



# Embracing Child Protection: Priorities to Support the Safety and Well-being of Unaccompanied and Separated Children Globally

Each year, millions of children worldwide are forced to migrate in search of protection from severe threats to their lives and well-being. They seek refuge from dangers such as gender-based violence, abuse, war, and human trafficking. Many children are unaccompanied by both parents or other relatives and are not being cared for by an adult who is responsible for them, while others are separated from both parents or from their previous legal primary caregiver. Due to their age, developmental stage, and history of trauma, children migrating on their own face increased risks of harm and exploitation.

Countries throughout the world have made vital individual and collective commitments to advance the rights and protection of migrant and refugee children. However, policies and actions are often insufficiently coordinated and centered on children to fully implement these goals—with far-reaching consequences for children's safety and well-being.

Since 2008, Kids in Need of Defense (KIND) has worked to ensure the protection of unaccompanied and separated children as they migrate alone in search of safety. These efforts include creating programming to provide for the safety and best interests of children in countries of origin, transit, and destination; providing free legal information, orientations, and representation to help children understand their rights and access legal protection; connecting children with psychosocial supports to address their needs and healing; and leading efforts to prevent family separation and facilitate transnational reunification.

KIND tailors its projects to address current needs and to simultaneously respond to emerging ones, with the aim of protecting unaccompanied and separated children wherever they are in their migration journey. Working from this experience, KIND has identified several priorities that are foundational to the rights and well-being of unaccompanied and separated children and to closing protection gaps. KIND envisions these recommendations as a resource for countries collaborating to develop a constellation of safeguards—one that is strengthened by dialogue and cooperation among States and civil society and by the insights and experiences of unaccompanied and separated children.



## Child protection and best interests should be central tenets of any policymaking, procedures, and decisions affecting unaccompanied and separated children.

- The Convention on the Rights of the Child requires that the best interests of the child be a primary consideration in all actions concerning children. In practice, however, government authorities frequently implement decisions or policies that are driven by political and other factors and that may be contrary to children's best interests.
- Children's safety and well-being are imperatives and should never be considered secondary to policy priorities such as border management and security, immigration enforcement, or migration deterrence.
- Countries should enact laws and policies requiring all agencies and actors to center child protection and children's best interests in policymaking and decision-making impacting children. Rigorous oversight mechanisms must ensure accountability for implementing these commitments.

## Participation by unaccompanied and separated children should be prioritized in decision-making and policy development.

- Children's views and participation are critical to informing decisions at an individual level and to the creation of policies that reflect and meaningfully address the needs and realities of unaccompanied and separated children more generally.
- Consistent with the Convention on the Rights of the Child, all children should be afforded the opportunity to express their views freely and to have them duly considered in matters that affect them, consistent with their age and maturity.
- Participation should be voluntary and facilitated through trauma-informed practices to prevent re-traumatization of children. Additional safeguards should be implemented to prevent harmful disclosure or misuse of children's personal information or views.
- Policymakers, decisionmakers, and service providers should provide varied and accessible means through which children can share ideas, concerns, and complaints. Strong confidentiality protections and safeguards against retaliation should be ensured.

**KIND envisions these recommendations as a resource for countries collaborating to develop a constellation of safeguards.**



## All unaccompanied and separated children should be afforded safe access to territory to request protection and be received in a safe, humanitarian, and child-appropriate manner.

- Unaccompanied and separated children often experience severe violence, fear, and trauma during forced migration. Children should always be permitted access to territory to seek assistance and request protection. Measures that turn away or expel children at borders or that subject them to summary removal procedures imperil due process and children's safety and should never be used.
- Children have distinct developmental, psychosocial, and physical needs from adults and should be cared for in child-appropriate spaces that provide for their basic needs and well-being. Officials with child welfare training and expertise should oversee care and initial screenings of unaccompanied and separated children to identify risk or history of trafficking and other protection concerns.
- Policies should enable registration of basic information about unaccompanied and separated children to coordinate protection efforts, including psychosocial supports, for children on the move, and to identify and mitigate trafficking risks. These efforts should be complemented by policies to prevent disclosure of information about children or their family members that may put their safety at risk, such as in the case of individuals fleeing persecution.
- Policies should provide for children's expeditious transfer away from borders and to entities with child protection expertise. Child protection entities may conduct best interest assessments, identify needs or vulnerabilities, facilitate family reunification and access to counsel, and coordinate temporary care placements.

## Policies should protect family unity and provide for family reunification where in children's best interests, with safeguards to prevent unnecessary family separation.

- Authorities should seek to promptly identify family members with whom a child may be safely reunified and from whom a child may have been separated.
- Countries should enact robust procedures to prevent harmful separations of children from family members for reasons that are not in the best interests of the child or that are for inappropriate purposes such as deterrence. To reflect the diversity of families globally and the lived experiences of migrant and refugee children, policies should recognize and preserve not only relationships with parents and legal guardians but also customary caregiver and familial relationships beyond nuclear families or legal relationships.
- Laws and procedures should facilitate children's safe reunification with family without delay when it is determined to be in the child's best interests. Policies should be sufficiently flexible to allow for rapid response to emergency circumstances and large-scale events.
- In any cases of family separation for the safety of a child, information about separated family members should be maintained and routinely updated to track family relationships and facilitate



reunification when in the child's best interests or after safety concerns are resolved. Mechanisms should be provided through which family members can appeal separation decisions. Contact between separated family members should be facilitated so long as it is not harmful to the child.

## Children awaiting reunification or without available caregivers should be cared for in settings that provide for their best interests and punitive detention should never be used to deter irregular migration.

- Decisions about care placements for unaccompanied and separated children should always be focused on the provision of care and protection, not immigration enforcement, consistent with children's needs, best interests, and well-being. Care and services should be sensitive and responsive to children's culture, gender, and age, among other factors.
- Children's protection needs and best interests should be identified through assessments performed by child welfare professionals with relevant qualifications, training, and experience.
- Family- and community-based care options should be prioritized and expanded to minimize use of large-scale institutional settings.
- All placements for children should meet high standards of care aligned with best practices for child welfare and protection. Policies should require routine and independent monitoring and oversight to ensure that standards are implemented in practice.

## Psychosocial supports should be made available to all unaccompanied and separated children.

- Many unaccompanied and separated children have survived severe harm and trauma in their countries of origin and throughout their search for protection. This trauma is often compounded by the many transitions that confront the child upon entering a new country--from adapting to a new language, school, and living arrangement to working through their immigration case, often without an attorney to assist them.
- All unaccompanied and separated children should be provided with culturally sensitive and trauma-informed psychosocial supports to help them heal from harmful experiences, adjust to significant changes, develop trust, and thrive. Services should include family reunification support, mental health counseling, medical care, and assistance enrolling in school.
- Services should be made available to children for as long as necessary to support their individualized needs and healing. Coordinated policies and case management should be prioritized to ensure that children who are transferred between countries or resettling abroad are able to receive similar services in their country of resettlement.



## All legal processes impacting migrant and refugee children should assure fair access to protection, child-sensitive procedures, and high-quality legal representation.

- Children’s cases for legal relief should be considered through child-centered processes that are consistent with their needs and best interests and that prioritize child protection. Recognizing the sensitive experiences at the base of many children’s claims for protection and the risk of re-traumatization, all proceedings should be non-adversarial and overseen by adjudicators trained in trauma-informed interviewing and practices.
- All children should be provided high-quality information about legal systems and procedures affecting them and about their rights in a manner they can understand. Children should have access to free legal screenings to help identify protection needs and explain their legal options.
- Full legal representation should be provided to children prior to and for the duration of any legal proceedings and processes to enable children time to develop trust and rapport with counsel and meaningfully participate in their legal cases for protection.
- All children should be appointed independent guardians who can represent their best interests, which may differ from a child’s express wishes and legal interests in their immigration cases.

## Policies and mechanisms for legal protection should reflect children’s unique needs and vulnerabilities and ensure that children are never returned to harm.

- Policies should include preventative and protective mechanisms that recognize children’s particular vulnerability to trafficking, exploitation, abuse, and sexual and gender-based violence.
- Children should be provided with fair access to and child-appropriate information about all forms of legal protection for which they may be eligible, including asylum and complementary forms of protection.
- Laws and policies should provide permanent legal protection to children who do not qualify for other forms of legal relief or status but for whom repatriation is determined to not be in the child’s best interests.

**Policies should include preventative and protective mechanisms that recognize children’s particular vulnerability.**



Laws and policies should require rigorous safety and best interest assessments to prevent the repatriation of children to harm.

Repatriating children should be afforded a safe return and reception process and holistic reintegration services.

- Repatriation of a child should only be considered after the completion of thorough assessments by child welfare professionals determining that return is consistent with the child's best interests and that the conditions to which a child is returning do not pose harm or risk to the child.
- Repatriating and receiving countries should coordinate to help prepare children for return and to ensure the safety of the repatriation process. Coordination with civil society organizations should be prioritized to facilitate safe reentry and to provide all children with access to comprehensive reintegration services, with a focus on providing such supports locally.
- Reintegration services should be available to children for as long as necessary and should include mental health services, medical care, family reunification support, and assistance accessing educational and training opportunities.

Governments should coordinate transnationally to facilitate transfer and relocation when in a child's best interests.

- In some cases, it may be in a child's best interests to be transferred or relocated to another country or jurisdiction. Countries should collaborate to facilitate safe transfers and to expand bilateral, regional, and international mechanisms to coordinate these efforts. Collaboration should similarly be prioritized to support relocation of children from one jurisdiction to another when a country is at capacity to facilitate access to protection.
- Policies that prevent children from accessing territory to reunify with family or when otherwise in the child's best interests deepen children's vulnerability by forcing them to undertake clandestine routes to safety and should never be implemented.
- During relocation and other coordinated transfers, the best interests of the child should be assessed, and safeguards should be put in place to ensure the child's well-being. Children should be provided with an attorney, guardian, and case management in both countries. Countries should ensure coordination between these actors to support the child's rights and needs at all times.

