

# Guiding Principles

for Children on the Move in the  
Context of Climate Change



# Acknowledgments

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# Glossary

**Arbitrary displacement:** Displacement that “includes elements of inappropriateness, injustice, lack of predictability and due process of law, as well as elements of reasonableness, necessity and proportionality”.<sup>1</sup> Whether or not displacement is arbitrary can be determined based on three criteria: the grounds of displacement, the due process of safeguards and the duration of displacement.<sup>2</sup> A non-exhaustive list of arbitrary displacements is provided in the Guiding Principles on Internal Displacement and the Kampala Convention. Examples include displacement due to policies of apartheid or in situations of warfare.

**Asylum-seeker:** An individual who is seeking international protection, through recognition as a refugee or beneficiary of complementary protection. In countries with individualized procedures, an asylum-seeker is someone whose claim has not been finally decided by the country in which the claim was submitted. Not every asylum-seeker will eventually be recognized as a refugee, but every refugee was once an asylum-seeker.<sup>3</sup>

**Best Interests Determination (BID):** The Committee on the Rights of the Child describes Best Interests Determination as “a right, a principle and a rule of procedure based on an assessment of all elements of a child’s or children’s interests in a specific situation.”<sup>4</sup> The United Nations High Commissioner for Refugees (UNHCR) categorizes it as follows: “A best interests determination’ (BID) describes the formal process with strict procedural safeguards designed to determine the child’s best interests for particularly important decisions affecting the child. It should facilitate adequate child participation without discrimination, involve decision-makers with relevant areas of expertise, and balance all relevant factors in order to assess the best option.”<sup>5</sup>

**Child:** The United Nations Convention on the Rights of the Child defines children as all persons below

the age of eighteen years unless majority is attained earlier under the laws applicable to the child.<sup>6</sup>

**Children on the move:** Building on UNICEF’s Global Programme Framework for Children on the Move<sup>7</sup> and Save the Children’s Child Protection Strategy,<sup>8</sup> children on the move encompasses the following groups of children (aged 0 –18):

- Children who are migrating within their own country or across borders;
- Children forcibly displaced within their own country and/or across borders;
- Children moving in a documented or undocumented manner, including those whose movement involves smuggling or trafficking networks;
- Children moving on their own or with their caretakers; and
- Children born to migrant or displaced adults in places of transit or destination.

Children on the move thus may be classified as migrants, asylum-seekers, refugees, internally displaced persons or other relevant categories, for example victims of human trafficking. Importantly, their status might change at different points of their movement.

**Circular migration:** The movement of people between their places of origin and host areas, typically between different countries. It is a voluntary form of labour mobility, linked to labour needs in the places of destination.<sup>9</sup>

**Climate change:** Article 1 of the UN Framework Convention on Climate Change (UNFCCC) defines climate change as: “a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods”. The UNFCCC thus makes a distinction between climate change attributable to human activities altering the

atmospheric composition and climate variability attributable to natural causes.<sup>10</sup>

**Disaster:** “A serious disruption of the functioning of a community or a society involving widespread human, material, economic or environmental losses and impacts, which exceeds the ability of the affected community or society to cope using its own resources.”<sup>11</sup>

**Displacement:** The movement of persons who have been obliged to flee or leave their homes or places of residence, in particular because of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or disasters. Displacement can occur in the context of slow- and sudden-onset disasters such as cyclones, hurricanes, sea level rise or drought. Displacement may take place within a country and/or across internationally recognized borders, and it may take the form of spontaneous flight, evacuation ordered and enforced by authorities or an involuntary planned relocation process.<sup>12</sup>

**Hazards:** Hazards can be natural or human-made and they may cause adverse consequences for humans and the things they value. Natural hazards are naturally occurring physical phenomena. They can be geophysical (earthquakes, landslides, or volcanic activity), hydrological (floods or avalanches), climatological (droughts or wildfires), meteorological (cyclones and storms), and biological (epidemics or plagues). Human-made and technological hazards are events caused by humans and may include conflicts, industrial incidents, transport accidents, environmental degradation, or pollution. Hazards may but do not necessarily result in disasters.<sup>13</sup>

**Immobility:** Involves remaining in place despite exposure to risks and hazards that arise due to the impacts of climate or environmental change. Immobility can be voluntary or involuntary, or a mixture of both. Voluntary immobility occurs when people prefer to stay in place due to strong place attachment or cultural identity. Involuntary immobility refers to the phenomenon when people have the desire to move but lack the means – commonly referred to as ‘trapped populations’. The phenomenon where people lack both the desire and means to move is known as acquiescent immobility.<sup>14</sup>

**Internally displaced persons (IDPs):** “Persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.”<sup>15</sup>

**Migrant:** Although not defined under international law, a migrant is commonly understood as “a person who moves away from his or her place of usual residence, whether within a country or across an international border, temporarily or permanently, and for a variety of reasons.”<sup>16</sup>

**Migration:** The movement of persons away from their place of usual residence, either across an international border or within a State.<sup>17</sup>

**Planned relocation:** A form of organized movement of people typically instigated, supervised and carried out by the State. The Guidance on Planned Relocations describes it as a “planned process in which persons or groups of persons move or are assisted to move away from their homes or places of temporary residence, are settled in a new location, and provided with the conditions for rebuilding their lives. A planned relocation is carried out under the authority of the State, takes place within national borders and is undertaken to protect people from risk and impacts related to disasters and environmental change, including climate change.”<sup>18</sup> Relocations should only be carried out with the full participation of affected populations.

**Refugee:** A “person who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country.”<sup>19</sup> An individual does not have to be formally recognized as a refugee by any country or organization to meet this definition, although in practice access to a legal status, entitlements and assistance may be contingent upon such recognition. Persons displaced in the context of climate change are currently not recognized as refugees or afforded

protection under the 1951 Convention on Refugees. However, under certain circumstances, persons who become displaced or compelled to leave their usual place of residence and cross a country border, could qualify for refugee status.<sup>20</sup>

**Resettlement:** Resettlement is the process whereby refugees are resettled from the country where they sought protection to another State that has agreed to admit them as refugees, granting them residence status.<sup>21</sup>

#### **Slow and sudden-onset hazards and disasters:**

Slow-onset events and processes include sea level rise, ocean acidification, desertification, salinization, land and forest degradation, biodiversity loss and glacial retreat. Slow-onset events and processes unfold gradually through cumulative changes over longer time frames. Sudden-onset disasters can be associated with meteorological hazards such as tropical cyclones, hurricanes, or typhoons; hydrological hazards such as floods and mudslides; and geophysical hazards such as tsunamis, earthquakes, and volcanic activity. They unfold rapidly, and often unexpectedly, and can cause extensive damage within a short period of time. Slow and sudden-onset hazards may overlap and cannot always be clearly distinguished from one another.<sup>22</sup>

**Stateless person:** “a person who is not considered as a national by any State under the operation of its law.”<sup>23</sup>

#### **Unaccompanied and separated children:**

Unaccompanied children (also called unaccompanied minors) are children who have been separated from both parents and are not being cared for by an adult who, by law or custom, is responsible for doing so. Separated children are those 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. It is important to differentiate unaccompanied and separated children from orphans, who are defined as children, both of whose parents are known to be dead. In some countries, however, a child who has lost only one parent is also called an orphan.<sup>24</sup>

**Youth:** While different societies define youth differently, since 1981, the United Nations has defined youth as those falling between the ages of 15 and 24.<sup>25</sup> This includes older adolescents (15 to 19 years) and young adults (20 to 24 years). Adolescence is the transition period between childhood and adulthood. It is a period of rapid physical, emotional and cognitive development when adolescents are highly perceptive to positive and negative experiences that affect their future outcomes.<sup>26</sup>

#### **A NOTE ON TERMINOLOGY**

**As applied in this document, the term ‘children on the move’ refers to children under the age of 18. While children are the focus of these Guiding Principles, issues pertaining to youth are also considered.**

Due to its multi-causal nature, it is often not possible to attribute mobility exclusively to the impacts of climate change. Hence these Guiding Principles use the term ‘in the context of climate change’ rather than climate migration, climate change-induced migration or climate displacement. Mobility, as applied in this document, encompasses different forms of movement that take place in the

context of slow- and sudden-onset climate hazards, events, or processes on a voluntary-forced continuum. They include migration, displacement, planned relocation, resettlement and evacuation. The Guiding Principles also recognize that not all children can or wish to move when confronted with climate change impacts. Therefore, the phenomenon of immobility, including the phenomenon of children ‘left behind’ by migrating parents, and its implication for upholding the rights of children is also considered.

While the focus of the Guiding Principles is on climate as a contributing factor to migration,

other environmental hazards such as earthquakes, tsunamis and volcanic activity, may also lead to displacement and migration of affected populations and these Guiding Principles are also relevant in such cases.

The Guiding Principles highlight the relevance and application of each principle for children who move specifically in the context of climate change, while acknowledging that children who move in this context have much in common with those who move for other reasons, such as poverty, family reunification, violence or conflict. The Guiding Principles can also be applied to them.

# About the Principles



The documents that were consulted in developing the Guiding Principles on Children on the Move in the Context of Climate Change, can be viewed [here](#).

In November 2020, UNICEF and the International Organization for Migration (IOM) jointly hosted a virtual symposium in order to better understand how children and youth are affected by climate-related migration and displacement and to enhance their visibility in the public policy discourse.<sup>27</sup> The symposium brought together a small group of representatives from United Nations and other development agencies, academics, experts, civil society, policymakers and practitioners as well as young climate and migration activists. Discussions at the symposium highlighted that at present, there is no global policy framework for addressing the needs and rights of children moving in the context of climate change.<sup>28</sup> Where child-related migration policies do exist, they do not consider climate and environmental factors, and where climate change policies exist they usually overlook children's needs.<sup>29</sup> Symposium participants recommended that developing a set of Guiding Principles for safeguarding the rights and well-being of children and youth moving in the context of climate change can be an important first step towards addressing this gap. The Guiding Principles are intended to be used by local and national governments, international organizations and civil society groups working with children on the move in the context of climate change.

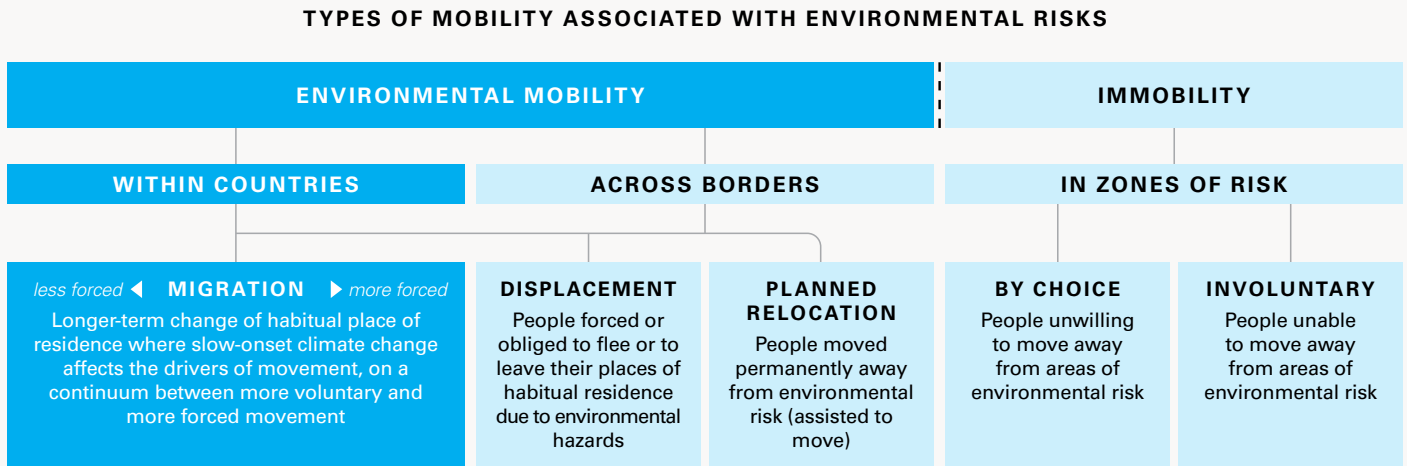
The Guiding Principles are derived from the internationally recognized human rights of children enshrined in the Convention on the Rights of the Child,<sup>30</sup> and do not create new international legal obligations. They are further informed by relevant aspects of existing international law, normative frameworks and operational guidelines, including the Universal Declaration of Human Rights;<sup>31</sup> the International Covenant on Civil and Political Rights;<sup>32</sup> the International Covenant on Economic, Social and Cultural Rights;<sup>33</sup> Convention on the Elimination of all Forms of Racial Discrimination;<sup>34</sup> Convention on the Elimination of All Forms of Discrimination Against Women;<sup>35</sup> Convention on the Rights of Persons with Disabilities;<sup>36</sup> Convention Relating to the Status of Refugees;<sup>37</sup> the Guiding Principles on Internal Displacement;<sup>38</sup> the Kampala Convention;<sup>39</sup> the Global Compact on Safe, Orderly and Regular Migration;<sup>40</sup> the Global Compact on Refugees;<sup>41</sup> the Sendai Framework on Disaster Risk Reduction;<sup>42</sup> the reports of the UN Framework Convention on Climate Change Task Force on Displacement;<sup>43</sup> the operational guidelines on Planned Relocations;<sup>44</sup> and guidelines by UN agencies on responding to unaccompanied children<sup>45</sup> (see annex I for a full list of resources consulted). In elaborating the Guiding Principles, recent jurisprudence and climate litigation cases involving migrants or children were also reviewed to reflect advances in the application of existing and evolving policies, as well as legal and normative frameworks.

These principles apply to all children who move in the context of climate change, whether they move within their country of origin or to international destinations, whether they move temporarily or permanently, whether they move on their own or with caretakers, and whether they move through regular or irregular channels.



The Guiding Principles also apply to children who cannot or choose not to move, including children 'left behind' by migrating parents, and whose enjoyment of rights may be negatively impacted by climate change.

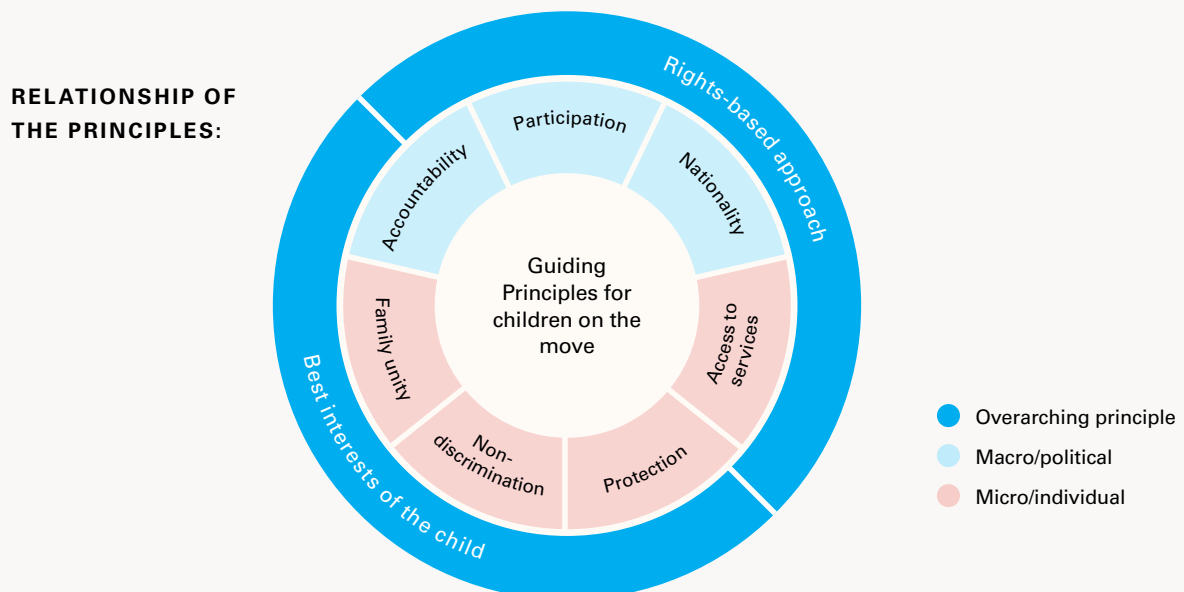
FIGURE 1



Source: Adapted from World Bank (2018): Groundswell: Preparing for Internal Migration. Note: Mobility and immobility are not mutually exclusive.

Two of the nine guiding principles – rights based approach and best interests – cut across the remainder of the seven principles and are fundamental for ensuring that children's rights are upheld when they move in the context of climate change. The guiding principles can further be classified according to their remit. That is, whether they can be addressed or implemented through macro level processes such as governance, or whether they pertain to micro level conditions or circumstances that may need a more individual approach or evaluation before action can be taken. An example of the former is ensuring the accountability of political leaders to children and youth, while an example of the latter would be making sure that children and youth are not discriminated against based on protected characteristics such as their sexual orientation, gender identity, gender expression and sex characteristics (SOGIESC).

FIGURE 2



# Rationale



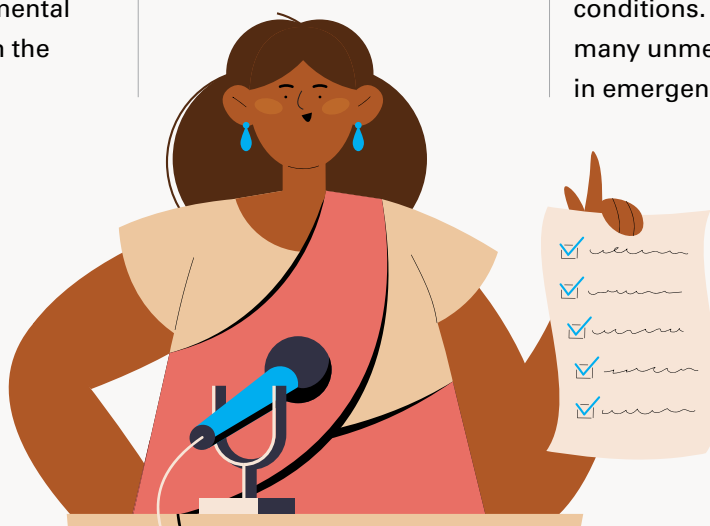
**One billion children – nearly half of the world’s 2.2 billion children – live in 33 countries classified as being at extremely high risk** to the impacts of climate change. And children are physically more vulnerable to the direct and indirect impacts of climate change and environmental hazards, especially in the developing world.



While it is difficult to ascertain the exact number of children on the move in the context of climate change, we do know that nearly **10 million children were displaced due to weather-related events in 2020 alone**.



**Children who move in the context of climate change may be exposed to a variety of risks**, such as abuse, trafficking, exploitation and other forms of maltreatment. They may lose access to education, be forced into labour and endure poor living conditions. There also remain many unmet protection needs in emergencies.



**Despite this, there is currently no global policy framework for addressing the needs and rights of children moving in the context of climate change.** Where child-related migration policies do exist, they do not consider climate and environmental factors, and where climate change policies exist they usually overlook children’s needs.

At a symposium held in 2020 by UNICEF and the International Organization for Migration (IOM), participants from the UN and other development agencies, academics, experts, civil society, policymakers and practitioners, and young climate and migration activists recommended developing guidelines to safeguard the rights and well-being of children moving in the context of climate change.

**These Guiding Principles** are intended to be used by national and local governments, international organizations and civil society groups working with children on the move in the context of climate change.

# The Guiding Principles



## 1. Rights-based approach

Children who move in the context of climate change maintain all rights of children as enshrined in the Convention on the Rights of the Child.

## 2. Best interests of the child

In all decisions and actions affecting children on the move in the context of climate change, the best interests of the child shall be a primary consideration.



## 3. Accountability

Governments and other actors are accountable for their decisions and actions that contribute to children's mobility in the context of climate change.



## 4. Awareness and participation in decision-making

Children have the right to be informed, consulted and to participate in making decisions to move or stay in the context of climate change, in line with their 'age and maturity', recognizing the rights of the parents (or of caregivers in the case of unaccompanied or separated children) to provide appropriate guidance to the child in exercising these rights.

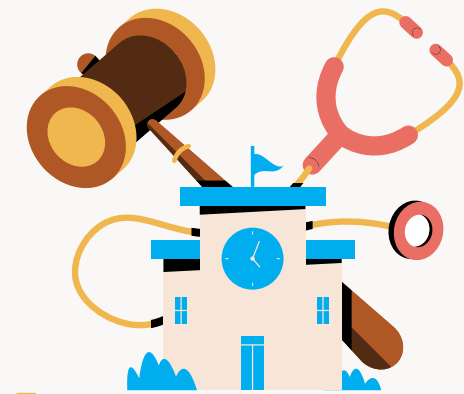
## 5. Family unity

Children who move in the context of climate change have the right to be cared for by their parents or caregivers and to not be separated from them. If separation does occur, children have the right to special protection and assistance by the State which should ensure their temporary alternative care and take all measures necessary to reunite them with their parents or other relatives.



## 6. Protection, safety and security

In all decisions and actions affecting children on the move in the context of climate change, the best interests of the child shall be a primary consideration.



## 7. Access to education, health care and social services

Children who move in the context of climate change have the right to access education, health care and other social services, at all stages of their journeys.



## 8. Non-discrimination

Children on the move in the context of climate change have the right to non-discriminatory treatment and to provisions necessary to enable them to exercise their rights, irrespective of their or their parents' migratory status.

## 9. Nationality

When stateless children move in the context of climate change, or when children become stateless as a result of moving away from their country of nationality, States have an obligation to ensure that they have a nationality including, where necessary, granting them the nationality of the receiving State.



# Background



**Climate change is not the only factor** shaping people's decision and ability to move; instead, the effects – or anticipated effects – of climate change intersect with existing environmental, social, political, economic and demographic conditions.

## Migration and climate change

According to the Intergovernmental Panel on Climate Change (IPCC) Sixth Assessment Report, human-induced climate change is already affecting weather and climate extremes in every world region.<sup>46</sup> From increasing storms, wildfires and heat waves, to the longer-term effects of sea level rise and drought, human-induced climate change is altering the world's ecosystems, affecting livelihoods and contributing to people's need or desire to move. However, climate change is not the only factor shaping people's mobility; instead, the effects – or anticipated effects – of climate change interact with existing environmental, social, political, economic and demographic conditions and shape people's ability to move, their choice of destination, and their access rights and resources before, during and after their movement.<sup>47</sup> For example, people with more economic resources may be better equipped to adapt in place, or indeed to migrate, than those with fewer resources.

Due to this multicausality, it is often not possible to link migration exclusively to the impacts of climate change. A recent assessment of evidence on the impact of climate change on migration commissioned by the United Kingdom government concluded that “the clearest evidence of existing relationships between climate change and mobility relates to climatic shock events – floods, storms, droughts and short-term temperature and precipitation fluctuations.”<sup>48</sup> The IPCC Sixth Assessment Report confirms that climate and weather extremes are increasingly causing displacement in all world regions, and in particular, in small island States.<sup>49</sup> In addition, the Internal Displacement Monitoring Centre (IDMC) estimates that there were 22.3 million new displacements due to weather-related shocks such as storms, floods, droughts, wildfires and extreme temperatures during 2021.<sup>50</sup> IDMC also notes that while the changing climate is contributing to population displacement, not all weather-related disasters and associated displacements are directly linked to climate change.

The links between slow-onset climate change processes, impacts or events (such as sea level rise, changes in precipitation patterns, land degradation) and migration are less well understood and evidence about how such changes affect migration patterns remains mixed. While some research suggests that slow-onset climate change might preclude people from moving by eroding resources, a number of studies indicate that slow-onset changes can lead to increased migration.<sup>51, 52</sup> The 2021 World Bank Groundswell Report foresees that between 75 million and 216 million people could migrate internally by 2050 in six regions (sub-Saharan Africa, East Asia and the Pacific; South Asia; North Africa; Latin America; Eastern Europe and Central Asia) as a result of slow-onset climate change impacts on livelihoods, in the absence of concentrated climate and development action.<sup>53</sup> Awareness of the



## Children and climate change in numbers<sup>56</sup>



### 1BN children

live in 33 countries classified as at extremely high risk to the impacts of climate change



### 500M children

live in areas with high risk of flooding



### 36%

of all deaths among children (aged 0-14) are, in part, caused by environmental factors



### 9.8M

children were displaced due to weather-related events in 2020



### 160M

children live in areas with very high risk of drought



### 14%

of the total migrant population were children in 2019

context within which change takes place, and people's perceptions of that change, is crucial for understanding the impacts and implications of slow-onset events for mobility.<sup>54</sup> In the context of both sudden and slow-onset climate change, the role of economic, demographic, political and environmental factors and conditions is therefore particularly relevant.

## Children and climate change: exposure, impacts and mobility

The impact of climate and environmental change intersects with demographic trends, in particular the growing number of children in places highly susceptible to climate change. In August 2021, UNICEF reported that one billion children – nearly half of the world's 2.2 billion children – live in 33 countries classified as at extremely high risk to the impacts of climate change.<sup>57</sup> Globally, around 500 million children live in areas with very high risk of flooding and nearly 160 million live in areas of extreme or high risk of drought.<sup>58</sup> For example, climate change poses a serious threat to people living in sub-Saharan Africa,<sup>59</sup> which has the youngest population in the world and the proportion of younger age groups on the continent is predicted to continue increasing at least until 2060.<sup>60</sup> This young demographic profile combined with the World Bank Groundswell projections indicate that sub-Saharan Africa could see as many as 85 million climate-related migrants by 2050.<sup>61</sup> This underscores the need for anticipatory action to prepare for and manage climate-related migration so that children and youth are not impacted negatively.

Compared with adults, children are physically more vulnerable to the direct and indirect impacts of climate change and environmental hazards.<sup>62</sup> A World Health Organization (WHO) study<sup>63</sup> found that children are disproportionately affected by morbidity and mortality linked to climate and environmental factors, and this is further amplified for children living in developing countries. Children in developing countries are more likely to suffer from a loss of healthy life years (i.e. free from impediments related to health problems) in particular, due to an increased incidence of infectious diseases and malnutrition. In addition to physical health risks, children exposed to the impacts of climate change also experience mental health challenges such as stress and anxiety, and these are expected to become more prevalent with rising global temperatures.<sup>64</sup> According to WHO estimates, environmental factors accounted for a quarter of the deaths in the adult population but for more than a third of deaths among children under 14.<sup>65</sup> Children's lives are also at risk when they get caught up in weather-related disasters such as floods, cyclones or hurricanes, or when they contract environmentally mediated diseases. This highlights both the role of sudden-onset climate events and slow-onset processes in shaping children's health and well-being.



**Children who move in the context of climate change**

may encounter new opportunities and achieve their aspirations, but they may also be exposed to a variety of risks such as abuse, violence, trafficking, exploitation and other forms of maltreatment.

Globally, children and families are already moving due to the impacts of climate change. Their movement ranges from voluntary migration, often motivated by aspirations for better education and economic opportunities elsewhere, to forced displacement in the aftermath of weather-related shocks and disasters. The Food and Agriculture Organization (FAO) of the United Nations notes that rural youth are most likely to migrate due to lack of employment prospects in agriculture, particularly in Africa.<sup>66</sup> While it is difficult to ascertain the exact number of children on the move owing to the absence of age-disaggregated data, available evidence suggests that children and adolescents, like adults, usually move within their country rather than internationally:<sup>67</sup> in 2020, less than 15 per cent of international migrants were under the age of 20.<sup>68</sup> Children can become displaced by sudden-onset climate events or disasters, or by the consequences of the intersection between conflict, climate and environmental hazards.

Children who move in the context of climate change may encounter new opportunities and achieve their aspirations, but they may also be exposed to a variety of risks such as abuse, violence, trafficking, exploitation and other forms of maltreatment.<sup>69,70,71</sup> Children are inherently more vulnerable to these risks, because of their evolving physical, psychological and emotional development. In the process of moving, children and their families often encounter new challenges and replace one set of hazards with another. Children may lose access to education, be forced into labour and endure poor living conditions. Challenges related to the inclusion of children on the move in the context of climate change are particularly acute in rapidly growing urban areas where 60 per cent of migrants and 80 per cent of refugees and internally displaced persons (IDPs) can be found.<sup>72</sup> While there is increasing recognition of children's needs for protection,<sup>73</sup> there still remain many unmet protection needs in emergency situations, including among children who do not or cannot move.<sup>74</sup> As climate change impacts are amplifying migration, including the movement of children, it is of paramount importance to ensure that children's needs are not compromised, delayed or missed. Failing to uphold the rights of children moving in the context of climate change could have significant consequences for an entire generation.

## IN FOCUS: YOUTH

The Guiding Principles on 'children on the move in the context of climate change' refer only to children under the age of 18. However, youth (aged 15–24) often face many of the same challenges as children, particularly older adolescents (aged 15–19). However, because youth aged over 18 are regarded as adults, they lack some of the protections extended to children. A particular difficulty in some situations occurs when children turn 18 and no longer have access to child-specific provisions in many national laws and policies. Although the Convention on the Rights of the Child applies to children under the age of 18, the rights of youth (aged 15–24) are affirmed in the basic human rights conventions and frameworks.

Youth experience similar vulnerabilities and risks to children, especially in situations of migration or displacement when they lose their social support networks. Like children, youth very often move on their own. Their education may have been interrupted and they often find it difficult to continue their education when they move. While access to primary education is enshrined in the Convention on the Rights of the Child, the Convention also mandates making secondary and tertiary education available and accessible to all (Article 28).

Youth may lack life and work-related skills and experience that leave them susceptible to exploitation or abuse. Young adults and adolescents already make up a large share of migrants, often moving from rural areas to cities where they face precarious living and working conditions.<sup>75</sup> Issues around job training and livelihoods are particularly relevant to youth. For example, investment in training and capacity-building for rural youth to gain skills in climate-smart agricultural practices and entrepreneurship and encouragement of youth-led innovation are some examples of possible action.

When it comes to participation in decisions, youth (aged 15–24) have a right to participation on a par with other adults, but in practice are often excluded due to their age.



### Principle 1

Rights-based approach







PRINCIPLE 1

# Rights-based approach

Children who move in the context of climate change maintain all rights of children as enshrined in the Convention on the Rights of the Child.

### Objective

This principle affirms the centrality of human rights in addressing the issues around children who move in the context of climate change. Governments have legal obligations with respect to these rights which serve as the foundation for policies of governments, international actors, civil society groups and all those whose decisions affect the well-being and protection of children.

### Scope

Children do not lose their rights when they move. These rights apply in all types of movement – including short-term evacuations, disaster-related displacement, circular migration, protracted and prolonged displacement, internal and international resettlement, and longer-term planned relocations. They apply to those who move within the borders of their countries and those who cross borders, whether through regular or irregular means. The Committee on the Rights of the Child has increasingly taken up the issue of the impact of climate change on the rights of children.<sup>76</sup>

### What this means for children on the move

Children's rights are often negatively impacted by both the effects of climate change and by their mobility. Children's rights violations can occur at the time of a slow or sudden-onset hazard or event, during movement and/or after reaching their destinations. Children moving in the context of climate change risk losing connections to social networks – and often to family members. They often have difficulty accessing education, health care, and social services, including social protection systems. As UNICEF has found, lack of access to social services negatively impacts their resilience and ability to cope with the effects of climate change.<sup>77</sup> The risks increase when children live in situations of poverty, conflict, or both. Children belonging to indigenous communities and religious/ethnic minorities, children with diverse sexual orientation, gender identity, gender expression and sex characteristics (SOGIESC) or who are stateless are particularly affected by climate change and other environmental hazards and may experience additional rights violations in the form of stigma, discrimination and violence when they move.<sup>78</sup> Upholding the rights of children who belong to marginalized groups at different stages of their movement is also challenged by systemic forms of discrimination. Conscious and unconscious bias in the design and implementation of climate change mitigation and adaptation plans and policies often renders the needs of migrant populations, including children, invisible and overlooked.<sup>79</sup> In addition, the current lack of data and evidence on children on the move, in particular the absence of disaggregated data,<sup>80</sup> further impedes the development of adequate measures to safeguard the rights of children who move in the context of climate change.

# 1.

## RIGHTS-BASED APPROACH

Gender, age and disability also shape the ways in which the rights of children who move in the context of climate change are affected at different stages of their movement. Not only do many children and youth of all genders experience gender-based violence as a consequence of disaster-related displacement, but they also often experience difficulties in accessing education, health care and social services.<sup>81</sup> Children with disabilities are not only at risk of harm during disasters but also suffer disproportionately once displaced. An assessment of the impact of Cyclone Pam in Vanuatu in 2015 found that people with disabilities were more than twice as likely to suffer storm-related injuries than those without disabilities.<sup>82</sup> Evacuation facilities and temporary shelters housing children and their families following displacement are not designed with children with disabilities in mind and often lack accessibility. A recent Save the Children study found that children with motor impairments find it difficult to move around shelters.<sup>83</sup>

### EXAMPLE

#### Application of Principle 1, including innovative policy approaches

*2019 Declaration on the Rights of Children in the Context of Migration by the Association of Southeast Asian Nations (ASEAN):* the Declaration reaffirmed that children do not lose their rights when they migrate. The Declaration has inspired a regional plan of action that acknowledges climate as a contributing factor to child migration in the region. “Its first priority activity is a review of legal and procedural gaps in the child protection system, and barriers to the identification, referral and protection of children in the context of migration, taking into account new and emerging challenges such as the impact of emergencies including public health crises and climate change.”<sup>84</sup>



### Principle 2

Best interests of the child



PRINCIPLE 2

# Best interests of the child

In all decisions and actions affecting children on the move in the context of climate change, the best interests of the child shall be a primary consideration.



## 2.

### BEST INTERESTS OF THE CHILD

99

*"Climate change-related disasters can also disrupt child protection systems and exacerbate pre-existing tensions and conflicts, leaving children susceptible to violence, abuse, child labour, trafficking and other forms of exploitation."*

International Federation of  
Red Cross and Red Crescent  
Societies

#### Objective

Children on the move in the context of climate change are exposed to a variety of social and environmental risks during and after their move and rely on state and non-state actors to safeguard their well-being. Those who make decisions about addressing the needs of children who move in the context of climate change must consider how those decisions and subsequent actions will affect children.

#### Scope

Ensuring respect for the best interests of the child is fundamental to child protection systems worldwide and has been incorporated into national policies and practices for children in a range of situations. While States have the primary responsibility for ensuring that the best interests of the child prevail, UN agencies, non-governmental organizations (NGOs) and other stakeholders must also use best interest assessments and best interest determinations to make decisions affecting children's well-being. Indeed, some international organizations, such as UNHCR, have developed substantial operational guidance for how to implement the best interests' principle for displaced children.<sup>85</sup>

#### What this means for children on the move

As the International Federation of Red Cross and Red Crescent Societies has observed, "climate change-related disasters can also disrupt child protection systems and exacerbate pre-existing tensions and conflicts, leaving children susceptible to violence, abuse, child labour, trafficking and other forms of exploitation."<sup>86</sup> Migrant children, in particular unaccompanied children and those with protected characteristics (such as belonging to an ethnic minority; children with diverse sexual orientation, gender identity, gender expression and sex characteristics; or children with disabilities) are at elevated risk. Yet children find accessing support and seeking protection from abuse, exploitation, or other maltreatment especially difficult during crisis situations and in the context of disasters.<sup>87</sup> IOM have developed guidance to identify, protect and assist migrants, including children, who are vulnerable to violence, exploitation, or abuse, before, during or after migration. This guidance includes advice on implementing the best interests of the child in the context of migration. It recommends that States should develop an institutional framework for protecting the rights of children that should take priority over immigration legislation and policy, and that should apply regardless of a child's asylum or immigration status.<sup>88</sup>

In applying the principle of the best interests of the child to children who are displaced or on the move, it is essential that when making decisions about returning children to their community of origin consideration is also given to the effects of climate change in that location. This may mean adapting national laws and policies and international frameworks to incorporate environmental conditions along with

## 2.

### BEST INTERESTS OF THE CHILD

assessments of family situations and access to services in places of origin in best interests' determinations. For example, children and adolescents who are left behind by migrating parents in places that are disproportionately exposed to the impacts of climate change, may have to leave school in order to work to support themselves and their families.

To remedy existing gaps and to ensure that the best interests of children are respected in decisions, climate change adaptation and mitigation policies, as well as migration governance, need to explicitly consider children and acknowledge the disruptive impact of climate change for child protection systems. However, to date, children have been either overlooked or not considered adequately. UNICEF found that less than half of Nationally Determined Contributions (NDCs) submitted under the Paris Agreement mentioned children or youth directly, and many of these still fall short of being truly child-sensitive, since their reference to children is only descriptive without commitment to action.<sup>89</sup> A similar review of National Adaptation Plans (NAPs) and a recent mapping of legal and policy instruments against commitments made under the Global Compact of Migration uncovered that while a number of these contain a reference to children or have dedicated instruments to protect the rights of children in the context of disasters and related displacement situations, they mostly consider children as vulnerable victims or beneficiaries of intervention and few promote the participation of children in decisions.<sup>90, 91</sup>

#### EXAMPLE

#### Application of Principle 2, including innovative policy approaches

*Appeal Decision Tuvalu (2014):* Best interests' considerations played a key role in granting humanitarian asylum for a family of four in New Zealand in this landmark case. A legal case was brought to appeal the decision of the New Zealand Refugees Status Branch to return a family to Tuvalu. The impacts of climate change on Tuvalu were given as the main reason for migrating to New Zealand. Both children were born in New Zealand and had family networks and schooling there. While the Tribunal refused family protection on refugee or other protected status grounds, based on its assessment of the best interests of the child, the Tribunal concluded that it was in the children's best interest to remain in New Zealand. This allowed the parents to also remain in New Zealand on discretionary humanitarian grounds.<sup>92</sup>



### Principle 3 Accountability

PRINCIPLE 3

# Accountability

Governments and other actors are accountable for their decisions and actions that contribute to children's mobility in the context of climate change.





**The decisions and (in)actions of governments** today will undoubtedly have an impact on the lives and livelihoods of future generations and will shape the prospects of children.

### Objective

This principle identifies key actors who can be held accountable for present and future climate change and related displacement. It outlines their role and responsibility in preventing the displacement of children from their homes due to climate or environmental causes.

### Scope

Governments and other relevant actors should be accountable to the public, including children, for their (in)action with regard to climate change, recognizing that the adverse impacts of climate change can contribute to mobility. Given that mobility poses potential risks for children, it is in their interest that every possible measure is taken to prevent and mitigate climate change. Accountability for the purposes of this principle is the right to demand a justification for (in)action by those in positions of power to provide an account of their (in)actions to the public.

### What this means for children on the move

Governments can be held accountable, including by children, for decisions and (in) actions that contribute to climate change. The relationship between different climate change and development scenarios and population movement is documented by the Groundswell analysis, which predicts that compared to a low emission scenario, under high emissions more people will be compelled to move due to slow-onset climate change impacts. At the same time, every year, millions of people become displaced within their countries due to weather-related disasters. These displacements also involve children. The decisions and (in)actions of governments today will undoubtedly have an impact on the lives and livelihoods of future generations and will shape the prospects of children.

Therefore, governments should take concerted measures to reduce the risk of disasters and more specifically to reduce the risks of displacement associated with both sudden and slow-onset climate change events. States share a collective global responsibility, given that carbon emissions and their impacts through environmental degradation and climate change transcend boundaries, States are responsible for harms and human rights violations caused by carbon emissions to children regardless of their location. States also have an individual responsibility in this regard and the collective nature of the causation of climate change does not absolve a State of its individual responsibility.

There is a robust literature and international legal obligations on both disaster risk reduction and climate change adaptation,<sup>93</sup> which can be used by governments to take measures to protect children from displacement in the context of climate change. Government action to prevent the displacement of children in the context of climate change also extends to holding other actors, such as the private



### 3.

#### ACCOUNTABILITY

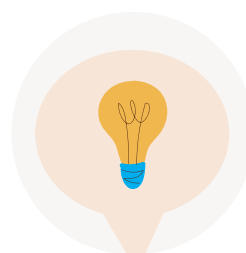
sector, accountable with regard to their contribution to climate change while also recognizing that business can play a leading role in promoting climate-smart solutions and spearheading innovation towards achieving zero emissions. Governments can take action by establishing laws, regulations and standards that promote and incentivize the reduction of emissions and the sustainable use of natural resources, as well as putting in place mechanisms for enforcing accountability. The judiciary can also develop jurisprudence in this regard.

#### EXAMPLE

##### Applications of Principle 3, including innovative policy approaches

*Sacchi Communication:* In 2019, 16 children filed a petition with the Committee on the Rights of the Child using the Optional Protocol to challenge government inaction on climate change in five countries (Argentina, Brazil, France, Germany, and Turkey). This was the first climate litigation case put before the Committee whose decision established that countries can be held liable for the negative impacts of carbon emissions on children outside the emitting country's jurisdiction, albeit the case was found to be inadmissible.

*Pandey v. India:* Pandey, a nine-year-old girl from the State of Uttarakhand (India), brought her case to a specialized environmental tribunal, the National Green Tribunal, set up in India under the National Green Tribunal Act of 2010. Her chief complaint was that the government had failed to take any effective science-based measures to address climate change and thus a significant gap in the implementation of environmental legislation continued to exist. While unsuccessful, Pandey's case is a leading attempt by a young climate litigant to actively direct government policy and raise awareness on climate issues.



#### Principle 4

Awareness and participation in decision-making



#### PRINCIPLE 4

# Awareness and participation in decision-making

Children have the right to be informed, consulted and to participate in making decisions to move or stay in the context of climate change, in line with their 'age and maturity', recognizing the rights of the parents (or of caregivers in the case of unaccompanied or separated children) to provide appropriate guidance to the child in exercising these rights.

## 4.

### AWARENESS AND PARTICIPATION IN DECISION-MAKING



**Child friendly justice systems** can help ensure that the specific needs and circumstances of children who move in the context of climate change are considered, and that appropriate and adequate support is provided to facilitate children's meaningful participation in asylum and immigration proceedings.<sup>95</sup> The Council of Europe developed a set of guidelines on child-friendly justice, which aim to ensure that the rights of children, including the right to information, representation, participation and protection, are fully respected in all legal proceedings.<sup>96</sup>

#### Objective

This principle is intended to highlight the need to support the agency of children in all decisions related to their protection and well-being while recognizing that their ability to participate in decision-making will be shaped by their age and maturity.

#### Scope

The right to information, freedom of expression and participation of all children in decision-making is guaranteed under the Convention on the Rights of the Child. Of course, the extent of their participation depends on their age and maturity. Decisions affecting young children under the age of five, for example, should generally be made by their parents and caregivers, although even very young children have a right to know why and where they are moving and to be reassured of their well-being and protection. Older children have a right to more active participation in decision-making. To facilitate the inclusion and informed participation of children in decision-making, information should be provided in an accessible and child-friendly manner. This principle also applies to decision-making within families where children should have a right to express their opinions about a decision to move – whether to move onward or to return to their community of origin. They have a right to be heard when adults (including parents and caregivers) decide to move as their movement almost always affects the lives of children within the family.

#### What this means for children on the move

Governments and other actors (including parents, caregivers and legal guardians) involved in decisions about children on the move in the context of the adverse effects of climate change have a responsibility to ensure that children are able to voice their concerns and to participate in decisions that affect their lives, such as decisions about moving or decisions about granting refugee status. This includes ensuring that children are empowered to be heard by addressing barriers to children's and youths' participation. For example, children "may avoid speaking out because of fear of stigma, trauma or perceived negative consequences for themselves."<sup>94</sup> Child-friendly processes, such as child-friendly justice systems, can help overcome these barriers.

Those making decisions about children who move in the context of climate change have a responsibility to bring children into discussions about climate change mitigation and adaptation policies. Essential to effective participation in decision-making is access to full and accurate information about the effects of climate change. Recent legal decisions have underscored the public's right to environmental information<sup>97</sup> which could support individual children in making decisions about whether, where and how to move in response to climate change impacts.

## 4.

### AWARENESS AND PARTICIPATION IN DECISION-MAKING



**The principle of participation of children on the move** in the context of climate change is particularly important because climate change raises issues of intergenerational justice.

The principle of participation of children on the move in the context of climate change is particularly important because climate change raises issues of intergenerational justice.<sup>98</sup> Decisions to act – or not to act – to prevent human-induced climate change made by today’s generation of political leaders will have the greatest effect on the lives of generations to come. Facilitating the inclusion and participation of children and youth in decision-making forums at local and national levels is key to ensuring that children’s views and concerns are heard regarding decisions that will affect their lives. Youth parliaments and children’s parliaments can act as platforms for promoting such dialogue and can foster the role of children and youth as active agents. Examples of children’s parliaments already exist in Africa (for instance, Malawi, Namibia, Nigeria, South Africa and Zimbabwe) and beyond. To support local governments with meaningful youth engagement in climate action, the C40 Global Youth and Mayors Forum have developed practical guidance in the form of a playbook<sup>99</sup> which can also be applied more broadly in decisions about solutions that are likely to affect children and youth. Facilitating dialogue between city leaders and children and youth representatives is particularly relevant in the context of climate-related mobility due to cities being popular destinations, or indeed places of transit, for many migrants.

One specific form of mobility which is likely to become more prevalent in the future is the relocation of groups or entire communities to protect them from environmental hazards and future disasters.<sup>100</sup> Also referred to as planned relocations, these initiatives require considerable planning and financing to ensure that the rights of affected people are upheld, including those of children. While many of the planned relocation efforts surveyed have included some form of community engagement, there is little information available on whether these engagement mechanisms have included youth and children.<sup>101</sup> As planned relocation is generally intended as a permanent move for people at risk of climate-related hazards, it is particularly important to include children’s representatives in planning and decision-making about such moves, and that any decisions on planned relocation are taken with the best interests of children as the primary consideration.

At the present time, there is a lack of data on the extent to and conditions under which displacement in the context of climate change becomes protracted. As the Internal Displacement Monitoring Centre reports, “protracted displacement in disaster contexts is associated with some of its most profound impacts, such as cultural and community dislocation, psychosocial impacts on mental health and social well-being and loss of livelihoods, and has disproportionate impacts on vulnerable and marginalized members of society. Knowledge and awareness of such situations, on the other hand, is weak.”<sup>102</sup>

## 4.

### AWARENESS AND PARTICIPATION IN DECISION-MAKING

For children and youth, protracted displacement is often associated with increased poverty, child labour and greater risk of sexual and gender-based violence and exploitation.<sup>103</sup> While governments have the responsibility to support solutions for internally displaced children, taking into account their best interests as primary consideration, they also have the obligation to engage children in discussions of possible solutions – whether to return to the community of origin (which may not be possible due to damage to the habitat), or to remain where they are, or to settle elsewhere in the country. For those displaced across international borders in the context of climate change, available solutions will be at the discretion of individual governments. Governments in host countries should take children’s best interests as the primary consideration and seek to include children in decisions regarding solutions that will affect them.

#### EXAMPLE

##### Applications of Principle 4, including innovative policy approaches

*Scottish Children’s Parliament and Scotland’s Climate Assembly:* Promoting and protecting children’s human rights is key to the Scottish Children’s Parliament, which engages young children under the age of 14 in political debates and decisions. This extends to debates about action on climate change. The Children’s Parliament took part in Scotland’s Climate Assembly during 2020 and 2021, allowing children to express their views, experiences and ideas with regard to tackling climate change. The children’s report was included in the Climate Assembly’s official submission to the Scottish Government.<sup>104</sup> The Children’s Parliament demonstrates an example where creating a safe and inclusive platform for children can facilitate their meaningful involvement in decisions that will affect their future.

*Vanuatu’s National Policy on Climate Change and Disaster-Induced Displacement:* The policy seeks to minimize the drivers of displacement from sudden and slow-onset disasters. Where displacement or planned relocation does occur, it seeks to minimize negative impacts on the people affected, especially on vulnerable and minority groups, including children, women, the elderly and people with disabilities. Key to the approach is close consultation with those affected – both displaced populations and their host communities – in order to ensure that they can make voluntary and informed choices and decisions.



#### Principle 5 Family unity

## PRINCIPLE 5

# Family unity

Children who move in the context of climate change have the right to be cared for by their parents or caregivers and to not be separated from them. If separation does occur, children have the right to special protection and assistance by the State which should ensure their temporary alternative care and take all measures necessary to reunite them with their parents or other relatives.



## 5.

### FAMILY UNITY



**The evacuation of children** as a group, without their parents, should only happen as a last resort.

#### Objective

This principle is intended to reaffirm the principle of family unity – a bedrock of international human rights law and child protection law – for children on the move in the context of climate change. The principle also highlights the applicability of family unity in the context of children’s immobility, that is for the ‘left behind’ children of parents who move in the context of climate change.<sup>105, 106</sup>

#### Scope

For children who move in the context of climate change with or without their parents or caregivers, the government is responsible for their care and protection as well as for reuniting them with their family members, usually in accordance with their national child protection policies. The principle of family unity should also be applied to the children of same-sex parents without discrimination. Children may become separated from their families during their move, either accidentally or intentionally. In some cases, there may also be aid-induced separations, for example if it is assumed that children are orphans without due verification. There must be safeguards against this. Media coverage can also lead to pressures for adoption or parents may opt to place their children in residential care because they perceive the child will be better off.<sup>107</sup> It should also be noted that it may not always be in the child’s best interest to be returned to or reunited with their parents, relatives or other caregivers (due to a history of violence, exploitation or other rights violations) and any potential risks of harm through reunification should be evaluated through a timely referral and best interests assessment procedure before a decision about reunification is made.<sup>108</sup>

#### What this means for children on the move

Although most data collected on internal migration and displacement is not disaggregated by age, we can infer the numbers of children from available aggregate data.<sup>109</sup> Based on figures published in the latest Global Report on Internal Displacement and projections in the 2021 Groundswell Report, it is highly likely that the number of children moving internally in the context of climate and environmental change exceeds the number of those moving to international destinations. This observation was also made in an 11-country study on climate-related displacement by the International Federation of Red Cross and Red Crescent Societies in 2021.<sup>110</sup> Existing operational guidance for unaccompanied and separated children is for those who cross international borders. In particular, the United Nations High Commissioner for Refugees (UNHCR) guidance on utilizing best interest determination procedures in responding to unaccompanied children who cross borders is helpful and may be adapted for children who move on their own within the borders of their countries.<sup>111</sup>

Children can become accidentally separated from family members during emergency situations – such as evacuations and disaster-induced displacement. Separation may also occur as a result of policies, practices or laws in countries of transit or destination. Or it may be deliberate, if families decide on different migration tracks, for example, by sending a child to live with a relative where

## 5.

### FAMILY UNITY



#### Operational guidance

suggests that unaccompanied children who are evacuated should be placed into temporary interim care.

educational opportunities are better or to safeguard them from the negative impacts of climate change and related hazards.

When children must be evacuated due to environmental hazards, they have the right to stay with their families. Evacuations are often used in sudden-onset disasters to protect people from the effects of the disasters and are recognized as a life-saving protection measure.<sup>112</sup> The evacuation of children as a group, without their parents, should only happen as a last resort. Children may face increased protection risks in temporary shelters, including risk of gender-based violence and trafficking – particularly when they are not evacuated with their family members. Operational guidance suggests that unaccompanied children who are evacuated should be placed into temporary interim care. Institutional or long-term adoption arrangements should be avoided as long as the situation remains unsettled.

Life in places that are particularly exposed to and increasingly affected by climate change impacts may become untenable or may severely affect the viability of livelihoods, prompting families to move. This may be especially relevant for low-lying coastal areas as well as other hazard-prone and vulnerable locations. During movement, children may become separated from their families, either accidentally or as a result of hostile immigration policies. International guidelines stipulate that no one should be subject to arbitrary or unlawful interference with their family and should enjoy legal protection against such interference. Children should not be separated from their parents against their will.<sup>113</sup> Where separation does occur, every effort should be made to reunite separated or unaccompanied children with their families, unless it is established that it is against the best interest of the child.<sup>114</sup>

#### EXAMPLE

##### Applications of Principle 5, including innovative policy approaches

*Zambia's protection guidelines for vulnerable migrants:* Zambia developed guidance for first line officials such as immigration officials, social welfare officials and others involved in the protection of vulnerable migrants in Zambia. The document provides procedures for effective identification, referral and service provision to such migrants, and specifically consider the best interests of unaccompanied and separated child migrants by taking a rights-based approach.<sup>115</sup> The processes set out in the guidelines, such as those for identification, can support family reunification efforts.

*Family reunification for separated children displaced in the context of disasters in Africa:* The African Charter on the Rights and Welfare of the Child, a regional agreement between member States of the Organization of African Unity, contains an explicit request that obliges member States to “take all necessary measures to trace and re-unite children with parents or relatives where separation is caused by internal or external displacement arising from armed conflicts or natural disasters” (Article 25, para. 2b). The Charter further asks States to cooperate with international organizations in their efforts to protect and assist refugee children, including by tracing the parents or other close relatives of separated or unaccompanied child refugees.<sup>116</sup>





## PRINCIPLE 6

# Protection, safety and security

Children on the move in the context of climate change have the right to be safe during all stages of movement. This includes protection from physical and emotional harm, gender-based violence, exploitation, smuggling, trafficking and extortion, as well as facilitating access to asylum and/or refugee status.

## 6.

### PROTECTION, SAFETY AND SECURITY



#### A child-friendly approach

is “accessible, age appropriate, speedy, diligent, adapted to and focused on the needs and rights of the child, respecting the rights of the child including the rights to due process, to participate in and to understand the proceedings, to respect for private and family life and to integrity and dignity.”<sup>163</sup>

#### Objective

This principle is intended to underscore the importance of protecting children on the move in the context of climate change. Ensuring their safety and security should be the highest priority of all those involved in decisions about children.

#### Scope

It is a fundamental responsibility of States to protect children, regardless of their migratory status or that of their parents. The Special Rapporteur on the Human Rights of Internally Displaced Persons pointed out that: “Displacement is a process of loss and internally displaced children lose the protective environment around them.” Although international and civil society organizations often have child protection programmes, it is also important to facilitate community and family protection of children.<sup>117</sup> States thus need to strengthen the protective capacity of families and communities who are the first layers of support.<sup>118</sup> Indeed, it is often the lack of protection in their country of origin and in their homes that leads children to move.<sup>119</sup> When children move, they are at high risk of trafficking, violence and exploitation that can undermine their safety and security. For example, there may be people, such as human traffickers, who take advantage of the vulnerability of children on the move and, although data are often insufficient, available research shows that migrant and displaced children are at higher risk of trafficking.<sup>120</sup> Most States have established national child protection systems but often children on the move are unaware of how to access them. This is particularly the case with cross-border movements when children may be traveling irregularly or being trafficked and they are often reluctant to approach governmental agencies or law enforcement officials out of fear of detention and/or deportation.

#### What this means for children on the move

Children who move in the context of climate change often face heightened risks to their safety, security and well-being. The extent of the risk depends on the nature of the journey, whether they are traveling alone or with family members, as well as other circumstances. These risks further increase when a child is displaced rather than moving voluntarily.

As the United Kingdom’s 2011 Foresight report signaled, migrants, including children, are likely to move from rural areas of high environmental risk to urban areas where the environmental risk is even higher.<sup>121</sup> Some 90 per cent of the world’s large cities are located in coastal areas at risk of flooding and sea level rise; the poor and marginalized often live on the most exposed land, making them even more at risk from environmental hazards.<sup>122</sup> This also means that urban areas – and urban policymakers such as mayors and other urban officials – are likely to be on the front lines of responding to the needs of children on the move in the context of climate change.<sup>123</sup>

## 6.

### PROTECTION, SAFETY AND SECURITY



**Protecting the rights of children who move** in the context of climate change also implies taking measures to prevent arbitrary displacement, supporting children throughout their movement.

Protecting the rights of children who move in the context of climate change also implies taking measures to prevent arbitrary displacement, supporting children throughout their movement – including those who need assistance in order to move – and also respecting the rights of those who remain in their communities of origin whether voluntarily or unwillingly, including children who are left behind by migrating parents.

In situations of fragility where the government is unable or unwilling to uphold the rights of those living within its territory, other actors, including non-state actors,<sup>124</sup> can be called on to assist with upholding these rights, including international organizations, civil society groups and humanitarian actors.<sup>125</sup> The draft articles of the International Law Commission on the Protection of Persons in the Event of Disasters, further stipulates that governments have a duty to seek international assistance when needed (Article 11), and that other States or international organizations may offer assistance, which requires the consent of the State (Articles 12 and 13); conditions may also be set on the provision of such assistance (Article 14).<sup>126</sup>

#### **Safety and Security**

Girls, especially those who move without their parents, family members or caregivers, are at increased risk of gender-based violence during and after their move. Gender-based violence can take different forms, including physical, sexual, mental or economic harm, as well as the threat of violence, coercion or deprivation of liberty. During emergencies, such as those following the onset of disasters or armed conflict, this risk becomes even greater.<sup>127</sup> Evidence shows that the trafficking of girls and women and other forms of gender-based violence tend to increase following disasters, including in the context of climate-related migration and displacement.<sup>128</sup> The risk of gender-based violence is also present in places children move to, such as urban informal settlements or refugee and IDP camps where they lack appropriate WASH facilities and secure housing.<sup>129</sup> The Committee on the Elimination of Discrimination against Women, in view of its general recommendation 37 on the gender-related dimensions of disaster risk reduction in the context of climate change, requests that State and non-state actors take effective measures to mitigate climate change and reduce the risk of disasters while ensuring the protection of the fundamental rights of affected women.<sup>130</sup>

Children who move in the context of climate change can also become victims of exploitative labour arrangements. Migrant children who gradually discontinue their education, lack the necessary skills, knowledge and experience to access legal or formal employment opportunities. They might engage in hazardous labour in agriculture, on construction sites, debt-bonded labour in brick kilns or engage in other informal sector work.<sup>131, 132</sup> Nepal's brick kiln industry functions seasonally, and it is not uncommon for children to join their families to work in

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### PROTECTION, SAFETY AND SECURITY



**As a matter of international law**, children who move across borders have the right to apply for refugee status/asylum and complementary forms of protection, and children moving in the context of climate change may also qualify for international protection depending on their particular situation.

brick production to pay off loans. In 2012, there were around 30,000 children working in Nepal's brick kilns, and half of them were under the age of 14.<sup>133</sup> These children are particularly vulnerable to exploitation and have little bargaining power to challenge maltreatment or demand better conditions. Similarly, children who become displaced and experience harsh living conditions, ranging from material poverty to food insecurity, in refugee or IDP camps are often pushed into work at the expense of their schooling. A study with Syrian refugee children and youth in Lebanese camps found that most children worked in agriculture, carrying out tasks considered hazardous, dangerous, and not fit for children. A third of children reported having suffered a work-related injury and only 18.3 per cent were receiving some form of education.<sup>134</sup>

Standards developed by the International Labour Organization are the legal pillars of global action towards eliminating child labour. The 1973 Minimum Age Convention<sup>135</sup> stipulates that the general minimum age threshold for admission into work is 15 years of age, or 18 years for hazardous work. Whereas the 1999 Worst Forms of Child Labour Convention requires ratifying states to eliminate "the worst forms of child labour, comprising all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; child prostitution and pornography; using children for illicit activities, in particular for the production and trafficking of drugs; and work which is likely to harm the health, safety or morals of children."<sup>136</sup>

#### **Refugee Status/Asylum**

As a matter of international law, children who move across borders have the right to apply for refugee status/asylum and complementary forms of protection, and children moving in the context of climate change may also qualify for international protection depending on their particular situation.<sup>137</sup> As noted previously in these Guiding Principles, children often move because of a combination of factors, including persecution and conflict, as well as the effects of climate and environmental change. There are circumstances that arise in part because of climate change that can lead to fears considered well-founded within the meaning of the 1951 Convention on Refugees. Climate and environmental drivers of mobility are often associated with conflict, political persecution, harassment and government-sanctioned violence. For example, environmental conditions, such as resource scarcity, may contribute to or occur in parallel with conflicts which may cause people, including children, to become displaced. Climate-related disasters may also lead to a breakdown of law and order, or they may be used as justification for the persecution of certain groups in the population.<sup>138</sup> As such, when children are on the move in the context of climate change, governments and competent authorities should consider the effects of climate change on the country of origin in making decisions about refugee status and complementary protection.<sup>139</sup>

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### PROTECTION, SAFETY AND SECURITY

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*“The [UN Human Rights] Committee is of the view that without robust national and international efforts, the effects of climate change in receiving States may expose individuals to a violation of their rights under articles 6 or 7 of the Covenant, thereby triggering the non-refoulement obligations of sending States. Furthermore, given that the risk of an entire country becoming submerged under water is such an extreme risk, the conditions of life in such a country may become incompatible with the right to life with dignity before the risk is realized.”<sup>162</sup>*

United Nations  
High Commissioner  
for Refugees

While the jurisprudence about how to factor climate and environmental change into decisions about asylum (which was developed in a very different set of circumstances) is evolving, in October 2019 a view of the UN Human Rights Committee “accepted that States must not send people to places where climate impacts expose them to life-threatening risks, or a risk of cruel, inhuman or degrading treatment.”<sup>140</sup> UNHCR also issued Legal Considerations regarding claims for international protection made in the context of the adverse effects of climate change and disasters, identifying specific circumstances where international and regional instruments such as the 1951 Convention on Refugees, the 1969 Organization of African Unity Convention and the 1984 Cartagena Declaration might be applicable. They highlight that people moving across borders in the context of climate change or disasters may have a well-founded fear of persecution which compels them to seek refuge abroad, particularly where climate change acts as a threat multiplier affecting people’s enjoyment of their human rights and where the State is unable or unwilling to provide protection.<sup>141</sup>

Once a decision has been made about a child’s asylum claim, subsequent decisions about the child need to be made in accordance with best interests determinations (see for example, UNHCR’s guidelines on applying the principle of best interests of the child in asylum procedures).<sup>142</sup> These processes must also incorporate child-sensitive mechanisms, including officials trained in child-friendly interview techniques, and procedures to enable children and youth to actively participate in such decisions. Although there is currently no requirement under international law for children to have free access to legal counsel, experience indicates that children with legal representation in asylum hearings are more likely to be successful and thus every attempt should be made to ensure the provision of legal advice and representation. It is also recognized good practice in the case of unaccompanied and separated children to designate a legal guardian to accompany the child through the process.

In addition to asylum, children and youth moving in the context of climate change may also be eligible for complementary forms of protection under international human rights law, temporary protection or stay arrangements, especially following sudden-onset disasters, or other discretionary and humanitarian forms of protection. While these forms of protection may vary from country to country (and go by different names, such as humanitarian visas or temporary protected status), they often offer less formal and more flexible status determination procedures and may include provisions for those leaving their countries because of the risks of environmental hazards.<sup>143</sup>

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### PROTECTION, SAFETY AND SECURITY



**Detention** has many negative lasting effects on individuals. It undermines their human dignity and can cause unnecessary suffering, with serious consequences for their health and well-being, in particular when they are detained for long periods. Detention increases fear and frustration that can exacerbate past traumatic experiences. It takes place, frequently, in places and in conditions that do not meet human rights standards. Detention of children is particularly serious due to the devastating effect it may have on their physical, emotional and psychological development, even if they are not separated from their families.<sup>151</sup>

#### **Detention**

Governments worldwide have attempted to prevent irregular migration, including of children moving in the context of climate change. While governments have the sovereign authority to control entry into their countries, they also have obligations – to uphold the rights of children on the move, including those who do so in non-authorized ways.

The 1951 Refugee Convention makes it clear that individuals should not be penalized for crossing a border irregularly in order to make such an asylum claim (Article 31). Penalizing children for irregular entry in order to apply for asylum runs counter to international law. Nonetheless, children who move in the context of climate change via irregular or illegal pathways, are at risk of detention by authorities when they attempt to cross country borders. In more than 100 countries children are still being detained in the context of immigration for varying lengths of time, ranging from just a few hours to prolonged periods.<sup>144</sup> Detention has particularly negative consequences for children – including those who move in the context of the effects of climate and environmental change.<sup>145</sup>

Children’s advocates have long maintained that children should never be detained for immigration-related issues. The Committee on the Rights of the Child issued a joint General Comment with the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, calling for the prohibition and abolishment of child and family immigration detention.<sup>146</sup> The UN Global Compact on Safe, Orderly and Regular Migration states that detention should be avoided and used only as a last resort<sup>147</sup> and alternatives to detention should be explored. Similarly, the Special Rapporteur on the rights of migrants called for ending the immigration detention of children, highlighting that children’s detention based on their or their parents’ immigration status is never in their best interest.<sup>148</sup> Guidance from UNHCR also affirms that the detention of children, unaccompanied, separated or in families, for immigration purposes should not be the solution, but rather alternative options should be sought in accordance with the Convention on the Rights of the Child.<sup>149, 150</sup>

Alternative solutions to detention can include family-based care, such as foster care, community-based care arrangements, or supervised independent living in the case of older adolescents and young adults.

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### PROTECTION, SAFETY AND SECURITY

#### EXAMPLE

#### Applications of Principle 6, including innovative policy approaches

*Teitiota v New Zealand (2019)*<sup>152</sup>: In 2013, Ioane Teitiota, of Kiribati, applied for international protection (on the basis of both refugee law and human rights law) in New Zealand on the basis that the risks to his life posed by climate change forced him to leave Kiribati. Having exhausted his domestic remedies in New Zealand, he then filed a communication with the UN Human Rights Committee (HRC) under the Optional Protocol,<sup>153</sup> claiming that New Zealand violated his right to life by forcibly returning him to Kiribati. While the HRC denied his claims, it did accept that States should not forcibly return individuals to places where, because of climate change, their life is at risk, or they are facing cruel, inhuman or degrading treatment. Consequently, it represents a significant jurisprudential development in that the Committee explicitly recognized that the impacts of climate change on human rights may trigger the principle of *non-refoulement*. The ruling could be influential for future jurisprudence because it reminds States that they must consider the effects of climate change and have an obligation to protect people whose lives are at risk in their places of origin. The ruling also resonates with Principle 9 of the Sydney Declaration, adopted by the International Law Association in 2018.<sup>154</sup>

*Argentina's new humanitarian visa*: At the first international migration review forum on the implementation of the Global Compact on Migration, held in May 2022, the government of Argentina introduced a new humanitarian visa, which would also cover people who become displaced in the context of 'socio-natural' disasters. Those arriving from Mexico, Central America and the Caribbean will be allowed to remain in Argentina for three years under this new programme of international complementary protection.<sup>155</sup>

*Youth clubs as safe spaces in Malawi's IDP camps*: Following devastating floods in January 2015, nearly a quarter of a million people were forced to seek shelter in temporary camps, where adolescent girls in particular were at high risk of gender-based violence. Special tents were set up to provide a safe space for adolescent boys and girls to discuss issues around reproductive health, get help with sexually transmitted diseases, access dignity kits, and where applicable to receive counselling and psychosocial support to recover from gender-based violence.<sup>156</sup>

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### PROTECTION, SAFETY AND SECURITY

#### SPECIAL CONSIDERATIONS

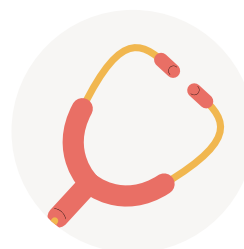
##### The intersection of conflict, climate change

**Children who move within their countries or cross a border in the context of intersecting conflict and climate change are often particularly vulnerable and special consideration must be given to ensure that their rights are upheld.**

In 2019, 45 of the 50 countries that recorded displacement associated with conflict and violence also reported new internal displacements associated with disasters. In some cases, people displaced by conflict were later again displaced by the adverse effects of climate change, as in Afghanistan.<sup>157</sup> The Guiding Principles on Internal Displacement and the Kampala Convention both recognize that such individuals should be recognized as internally displaced persons and that their rights should be upheld. Children who move because of the effects of conflict or persecution and climate change often face additional risks due to their gender, age, disabilities, ethnic or religious identity or family situations.<sup>158</sup>

Children displaced internally by conflict have rights not only under the Convention on the Rights of the Child but also under international humanitarian law which asserts the right to family life, to not be separated from their parents and to humane family reunification.<sup>159</sup>

While the rights of children displaced by conflict and in the context of climate change should be protected, in practice it is often difficult for governments and humanitarian actors to access children to provide such assistance, due to the conflict. There also are cases where children move internally in anticipation of or in response to the effects of the intersection of conflict and climate change, often in the form of rural-urban migration. For example, traditional migration paths used by Maasai herders in Kenya have been altered by the intersecting impacts of climate change and conflict. These changes are also manifest in many young pastoralists opting to move to cities where they struggle to establish new livelihoods due to a lack of skills for urban income generation.<sup>160</sup> Multiple and protracted displacements in the context of conflict and climate change are unfortunately also common. While there is virtually no research on the cumulative effect of multiple displacements on children, it is reasonable to assume that the trauma and dislocation caused by repeated moves, particularly displacement, is detrimental to their well-being.<sup>161</sup>



#### Principle 7

Access to education,  
health care and social  
services



PRINCIPLE 7

# Access to education, health care and social services

Children who move in the context of climate change have the right to access education, health care and other social services, at all stages of their journeys.



**Objective**

This principle highlights the obligation of States to ensure that all children who move in the context of climate change have the right to education, health care and to other social services during transit and in places of destination.

**Scope**

When children migrate or become displaced, they do not lose their right to education, health care and other fundamental services. But they often find it difficult to access these rights because they have moved, particularly if they have crossed an international border.<sup>164</sup> It is particularly important that their access to education be facilitated – even if they are in transit or living in a temporary shelter. Education not only prepares children on the move for future opportunities but can provide safe spaces and the comfort of routine in lives that have been disrupted. It also offers an entry point to other services.<sup>165</sup>

**What this means for children on the move**

Climate change impacts such as floods, heatwaves, or extreme weather events threaten the future human capital of children. According to the World Bank, a strong human capital base can help people adapt to climate change, and education is key to building human capital.<sup>166</sup> Education has been shown to increase risk perception and the ability to employ coping strategies, mitigate loss, and recover from shocks.<sup>167</sup> However, the disruptive impacts of climate change result in low human capital, which acts as a critical barrier to achieving resilience to climate change, undermines sustainable development and poverty reduction – especially as it relates to children. Nearly 60 per cent of children born today will be, at best, only half as productive as they could be with complete education and full health.<sup>168</sup> Children who move seasonally in the context of climate change are at high risk of dropping out of school. Evidence from India shows that the children of seasonal migrants are affected by fragmented school attendance in their places of origin, while they may not be able to access schooling in their destinations due to the lack of school facilities, linguistic barriers, lack of access to technology, or because they lack formal residence status and/or documentation.<sup>169</sup> The latter is a particularly salient issue in a number of Asian countries where access to services and social protection is tied to a person's residential registration status, which may not be feasible for temporary or seasonal migrants and their children. Therefore, government actors at all levels should work to remove barriers that prevent children from accessing fundamental rights to education, health care and other vital services. This includes local and municipal governments as primary service providers.

While there are very few international and regional frameworks on protecting the right to education of children who move in this context, there are several relevant instruments that can provide guidance.<sup>170</sup> Education is among the fundamental rights enshrined in the Convention on the Rights of the Child, as well as in the 1948 Universal Declaration on Human Rights. With regard to those who move in their

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*"A strong human capital base can help people adapt to climate change, and education is key to building human capital."*

The World Bank

## 7.

### ACCESS TO EDUCATION, HEALTH CARE AND SOCIAL SERVICES



**Access to justice** is the right to judicial remedy before a court of law or a tribunal. Broader interpretations of access to justice extend beyond the judicial system to include both formal and informal institutions and mechanisms through which people can seek justice. Informal institutions of justice can include trade unions, NGOs, or other public authorities that perform dispute settlement.<sup>176</sup> It is important that they do so in a fair and impartial manner. Structural factors such as marginalization can undermine access to information about legal remedies. Marginalized groups, among them migrants, refugees, IDPs or stateless persons, may lack the economic, social and linguistic resources needed to access judicial protection. In order for access to justice to be an effective right, government policies have to facilitate access to the legal system even for the most disenfranchised members of society. The provision of legal aid is an example of such policies.<sup>177</sup>

countries, the Guiding Principles on Internal Displacement emphasize that access to education and training should be facilitated as soon as possible. For those who cross borders, the 1960 Convention Against Discrimination in Education explicitly articulates that States should provide foreign nationals residing within their territory equal access to education. UNESCO recommends that States should ensure that the right to education is adopted in and protected by national laws and policies, and that this right is accorded to every individual without discrimination, regardless of citizenship, residency or other legal status.<sup>171</sup> Children who move in the context of climate change should therefore be integrated into the educational system at the earliest opportunity and every effort should be made to remove barriers that may lead to their exclusion or discrimination. For example, gender-sensitive educational programmes are needed in many different situations as girls may face impediments to attending school because of their gender.

Access to health care, including reproductive health services for girls and young women on the move, is critical. Beyond physical health challenges, such as malnutrition, poor sanitation, inadequate access to water, and exposure to infectious diseases, children's mental health may also suffer. In particular, children caught up in climate change-related disasters experience stress, trauma and anxiety when their ties to family and communities are disrupted.<sup>172</sup> For example, studies with children and adolescents following Hurricane Katrina showed that those who experienced the storm displayed high rates of post-traumatic stress disorder (PTSD), and younger children were found to be more likely to suffer from PTSD and anxiety.<sup>173</sup> Psychological and physiological trauma during a child's formative years can have long-term consequences for their mental health and development, negatively shaping their future prospects and resilience. Therefore, offering mental health support to children on the move in the context of climate change is pivotal.

It is important that educational, health and social service staff interacting with children who move in the context of climate change are sensitized and trained to deal with the physical and psychosocial needs resulting from the changes that provoked the movement. This can include being sensitive to the loss of community and geographical landscape where the children may have grown up, as well as experiences en route. Attending to the physical and psychological health and well-being of children and youth on the move, as well as facilitating their access to continued education, are fundamental for their development as they transition into adulthood, and for building resilience so that children can exercise their agency when confronted with future challenges.

Difficulties in accessing services are compounded for children who move in irregular ways as many are reluctant to reach out to government offices for fear of detention or deportation. Others may face difficulties because they do not have the needed documentation to obtain health care or other services. Ensuring that children have the necessary documents, including replacement documentation, is often a prerequisite for accessing social services. Children should also be

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### ACCESS TO EDUCATION, HEALTH CARE AND SOCIAL SERVICES

guaranteed access to legal assistance and protection, regardless of their migratory status. The United Nations Office of the High Commissioner for Human Rights (OHCHR) emphasizes State's obligation to ensure that migrants, including those at high risk of marginalization and exclusion, can enjoy equal access to justice without discrimination.<sup>174</sup> All human beings have the right to access justice, including non-citizens, that is migrants, refugees as well as stateless persons. The United Nations Office on Drugs and Crime Guidelines stipulate the principle of equity in access to legal aid, including for migrants, migrant workers, refugees and internally displaced persons. They further recommend that measures to facilitate access to justice should be gender-sensitive and age-appropriate to accommodate the needs of women and children.<sup>175</sup>

#### EXAMPLE

##### Application of Principle 7, including innovative policy approaches

*Non-discriminatory medical services for undocumented migrants in Beirut, Lebanon:* The city of Beirut has set up a Municipal Mobile Health Clinic, which provides free and non-discriminatory health services to people who could otherwise not access them. These services are a lifeline for vulnerable populations living in the city, among them undocumented migrants. The mobile clinic focuses on disadvantaged neighbourhoods with a high share of refugees and migrants, as well as vulnerable Lebanese. During the COVID-19 pandemic, the clinic provided free testing as well as vaccination.<sup>178</sup>

*Building Resources Across Communities (BRAC) slum schools and boat schools:* In Bangladesh, children make up 40 per cent of the population. While nine out of ten children are enrolled in primary school, only around half of all children are in school by the time they reach upper secondary age.<sup>179</sup> Children living in urban slums and hard-to-reach hazard-prone areas are most likely to be out of school. BRAC, with support from the Ministry of Education and external donors, has been providing education in urban slums, as well as in remote rural areas where children drop out of school to help their families. Education is delivered through a single classroom model, also using floating or boat schools in remote haor (wetland) regions.<sup>180</sup> This model offers a second chance at education for children from underprivileged backgrounds, including migrant children living in urban slums and children left behind by migrating parents.



#### Principle 8

Non-discrimination



## PRINCIPLE 8

# Non-discrimination

Children on the move in the context of climate change have the right to non-discriminatory treatment and to provisions necessary to enable them to exercise their rights, irrespective of their or their parents' migratory status.



**The Convention on the Rights of Persons with Disabilities** identifies adults, adolescents and children with disabilities as persons who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others (United Nations, 2006, article 1).<sup>181</sup>

### Objective

This principle highlights the strong international norms providing for non-discriminatory treatment of all persons, including children on the move in the context of climate change.

### Scope

This principle reminds States and all stakeholders working with children on the move in the context of climate change of their obligation to ensure that the rights of children are upheld without discrimination based on age, gender, race, ethnicity, religion, disability, sexual orientation, gender identity, or gender expression. Discrimination can occur as a result of implicit or explicit bias in the design and implementation of policies, programmes and interventions. For example, policies or programmes may be overtly biased towards certain normative social categories, while excluding others who do not fall neatly into those categories. Or they might have an element of unconscious bias, linked to prejudice or stereotypes regarding some groups. Discrimination can manifest through the exclusion and lack of consideration of certain groups, their specific needs and vulnerabilities. Such discrimination might preclude children and their caregivers, who are already vulnerable and at an increased risk of harm, from exercising their rights. In applying this principle, policymakers and other stakeholders dealing with children who move in the context of climate change are reminded that children are not a homogenous group. Their experiences of vulnerability are shaped by intersecting socially constructed and inherent characteristics, such as their age, gender identity, ethnicity, disability and sexual orientation, among others.

### What this means for children on the move

Children who move in the context of climate change do so in order to get away from climate-related hazards and their impacts, yet they might face disproportionate exposure to hazards at their destinations and remain largely invisible when it comes to policies and processes such as adaptation planning and disaster response measures. Children from racial or ethnic minority and indigenous backgrounds may be disproportionately vulnerable to climate-related hazards during transit and at their destination. Yet, policies and interventions often do not consider the unique needs of marginalized groups, such as their language skills or literacy levels, leaving them without access to timely emergency information, and potentially excluding them from the delivery of disaster relief and assistance.<sup>182</sup> In the context of rural-urban migration, local governments can play a crucial role in preventing socio-spatial segregation from taking place and xenophobic narratives taking hold through urban planning and the delivery of social services, especially in contexts where long-time residents and newcomers might share similar patterns of vulnerability.

The gender identity and sexual orientation of children and their caregivers who move in the context of climate change also have a bearing on their well-being during their move and at their destination. Children with diverse gender identities, gender expressions, sexual orientation and sex characteristics (SOGIESC) can face exclusion from policies,



**Children with diverse gender identities, gender expressions, sexual orientation and sex characteristics (SOGIESC)**

can face exclusion from policies, programmes and processes due to a lack of understanding and consideration for how these intersect with other social constructs such as class, race, ethnicity or religion.

programmes and processes due to a lack of understanding and consideration for how these intersect with other social constructs such as class, race, ethnicity or religion.

On the one hand, children and adults with diverse SOGIESC are likely to be more vulnerable to the impacts of climate change and disasters due to their marginalized position within their families and societies. On the other hand, when such children and adults become displaced due to disasters or climate hazards, they can struggle to access shelters, as a result of policies that only recognize heteronormative gender identities, gender expressions and sexual orientation. For example, during the 2004 Indian Ocean tsunami, the Aravani community from Tamil Nadu, India – who are born with a male body, dress in feminine attire and do not self-identify as men or women – were denied shelter, due to their gender identity.<sup>183</sup> Even when individuals with diverse SOGIESC are admitted to shelters, they often face harassment, bullying and gender-based violence, due to a lack of consideration for their specific needs. Children with diverse sexual orientation, gender identity and gender expression, including both boys and girls, are at high risk of experiencing gender-based violence, including sexual harassment, in these settings.<sup>184</sup> Children who move in the context of climate change could be particularly vulnerable, as their gender identities and/or expressions may not be taken seriously, or they may be asked to provide sensitive details to prove their sexual orientation to access protection.<sup>185</sup> Guidance developed by UNHCR, and training material jointly developed by IOM and UNHCR, can be used to guide conversations with children who move in the context of climate change to establish their sexual orientation, gender identity or gender expression.<sup>186, 187</sup> An IOM compilation of international legal instruments that are relevant for the protection of migrants with diverse SOGIESC under the principle of non-discrimination can also be referred to for the protection of children with diverse SOGIESC who move in the context of climate change.<sup>188</sup>

During disasters, children with disabilities are more likely to be left behind or neglected and may lose essential medications and assistive devices, reducing their level of functioning and resulting in increased dependence on caregivers.<sup>189</sup> In the aftermath of a disaster, children with disabilities may become separated from their caretakers or family and be vulnerable to violence, exploitation and abuse. Children with disabilities are three to four times more likely to be victims of violence than children without disabilities<sup>190</sup> and girls with disabilities are at particular risk,<sup>191</sup> are vulnerable in humanitarian contexts, and are at risk of sexual and gender-based violence or engaging in survival sex. Children and adolescents with disabilities are rarely included in data collection efforts<sup>192</sup> and too often find it even more difficult than other children to participate in decision-making processes.

Children with disabilities who move through regular or irregular migration channels may be invisible to policymakers and service providers because of their disability and targeted efforts are required to identify those with disabilities and develop appropriate mechanisms to ensure that their rights are upheld. An additional challenge to ensuring non-discrimination with regard to disability in the context of mobility, including mobility in the context of climate change, lies in the way

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### NON-DISCRIMINATION

disability is conceptualized. Most immigration policies take a biomedical approach to disability, as opposed to a social-relational one which recognizes the role of social structures, institutional and policy factors, and built environments, in establishing barriers that create disability for persons with some form of impairment.<sup>193</sup> Policies that regard disability and chronic health conditions as a burden may preclude entry for children and their families who are moving in the context of climate change.<sup>194</sup> Thus, disability acts as a ground for discriminatory treatment that may leave little recourse for children but to pursue more risky migration pathways.

Children with disabilities should be supported through disability-inclusive and disability-targeted interventions during and after their move.<sup>195</sup> UNICEF and others have prepared practical guidance for ensuring that children with disabilities are able to exercise their rights in humanitarian contexts,<sup>196</sup> and many of the suggestions also apply to children who migrate voluntarily.

#### EXAMPLE

#### Application of Principle 8, including innovative policy approaches

*Disability-inclusive disaster response:* People with disabilities often face discrimination in the context of disasters due to a lack of consideration of their needs in the design of emergency response measures and facilities. The International Federation of Red Cross and Red Crescent Societies (IFRC), in collaboration with Humanity and Inclusion, have developed a set of guidelines for designing disability-inclusive emergency shelters and settlements.<sup>197</sup> Humanity and Inclusion also released similar guidance for the specific context of Nepal.<sup>198</sup> Both guidelines raise awareness about different types and manifestations of disability and propose appropriate measures that can be taken to ensure that when disasters strike, disabled persons are not left behind.

*Community-based disability-inclusive disaster risk reduction (DRR) in Bangladesh:* Available estimates of children living with disability range from 1.4 per cent to 17.5 per cent, which translates to 805,000 to 10 million children across Bangladesh.<sup>199</sup> In 2007, Bangladesh ratified the UN Convention on the Rights of Persons with Disabilities and has also taken steps towards incorporating it into its national laws, including those concerning children, such as the Children Policy 2011, the Children Act 2013, and the Rights and Protection of Persons with Disabilities Act 2013. Implementation in practice has been slower, but there are some promising initiatives, including in humanitarian contexts related to climate change. In the flood-prone Gaibandha District, the Centre for Disability and Development (CDD) worked with NGOs on planning and developing community-based disability-inclusive disaster risk reduction action plans with the participation of persons with disabilities. They made local flood shelters accessible and built an accessible boat to help evacuate those with disabilities safely.<sup>200</sup> While children were not specifically targeted in the CDD project, the approach provides a model that can be used to empower children with disabilities to inform planning and design for disaster risk reduction that meets their specific needs.



PRINCIPLE 9

# Nationality

When stateless children move in the context of climate change, or when children become stateless as a result of moving away from their country of nationality, States have an obligation to ensure that they have a nationality including, where necessary, granting them the nationality of the receiving State.





**According to the 1954 Convention relating to the Status of Stateless Persons,**

a stateless person is someone who is not considered as a national by any State under the operation of its law. While there is no formal international legal definition of a State, statehood is defined by the 1933 Montevideo Convention on the Rights and Duties of States as consisting of four aspects: a defined territory, a permanent population, an effective government, and the capacity to enter into relations with other States.<sup>201</sup>

### Objective

This principle highlights the particular risks that stateless children and children at risk of statelessness face and reminds signatory States of the conventions on statelessness of their obligation to ensure that all children have a nationality, regardless of their migratory status.

### Scope

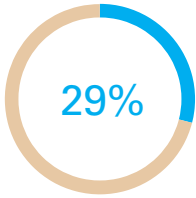
Children may lack nationality for many different reasons. In some countries, nationality passes only through the father and if the father is not present, unknown or himself stateless when a child is born, the baby's birth may not be registered or may not be registered with a nationality. Sometimes migrant parents are unable to register their children's birth in their country of origin thereby leaving them undocumented and removing any potential pathway to eventual citizenship. Sometimes statelessness is hereditary – children born to stateless parents are also stateless, as in the case of Rohingyas in Myanmar. Some statelessness is considered *de jure* – in that it is the result of national law – while in other cases, *de facto* statelessness occurs not because it is proscribed by law but rather results from administrative procedures, which are sometimes deliberate, and sometimes unintentional. For example, children born of Indonesian parents working abroad often lack nationality because their parents are unable to register the births in their community of origin within the 60-day period when birth registration is free.<sup>202</sup> Nonetheless, several international legal instruments affirm the right to nationality and promote safeguards against statelessness. The 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness uphold the right to nationality and prohibit discrimination on the grounds of race, gender, disability, or religion in citizenship laws.<sup>203</sup> Article 7 of the Convention on the Rights of the Child and Article 24 of the International Covenant on Civil and Political Rights both state that every child has a right to acquire a nationality.<sup>204</sup>

### What this means for children on the move

Children moving in the context of climate change may already be stateless, for example, due to being born to stateless parents, or they may become stateless in the process of moving. When families and children are forced to move suddenly and their possessions are destroyed by extreme weather events, they may lose documents to prove their identity. Failure to prove their nationality can, in turn, render them stateless.<sup>206</sup> Moving across international borders increases the risk of statelessness, including for children. Nationality can be lost by operation of law, or it can be revoked by states for various reasons (including due to extended residence abroad). Nationality can also be lost in the absence of legal safeguards that protect against statelessness. For example, some Pacific islanders are risking statelessness if they renounce their original nationality in order to settle in another country through the process of naturalization but fail in their efforts.<sup>207</sup>

## 9.

### NATIONALITY



#### Children and statelessness – according to UNHCR<sup>205</sup>

At least 29 per cent of States lack provisions in their nationality laws for granting stateless children born in their territories a nationality and at least 28 per cent of all States have insufficient provisions in their nationality laws.

At least 29 per cent of all States lack provisions in their nationality laws for granting children of unknown origin found in their territory a nationality, and at least 37 per cent of all States have insufficient provisions to this end.

Statelessness can make already vulnerable populations such as children fall outside the protection mechanisms that are afforded through citizenship of a State. For example, while human rights law forbids discrimination based on legal status, stateless persons are often not covered by disaster relief, health care and adaptation plans. As, to date, there have not been examples of States that disappeared due to climate change, it is difficult to predict what would happen to children who were once nationals of such States, but some options for how the international community and the affected States themselves might deal with such a situation have been outlined.<sup>208</sup> UNHCR provides a list of practical steps that can be taken by States to proactively deal with statelessness in the context of climate change. These include explicitly incorporating information about the risk of statelessness and steps towards preventing and reducing statelessness in planning documents, policy guidance and information campaigns on climate change, disasters and displacement.<sup>209</sup>

Governments have a responsibility to prevent statelessness within their countries, ensuring that each child born on its territory has a nationality and granting nationality if the child would otherwise be stateless. When these children move to other countries in the context of climate change, States which have ratified the Convention on the Reduction of Statelessness are obligated to grant nationality to those children and youth. This also applies to unaccompanied and separated children.<sup>210</sup> To prevent statelessness, States are also obliged to register births without discrimination, including for the children of irregular migrants. In addition, governments have a responsibility to ensure that children's and youths' citizenship rights are upheld when they move within their countries. Children should have their interests, needs and rights recognized in their places of destination, even if this is different from the place where they are registered. In implementing these ambitions, governments and other stakeholders might refer to UNHCR's Global Action Plan to End Statelessness.<sup>211</sup>

#### EXAMPLE

##### Application of Principle 9, including innovative policy approaches

*Preventing statelessness following cyclone Idai:* In the aftermath of cyclone Idai, which made landfall in Zimbabwe in 2019, causing rapid devastation and displacing many from their homes, the Government of Zimbabwe and UNHCR joined forces to prevent the risk of statelessness for those who lost essential documentation. They set up mobile documentation services, which issued as many as 65,000 documents to affected people, including birth certificates and national identity cards.<sup>212</sup>

## MOVING FORWARD

# Translating the Guiding Principles into practice

**These Guiding Principles** are intended to provide general guidance to national and international policymakers and service providers in responding to children who move in the context of climate change. They are based on existing international law as well as operational guidelines or frameworks which have been developed by a variety of stakeholders. The Guiding Principles will be widely circulated among a range of stakeholders to assess whether in fact they are useful in developing appropriate strategies to what is likely to be the large-scale movement of children in the context of climate change in coming years. A child-friendly version of the Guiding Principles is also envisaged, in order to ensure that the information and guidance on upholding the rights of children who move in the context of climate change is accessible and useful for children and youth.

**A consultation may be organized in 18 months to solicit feedback and input on these Guiding Principles, to review their utility, and to revise the principles in light of this feedback.** As the body of evidence grows on the impact of climate change on children's mobility, such a revision can also take advantage of the latest scientific knowledge and developments in international case law. Other possible next steps include testing the utility of the principles by conducting case studies of countries experiencing significant numbers of children on the move in the context of climate change, developing a collection of good practices for responding to these children, and developing checklists for governments and other stakeholders to ensure that the rights of all children on the move are respected.

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