delivered, case by case, in order to respond to context developments and the child's evolving needs.

Use ICTs and other tools to help displaced people maintain contacts with their family

Access to information and communication technologies (ICTs) is an increasingly important factor securing people's enjoyment of their rights, as pointed out several times already by the United Nations Human Rights Council. Migrants and refugees, separated from family members and friends, are particularly dependent on good communication services along their route to connect with their loved ones and alleviate psychological and emotional stress. In addition to the right to personal relations and direct contact with parents or other family members, other rights are particularly linked to access to ICTs, such as freedom of expression and access to information. In order to grant these rights in mixed migration contexts, access to ICTs for migrants and refugees should be provided as part of States' response.

7. Identify, track and monitor refugee and migrant children through disaggregated data and assess special vulnerability, such as the loss of parental care

States have an obligation to ensure proper registration of all children and to ensure their care and protection from abuse, neglect, violence and exploitation. Yet, it is often very difficult to keep oversight of migrant and refugee children, due to gaps in national and international monitoring and in the capacity to process relevant information about them.

To address these gaps, the following actions should be taken: (a) all countries should report and share information on the numbers of unaccompanied or separated children seeking asylum; (b) States should increase efforts towards universal birth registration, also a target in the 2030 Agenda for Sustainable Development under SDG 16.9, in order to register all children, including children born in the country of asylum or transit and children who have lost or are temporarily separated from their parents or family; (c) another urgent measure should be the introduction of safeguards in nationality laws against statelessness at birth, to grant nationality to all children, including those in mixed migration contexts (UNHCR Stateless Report 2015).

8. Invest in capacity building of professionals to meet the rights of migrant and refugee children

In order to ensure that all migrant and refugee children can realise their rights, States should invest in the necessary support and specialisation of actors involved in the range of state responsibilities concerning these children. Training, re-training and psychological support must be available for social workers, family counsellors and care professionals to effectively contribute to humanitarian assistance and continue responding to the protection needs of children during and after the migration and refugee crisis. Also, immigration and law enforcement actors should be properly equipped to apply child-rights based approaches to their work.

9. Invest in sustainable development

In the 2030 Agenda for Sustainable Development, United Nations Member States recognise that international migration is extremely relevant in the development of all countries involved: countries of origin, transit and destination countries. At the same time, many of the root causes of forced migration and displacement – like

poverty, inequality, unemployment, conflict and violence, poor education and climate change, among others – are connected with underinvestment in sustainable development at the national and international level. States should devise comprehensive measures to address the root causes of forced migration and displacement, through stronger anti-poverty and employment strategies, greater inequality-reduction efforts, higher investments in quality education, conflict and violence prevention, climate change mitigation, and measures to address inappropriate care of children like family strengthening and alternative care programmes. All these measures will also allow United Nations Member States to achieve the goals and targets of the 2030 Agenda.

10. Foster participation of migrant and refugee children and young people

Migrant and refugee children and young people are crucial stakeholders in migration and refugee policies, practices and programme responses. Involving them in policy design and implementation and in awareness-raising activities in their communities contributes to the development of effective child-sensitive and child-centred responses and to the realisation of their right to participation. States must recognise the active role that children and young people can play in the identification and implementation of solutions in migration and refugee matters, and foster opportunities for their engagement and leadership building.

WHAT SOS CHILDREN'S VILLAGES DOES TO HELP

SOS Children's Villages strives to ensure appropriate care and protection for all children wherever they are:

- In **countries of origin**, our programmes help families stay together and provide assistance so that they can live their lives in safety and in dignity.
- In some of the **countries of first refuge and during the refugees' transit** to safety, we are on the ground providing humanitarian aid, immediate help in the form of food and non-food items, first aid and counselling, child friendly spaces for children and families to rest and recover, communications support so that families can find each other and stay in touch, as well as trauma counselling and interim care for unaccompanied children, where agreed with governments and local authorities. Where children are particularly vulnerable to exploitation and trafficking, we protect children and their rights, and we ensure that their essential needs for nutrition, shelter and health care are met, together with other partners in each community.
- In some of the **countries where refugees and migrants are finding new homes**, we also work to ensure that there are long-term solutions that protect the dignity of children and allow them to integrate into society – providing access to counselling, language courses and educational and vocational opportunities. For some, a range of family-based care arrangements are provided.
- **Throughout the world we work in partnership** with governments and humanitarian actors to increase the impact of our programmes and to improve legal and policy frameworks, so that families can stay together and migrant and refugee children are not deprived of their childhood.

MEXICO

Advocating against the detention of unaccompanied children

In Mexico, SOS Children's Villages is caring for unaccompanied children who have been detained by the Mexican authorities. Most of these children fled from El Salvador, Guatemala and Honduras with the hope of joining family members living in the US. When they arrived at SOS Children's Villages, after having been in detention, the children were suffering from anxiety and post-traumatic stress, and SOS co-workers had to immediately start focusing on their psychological recovery.

Forcing children into detention harms the child's physical and psychological well-being and it is always against the best interest and the rights of the child. Together with the International Detention Coalition, SOS Children's Villages Mexico has been advocating for years against the detention of children. According to recommendations made by the United Nations Committee on the Rights of the Child, Mexico needs to end detention of migrant children and instead place them in safe community shelters. In December 2015, progress was made when a new regulation prohibited the detention of children for immigration reasons in the country. Unfortunately, the situation has not yet substantially changed in practice, but the discourse of the authorities has at least started to shift. SOS Children's Villages Mexico continues its advocacy efforts and says that progress has been possible because of cooperation with other organisations and the fact that children's voices are raised through public campaigns against detention.

The Committee also recommends that Mexico considers the best interest of the child before making decisions concerning their return to their countries of origin. One of the goals of SOS Children's Villages Mexico is that the specific case of each individual child is assessed according to his or her best interest before the child is sent back to his or her home country. Children should only be reunited with their family members in their countries of origin if they can be cared for in a safe and secure environment.

WESTERN BALKAN ROUTE

Helping refugees connect

ICT services are essential in refugee centres. As a part of its emergency response, SOS Children's Villages is helping to facilitate this need by setting up more SOS ICT Corners, offering free WiFi, computers, printing/scanning/copying services and charging stations for mobile phones and other electronic devices.

Since the closing of the Balkan transit route in early March 2016, many children and young people have been stranded in refugee camps in Serbia and Macedonia. The ICT Corners offer them a place to connect to family members online. For 14-year-old Zafar⁸ from Afghanistan, who is traveling alone, coming to the SOS ICT Corner in the Serbian refugee centre gives him hope that he will reconnect with his mother and sister back home, with whom he has not had contact in over a month.

⁸ The name has been changed, and the name of his current location needs to be withheld for his safety and the safety of his family.

ICT Corners are also useful for children and young people to gain computer literacy or play educational child-appropriate games, guided by SOS ICT staff. SOS Children's Villages co-workers are teaching children and young people about MS Office and other useful applications. In addition, as a response to the needs of the children visiting the ICT Corners, co-workers are expanding their activities. A technician at the ICT Corner in Preševo, Serbia shares that he and his colleague have started teaching children to speak Serbian. "They are fast learners," he says.

From November 2015 until the end of July 2016, five SOS ICT Corners in the Balkans provided services to over 206,000 users. While most of the users are refugees, SOS ICT Corners also provide an important service for other humanitarian actors on the ground. In emergency situations, other aid organisations and even government agencies that do not have their own infrastructure set-up use the SOS ICT Corners for their urgent communications.

Bringing back childhoods

In order to ensure that children on the move enjoy their right to play and relax, SOS Children's Villages helps by creating Child Friendly Spaces. These are places where children enjoy an array of educational and creative activities with help and under supervision of experienced professionals. Here refugee children and their families also get help in-kind, shelter and counselling.

Across four countries on the Balkan route, namely Greece, FYROM, Serbia and Hungary, SOS Children's Villages has established seven Child Friendly Spaces (CFSs) to date. Given their simple set-up, each can be quickly moved to a location where it is most urgently needed. In Serbia one Child Friendly Space, the "Super Bus", is a mobile unit which provides support to refugee children across various locations where organised response is not available. From February to August 2016, the Super Bus reached 3,711 refugee children.

AUSTRIA AND FINLAND

Providing care and protection responses for migrant and refugee children

In response to the growing number of refugees in Europe, SOS Children's Villages is providing family-based care, education, and other support for nearly 1,000 unaccompanied or separated children and young people. Focus is on ensuring that children are provided with quality care in a safe and secure environment where they can be children.

In Austria, SOS Children's Villages has 15 years of professional experience in providing quality care to refugee children and supporting their integration. To respond to the current refugee crisis in Europe, SOS Children's Villages Austria has been creating customized places for 300 children in newly established facilities since 2015, offering a range of alternative care options: small group homes, semi-independent living, foster care, integration and specialised education programmes. Recently, a group home in Linz was established to accommodate 15 unaccompanied refugees. Native-speaking psychiatrists and therapists, as well as professional interpreters, are available to support the children. The nearby public schools offer a great opportunity for the successful integration of the young refugees. SOS Children's Villages Austria has also set up 'Biwak' living communities for unaccompanied refugee children between the ages of 12 and 18, who require a daily structure and specialised

socio-pedagogical support. They stay at the 'Biwak' until the age of legal adulthood. Furthermore, SOS Children's Villages Austria advocates for the right of all children to quality care and education, which is not equally ensured to refugee children by current legislation. For example, compulsory schooling is provided by law for children aged 14-18, but not for young asylum seekers, because of their uncertain status.

In Finland, SOS Children's Villages has established three group homes for unaccompanied refugee children. The programmes started in 2015 and now provide homes for 45 boys, mainly from Afghanistan. Running costs are covered by the state. The boys attend nearby public schools, learn Finnish and participate in local sports clubs – all supporting their successful integration. SOS Children's Villages Finland is also planning to recruit local volunteer families to support the young people in their integration. Another new programme in the planning phase is to support other young people who have received a residence permit by providing housing and psycho-social support. SOS Children's Villages Finland is also engaged in advocacy activities together with other children's organisations.

A LOVING HOME FOR EVERY CHILD



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