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CHILDREN AND UNSAFE MIGRATION¹

Introduction

Child migration is a significant contemporary phenomenon. It is likely to increase in both scale and salience as the mobility of young people grows, a result of more affordable travel, climate change, growing technology-mediated connectivity, increasing global inequality in the distribution of opportunity, security and access to employment, and the diffusion of a global cultural commons.

Like the migration patterns of other age groups, child migration spans a broad range of phenomena. To start with the term itself, a child is defined in international law as “every human being below the age of 18 years, unless under the law applicable to the child, majority is attained earlier”.² Data on youth migration do not always use this cut-off point, however, so reference is often made to “youth migration”. The broad term “migration” can cover both international and domestic human mobility – movement that is of short duration or lifelong – and both one-way and circular journeys. It can span the range from unproblematic family relocation to traumatic forced displacement caused by the violence of war, attempts at ethnic cleansing or State disintegration. The migration of children includes both journeys where children accompany adult relatives and situations where children need to undertake journeys alone; it includes situations that result in enduring improvements to the quality of children’s lives, in terms of educational opportunity or familial security, and situations where exposure to exploitation or risk leads to enduring trauma.

Child migration is not a new phenomenon, but one that has a history dating back to ancient times. Children, both boys and girls, have always migrated with or following their families, to pursue opportunities or increase their safety away from home. Much of this migration is unproblematic. After a period of adjustment to a new context, and with the exception of situations where enduring racial or religious discrimination prevents this, most children, along with their families, integrate into their new societies. This chapter, however, focuses on child migration that does not conform to that pattern – migration that is unsafe, irregular, exploitative. And it focuses on international migration. This is not to suggest that other aspects related to child migration are not important. However, the urgent need to better understand *unsafe* international child migration, in its various dimensions, stems from the fact that this aspect of child migration requires greater engagement and support from governments and international actors, to ensure children the protection they are entitled to.

Accounts abound over the centuries of the unmet protection needs of both male and female children separated from their families by wars, famine and environmental disaster; of trafficked children transported from home by exploitative masters (slave owners, religious orders, warlords); of unaccompanied children received after forced exile by unfamiliar, even unrelated caregivers (foster families, refugee agencies, and educational or

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2 1989 United Nations Convention on the Rights of the Child, art. 1.

correctional institutions).³ But, despite this long history, the challenge of protecting the safety and best interests of migrant children has been neglected.

One reason for recent increased attention to the phenomenon is its current magnitude. As figures 1 and 2 show, there were 37.9 million migrants under the age of 20 in 2019, 14 per cent of the world's migrants. This reality has urgent implications for educational, child welfare and migration authorities.

Another factor galvanizing increased political will and public concern about child migration is the peculiarly newsworthy and compelling nature of child suffering. The tragic September 2015 drowning of Alan Kurdi and the international outrage provoked by the United States Government's 2018 southern border family separation policy exemplify this. So does the growing acknowledgement of the life-changing impact of aspects of the migration process for very large numbers of child migrants.⁴ Policies that separate parents from their children at borders or through deportation proceedings, as well as protracted administrative procedures that prevent children from reunifying with parents for years, can be devastating for the health and well-being of affected children.⁵ Dramatic impacts for children also flow from other migration-related contexts: the absence of life-saving rescue procedures to pre-empt child drowning or fatal dehydration during migration journeys;⁶ educational shortcomings in refugee camps;⁷ State inaction in the face of evidence of migrant child sexual exploitation;⁸ and unmet physical and mental health needs for displaced children.⁹

This chapter examines unsafe international child migration, and the ongoing tension between migration governance and child protection imperatives.¹⁰ The chapter starts by detailing the different types of child migration globally, including their drivers, and issues related to the data on child migration. Next, it discusses key protection challenges affecting child migrants before going on to address current issues and evolving policies relating to them. The chapter then explores the main emerging challenges confronting child migrants. It concludes by reflecting on achievements and priorities still in need of attention.

Types of child migration

Definitional confusion has long bedeviled discussion of child migration. Like the deficiencies related to data that are discussed in what follows, not all aspects of this challenge are specific to children. Facile dichotomies of forced versus economic migration are widely deployed in the migration field, and complicate the imperative of foregrounding rights considerations for vulnerable populations who may be in urgent need of protection. The dearth of child migration research from a child- rather than State-centric perspective contributes to this.¹¹

3 For a seminal overview of the migration history of unaccompanied children, see Ressler, Boothby and Steinbock, 1998. For three specific histories of child migration, see Bhabha, Kanics and Senovilla (eds.), 2018. See also Humphreys, 1994.

4 IOM, 2017a.

5 For a study of the risks associated with different forms of family separation, see UNHCR, 2018.

6 IOM, 2019; INEE, 2018; Suárez-Orozco and Suárez-Orozco, 2018; Ní Raghallaigh, 2018.

7 Sirin and Rogers-Sirin, 2015.

8 Digidiki and Bhabha, 2017.

9 Watters and Delyn, 2018; Kohli, 2018; Human Rights Watch, 2018a.

10 See OHCHR, 2016.

11 Some notable exceptions, research driven by the child migrant's perspective, include chapters in Part VI of Bhabha, Kanics and Senovilla (eds.), 2018.

Like adults, children's migration is not usefully divided into "forced" or "voluntary", but rather viewed as a combination of elements of compulsion and choice, which may change over time. Because of the large variety of relevant situations, child migrants are now commonly referred to as "children on the move", a phrase that has the advantage of not precluding a transition from one migrant category to another, but the disadvantage of obscuring the challenges arising after settlement.

Children embark on a broad range of different types of migration. Some migration journeys are highly gendered, such as the long-standing exploitative transportation of Nigerian girls to Europe to work in the sex industry, or the self-initiated migration of North African adolescent boys in search of opportunity. Many other migrations, the majority, include both boys and girls, though sometimes in different ratios, depending on country of origin. Much child migration, particularly outside the context of conflict or disaster, is safe and undertaken as part of a family unit. However, there is an increasing tendency for children to be involved in migration that jeopardizes their safety and violates their rights. Examples of this type of migration include not only the obviously life-threatening forced migrations across treacherous routes – such as the Eastern and Central Mediterranean, where drownings are frequent – but also migrations where children are routinely exposed to physical and/or sexual violence. Unsafe migration also includes situations where children rely on exploitative intermediaries who take advantage of the need for migration assistance to extract labour or other types of services from children in their custody. The discussion focuses on these aspects of child migration.

Children may be internal or international migrants. Children whose migration is internal include internally displaced persons, seasonal migrants or rural-to-urban migrants.¹² Internal migration may be cyclical, and it may be a prelude to international movement. All three categories comprise large groups of children, some of them in very precarious situations.

International child migration includes children who travel for family reasons, for safety or survival, at the behest of traffickers, for opportunity, and frequently for more than one of those reasons. This chapter focuses on unsafe child migration across borders. The following factors are particularly significant for understanding children's distinctive needs, particularly in relation to safety:

- (a) *Who is the child travelling with?*¹³ Is he or she accompanied by parents or caregivers (including customary caregivers), travelling unaccompanied (alone), or travelling separated (in the company of extended family members, strangers, traffickers or mere acquaintances)?¹⁴ A child might start the migration accompanied and then become separated from family, so that his or her needs change at different stages of the journey.¹⁵
- (b) *Whether or not the child's migration is authorized* (by a visa or other legal provision). Children travelling without a regular migration status are at higher risk of exploitation, detention and other harms.¹⁶ Again, a child's legal status can change from regular to irregular during migration, as when an asylum claim

12 Khadria, 1995, 1996.

13 The United Nations High Commissioner for Refugees (UNHCR) first published disaggregated data on child asylum seekers and refugees in 1994, and on unaccompanied and separated children in 2001.

14 UNHCR was the first agency to specifically focus on the needs of this population, through its *Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum* (UNHCR, 1997). Others followed rapidly, including the European Union, with its "Resolution on Unaccompanied Minors who are Nationals of Third Countries", and the national authorities, including Canada, the United States and the United Kingdom. See Bhabha, Kanics and Senovilla (eds.), 2018.

15 Kara, 2009; Peyroux, 2018.

16 Bicocchi, 2011; Kanics, 2018; Rozzi, 2018.

is refused but the child remains in the destination State without legal authorization. The converse is also true, as when an undocumented child receives a legal status. An example is the procedure in the United States, whereby an unaccompanied migrant child who has been abused, abandoned or neglected is granted Special Immigrant Juvenile Status.¹⁷

- (c) *Whether the child is migrating to escape child-specific persecution*, such as recruitment as a child soldier or gang member, child abuse or child marriage. Timely access to legal representation and guardianship is a protection priority in this type of migration situation.¹⁸
- (d) *Whether the child is migrating following a family decision or without family knowledge or support*. Many migrants from countries where adult responsibilities vest at an early age exercise their own decision-making agency. Afghan males, Eritrean male and female teenagers, and Central American boys and girls are cases in point. Acting like adults, even though classified as “children” under international law, many seek out opportunities to support themselves or their families by migrating.¹⁹ Children in West and Central Africa also move to pursue religious education, and are entrusted to a religious leader or figure who is meant to take care of their religious education and well-being, though often for lack of means end up being their exploiter.²⁰ There is no international uniformity about the age when a child’s decision has legal force. Domestic standards vary, depending on the activity in question.²¹

Central American children fleeing gangs

Central American children have been fleeing extreme violence in their home countries for decades, but the rate of this forced migration has increased rapidly since 2014. Though the majority of these child asylum seekers, both unaccompanied and in families, seeks protection in the United States, asylum applications from the so-called Northern Triangle countries (El Salvador, Honduras and Guatemala) have increased dramatically throughout Central America.^a Unaccompanied child asylum seekers who make their claims in the United States have difficulty accessing a lawyer or guardian, despite the best efforts of a web of specialist organizations, including KIND, LIRS and the Young Center for Immigrant Children’s Rights’ Child Advocate Program. As a result, large numbers of children are held in detention, over 14,000 in November 2018, according to official government figures.^b

a UNHCR, 2018.

b Kopan, 2018.

17 Thronson, 2018.

18 IOM, 2017b; UNHCR, 2018.

19 Timera, 2018.

20 UNICEF, 2011.

21 Wide disparities exist between decision-making domains (for example, voting, driving, criminal, contractual and health care) and jurisdictions. For interesting discussions about child agency in relation to asylum decisions, see the United States Appeals Court decision *Polovchak v. Meese* (1985); see also *Gonzalez Ex Rel. Gonzalez v. Reno*, United States Appeals Court (2000).

A self-initiated migration strategy can include entering into relationships with adults who facilitate cross-border movement in return for services rendered.²² Adolescents also adopt income-generating opportunities, including in deeply exploitative situations of labour and sex trafficking, to generate resources for migration.²³ Because of the absence of legal migration routes, many adolescents eager to exercise their mobility have no safer alternatives.²⁴ Europol reports that 28 per cent of identified victims of trafficking globally are children.²⁵ States have obligations to address these hazardous situations, through robust search-and-rescue operations and livelihood opportunities that might forestall perilous journeys.²⁶

Afghan unaccompanied minor asylum seekers in Sweden

Afghanistan has been the site of violent conflict and ensuing population displacement for over 35 years. In 2015, Sweden received over 35,000 asylum claims lodged by unaccompanied minors; 66 per cent of these claims, totalling over 23,000, were from Afghans, the majority male and fleeing political violence at home. Relying on information gleaned in the course of their long international journeys (on average seven months long), many chose Sweden, with its educational opportunity and generous, rights-respecting approach to child migrants, as their destination of choice.^a As asylum seekers, in line with Sweden's obligations under international law, they were initially permitted to remain within the country pending a decision on their case, and were thus lawfully present. For those whose asylum claims were successful, a grant of refugee status converted their temporary legal status into a permanent permission to remain, and related to that the opportunity to apply for family reunification for immediate relatives (or for less closely related family members in proven compassionate cases).^b For those whose asylum claims were unsuccessful, removal notices were issued, converting the young Afghans' status from that of temporary lawful residents to overstayers, irregularly on the territory and thus liable to deportation. Some of these unsuccessful asylum claimants have been granted subsidiary humanitarian protection, a status that is temporary and carries with it limited family reunification options.^c

Four changes in Swedish migration procedure in 2016, at the height of political concern about the increasing numbers of arriving asylum seekers, accompanied this change of status, lowering the chances of a positive outcome to the asylum claims lodged. In early 2016, age assessments based on knee or teeth x-rays were introduced, leading to a rise in findings that young asylum claimants were in fact over 18 years of age.^d In June 2016, the practice of granting humanitarian leave to rejected unaccompanied Afghan asylum seekers was withdrawn, leading to the issuance of deportation orders; in the same year, Sweden, alongside other European Union member States, signed a readmission agreement with Afghanistan ensuring the safe reception of returnees; finally,

22 Vacchiano, 2018.

23 Europol, 2018; Digidiki and Bhabha, 2017.

24 Bhabha, 2014.

25 Europol, 2018. See also Sigona, Chase and Humphris, 2017b.

26 IOM, 2019. The Mexican delegate to the Day of General Discussion acknowledged such responsibilities when reporting on her country's federal and local mechanisms designed to protect domestic children from perilous journeys and migrant children from dangers at the northern and southern Mexican borders. See United Nations Committee on the Rights of the Child, 2012.

policies to more rigorously enforce deportation orders were enacted, to ensure that those with rejected claims were removed from Swedish territory.^e

a UNHCR, 2015.

b Swedish Migration Agency, 2017. The authors are grateful to Jonathan Joseffson for his guidance on Swedish policy.

c Ibid., 2019.

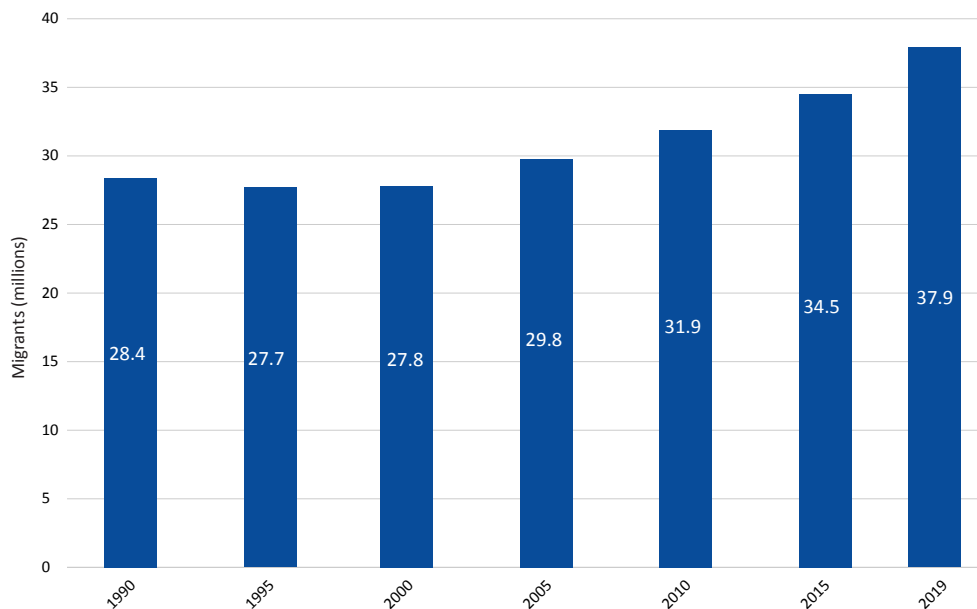
d Dononi, Monsutti and Scalettaris, 2016.

e European Commission, 2017a. There are currently no statistics on the ages of forced returnees.

Data issues in measuring the scale of child migration

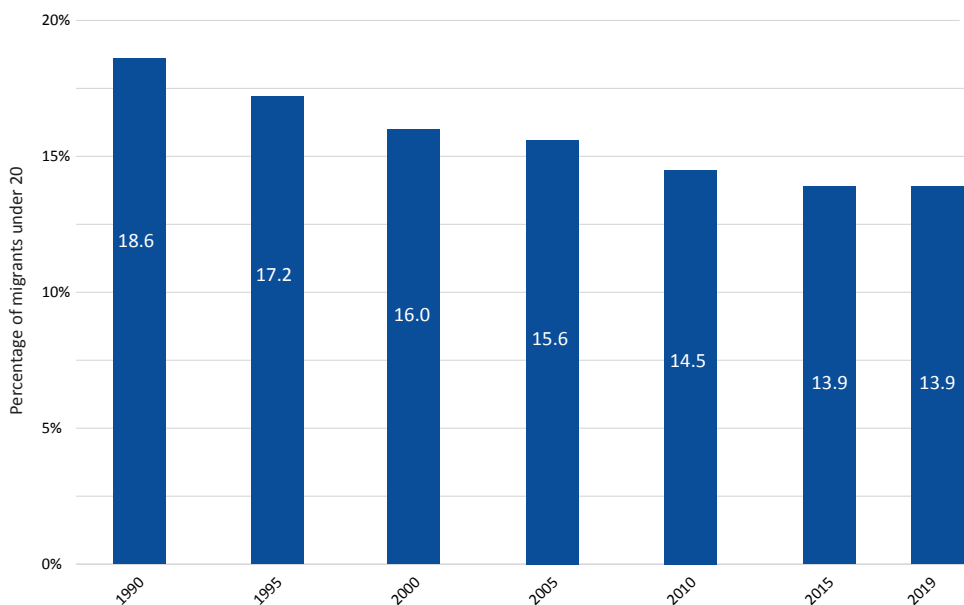
Two propositions about child migration are widely accepted: that the scale of child migration is increasing, and that the data on child migration are incomplete. Figures 1 and 2 give a snapshot of the migration of under-20-year-olds since 1990. In the absence of data limited to children, these data, which extend from 2 years to beyond 18, must be relied on. They draw on census data, one of the most reliable sources, and show a steady increase in absolute numbers, but a decline in the proportion of under-20s as a share of global migration.

Figure 1. Global migrants under 20 years of age



Source: UN DESA, 2019a.

Figure 2. Share of global migrants under 20 years of age



Source: UN DESA, 2019a.

Concerns about the inadequacy of data – lack of sources and deficits in reliable, up-to-date and disaggregated data – are not peculiar to the child migration context; they exist for the migration field as a whole, and are referenced throughout this report. But the data deficiencies regarding child migrants are of particular concern, because they hamper timely and adequate protection and care for a group of migrants that may be especially vulnerable and dependent on government support. Remarkably, only 56 per cent of refugee-related data and 20 per cent of internally displaced person (IDP)-related data include age-disaggregated information; even migrant stock data include information about age in only 80 per cent of countries.²⁷ The absence of age disaggregation is not the only concern. Others include broad gaps in data on gender, problems relating to the double-counting of children who move between and within countries, and deficient methods for ascertaining age.²⁸

The most recent global estimate for the total number of child migrants is approximately 31 million.²⁹ This is a “stock” figure, one that represents the total number of people under 18 born in a country other than the one where they are living. Though it gives a snapshot of the magnitude of the issue, it is of limited accuracy and use, because it does not describe which country the migrant children have come from, what their legal status is, how long they have been where they are or what the children’s date of birth is.

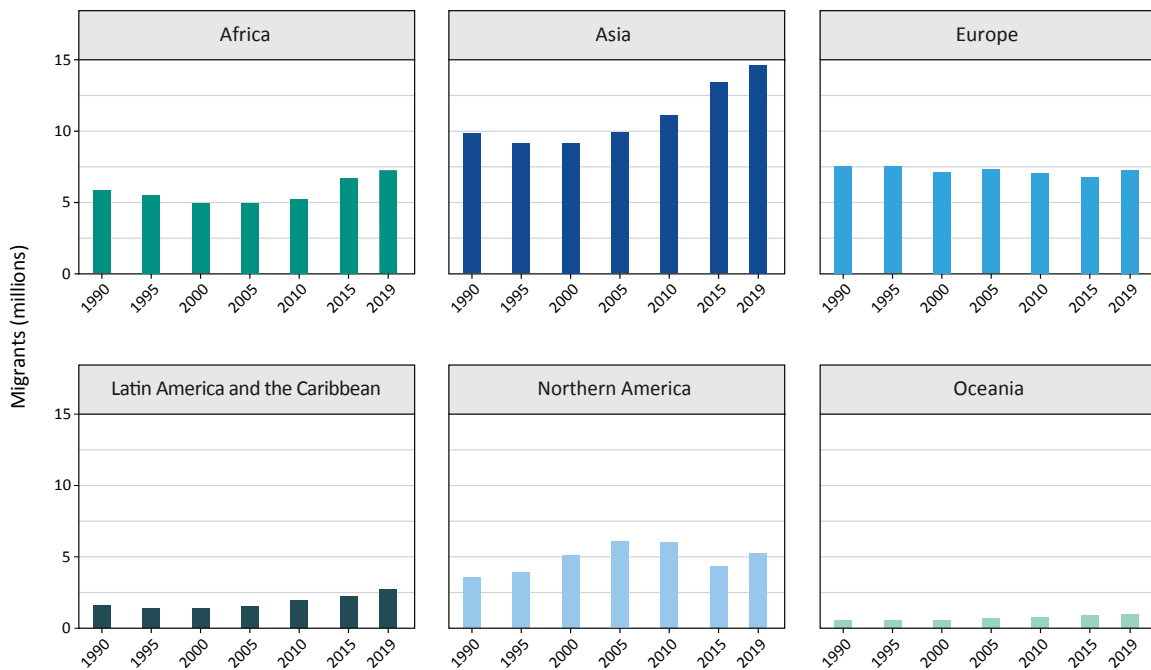
27 UNICEF et al., 2018; UN DESA, 2019b.

28 IOM, 2016.

29 UNICEF, 2018b.

An additional complexity arises from the technical fact that a child, in international law, is defined as “any human being below the age of 18”, whereas census data are based on the age groups 0–4, 5–9, 10–14 and 15–19 years of age; the global figure just cited is based on a United Nations Children’s Fund (UNICEF) estimation of the size of the last of these groups, which applies to people under 18.³⁰ To this figure can be added others. UNICEF has calculated – using United Nations High Commissioner for Refugees (UNHCR) and United Nations Department of Economic and Social Affairs (UN DESA) data, combined with evidence from the United Nations Relief and Works Agency and Eurostat – that approximately one in eight migrants is a child, the majority of them being regular migrants who travel with a regular status and the necessary protection. However, large numbers do not enjoy that safety. There are approximately 13 million child refugees, 936,000 asylum-seeking children, and 17 million children who have been forcibly displaced inside their own countries.³¹

Figure 3. International migrants (millions) under 20 years of age, by region

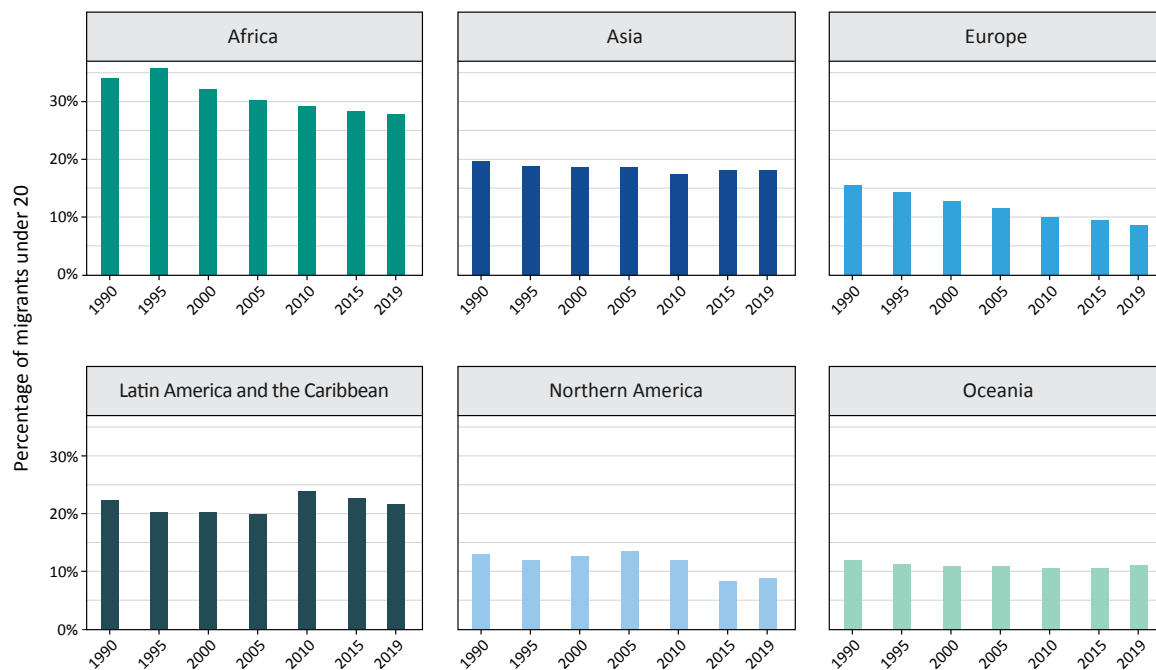


Source: UN DESA, 2019a.

30 United Nations, 1989; Singleton, 2018.

31 UNICEF, 2018b.

Figure 4. Share of international migrants under 20 years of age, by region



Source: UN DESA, 2019a.

These regional stock data graphs complement the global picture presented earlier, in figures 1 and 2. They show that some regions (most dramatically, Asia) have experienced a sharp increase in the numbers of young migrants. They also highlight large differences between the regions in the proportions of children within their migrant stocks – nearly 30 per cent in Africa, compared with less than 10 per cent in Europe and North America.

In addition to these sources, there is also a proliferation in the availability of new data mining techniques that have the potential to generate better information in the future. They include geospatial mapping, satellite nightlights and analysis of changing smartphone location in real time. A word of caution is in order, however. The proliferation of and access to personal information, including biometric indicators, may generate risks rather than protections for child migrants. So more rather than less data should not be a goal in and of itself, unless privacy protections and other ethical concerns are carefully attended to. In particular, due diligence in the implementation of “firewalls” to prevent the use of personal data for punitive or immigration enforcement goals is an essential correlate of ethical and rights-based data collection.³²

32 United Nations Committee on the Rights of the Child, 2005.

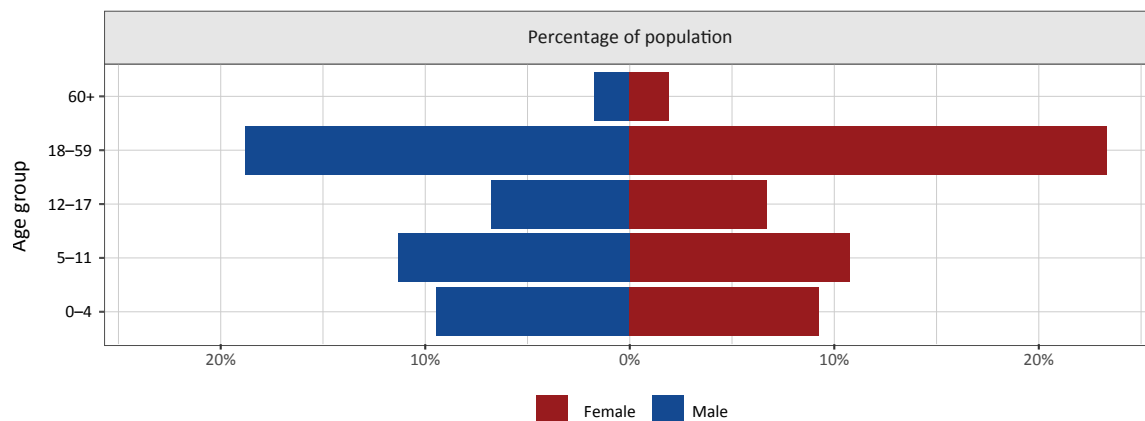
Data on vulnerable populations, such as displaced child migrants, are particularly useful when they are specific and have the potential to contribute to policy challenges. One example is the following details on the distribution of young Rohingya refugees in Cox's Bazar, Bangladesh, where over 50 per cent of the child population is still out of school. In this context, up-to-date age and gender details can appropriate expansion of school programmes and skill training.

Table 1. IOM/UNHCR/education sector – Rohingya child and youth population in Cox's Bazar Refugee camps, Bangladesh, January 2019

Population	Total	Ages 3–5	Ages 6–14	Ages 15–18	Ages 19–24
Population in need	518,404	105,433	235,638	74,773	102,559
Currently enrolled in school	222,916	84,619	133,638	4,048	611
Currently outside school	192,084	20,814	102,000	70,725	101,948
Target goal for 2019 (% of the total population)	393,012 (75.8%)	105,433 (100%)	235,638 (100%)	44,864 (60%)	7,077 (6.9%)

Source: UNHCR, 2019a.

Figure 5. Demographic breakdown of Myanmar refugees in Bangladesh

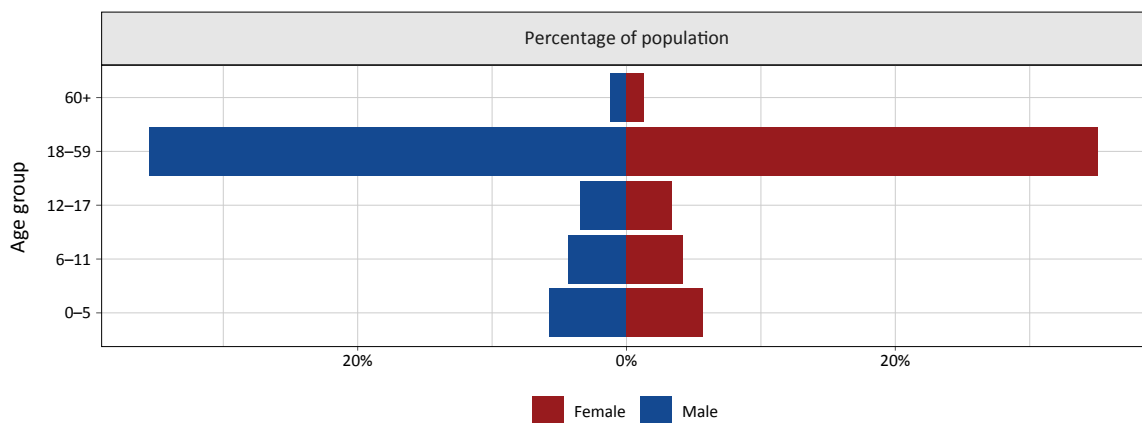


Source: UNHCR, 2019b.

Another example of specific age- and gender-disaggregated data that provide a useful basis for the development of protective child migrant policy concerns the extensive and rapid recent forced migration of Venezuelans into neighbouring Latin American countries. The contrast in age distribution between Rohingya and Venezuelan refugee populations in these figures is noteworthy. It illustrates significant differences in the age composition of the populations prior to their forced migration, with Rohingya estimated to have had one of the highest birth rates of all ethnic groups in Myanmar.³³

There are also likely to be differences related to the nature of the displacement events. For the Rohingya, lethal ethnic violence prompted entire communities to flee for survival in a short period. For the Venezuelans, economic crisis and ongoing instability initially compelled adults of working age to move in search of alternative sources of income to support families left behind. However, over time, this has become a more pervasive displacement situation as the crisis has deepened and whole families, including children, have moved.

Figure 6. Demographic breakdown of Venezuelans in Colombia



Source: Government of Colombia, 2018.

Note: The split in child migrant age groups is estimated using the overall gender split reported for the total child data.

33 Bomquist and Cincotta, 2016.

Key child protection challenges affecting child migrants

Large-scale child migration inevitably places complex demands on States, obligated as they are to address needs and provide services as required by international and domestic legal standards. Following are some of the key current challenges concerning child migration.

Education

States are mandated to provide education to all children in their jurisdiction without discrimination.³⁴ For any migrant child, few State services are more important. Not only does education generate portable individual skills and capital that impact central aspects of the life course, it also provides the context for social inclusion, peer group encounters and new cultural and language acquisition. Many examples exist of innovative educational provision directed at generating robust multicultural environments responsive to different pedagogic and emotional needs.³⁵

This is a context where scarce resources and a perception that outsiders are being privileged can generate acute resentment towards newcomers, unless investment also targets domestic populations in need.³⁶ Challenges also arise in identifying accurately the needs of migrant or refugee children, taking account of their prior educational experience and their linguistic competencies.³⁷

Bangladesh: Rohingya children's access to education

As of October 2018, over 900,000 Rohingya refugees from Myanmar were living in 30 temporary camps located in the Cox's Bazar coastal region of south-eastern Bangladesh. According to UNICEF, approximately 620,000 were between 4 and 14 years of age. They are being provided with a range of humanitarian services, including education in 1,898 learning centres that cater to the needs of children their age. These centres provide access to non-formal educational activities for over 140,000 children. Impressive though this effort is, it still leaves almost 482,000 Rohingya children without any educational access. The situation of adolescents and youths is particularly challenging: 98 per cent of Rohingya aged 15 to 24 years have received no education at all; girls of all ages and disabled children are also disproportionately disadvantaged.^a Many of the children in the learning centres had been out of school for at least two years prior to their admission to the centres, as a result of events in Myanmar and the dislocations related to their exodus into Bangladesh.

34 United Nations, 1989.

35 Ensor and Goździak, 2016.

36 Theirworld, 2017.

37 Dryden-Peterson, Dayya and Adelman, 2017.

Instruction is provided in classrooms where two female teachers, one from the host community and one Rohingya, cover a standardized curriculum delivered in English and Burmese. No instruction is permitted in Bangla, the national language of Bangladesh (a local dialect of which, Chittagonian, is the Rohingya language) because of the expectations that this population will not remain permanently.^b Instruction is divided into four levels, catering to children aged, respectively, 4–6 years (level 1); 7–8 years (level 2); 9–10 years (level 3); and 10–14 years (level 4). As of January 2019, curricular materials were only available for level 1 and 2 students.^b

a UNICEF, 2018a; Strategic Executive Group, 2018.

b FXB Field Visit January 2019; contemporaneous notes on file with the author.

Guardianship

Whereas some State services, such as education, are essential for all migrant children, others only apply to some. A case in point is the need for appointment of a guardian responsible for the child's care where children are unaccompanied or separated, or otherwise at risk, a measure called for by both international and regional policies on child migration. Only a minority of States have incorporated this recommendation into their domestic legal obligations. Among them is Italy (see text box below).

Italy's protection measures for unaccompanied minors

Italy promulgated a law in May 2017 on “Protection Measures for Unaccompanied Minors”, which obliges the police to immediately report the presence of an unaccompanied minor to the relevant judicial authority, who in turn has 48 hours in which to appoint a guardian.^a The law requires comprehensive protection to be speedily put in place for unaccompanied child minors. In practice, underfunding and other capacity deficits have resulted in frequent delays before a guardian is appointed (up to 11 months in some reported cases) and in the allocation of large numbers of unaccompanied children per guardian (often public officials), complicating or even eliminating the development of the close and parental relationship envisaged. A case in point was the reported allocation of 850 unaccompanied children to the same guardian, the Welfare Councillor of Palermo. To address these staffing challenges, the 2017 law also calls for the compilation of lists of “volunteer guardians”, selected and trained by the Regional Ombudsperson for Children, and then allocated as mentors for individual children. Ensuring quality control and consistency in such a setting is difficult. The challenge of securing individualized child protection arrangements for all migrant children who need them thus remains a work in progress.

a Law no. 47/17, often referred to as the “Zampa law” after the name of the MP who introduced the bill to Parliament.

Several acute child protection challenges have emerged where unaccompanied minors outside family care or any institutional framework providing shelter have set up home in informal unauthorized camps created by refugees and migrants, often as a prelude to further migration to join family members elsewhere.

Current issues and evolving policies

While the majority of children who migrate do so through safe migration processes as part of family units, many other child migrants do not. Some continue to lack effective protection from harm and face sustained human rights violations at all stages of their journeys, in the country of origin at departure, en route through transit regions and seas, on arrival at their temporary or permanent destination and, with growing frequency, in the country to which they are returned if their migration journey is curtailed.

Many agencies have called attention to this substantial protection deficit, highlighting urgent challenges.³⁸ Of immediate concern as key priorities are the risk of exploitation and abuse, the negative impact of detention, the effect of family separation, the inadequate access to education and health care, the lack of attention to drivers of forced child migration and, finally, discrimination. To these urgent issues could be added others confronting millions of child migrants. One is the absence of adequate legal pathways for the exercise of child and youth mobility, a shortcoming of the contemporary migration framework that renders so much child migration unsafe. Another is the pervasive and underaddressed stigma surrounding undocumented child migrants, whatever their length of residence at destination. Yet another concern relates to the absence of safety and child protection guarantees in asylum seeker and refugee camps or shelters. Finally, there are serious deficits in access to guardianship and legal representation for unaccompanied and separated child migrants.³⁹

International initiatives to improve protection of child migrants

Alongside these continuing challenges, one finds a rich body of recent international work, setting out principles and implementing policies that improve the circumstances surrounding child migration. At the international level, there have been a number of developments regarding child migration. A landmark document is the international synthesis of rights relevant to child migrants set out in the United Nations Committee on the Rights of the Child 2005 *General Comment No. 6 (2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin*.⁴⁰ The General Comment was followed by a second important international effort regarding child migration, the 2012 Committee on the Rights of the Child *Report of the 2012 Day of General Discussion: The Rights of All Children in the Context of International Migration*.⁴¹ A practical outcome of the Day of General Discussion was the creation of an Inter-Agency Group on Children on the Move focused on mainstreaming child protection concerns into the migration agenda. The group produced a widely endorsed set of recommended principles for child migrants targeting some of the key enduring protection challenges.⁴²

38 For an example of the impact of these deficits in practice, see Human Rights Watch, 2018b.

39 Save the Children, 2017; UNHCR, 2018; Save the Children, Plan International and World Vision International, 2018; Harvard FXB Center for Health and Human Rights and UNHCR, 2017.

40 United Nations Committee on the Rights of the Child, 2005.

41 Ibid., 2012.

42 OHCHR, 2016.

Most recently, other initiatives have built on the conclusions and principles of the initiatives just described, as well as the inter-agency position on migrant and refugee children for the two compacts and the work of the Inter-Agency Working Group to end Child Immigration Detention.⁴³ Two United Nations treaty bodies adopted additional General Comments on the topic of child migration in 2017 and consolidated their efforts into the first Joint General Comment on the subject in the same year, namely the *Joint General Comment No. 3 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 22 (2017) of the Committee on the Rights of the Child on the General Principles regarding the Human Rights of Children in the Context of International Migration*.⁴⁴ The Joint General Comment also stresses the importance of according relevant State authorities – whether of origin, transit, destination or return – a leading role, “with clear decision-making power”, on policies and practices pertinent to migration-affected children.⁴⁵ Central among such practices are the conduct of best interests assessments and determinations, individualized procedures that need to be conducted by trained and accountable personnel, where appropriate at different stages of the decision-making procedure. UNICEF consolidated much of this policy work by releasing a “six point plan to keep refugee and migrant children safe” in 2017.⁴⁶

Together these initiatives have created a useful action framework for States. By highlighting needs for specially targeted protection measures – including access to free legal representation, integrated services including in relation to education, and to protections from exploitation and trauma – these frameworks have given a welcome impetus to policy reform. They have stimulated measures that take note not just of the vulnerability and dependence, but also the resilience and agency of young migrants, including States’ duties to “prepare and accompany children through the journey to adulthood, rather than threatening them with abrupt change as soon as they reach the age of maturity”.⁴⁷

However, effective implementation of these recommendations has been mixed. All the documents just referenced stress the imperative to issue birth registration and concomitant proof of identity for all children in the territory, because these documents provide critical tools for reducing statelessness, exploitation and abuse of child migrants, and for increasing access to State facilities such as health care and education.⁴⁸ But many groups of migrant and refugee children continue to lack these documents. They include Syrians born in exile, and Rohingya in Myanmar and abroad.⁴⁹

Integration of migrant children outside of family care within the national childcare or child protection agency is still not the norm. Research has identified a policy and practice gap in the protection and support apparatus related to the transition to adulthood, with obvious implications for both mental health and well-being.⁵⁰ There are, however, some examples of good practice, such as Italy and Turkey.⁵¹

43 Inter-Agency Working Group to End Child Immigrant Detention, n.d.; Bhabha and Dottridge, 2017; Theirworld, 2019.

44 United Nations Committee on the Protection of the Rights of All Migrant Workers and Members of their Families, 2017.

45 Ibid.

46 UNICEF, 2017a.

47 OHCHR, 2016.

48 UNICEF, 2013; Bhabha, 2011.

49 Blitz, 2011.

50 Chase, 2017; Sigona, Chase and Humphris, 2017a.

51 Law 47/2017 (the so-called Zampa Law) heralded an innovative volunteer guardian programme, run by the Italian Ombudsperson for Children and Adolescents, to train volunteer guardians as both legal and humanitarian mentors for up to two migrant and refugee children; AGIA, 2017.

European States have made considerable, if uneven, progress in instituting access to legal representation for unaccompanied and separated children, and in reducing the reliance on detention, but this is not the case in other jurisdictions, such as the United States.⁵²

Much of the agenda laid out by these normative frameworks remains to be implemented. Several recent mass forced exoduses of children have demonstrated the dearth of services available. Mental health needs among millions of displaced Syrian children are acute and mainly unattended to; educational needs among Rohingya refugee children in Bangladesh are challenging and not fully met, particularly for the older cohorts of children.⁵³ Another area where the gap between normative exhortation and implementation is evident is protection of migrant children following repatriation. Returned children rarely encounter reintegration assistance, or the rehabilitative services called for by standard-setting initiatives.⁵⁴

Regional initiatives to improve protection of child migrants

Several significant regional initiatives on child migration have been developed in recent years. Three are noteworthy – those in the European Union, in West Africa and in Latin America – and are discussed in turn below.

The European Union has witnessed large-scale flows of child migrants in recent years. In 2015, for example, 31 per cent of the refugees arriving in the European Union by sea were children, and in early 2016 the proportion of children among sea arrivals in Greece was up to approximately 40 per cent.⁵⁵ European institutions have been at the forefront of some of the most impactful policy and practice advances in respect of migrant and refugee children.

The European Court of Human Rights has played an important if cautious role, providing a critical forum of last instance for particularly egregious State behaviour.⁵⁶ It has prohibited the placement of asylum-seeking children (including where accompanied by their parents) in reception conditions likely to generate “a situation of stress and anxiety, with particularly traumatic consequences”, an all-too common occurrence, particularly in Southern Europe;⁵⁷ it has ruled against the detention of migrant children, even for short periods, where alternative and less restrictive strategies should have been considered, or where the detention conditions, when inflicted on children, whether in terms of length of time in custody or level of provision within the institution, amount to inhuman or degrading treatment;⁵⁸ and it has, albeit in a limited fashion, prevented family expulsions with far-reaching consequences for the care or well-being of affected children.⁵⁹

European Union measures are also noteworthy. On 12 April 2017, the European Commission adopted a “Communication on the protection of children in migration”, articulating a comprehensive programme of protective action for child migrants at all stages of their migration.⁶⁰

52 Crea, 2018; International Detention Coalition, 2018.

53 Save the Children, 2017; Ruhani, 2017.

54 Harvard FXB Center for Health and Human Rights and IOM, 2019.

55 European Commission, 2018.

56 Smyth, 2018; the following discussion on the court’s jurisprudence relies on this chapter.

57 *Tarakhel v. Switzerland*, Application No. 29217/12, Judgment of 4 November 2014; *V.M. and others v. Belgium*, Application no. 60125/11, Judgment of 7 July 2015.

58 *Rahimi v. Greece*, Application No. 8687/08, Judgment of 5 April 2011; Application No. 39472/07, Judgment of 19 January 2012; *Mayeka and Mitunga v. Belgium*, Application No. 13178/03, Judgment of 12 October, 2006.

59 *Kaplan v. Norway*, Application no. 32504/11, Judgment of 24 July 2014.

60 European Commission, 2017b.

But adequate or integrated responses to this ambitious programme are still elusive. “Reconciling child protection and migration control goals, already difficult at national level, may become all the more difficult across borders. In practice transnational cooperation frequently focuses first and foremost on which State should have the child within its jurisdiction, rather than centring on a proper joint assessment of the best interests of the child”.⁶¹ Integration across all European Union member States in respect of child protection obligations has not been effective so far.⁶²

West Africa is another region with a well-established system of cross-border free movement of persons, promoted in part by the Economic Community of West African States (ECOWAS), a regional grouping of 15 West African States founded in 1975. The region has a long tradition of mobility, driven by a range of factors, including economic self-improvement, environmental hardship, conflict and escape from abuse of harmful traditional practices (including early marriage and witchcraft). Rates of child migration are high: a 2016 UNICEF report notes that 1 in 45 children in the world today are on the move, with Africa home to 1 in 5 of these child migrants.⁶³ In this region, most migration is intraregional, and children travel as much as adults, many of them unaccompanied or separated, often considered *de facto* adults with attendant responsibilities. While some of this child movement is self-initiated and generative of opportunities and life enhancements, a significant portion is coerced or abusive, and places child migrants in situations of high risk and scarce protection.⁶⁴

Child protection implementation for migrants has lagged far behind norm-setting standards. Domestic social and child protection structures are minimal, and transnational mechanisms are practically non-existent.⁶⁵ By contrast with the European Union, ECOWAS has not promulgated any coordinated protective transnational measures for child migrants. Early protective efforts in the region, taking note of widespread child trafficking, resulted in misplaced efforts to stop child migration, described by experts as “an attempt to pour water uphill”, as most intercepted and returned children embarked on migration again within weeks.⁶⁶

From 2005 onwards, ECOWAS has collaborated with partners in the region in forming the West African Network (WAN), specifically geared to generating protective interventions and effective referral mechanisms for the benefit of child migrants in the region, particularly those travelling unaccompanied. WAN reports delivering assistance to over 6,500 child migrants since its inception.⁶⁷ WAN’s work has included early identification of vulnerable child migrants and provision of emergency support where needed, as well as the consistent use of best interests assessments, which consider alternatives to migration, family and community support measures to assist reintegration where appropriate.⁶⁸

A third region where child migration has been the focus of multi-State attention is Latin America. Among various regional initiatives, the most notable is the Inter-American Court of Human Rights 2014 Advisory Opinion on the needs of children in international migration.⁶⁹ The opinion draws attention to the urgent

61 O’Donnell, 2018.

62 For a useful overview, see European Commission, 2018.

63 UNICEF, 2016b.

64 Timera, 2018; Vacchiano, 2018.

65 Geissler and Laganju, 2018.

66 Dottridge and Feneyrol, 2007.

67 *Ibid.*

68 *Ibid.*

69 Inter-American Court of Human Rights, 2014.

and unmet need for international protection, and describes applicable procedures relevant to the treatment of both asylum-seeking and irregular child migrants, highlighting principles such as the non-detention of children based on an irregular migratory situation. Mexico has taken a lead in implementing protective services for unaccompanied child migrants, including those returned by the United States. Measures to decrease the reliance of detention are being considered (see the text box below on recent progress).

Two examples of recent progress in protecting child migrants

1. Mexico: Implementation of a 2014 law that includes child migrant protections, including the appointment of 300 dedicated child protection officers, who assisted 130,000 child migrants, 50 per cent of them unaccompanied, in 2017. It has developed a model of alternative, non-custodial care and a family foster care pilot for the placement of child victims of violence, and is in the process of designing a national action plan to increase alternatives to detention. Mexico is collaborating with Save the Children on a regional project to improve local conditions and educational access in the Northern Triangle countries.^a At the same time, externalization of United States migration control is generating hazardous situations at Mexico's northern border for minors attempting to lodge asylum applications in the United States. A limited quota system for asylum applicants forces thousands, including unaccompanied minors, to spend months in dangerous limbo on the Mexican side of the border, out of the reach of effective child protection services.^b
2. Turkey: Since 2014, successful implementation of the Law on Foreigners and International Protection, which permits access to protection, education and health care for children under international or temporary protection on equal grounds to Turkish children. This has resulted in improved access for migrant and refugee children to education and to needed health services and medicines.^c Despite these positive developments, however, Syrian refugee children continue to face challenges in securing the health and educational opportunities they need. The Temporary Education Centres established for Syrians, an important transitional step in securing schooling for Syrian children in Arabic, were not initially accredited and delayed adaptation to and inclusion in the host community. Recruitment of Syrian doctors and teachers has eased the language challenges facing the refugees, but some have no access to appropriate service providers or linguistic support. In addition, some of the Turkish teachers recruited to meet the increased school population were inexperienced and lacked the skills or support needed to manage complex classrooms with highly traumatized children.^d

a Information received by the Mexican Ambassador to the United Nations in Geneva, thanks to Mirela Shuterqui.

b UNICEF, 2016a; Campoy, 2016.

c Aida, 2018.

d Aras and Yasun, 2016; Çelik and İçduygu, 2018; Uyan-Semerçi and Erdoğan, 2018. The authors are grateful to Deniz Yılmaz for these references.

Emerging issues

At its important convening in September 2016, the United Nations General Assembly (UNGA) issued a landmark statement, the New York Declaration for Refugees and Migrants, announcing the launch of two non-binding Global Compact processes, one for refugees and one on migration.⁷⁰ It stated: “We will protect the human rights and fundamental freedoms of all refugee and migrant children, regardless of their status, and giving primary consideration at all times to the best interests of the child. This will apply particularly to unaccompanied children and those separated from their families”.⁷¹

A central goal of the Global Compact for Migration is to advance the important Sustainable Development Goal (SDG) on migration. This SDG, identified as SDG Target 10.7, calls on States to “facilitate orderly, safe, and responsible migration and mobility of people, including through implementation of planned and well-managed migration policies”.⁷²

The Initiative for Child Rights in the Global Compacts, a multi-stakeholder effort to highlight child migrant issues, identified several priority areas for making SDG Target 10.7 a reality for children. Among them is the meticulous generation of accurate, targeted and disaggregated empirical data to anchor the process of evaluating compliance with the Global Compact for Migration’s child migrant protection goals.

An emerging child migration issue is the growing political heft of an organized movement of child migrants themselves. In the spring and summer of 2017, a group of young Afghan migrants led protests in Sweden’s capital Stockholm against the Government’s threat to deport them back to Afghanistan, culminating in a 1,000-person-strong demonstration in the city centre.⁷³ The protests were successful, forcing the Government to withdraw deportation notices issued to some of the unaccompanied Afghan asylum seekers whose claims for protection had been denied. Another instance is the United States-based “Dreamers” organization, a group of young migrant activists who have embarked on “a gesture of civil disobedience that defied immigration enforcement policies and sought to re-shape legislation on citizenship”.⁷⁴ A very large constituency of children and young people, many of them United States residents since infancy, this group has succeeded in bringing to public attention the compelling merits of their case for legalization. Deeply affected in all areas of their lives by their irregular migration status, the group has organized public events drawing attention to the pervasive consequences of being undocumented.⁷⁵ Broader alliances demanding legalization for undocumented youths have also developed, including United We Dream, a national youth-led advocacy network that brings together over 50 affiliates. The future of the so-called “DACA-mented” youths – those who have benefited from former President Obama’s “Deferred Action on Childhood Arrivals (DACA)” executive order deferring deportation and permitting employment for 800,000 eligible undocumented children and young people – remains deeply uncertain.

70 UNGA, 2016.

71 Ibid.

72 SDSN, 2019.

73 *The Local*, 2017.

74 Terrio, 2018.

75 Ibid.

Deportation and forced removal of unaccompanied child migrants and refugees is an issue of growing concern.⁷⁶ This large-scale repatriation process, a consequence of vigorous regional border enforcement policies, particularly in Europe and North America, externalizes the protective responsibilities owed child migrants to jurisdictions poorly able to shoulder them. Human rights organizations have drawn attention to significant child protection concerns related to these policies, including the absence of any systematic scrutiny of the best interests of children or the likely risks back home.⁷⁷ In 2017, UNICEF reported that 9 per cent of the estimated 400,000 migrants stranded in Libya were children, 14,000 of them unaccompanied.⁷⁸ By May 2018, Amnesty International reported the existence of over 33 active detention centres in Libya with over 7,000 migrants (many of them children) detained in them. In the absence of relocation opportunities in Europe or elsewhere, the European Union, the African Union and United Nations agencies have directed their efforts to the repatriation of migrants wishing to exit from the detention facilities and return home. IOM has facilitated the return of over 23,000 migrants from Libya, including a small number of children. Efforts are being made to ensure that assessments of the best interests of repatriated children are conducted prior to return, and to address the lack of support to returnees or their families once they arrive in the country of return.⁷⁹

A final emerging issue, and one that may dwarf the others, is the growing impact of climate-related mobility on the lives of children and their families (see chapter 9 of this report). In addition to the general issues, a few child-specific points arise. Children rarely make decisions about how or when to move in climate-related mobility contexts, nor are they generally involved in any way in the programming of such moves. This participation failure can exacerbate the feeling of disorientation and loss associated with forced uprooting from one's home, one's peer group and one's anchoring sense of belonging.

Conclusion

The focus of this chapter has been on the subset of international child migrations that generate protection concerns, migrations that require greater public engagement and support.

Increased attention to the scale and modalities of contemporary child migration has generated policy reforms, several of them detailed above, that are beginning to result in improved protections for child migrants and refugees. For example, many countries to which large numbers of unaccompanied children have migrated have instituted guardianship schemes and free legal representation services. And indeed, even where policy implementation is still incomplete or inconsistent, there is a growing consensus about minimum standards that should apply to child migrants. Thus, it is widely accepted that child migrants should not be subject to detention, that the agency, participation and resilience of child migrants should be attended to as much as their vulnerability and dependence, that migrant and refugee children should be mainstreamed into domestic educational and child protection services, and that unaccompanied and separated children should be the focus of dedicated measures. Both early childhood development and adolescent child welfare experts are gradually including the special considerations relevant to child and refugee migrants in their programming and training.⁸⁰

76 Chase and Sigona, 2017.

77 UNICEF, 2018b.

78 UNICEF, 2017b.

79 Harvard FXB Center for Health and Human Rights and IOM, 2019.

80 Bernard van Leer Foundation, 2013; UNFPA, 2018.

However, considerable implementation gaps remain, illustrated by recent incidents described above, such as family separation and child migrant detention in the United States, and the need to expand educational provision for Rohingya refugee children in Bangladesh. Very large numbers of forcibly displaced children, both inside the borders of their own countries and in camps adjacent to them, continue to lack access to basic services such as primary health care and education, and to experience repeated threats to their physical and mental well-being. Exploitation and exposure to violence en route remain common incidents of contemporary child migration. Overall, the imperative of attending to the needs and rights of child migrants, and of developing a child-centric approach to research and planning, is still imperfectly realized, and data that are necessary to demonstrate the urgency of this situation remain inadequate.

This chapter has pointed to several hopeful developments, including the more vigorous engagement of a range of actors in the improvement of child migrant protection, the production of useful guidelines for policy development, the growing intersectoral convergence of professionals working with child migrants, and the increasing activism and leadership developing within the child migrant community itself.

Finally, it bears repeating that serious protection challenges remain, challenges that are likely to persist unless concerted steps are taken to counter some worrying trends. Among them, most critical perhaps, is the persistent evidence of violence targeting migrant communities including young migrants, whether in the course of their journeys or on arrival in their new host countries. Children who have survived the challenges of life in refugee camps or perilous border crossings need inclusive measures, stability and opportunity if they are to overcome the searing legacy of the past. For those who enjoy the benefits of supportive familial or community settings, this may well ensue, provided their societies engage actively with the prevention of xenophobic aggression and the diffusion of hate – in the classroom, football field or housing complex. For those child migrants who have travelled alone, more may be necessary to ensure resilience, to ensure that their voices are heard, and to support their prospects of success. Child welfare and migration governance systems need to converge and build the capacity to collaborate with greater consistency, to facilitate the inclusion of migrant children into domestic child protection structures, to incentivize greater knowledge of and understanding towards children's needs and rights in the migration system, and to thoroughly implement non-discrimination obligations in respect of all migrant children within the jurisdictions.

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