



THE REFUGEE DIMENSION: **ADOLESCENTS' AND YOUTHS' RIGHT TO SEEK AND ACCESS ASYLUM AND PROTECTION** *

Chapter 5

UNHCR
The UN Refugee Agency

Over the last decade, there has been a steady growth in the number of adolescents and youth – including unaccompanied and separated children (UASC)¹ – submitting applications for refugee status and thus, seeking asylum. Most of these fall within the adolescent age-group. In 2013, more than 25,300 individual asylum claims were lodged by unaccompanied or separated children and adolescents in 77 countries in 2013, far more than in previous years.²

As on the one hand, mobility becomes more complex and widespread, and on the other, States seek to control and limit the movement of people, it is important to situate the protection of refugees within broader migration strategies. To ensure that these strategies respond to forced displacement and take account of young people, appropriate frameworks for refugees and asylum seekers need to be established that recognize the right of children to seek asylum and the vulnerabilities facing adolescent and youth in need of international protection.

This chapter focuses on the risks and vulnerabilities faced by adolescents seeking international protection, considering adolescents to be persons in the 11 to 17 age group for whom the International Convention on the Rights of the Child is the definitive human rights normative reference. The terms child and children are utilized throughout, recognizing that younger children may also be in refugee-like situations and face similar circumstances. Many of the risks and vulnerabilities outlined herein confront youth refugees and asylum seekers over age 18 in contemporary «mixed movements» and therefore need to be taken account of in migration policy-making and implementation.

The United Nations High Commissioner for Refugees (UNHCR) has long recognized both the right of children to seek asylum in their own right and their inherent vulnerability – especially those who are unaccompanied or who have been separated from their families – as well as the fact that there are certain child-specific forms of persecution that may give rise to a claim for refugee protection.³ As the studies mentioned below show, young people are especially vulnerable and susceptible to persecution.

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The term “persecution”, though not explicitly defined in the 1951 Refugee Convention, involves serious human rights violations, including a threat to life or freedom, as well as other kinds of serious harm or intolerable situations as assessed with regard to the age, opinions, feelings and psychological make-up of the applicant.⁴

As children and adolescents may experience child-specific forms and manifestations of persecution, a child-sensitive application of the refugee definition is crucial. This would be consistent with the Convention on the Rights of the Child and the principle of the best interest of the child. The principle of the best interests of the child requires that the harm be assessed from the child’s perspective. This may include an analysis as to how the child’s rights or interests are – or will be – affected by the harm. In consequence, ill-treatment which may not rise to the level of persecution in the case of an adult may do so in the case of a child.⁵ Examples of child-specific forms of persecution include under-age recruitment into armed forces, child trafficking, female genital mutilation⁶ as well as forced or underage marriage, bonded, forced or hazardous labour, forced prostitution and child pornography.⁷

As noted by the UN Committee on the Rights of the Child, the refugee definition “*must be interpreted in an age and gender-sensitive manner, taking into account the particular motives for, and forms and manifestations of, persecution experienced by children. Persecution of kin; under-age recruitment; trafficking of children for prostitution; and sexual exploitation or subjection to female genital mutilation, are some of the child-specific forms and manifestations of persecution which may justify the granting of refugee status if such acts are related to one of the 1951 Refugee Convention grounds. States should, therefore, give utmost attention to such child-specific forms and manifestations of persecution as well as gender-based violence in national refugee status-determination procedures.*”⁸

Alongside age, factors such as rights specific to children, a child’s stage of development, knowledge and/or memory of conditions in the country of origin, and vulnerability, also need to be considered to ensure an appropriate application of the eligibility criteria for refugee status.⁹ Additionally, although the burden of proof usually is shared between the examiner and the applicant in adult claims, it may be necessary for an examiner to assume a greater burden of proof in children’s claims, especially if the child concerned is unaccompanied.

Box 5.1: UNHCR Study, 2014

Children on the Run – Unaccompanied Children Leaving Central America and Mexico and the Need for International Protection¹⁰

A Study Conducted by the United Nations High Commissioner for Refugees Regional Office for the United States and the Caribbean, Washington D.C.

UNHCR found that a many of the unaccompanied and separated children from El Salvador, Guatemala, Honduras and Mexico interviewed in the USA provided information that indicates they may well be in need of international protection due to violence by organized armed criminal actors and violence/abuse at home (Central America and Mexico) as well as due to recruitment into and exploitation by the criminal industry of human smuggling (Mexico). Protection-related reasons were very prominent given that no less than 58% of the 404 adolescents (¹aged between 12-17 years) interviewed were forcibly displaced because they suffered or faced harms that indicate a potential or actual need for international protection. **The central conclusion of this study is that given the high rate of adolescents who expressed actual or potential needs for protection, all UASC from these four countries must be screened for international protection needs.** In addition to the harms in the home country that led to their decision to leave, the children presented a significant number of protection-related concerns that occurred during their journeys northward.

UNHCR found that these types of serious harm raised by the unaccompanied and separated children (UASC) are indicators of the need to conduct a full review of international protection needs consistent with the obligations to ensure that UASC are not returned to situations of harm or danger. The study demonstrates unequivocally that many of these displaced children faced grave danger and hardship in their countries of origin. It also shows that there are gaps in the existing protection mechanisms currently in place for these displaced children. The extent of these gaps is not fully known because much of what happens to these children is not recorded or reported anywhere. Thus, there is a **critical need for enhanced mechanisms to ensure that these displaced adolescents are identified, screened and where needed provided access to international protection.**

CHALLENGES OF MIXED MIGRATION

Many children and youth today arrive in the context of “mixed migration” movements, where refugees and asylum-seekers arrive in a State as part of a broader “mixed movement” of persons including both individuals in need of international protection and migrants without international protection needs.¹¹ In addition to this, there also seems to be a perceived or real misuse of asylum systems by some of those who submit claims for refugee status but are in fact moving for non-refugee related reasons. Other challenges, related to this, are the lack of protection and assistance for youth and adolescents who do not submit asylum claims – though they might qualify for protection – as well as those whose protection needs are not correctly assessed. This

is also linked to the difficulties involved in determining the age and best interests of these adolescents and finding a solution to their situation.¹²

A proliferation of people-trafficking and smuggling networks has become a very real threat to children and youth fleeing persecution, who are often targeted as a result of their vulnerability. The growing numbers of Afghan children and youths who are making the difficult and dangerous overland journey to Europe without their parents, for instance, are exposed to serious protection risks (see UNHCR study in Box 5.2).¹³ The same applies to the thousands of children moving through Central America in search of safety and a secure future (see UNHCR study in Box 5.2).¹⁴ Unaccompanied and separated children particularly at risk of exploitation by criminal networks (see details of UNCHR's Regional Initiative in the Horn of Africa in Box 5.4).¹⁵

In such circumstances, the identification of individuals in need of international protection, particularly children who might have difficulty in fully articulating their claim, requires high quality and age-appropriate refugee status determination procedures. There is also an urgent need to find appropriate accommodation for children and adolescents, equipped with persons with expertise in child and adolescent protection who can identify and address their most urgent needs, and assess their best interests. Family tracing and assistance for restoration of family links are also important interventions for adolescents and young persons traveling on their own. Tracing of a separated child's parents and family should be initiated at an early stage, but care must also be taken that the tracing will not endanger the child, or members of the child's family.

Box 5.2: Trees only Move in the Wind – A Study of Unaccompanied Afghan Children in Europe,¹⁶ a UNHCR Study, June 2010

The study indicates that unaccompanied Afghan children (most predominantly adolescents) who make the long trip to Europe are deeply and negatively affected by their experience. As well as the hardships and abuses during the journey, they are confronted upon arrival with the prospect of forced return to Afghanistan, coupled with continuing pressure from family members to send remittances home, so that the debts incurred to pay for the journey can be paid off. The study concludes that there is an urgent need to:

Develop a Comprehensive Plan of Action on unaccompanied and separated children (UASC) involving countries of origin, as well as countries of transit and destination in order to achieve a consistent approach to assessing the international protection needs of UASC. **The plan would:**

- Allow those who have already reached the country of destination to stay if they are in need of international protection;
 - Speedily return those who are not in need of international protection and for whom return has been decided upon after taking into account all options in a best interests procedure;
 - Focus additional efforts and resources on the longer-term task of prevention (education, work opportunities etc.), and
 - Tackle the criminal aspects of human smuggling without compromising the right to seek asylum in another state and without weakening the protection of unaccompanied and separated children who are on the move. At the same time, special consideration should be given to the situation of children who are not in need of international protection, but who, on the basis of a BID procedure, cannot be returned.
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- **Encourage data sharing** by affected receiving states.
 - **Develop a comprehensive information/sensitization campaign** in countries of origin, transit and destination to inform parents, young people, community leaders and other relevant stakeholders of the dangers of being involved in irregular movement.
 - **Develop effective legislation and law enforcement capacities** to provide more effective deterrence against smuggling.
 - **Standard setting, monitoring and assistance** in the task of family tracing, assessment of the capacity of families to receive children, assessment of alternative care provision, and short and medium-term reintegration support.
 - **Enhance cooperation** with governments, IOs and NGOs.
 - **Develop targeted training programs** in receiving countries for guardians, social workers and immigration officials working with UASC.
 - **Advocacy regarding alternatives to the detention** of UASC for illegal entry (revision of national law, provision of alternative care arrangements).
 - **Procedural safeguards for age assessment** and establishment of standard methodology that uses the least invasive methods, applying an agreed wide margin of error coupled with the application of the benefit of the doubt.

ESTABLISHMENT OF PROTECTION SENSITIVE ENTRY SYSTEMS

In view of the complexities of refugee movements in mixed migratory flows, UNHCR developed the Refugee Protection and Mixed Migration 10-Point Plan of Action, “

which is a tool to assist Governments and other stakeholders to incorporate refugee protection considerations into migration policies.”¹⁷ (See Box 3). The 10-Point Plan recognizes that the number of refugees and asylum-seekers is a relatively small portion of the global movement of people and that such movement often involves human smugglers and traffickers, and it stresses that “steps must be taken to establish entry systems that are able to identify new arrivals with international protection needs and which provide appropriate and differentiated solutions for them.”¹⁸ Significantly, the 10-Point Plan contains a section on “child protection systems,” one on identifying women and girls at risk, and another on protecting victims of trafficking.¹⁹

Box 5.3. UNHCR’s 10-Point Plan of Action at a Glance

- Cooperation among key partners
- Data Collection and analysis (on refugee flows within mixed movements)
- Protection-sensitive entry systems
- Reception arrangements
- Mechanisms for profiling and referral
- Differentiated processes and procedures (in order to address particular needs of UASC)
- Solutions for refugees (voluntary repatriation, local integration or resettlement)
- Addressing secondary movements
- Return of non-refugees and alternative migration options
- Information strategy

The 10-Point Action Plan recommends the establishment of differentiated procedures and processes for various categories of persons travelling as part of mixed migration movements, which allows tailored and appropriate responses according to the specific profiles and needs of the persons concerned. “Protection sensitive entry systems” are measures to ensure refugees and asylum-seekers are identified, protected against *refoulement* and given access to asylum procedures. This is at the center of the 10-Point Plan.²⁰ The concern is to avoid that measures to prevent and deter irregular migration are applied indiscriminately. The attention given by UNHCR within the 10-Point Plan framework to early “profiling and referral mechanisms”, as well as to training and capacity building of “first contact” entry officials such as border and coast guards, reflect this concern.²¹

Another focus of the 10-Point Plan is the development of “differentiated processes and procedures”,²² with a view to alleviate pressures on asylum systems caused when persons without international protection needs apply for asylum for temporarily regularizing stay in the host country (usually due to lack of other legal migration options/appropriate mechanisms to respond to their needs– for example, for victims of trafficking or for assisted voluntary return of those not in need of international protection²³).

The aim is to mitigate the negative effects that State migration control measures may have on protection space and asylum systems for persons arriving as part of broader irregular mixed flows. Establishing alternative procedures, in addition to asylum procedures or return, can assist authorities to manage mixed migration movements fairly, address any immediate needs or arrivals and facilitate longer-term solutions. From a protection perspective, the capacity to identify specific needs and to direct individuals who are not seeking international protection to alternative mechanisms can contribute to more efficient and effective asylum procedures.²⁴

The categorization of different groups of people is a useful tool; however, it is not an end in itself. The establishment of well-functioning referral systems between different processes and coordination mechanisms between all relevant actors (i.e. government, international organizations, NGOs, legal advisors, social workers, health care providers etc.) increase the chance that more appropriate outcomes are provided for each adolescent and youth.

The 10-Point Plan has been broadly accepted by States and the international community and has so far strengthened cooperation among key partners,²⁵ created and built upon political momentum for action across regions,²⁶ provided stakeholders with a range of practical tools to address the challenges of mixed movements in a protection-sensitive manner²⁷ and enhanced data analysis and information-sharing on mixed movements.²⁸

As an example, the 10-Point Plan forms the basis of the UNHCR Strategy and Regional Plan of Action to address the smuggling and trafficking activities on refugees, asylum seekers and stateless persons who are moving alongside other migrants along the East and Horn of Africa to the Middle East, North Africa and Europe. Those directly affected are Ethiopian, Eritrean, Somali and Sudanese asylum-seekers and refugees as well as

migrants. Smuggling, trafficking, kidnapping and associated crimes of torture and rape are reported by those affected in Sudan, Ethiopia, Egypt, Djibouti and Yemen.²⁹ (See Box 5.4 below for further details on the UNHCR Regional Initiative in the Horn of Africa.)

Box 5.4. UNHCR’s “Live, Learn and Play” Regional Initiative in the Horn of Africa, 2014-2015

Some of the most active and brutal smuggling and trafficking networks operate in the Horn of Africa. UNHCR has witnessed a sharp increase in the trafficking and smuggling of Eritrean refugee children, adolescents and youth. Many of these who arrive in Ethiopia and Sudan do not remain in refugee camps for long. Instead, they head for urban centers such as Khartoum, or move on to Egypt or Libya with the objective of reaching Europe. Many children and adolescents from Ethiopia and Somalia entrust their lives to smugglers and traffickers to make the dangerous crossing of the Red Sea or Gulf of Aden to reach Yemen.³⁰

The protection of UASC at risk of being caught up in dangerous secondary movements requires specially tailored interventions in the areas of child protection, education and skills development. In 2014-2015, UNHCR rolled out its *Live, Learn and Play Safe* initiative to reduce protection risks for children in Egypt, Ethiopia, Sudan and Yemen. This initiative aims to reduce secondary movements and the attendant protection risks for children by fulfilling their basic subsistence needs, promoting a safe environment, enhancing access to education and livelihoods, providing psychosocial support, and identifying appropriate care arrangements. UNHCR believes that educational and vocational training opportunities, in particular, are a key protection tool.

The initiative aims to establish and improve mechanisms to address their needs in countries of asylum, including family tracing and family reunion in line with international standards, establishes and strengthens child protection monitoring mechanisms, expanding education opportunities, especially for adolescents, including formal primary and secondary education, Accelerated Learning Programs and post-secondary opportunities, ensuring quality and protection.³¹

ESTABLISHMENT OF CHILD PROTECTION SYSTEMS

Establishment of national Child Protection systems in countries of origin, transit and destination - is key for the protection of children and adolescents in migratory flows. Central to this idea is the premise that States, under the CRC, are responsible for the protection of all children – within the jurisdiction of a State – and should promote the establishment and implementation of child protection systems.³² A comprehensive “child protection system” includes policies, laws and procedures that are designed to respond to the specific needs of children and to prevent abuse, exploitation, violence

and neglect. An effective child protection system considers all the risks faced by children in a comprehensive and holistic manner. It is complementary and coordinated across all sectors.

National child protection systems are most effective when they provide non-discriminatory access to all children within the jurisdiction of a State – including victims of trafficking, refugee and stateless children. Child protection systems are particularly important for UASC and/or children seeking international protection. Relevant processes and procedures to assist children travelling as part of mixed movements can include mechanisms to address the young person’s immediate needs, the appointment of a legal representative and/or guardian, age assessments, family tracing and identification of a solution based on a “best interests determination” (see above part 1 of this chapter).

The Committee on the Rights of the Child has clearly established that the *best interests* principle is not just a substantive right and a legal principle but also a rule of procedure. As a rule of procedure, whenever a decision is made that will affect a child, the decision making process must include an evaluation of the possible impact on the child/children concerned in a process.³³ UNHCR has developed a formal procedure to assess and determine a child’s best interests for particularly important decisions affecting the child.³⁴ The procedure is used for instance for unaccompanied and separated children in relation to determining durable solutions in their best interests.

The *best interests* tools are also used for other vulnerable children in specific situations. The Best Interests Assessments and Determinations (BIA/BID) enable a review of the child’s situation in a comprehensive manner with specific safeguards in place. It allows the child’s opinion to be heard and ensures that his or her views are given due weight to his or her age, maturity and evolving capacities. This procedure developed for refugee situations can also serve as an example for the establishment of similar procedures by national authorities and partners when dealing with children and adolescents in mixed migratory flows.

DETENTION OF CHILDREN AND ADOLESCENTS

Every person has the right to seek and enjoy in other countries asylum from persecution, serious human rights violations and other serious harm. Seeking asylum is not, therefore, an unlawful act.³⁵ Detaining asylum-seekers for the sole reason of having entered without prior authorisation runs counter to international law. In exercising the right to seek asylum, asylum-seekers are often forced to arrive at, or enter, a territory without prior authorisation. The position of asylum-seekers may thus differ fundamentally from that of ordinary legal migrants in that they may not be in a position to comply with the legal formalities for entry. They may, for example, be unable to obtain the necessary documentation in advance of their flight because of their fear of persecution and/or the urgency of their departure. These factors need to be taken into account in determining any restrictions on freedom of movement based on irregular entry or presence.

When dealing with children and adolescents there are further considerations that are at play. Overall an ethic of care – and not enforcement – needs to govern interactions with asylum-seeking children, including children in families, with the best interests of the child a primary consideration. The extreme vulnerability of a child takes precedence over the status of an “illegal alien”.³⁶ Detention of children should always be used as a measure of last resort and for the shortest appropriate period of time.

As a general rule, unaccompanied or separated children should not be detained. Detention cannot be justified based solely on the fact that the child is unaccompanied or separated, or on the basis of his or her migration or residence status. Where possible they should be released into the care of family members who already have residency within the asylum country. Where this is not possible, alternative care arrangements, such as foster placement or residential homes, should be made by the competent child care authorities, ensuring that the child receives appropriate supervision. Residential homes or foster care placements need to cater for the child’s proper development (both physical and mental) while longer term solutions are being considered. A primary objective must be the best interests of the child.³⁷ There is a need for the implementation of alternatives to such detention for children, including the revision of national law and the provision of alternative care arrangements, given the continued harm caused and its detrimental long term impact, particularly on unaccompanied and separated children. Detention also impedes access to asylum and

other forms of international protection, and deters young people from seeking international protection.

In 2014, UNHCR launched a multi-year strategy to end immigration detention. One of the goals is to “End the detention of children”. The strategy calls for the **immediate release of children from detention** and their placement in other forms of appropriate accommodation.

Box 5.5. Action steps to «End the detention of children»

The UNHCR strategy for ending the detention of child asylum seekers and refugees urges the following actions:

- Map the situation of child detention.
- Identify the reasons for this practice, and identify what would work instead.
- Identify the most relevant stakeholders to engage with.
- Ensure access to detained children.
- Ensure access to legal assistance.
- Monitor the conditions of detention.
- Identify existing legal frameworks, initiatives or strategies supporting child rights.
- Develop a set of advocacy interventions.
- Raise awareness on the detrimental consequences of detention for their well-being and health.
- Raise awareness, develop media campaign and overall communications strategy - ensure consistent corporate communications messages.
- Provide/support training and capacity-building activities.
- Identify and promote alternative reception and care arrangements. The identification of family-based care arrangements should be prioritised.
- Promote and disseminate research, studies and reports on alternatives to detention for children.

REGULARIZED MIGRATION ALTERNATIVES

States have established various channels for legal migration in order to fulfil different purposes, such as meeting labour market needs, enabling family reunification, or pursuing study. Some migration schemes provide possibilities for permanent settlement upon arrival or after a certain period of stay. On occasions, such immigration schemes have provided a de-facto protection by providing immigration admission or adjustment of status for persons in refugee like circumstances, including for young persons, whether or not that was an intended purpose. States may also give

preferential access to admission, stay and residence to nationals of certain States based on bilateral agreements or cultural ties.³⁸

While temporary migration schemes for employment purposes are again becoming more commonplace, these generally are of limited value at best for youth in need of refugee protection as they are generally for limited and fixed periods of time, and often require departure at the conclusion of stipulated employment period or contract with few or no options for extension, change of employment or adjustment of status.

The widening implementation of free circulation regimes for citizens of member countries across formal regional economic communities or common markets also provides options for adolescents and young people to depart situations of conflict or persecution, legally cross borders, and obtain some degree of de facto protection – with possibilities to seek work-- in other countries. More than 100 countries are members of one of eleven regional intergovernmental communities which have in place free circulation/free movement regimes.

In many circumstances, young people seeking protection can and do enter destination countries legally, whether with a tourist, visitors or student visa or under visa free regimes. However, the terms of stay are usually temporary with few or no possibilities to change to longer term status, meaning falling into irregular situations upon expiry of visa or terms for no-visa visits. Access to most legal immigration channels or adjustment of status is generally not possible for persons in an irregular situation in the host country. Rather, migration channels tend to become available following return to countries of origin rather than as an alternative to return. In order to reduce the number of young people ending up in irregular migration situations and to reduce their risks of being trafficked, it is important to develop regularized migration alternatives that include effective family reunification procedures and that ensure access of refugee youth to regular labour migration schemes.

KEY MESSAGES

- There has been steady growth over the last decade in the number of adolescents and youth – including unaccompanied and separated children (UASC) – seeking asylum.
- Children and adolescents have the right to seek asylum. Children may experience child-specific forms and manifestations of persecution which make a child-sensitive refugee status determination crucial.
- There is a critical need for enhanced mechanisms to ensure that adolescents and youth in mixed migratory flows provided with age appropriate information on asylum procedures.
- Establishment of national Child Protection systems in countries of origin, transit and destination - is key for the protection of children and adolescents in migratory flows.
- Immigration detention of asylum-seekers, refugees and stateless persons is inherently undesirable, especially for young people and unaccompanied or separated children. Given harm caused and detrimental long term impact of detention, there is need for implementation of alternatives to detention.
- Development of regularized migration alternatives that include effective family reunification and that ensure access of refugee youth to employment opportunities, including through regular labour migration schemes is essential to reduce irregular migration of young people and to reduce the risks of trafficking.
- Regional approaches in seeking solutions are advised in mixed migration contexts, especially to address the drivers and challenges faced by youth and adolescent refugees and asylum-seekers

POLICY RECOMMENDATIONS

- Ensure protection-sensitive border control systems that facilitate the identification of asylum-seekers, refugees and stateless persons in mixed migration contexts and ensure the best interests of adolescents through the implementation of child-friendly procedures.

- Implement differentiated processes and procedures for persons seeking international protection and special protection mechanisms for trafficked persons to allow tailored and appropriate responses to be provided according to respective needs of and profiles of the persons involved. Ensure access to accelerated asylum claim processing for adolescents that includes a best interests assessment.³⁹
- Ensure that alternatives to detention are included in national legal framework and implemented in practice, taking into consideration the needs of persons with special needs or vulnerabilities, and provide for alternative care arrangements for unaccompanied and separated children and adolescents.
- Provide essential services and ensure non-discriminatory access to national Child Protection systems by creating, strengthening and promoting comprehensive child protection mechanisms, including young people's access to justice, on the national and local levels that meet their general protection needs. Support family tracing mechanisms for those separated and unaccompanied and ensure access to legal documentation related to nationality, status, education or other civil matters.
- Develop effective legislation and law enforcement capacities to provide more effective deterrence against trafficking in human beings and ensure the prosecution of perpetrators. Ensure witness protection schemes also include adolescents and youth.
- Develop targeted capacity building and training programs in transit and receiving countries for guardians, social workers, border guards and other officials working with adolescents and youth.
- Ensure safe and voluntary return while safeguarding the principle of non-refoulement, verifying that all expressions of interest to return amongst adolescent refugees and asylum-seekers are voluntary, and family tracing efforts have been undertaken including individual assessment of the best interests of adolescents.
- Implement regularized migration alternatives, including speedy and effective family unification procedures. Ensure access of refugee youth to regular labour migration schemes.

NOTES

¹ UNHCR defines an “unaccompanied child” as any child under the age of 18 who has been “separated from both parents and other relatives and [is] not being cared for by an adult who, by law or custom, is responsible for doing so,” while a “separated child” is one who is “separated from both parents, or from their previous legal or customary primary care-giver, but not necessarily from other relatives.” *UNHCR Guidelines on Determining the Best Interests of the Child*, May 2008, p. 8, available at <http://www.refworld.org/docid/48480c342.html>.

² At the same time, 78 countries reported that they had not registered a single asylum claim by an unaccompanied or separated child during the year while a number of important recipients of asylum seekers were not able to report such information, including South Africa and the United States of America. UN High Commissioner for Refugees (UNHCR), *UNHCR Global Trends 2013: War’s Human Cost*, 20 June 2014, available at: <http://www.refworld.org/docid/53a3df694.html> [accessed 23 June 2014]

³ See UNHCR, *A Framework for the Protection of Children*, 2012 (affirming “the centrality of children’s protection to UNHCR’s work.”), available at <http://www.refworld.org/docid/4fe875682.html>. The Child Protection Framework also highlights the fundamental principle to “do no harm” in working with children, which calls for consideration of “the child’s family, culture and social situation and conduct[ing] actions, procedures and programmes in a manner that does not put the child at risk of harm.” *Id.*, p. 16. One of the earliest comprehensive guidance concerning children was issued by UNHCR in 1994, *Refugee Children: Guidelines on Protection and Care*, available at <http://www.refworld.org/docid/3ae6b3470.html>. In 1997, UNHCR issued *Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum*, Feb. 1997, available at <http://www.refworld.org/docid/3ae6b3360.html>, which provide comprehensive guidance on procedures for receiving, identifying and protecting unaccompanied and separated children arriving to a country in search of safe haven. Among the core provisions of these Guidelines on Unaccompanied Children are: “Because of their vulnerability, unaccompanied children seeking asylum should not be refused access to the territory. (...) Children should always have access to asylum procedures, regardless of their age. Children seeking asylum, particularly if they are unaccompanied, are entitled to special care and protection. (...) In the examination of the factual elements of the claim (for international protection) of an unaccompanied child, particular regard should be given to circumstances such as the child’s state of development (...) as well as his/her special vulnerability.” *Ibid.*, pp. 1-3. The UNHCR *Guidelines on Determining the Best Interests of the Child*, May 2008, available at <http://www.refworld.org/docid/48480c342.html>, discuss fundamental protection principles concerning children, among them that: “A comprehensive child protection system comprises laws, policies, procedures and practices designed to prevent and respond effectively to child abuse, neglect, exploitation and violence. It is the responsibility of States to promote the establishment and implementation of child protection systems, in accordance with their international obligations.” (See also part 4 of this chapter: “The Establishment of Child Protection Systems.”) Best Interest Guidelines, p. 17. See also UNHCR’s *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*, 2009, available at <http://www.refworld.org/docid/4b2f4f6d2.html>.

⁴ See UNHCR, *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees*, 1979, re-edited, Geneva, Jan. 1992, available at <http://www.unhcr.org/refworld/docid/3ae6b3314.html>, paras. 51–52; UNHCR, *Guidelines on International Protection No. 7: The Application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees to Victims of Trafficking and Persons at Risk of Being Trafficked*, 7 Apr. 2006, available at <http://www.unhcr.org/refworld/docid/443679fa4.html>, para. 14.

⁵ ExCom, *Conclusion on Children at Risk*, 5 Oct. 2007, No. 107 (LVIII) - 2007, available at <http://www.unhcr.org/refworld/docid/471897232.html>, para. (b)(x)(viii). See 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*, 2009.

⁶ ExCom, *Conclusion No. 107*, para. (g)(viii).

⁷ CRC, Art. 24(3); *International Covenant on Civil and Political Rights*, available at <http://www.unhcr.org/refworld/docid/3ae6b3aa0.html>, Art. 23; *International Covenant on Economic, Social and Cultural Rights*, available at <http://www.unhcr.org/refworld/docid/3ae6b36c0.html>, Art. 10; *Convention on the Elimination of All Forms of Discrimination Against Women*, available at <http://www.unhcr.org/refworld/docid/3ae6b3970.html>, Art. 16. CRC, Arts. 32–36; International Labour Organization, *Worst Forms of Child Labour Convention*, C182, available at <http://www.unhcr.org/refworld/docid/3ddb6e0c4.html>; *Minimum Age Convention*, C138, available at <http://www.unhcr.org/refworld/docid/421216a34.html>, Arts. 2 (3), 2(4). CRC, Art. 34; *Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography*, available at <http://www.unhcr.org/refworld/docid/3ae6b38bc.html>.

⁸ CRC, *General Comment No. 5 (2003): General Measures of Implementation for the Convention on the Rights of the Child (Arts. 4, 42 and 44, Para. 6)*, CRC/GC/2003/5, 3 Oct. 2003, available at <http://www.unhcr.org/refworld/docid/4538834f11.html>, para. 12.

⁹ UNHCR, *Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum*, Geneva, 1997, available at <http://www.unhcr.org/refworld/docid/3ae6b3360.html>, p. 10.

¹⁰ UN High Commissioner for Refugees (UNHCR), *Children on the Run: Unaccompanied Children Leaving Central America and Mexico and the need for International Protection*, 13 March 2014, available at: <http://www.refworld.org/docid/532180c24.html> [accessed 23 June 2014]

¹¹ “Mixed migration” or “mixed movements” involve individuals or groups of persons travelling – generally in an irregular manner – along similar routes and using similar means of travel, but for different reasons. They may affect several countries along particular travel routes.

¹² See UNHCR, *Trees only Move in the Wind – a Study of Unaccompanied Afghan Children in Europe*, June 2010.

¹³ See UNHCR, *Trees only Move in the Wind – a Study of Unaccompanied Afghan Children in Europe*, June 2010.

- ¹⁴ See UNHCR, *Children on the Run, Unaccompanied Children Leaving Central America and Mexico and the Need for International Protection*, March 2014.
- ¹⁵ See UNHCR *Global Appeal 2014-2015, Live, Learn and Play Safe Regional Initiative*.
- ¹⁶ UN High Commissioner for Refugees (UNHCR), 'Trees only move in the wind: a study of unaccompanied Afghan children in Europe', June 2010, PDES/2010/05, available at: <http://www.refworld.org/docid/4c21ae2a2.html> [accessed 23 June 2014]
- ¹⁷ UNHCR *Refugee Protection and Mixed Migration: The 10-Point Plan in Action*, Feb. 2011, p. 10, available at <http://www.refworld.org/docid/4d9430ea2.html>. This edition contains the original 2007 10-Point Plan of Action (also available at <http://www.refworld.org/pdfid/45b0c09b2.pdf>) and identifies and discusses best practices around the globe relating to each of the 10 points in the plan. It includes nearly 200 practical examples.
- ¹⁸ *Ibid.*, p. 2.
- ¹⁹ *Ibid.*, pp. 152-168.
- ²⁰ Chapter 3 (Protection Sensitive Entry), UNHCR, *Refugee Protection and Mixed Migration: The 10-Point Plan in action*, February 2011, available at <http://www.refworld.org/docid/4d9430ea2.html>.
- ²¹ See Chapters 3-5, UNHCR, *Refugee Protection and Mixed Migration: The 10-Point Plan in action*, February 2011, available at <http://www.refworld.org/docid/4d9430ea2.html>.
- ²² Chapter 6 (Differentiated Processes and Procedures), UNHCR, *Refugee Protection and Mixed Migration: The 10-Point Plan in action*, February 2011, available at <http://www.refworld.org/docid/4d9430ea2.html>.
- ²³ UNHCR, *Protection Policy Paper: The return of persons found not to be in need of international protection to their countries of origin: UNHCR's role*, November 2010, available at <http://www.refworld.org/docid/4cea23c62.html>. UNHCR (PDES), *Difficult decisions: a review of UNHCR's engagement with assisted voluntary return programs*, available at <http://www.unhcr.org/51f924209.html>.
- ²⁴ See UNHCR *Refugee Protection and Mixed Migration: The 10-Point Plan in Action*, Feb. 2011.
- ²⁵ This includes improved cooperation with and among governments on refugee protection and international migration, strengthened relationships with regional stakeholders including outreach to civil society organizations with specialized expertise, and institutionalized partnership with IOM.
- ²⁶ This includes placing refugee protection and international migration on regional and national agendas, cooperation on mixed movements institutionalized through various follow-up mechanisms, and concrete follow-up projects implemented in different regions.
- ²⁷ This includes the above-mentioned *10-Point Plan in Action*, a comprehensive compilation with nearly 200 practical examples, which has been widely distributed, and the Joint Profiling Questionnaire developed jointly with IOM.
- ²⁸ This includes comprehensive analyses of magnitude, trends and protection challenges undertaken for all conference regions and expert roundtables, the 10-Point Plan matrix developed to systematically compile and analyze activities relating to mixed movements, and Mixed Migration Updates delivered on a biannual basis by the UNHCR Department of International Protection (DIP) Asylum/Migration Focal Point.
- ²⁹ See UNHCR *Strategy and Regional Plan of Action, Smuggling and Trafficking from the East and Horn of Africa*, Executive Summary, March 2013.
- ³⁰ See UNHCR *Global Appeal 2014-2015, Live, Learn and Play Safe Regional Initiative*.
- ³¹ *Ibid.*
- ³² UNHCR, *A Framework for the Protection of Children*, 2012, p. 15.
- ³³ UN Committee on the Rights of the Child (CRC), *General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1)*, 29 May 2013, CRC /C/GC/14, available at: <http://www.refworld.org/docid/51a84b5e4.html> [accessed 1 July 2014]
- ³⁴ UN High Commissioner for Refugees (UNHCR), *UNHCR Guidelines on Determining the Best Interests of the Child*, May 2008, available at: <http://www.refworld.org/docid/48480c342.html> [accessed 1 July 2014]; UN High Commissioner for Refugees (UNHCR), *Field Handbook for the Implementation of UNHCR BID Guidelines*, November 2011, available at: <http://www.refworld.org/docid/4e4a57d02.html> [accessed 1 July 2014]
- ³⁵ UN High Commissioner for Refugees (UNHCR), *Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention*, 2012, available at: <http://www.refworld.org/docid/503489533b8.html> [accessed 1 July 2014]
- ³⁶ *Ibid.* p. 35.
- ³⁷ *Ibid.* p. 38.
- ³⁸ UNHCR: *Refugee Protection and Mixed Migration: the 10-Point Plan in Action*, 2011, Section 9.2.2
- ³⁹ See UNHCR guidance in: UNHCR Guidelines on International Protection No. 8 - Child Asylum Claims, 2009.