

## Technical note

# Migratory regularization as an essential condition for the comprehensive protection of the rights of children in the context of human mobility

unicef   
for every child



© UNICEF/UN0309964/Arcos

Latin America and Caribbean  
Regional Office

May 2020



## Contents

|   |    |
|---|----|
| INTRODUCTION.....   | 2  |
| I. THE TRIPLE VULNERABILITY CONDITION OF CHILDREN IN THE<br>CONTEXT OF IRREGULAR MIGRATION.....   | 5  |
| II. RECOGNITION BY STATES ON THE IMPORTANCE OF<br>REGULARIZATION POLICIES .....   | 9  |
| III. THE MIGRATORY REGULARIZATION AND ITS IMPACT ON THE<br>RIGHTS OF CHILDREN AND ADOLESCENTS .....   | 11 |
| 1. Migratory Regularization according to the guiding principles<br>of the Convention on the Rights of the Child .....   | 11 |
| 2. Regularization and basic children’s rights .....   | 14 |
| 3. Regular migration status as a means of preventing<br>violence, exploitation and other violations of the rights of<br>children and adolescents.....               | 18 |
| 4. Regularization of parents as a guarantee of children’s and<br>adolescents’ rights.....   | 21 |
| IV. THE POSITIVE EFFECTS OF THE MIGRATORY<br>REGULARIZATION IN SOCIETIES AND DESTINATION STATES:<br>Regular migration status and sustainable development goals..... | 25 |

## INTRODUCTION

The present document, of technical nature, is intended to make visible the multiple and interdependent links that exist between, on the one hand, migration status of children and adolescents and/or their families in the context of human mobility. And on the other hand, the exercise of the rights recognized in the Convention on the Rights of the Child to all persons under 18 years of age.

The objective is to promote the adoption of measures to regulate and promote access to regular residence for children and adolescents and/or their parents or legal representatives as a mechanism for the protection of the rights of children and adolescents. This, in turn, results in a strengthening of a number of public policies of the countries in which they reside, given the intimate connection between the guarantee of the rights of all children that make up a society and the goals of well-being, human security, living conditions and human development within every State.

Before entering the specific analysis on the relationship between migrants and refugees' regularization and the rights of children and adolescents in human mobility contexts, it is necessary to underline the triple vulnerability condition in which these children and adolescents may be. That is, the particulars and complex circumstances of vulnerability because of their age, of not having the nationality of the country in which they are located, and due to the irregular immigration status of them and/or their parents or legal representatives. In this regard, this white paper briefly describes some international standards relating to the duties of States with regard to the rights of vulnerable persons, and in particular with children and adolescents. Then, underline how regular residence is one of the steps needed to reduce, or better yet, reverse that vulnerability.

Next, to introduce the arguments for policies and measures that promote regularization, various statements by States at the global and regional levels are transcribed and analyzed. It is a question of demonstrating how States - and in a very particular way, of South American countries- have consistently stressed that regularization is an essential element of the migration policy and that it contributes to achieving the policy goals of human development, social inclusion, employment, prevention of different risks, among many other public policies aimed at ensuring the general well-being of society.

A central section of this paper examines how migratory regularization is a condition that, while insufficient, is essential for the recognition and/or exercise of rights by children and adolescents. Therefore, in the first subheading, arguments are developed that show the relationship between, on the one hand, a regular migration situation (without prejudice to the type of category of migration, asylum or the other) and on the other, effective and equal access to rights such as the health, education, social protection, housing and many others to ensure the right to an adequate standard of living and the right to development for all children.

A second part of this chapter addresses in a complementary manner a series of legal and public policy arguments that show how, for children and adolescents in the context of human mobility, regular migration status is an important factor in protecting them against all forms of violence, exploitation and other risks. Facilitating regular entry into the territory and/or access to a residence permit for children and adolescents and/or their parents can, in many cases, be a central element of policies to prevent trafficking, labour or sexual exploitation, gender-based violence, sexual violence, child labour, street situations, among many other forms of risk.

The third subheading highlights the need for a comprehensive approach to the protection of children's and adolescents' rights in the context of human mobility from considering their parents or other adults in policies and measures that promote regular migration status. Access to a residence by adults responsible for the proper development of children and adolescents, and consequent access to basic rights - such as permission to work - has a direct impact on the realization of children's and adolescents' rights and the prevention of violence and other risks.

The closing chapter of this document succinctly discusses how the creation of pathways for regular entry and stay - including regularization of programmes and mechanisms - can not only impact on guaranteeing the rights of children in the context of human mobility and protecting them from different forms of violence and other abuses. Indeed, its impact far exceeds migrants, refugees and their families by promoting a multiplicity of positive effects at the social level and for the States of destination. In short, it is possible to identify a direct link between regularization and integral human development, and thus with the 2030 sustainable development goals.

Finally, it is important to note that this document was prepared before the start of the global pandemic caused by the COVID-19 virus, which so far (May 2020) has had a dramatic impact on the lives and health of millions of people, as well as in multiple family, social, economic aspects, among others, of virtually every society in the world.

This unprecedented and challenging scenario further reveals the need to promote regularization policies, with the aim of ensuring the greatest possible impact of health measures and those aimed at alleviating the socio-economic impact on the population. This would not only help to preserve the rights of each person but also to broaden the likelihood of meeting public health goals, especially the spread of the virus, social goals in terms of mitigating the affectation of living conditions, and those of a different nature that will be essential to the post-global pandemic reality.

**Concept of migratory regularization** - includes all kinds of public policy, temporary or permanent, decision in specific cases, which: a) prevents a situation of migratory irregularity (original or unexpected), b) allows to get out of an irregular migratory situation.

This definition includes: i) routes that a State creates for regular entry into a territory (entry regular pathways) -for example, through family reunification, asylum, child protection, and by many other reasons-; ii) permanent ways for a child, adult and / or family to move from an irregular immigration status to a regular situation, such as family reunification, child protection, asylum, work, conditions of vulnerability, studies, and many others; iii) temporary migratory regularization programs aimed at reducing the levels of irregularity of part of the people into a country, to promote their social inclusion and reversing vulnerable conditions.

## I. THE TRIPLE VULNERABILITY CONDITION OF CHILDREN IN THE CONTEXT OF IRREGULAR MIGRATION

For some decades now, people and institutions specializing in immigration have shown the vulnerability in which migrants are found, particularly when they are in conditions of irregular migration. In adopting the Convention on the Rights of All Migrant Workers and Their Families, the States emphasized in their preamble the situation of vulnerability in which migrant workers and their families are often in, the seriousness of their problems in the case of irregular migration, and noted that they were convinced of the need to ensure the protection of their fundamental human rights.

In this regard, the United Nations Intergovernmental Working Group of Experts explained that the vulnerability of migrants “is due to the lack of rights and their lack of ability to defend their rights before the authorities of the host society”, expressing particular concern about the situation of persons in irregular migration, women and children..<sup>1</sup> In this regard, ECLAC has stated that “an irregular or undocumented condition establishes an additional structural vulnerability (...) In its institutional political dimension, the status of irregular migrant imposes a structural limitation on access to welfare, social protection and the enjoyment of human rights, starting with legal identity. In turn, access to formal and decent work has a regular condition (having papers) as an indispensable requirement.”<sup>2</sup>

The IACHR has also stressed that “effectively migrants are in a vulnerable situation as human rights subjects, in an individual condition of absence or power difference with respect to non-migrants (nationals or residents). This vulnerability condition has an ideological dimension and is presented in a historical context that is different for each State, and is maintained by de jure (inequalities between nationals and foreigners in laws) and de facto (structural inequalities) situations. This situation leads to differences in the access of each other to public resources administered by the State.”<sup>3</sup> Referring to persons in irregular immigration status, the Court added that “undocumented or irregular migrants have been identified as a vulnerable group, as they are most

<sup>1</sup> E/CN.4/1998/76, Report of the Intergovernmental Working Group on the Human Rights of Migrants, submitted in accordance with Commission on Human Rights, Resolution 1997/15 of 10 March 1998,

<sup>2</sup> Economic Commission for Latin America and the Caribbean, Pizarro, J., C. Maldonado and R. Martínez, *Social Protection and Migration: A look from vulnerabilities throughout the cycle of migration and people's lives*, ECLAC, Santiago, Chile, 2018, pp. 29, 35.

<sup>3</sup> Inter-American Commission on Human Rights, OC-18/03, paragraph, 112.

exposed to potential or actual violations of their rights and suffer, as a result of their situation, a high level of vulnerability of their rights and differences in access to public resources administered by the State.”<sup>4</sup>

This particular situation of vulnerability in which migrants in irregular immigration status are located takes on a special and additional dimension in the case of children and adolescents - as well as in the case of women and other social groups. In their 2017 Joint General Comments, the Committee on the Rights of the Child and the Committee on the Rights of Migrant Workers and their Families highlighted the particular vulnerability of children and adolescents in the context of human mobility, highlighting how this situation can be aggravated in different circumstances, including immigration status.

In particular, they noted that in “the context of international migration, children may find themselves in a situation of double vulnerability as children and as children affected by migration who: (a) are themselves migrants, either alone or with their families; b) were born to migrant parents in the destination countries; or (c) remain in their home country while one or both parents have migrated to another country. Other vulnerabilities may be related to their national, ethnic or social origin; gender; sexual orientation or gender identity; religion; disability; situation in the area of migration or residence; citizenship situation; age; economic situation; political or other opinion; or another condition.”<sup>5</sup>

In this regard, the Office of the United Nations High Commissioner for Human Rights stressed the vulnerability to be exposed to multiple human rights violations is intensified in the case of children and adolescents in the context of migration. For some, he added, the difficulties are subtracted from restrictive migration policies and the lack of channels to migrate on a regular basis, forcing them to do so irregularly and many other risks arising therefrom, such as trafficking, violence, exploitation, forced labour, trafficking and lack of access to services and justice.<sup>6</sup>

This triple vulnerability condition in which children and adolescents

4 Inter-American Commission on Human Rights, Case Velez Loo v. Panama, 23 November 2010, paragraph, 98.

5 CMW and CRC, Joint General Comment no. 3 CMW and no. 22 CRC, 2017, paragraph, 3.

6 Office of the High Commissioner for Human Rights, Input from a child rights perspective to the United Nations High-level Political Forum on Sustainable Development ‘Empowering people, ensuring inclusiveness and equality’, OHCHR, July 2019, p. 6.



are located in the context of human mobility and in irregular migration situation - which in turn can be aggravated by other factors such as ethnicity, gender, disability, etc. -, determines the need to assess all possible measures that reverse these circumstances. As minors who are not nationals of the country in which they reside, or sons and daughters of migrants, addressing irregular immigration status is an indispensable means of reducing this vulnerability. Access to a regular migration situation - through permanent mechanisms and/or extraordinary regularization programmes - is presented as a possible solution.

Finally, as noted in the introduction, within the current framework of the pandemic generated by the COVID-19 virus, multiple actors at the local, national, regional and international levels have alerted about the particular situation of vulnerability faced by migrants, asylum seekers and refugees in this crisis, and in particular, specific groups such as children and adolescents , as well as make a clear call for their social protection and all their rights.

In particular, all these agencies recall that at this time all international standards for the protection of migrants, and in particular of girls in human mobility, remain fully in force and must be observed by States in all measures that contain the pandemic.



We review some recent declarations in this regard:

|  |  |
|--|--|
| <p><b>United Nations High Commissioner for Human Rights</b></p> <p><b>Essential guidelines for incorporating the human rights perspective into the focus of the COVID19 Pandemic</b></p>   | <p>“States should also take steps towards the regularization of undocumented migrants whenever necessary, to facilitate their access to health services during the fight against the pandemic...”</p>  |
| <p><b>Inter-American Commission on Human Rights</b></p> <p><b>Resolution 1/2020</b></p>  | <p>“III. Highly Vulnerable Groups</p> <p>Recalling that when issuing emergency measures and containment against the COVID-19 pandemic, States in the region should provide and implement intersectional perspectives and pay particular attention to the needs and differentiated impact of such measures on the human rights of historically excluded groups or in particular risk, such as:</p> <p>elderly people and people of any age who have pre-existing medical conditions, detainees, women, indigenous peoples, people in mobility children and adolescents, LGBTI people, afro descendent people, people with disabilities, workers, and people living in poverty and extreme poverty, especially informal workers and people in street.</p> <p>RESOLUTIVE PART</p> <p>62. To expressly include populations in a situation of human mobility in the economic recovery policies and actions that are necessary at all times of the crisis generated by the pandemic.</p>   |
| <p><b>Inter-American Court of Human Rights</b></p> <p><b>Declaration 1/20 of April 9, 2020</b></p>   | <p>“Given the nature of the pandemic, economic, social, cultural and environmental rights must be guaranteed without discrimination to every person under the jurisdiction of the State and, in particular, to those groups that are disproportionately affected because they are most vulnerable, such as older people, girls and boys, persons with disabilities, migrants , refugees, stateless people...”</p>  |
| <p><b>United Nations Committee on the Rights of the Child</b></p> <p><b>Declaration of 8 April 2020 on COVID-19 and children</b></p>   | <p>“7. Protect children whose vulnerability is further increased by exceptional circumstances caused by the pandemic. These include children with disabilities; children living in poverty; children in street situations; <b>migrant children, asylum seekers, refugees and internally displaced persons;</b> minority and indigenous children; children with underlying health conditions, including HIV/AIDS; children deprived of liberty or interned in police detention centers, prisons, safe care facilities, <b>migrant detention centers or camps; and children living in institutions.</b>”</p>   |
| <p><b>Committee for the Protection of the Rights of All Migrant Workers and Members of their Families of the United Nations and UN Special Rapporteur on the human rights of migrants</b></p> <p><b>Joint Guidance Note on the Impacts of the COVID-19 Pandemic on the Human Rights of Migrants, 26 May 2020</b></p> | <p>“3. Ensure access to social services for migrants and their families. Data generated in several countries show that migrants and their families represent a high percentage of people who lost their jobs, receive reduced incomes or fail to receive income as a result of States’ implementation of measures to counter the spread of COVID-19, such as compulsory imprisonment, quarantine, physical estrangement, restrictions on the right to freedom of movement, and border closures. Continuous access to social services for migrants is therefore crucial, particularly for those who no longer have access to social protection. Particular needs of migrant women, children and others in vulnerable situations must also be addressed.</p> <p>...</p> <p>12. Promote the regularization of irregular migrants or undocumented migrants. This includes the adoption of other regular avenues for migrants in a vulnerable situation, measures to allow extensions of work visas and other appropriate measures to reduce the challenges faced by migrants and their families due to the closure of businesses to ensure the continued protection of their human rights”</p> |

Among the measures that have been identified in this crisis as essential to reduce this vulnerability are precisely those aimed at facilitating access to a residence permit. In this direction, it should be emphasized, countries in different regions have promoted regularization processes, decreed the automatic extension of residence permits, or taken other measures to regularize the migration situation of migrants living in their territories.

The next sections of this paper aim to deepen the argumentation about regularization as a mechanism to reduce the vulnerability of children and adolescents in contexts of human mobility, as well as the opportunity to promote positive effects on the societies and states of destination and origin of the migrant and refugee population, including and especially in such complex junctures as the pandemic affecting the planet since the beginning of 2020.

## **II. RECOGNITION BY STATES ON THE IMPORTANCE OF REGULARIZATION POLICIES**

In the Global Pact for Safe, Orderly and Regular Migration, adopted in 2018, States undertook to “respond to the needs of migrants in vulnerable situations, which may arise from the circumstances in which they travel or from the conditions they face in countries of origin, transit and destination, aiding and protecting their human rights, in accordance with our obligations under international law. We are also committed to defending the best interests of the child at all times as a primary consideration...”<sup>7</sup>.

In order to fulfil this commitment, States decided that they will use, inter alia, the following actions:

- Establish accessible and expeditious procedures to facilitate the transition from one status to another, to prevent them from becoming irregular migrants in the country of destination, to reduce the precariousness of the status and vulnerability that this entails;
- Take advantage of existing practices to facilitate access for irregular migrants to an individual assessment to regularize their situation, with clear and transparent criteria, especially in the case of children, young people and families, as an option to reduce vulnerability;<sup>8</sup>

In the same direction, it should be emphasized that it has been the States of the region that have emphatically stressed the importance of regularization and of taking measures to prevent and reverse irregular migration.

<sup>7</sup> Global Compact for Safe, Orderly and Regular Migration, adopted in December 2018, objective no. 23.

<sup>8</sup> Ibidem, objectives 23.h and 23.i.

In the context of the South American Conference on Migration (CSM) and other multilateral regional areas, States have adopted multiple statements on the relevance of regularization, as can be seen in the following table:

| Agency/Declaration   | Main content  |
|--|---|
| <b>V CSM (La Paz, 2004) and South American Plan for Human Development of Migration (approved at the Tenth CSM, in Cochabamba, 2010),</b> | States recognized that regularization is a “fundamental element of public policies in the field of migration”   |
| <b>Santiago Declaration on Migration Principles, 2004</b>  | “the efficiency of migration policy will depend on its suitability to regional and international reality and the acceptance that regular migration status is an indispensable condition for achieving the full insertion of migrants into the receiving society”  |
| <b>VI CSM (Assumption, 2006)</b>   | “1.b: To urge the governments of the recipient countries to make every effort to regulate the situation of migrants residing in a condition of irregular migration”   |
| <b>VII CSM (Caracas, 2007):</b>  | “Implement policies to regulate the situation of migrants and their families in host countries, in accordance with international principles and commitments on the human rights of migrants”  |
| <b>Declaration of Migration Principles and General Guidelines of the South American Conference on Migration (2010)</b>                   | “To highlight the regularization agreements signed between Member States of the Conference and to encourage the negotiation and signing of new conventions, policy policies, cooperation programmes and courses of action that facilitate such regularization”  |
| <b>XV CSM (Santiago, Chile, 2015),</b>   | “The States undertook to: Continue to promote initiatives aimed at facilitating the social inclusion of migrants in host communities and facilitating regularization...”  |
| <b>XVI CSM (Asunción, 2016)</b>  | “the importance of regularization as the basis for the integration of migrants into the host society... States undertake to: (...) (b) Continue to promote initiatives to facilitate the regularization of migrants”  |
| <b>XVII CSM (Montevideo, 2017)</b>   | “(1) increase and deepen mechanisms to facilitate the mobility of persons and access to regular migration status, taking into account that the migrant person is a subject of law”  |
| <b>XIII CSM (Cartagena de Indias, 2013)</b>  | The conference officially entitled “Regularization as a mechanism for achieving the full exercise of the rights of South American migrants and strengthening regional integration”. The States mentioned that the goal is “that there is no citizen of the region in South America in an irregular migration status”. |
| <b>Mercosur Declaration on Migration Principles</b>  | “the efficiency of migration policy will depend on its suitability to regional and international reality and the acceptance that regular migration status is an indispensable condition for achieving the full insertion of migrants into the receiving society”  |
| <b>Community of Latin American and Caribbean States (CELAC), Havana 2014</b>   | Special declaration on regularization as a mechanism for achieving the full exercise of the rights of migrants and their families   |

In the current context of COVID-19, we can add to all these precedents the above-mentioned statements and many other statements that are being issued by the main human rights protection bodies at the regional and global level, speaking to migrant and refugee families in all social protection and rights guarantee measures taken by States. Measures that should necessarily consider the regularization of these children and their families in human mobility as a basic requirement for access to their most basic rights.

### **III. THE MIGRATORY REGULARIZATION AND ITS IMPACT ON THE RIGHTS OF CHILDREN AND ADOLESCENTS**

As noted in the previous paragraph, vulnerability constitutes a condition determined by deprivation of basic rights and/or the existence of factors or obstacles establishing distinctions, restrictions, preferences or other forms of inequality to the detriment of one or more social groups. It was also emphasized that both children and adolescents and migrants, asylum seekers and refugees may be vulnerable, and that when these factors converge with a state of irregular migration - of the children and adolescents and/or their parents - that vulnerability tends to deepen. In other words, the impact on basic rights can be aggravated and extended.

For these reasons, on the contrary sensu, it is important to examine the opposite effect, that is, the virtuous circle between facilitating regular migration status and the protection of children's and adolescents' rights. We will then see in some detail how the regularization of children and adolescents, its parents and/or the whole family group, can lead to a better and broader effective guarantee of the rights of children and adolescents. In an introductory way, it is appropriate to pause to observe the close relationship between the guiding principles of the Convention on the Rights of the Child, the basic rights emanating from them and the adoption of measures to facilitate a regular immigration status and to prevent situations of risk and violations of rights arising from or driven by irregular migration.

#### **1. Migratory Regularization according to the guiding principles of the Convention on the Rights of the Child**

All rights recognized in the CRC, in addition to being fundamental and interdependent, need to be respected, guaranteed and interpreted on the basis of four core principles that guide how States must

fulfil the duties emanating from this universally ratified treaty. These principles are: the principle of non-discrimination; the best interests of the child; the right to life, survival and development; and the right to participation and be heard.<sup>9</sup> A brief analysis of each one makes it possible to identify how, in the context of human mobility, regular migration status represents a coherent, functional and necessary tool for the effective guarantee of these principles and, therefore, of the accompanying rights of the CRC.

Article 3 of the CRC states that in all actions concerning children and adolescents, the authorities must give primary consideration to their best interests, that is, to the best, broadest and most effective way of guaranteeing the recognition and exercise of all their rights. This obligation must be respected in any public policy, regulation, decision, or measure that may directly or indirectly impact on the rights of children and adolescents.

With this in mind, it is possible to state that the regulation of permanent mechanisms for access to a residence permit (reasons, procedures, requirements), or the evaluation of the implementation of a temporary migration and regularization programme, should consider, in the primary way, the best interests of the child. A policy containing various modalities that prevent or reverse situations of irregular migration will undoubtedly have a considerable impact on the rights of children and adolescents in a policy. Promoting regularization can therefore be seen as a way of properly introducing the principle of the best interests of the child into residence permit policies.

The principle of non-discrimination is a backbone of all international human rights law. On the basis of article 2 of the CRC, all rights recognized in the Convention must be guaranteed to all children and adolescents, without discrimination on any prohibited basis, including nationality and immigration status. This principle must be ensured in all public policies of a State, including those relating to the field of human mobility. In the words of the Committees on the Rights of the Child and the Rights of Migrant Workers and their Families, this principle “will be at the heart of all migration policies

<sup>9</sup> For further analysis of the guiding principles of the Convention on the Rights of the Child, see [www.unicef.org/spanish/crc/index\\_30177.html](http://www.unicef.org/spanish/crc/index_30177.html).

and procedures, including border control measures, and regardless of the residence situation of children or their parents.”<sup>10</sup>

Considering the particular vulnerability of children and adolescents in irregular migration status, it could be noted that measures to facilitate regular migration status would be an appropriate means of preventing or reversing situations of discrimination in the exercise of basic rights. The United Nations Committees, in interpreting the application of the principle of non-discrimination to children and adolescents in contexts of human mobility, stressed that “States parties must ensure that migrant children and their families are integrated into host societies through effective observance of their human rights and access to services on an equal footing with nationals”. To this end, regular migration status is a measure that, without being sufficient to ensure integration and equality, is essential.

Effective realization of the right to life, survival and development of all children and adolescents has multiple challenges in the case of children and adolescents in the context of human mobility, given the levels of vulnerability they can be in, as already described. Irregular migration can affect in many ways the proper and timely development of a child or adolescent, at the material, physical, mental, spiritual, moral and social levels - following the letter of Articles 6, 18 and 27 of the CRC. Restrictions on basic rights due to the immigration status, according to the Above-mentioned Committees, “may directly or indirectly affect children’s right to life, survival and development. Such policies would also hamper the design of comprehensive migration policies and efforts to systematically integrate migration into development policies.”<sup>11</sup>

These Committees expressly underlined the relationship between the right of children and adolescents to development, the best interests of the child and the regularization. In particular, they stated that. “the right of children to development, and their best interests, should be taken into account when States deal, in general or individually, with the situation of migrants residing irregularly, for example through the implementation of regularization mechanisms as a means of promoting integration and preventing the exploitation and

<sup>10</sup> CMW and CRC, Joint General Comment no. 3 CMW and no. 22 CRC, paragraph 3.

<sup>11</sup> CMW and CRC, Joint General Comment no. 3 CMW and no. 22 CRC, paragraph 44.

marginalization of migrant children and their families.”<sup>12</sup> In the same sense, due to the “negative impact on the well-being of children the fact that they are in an insecure and precarious immigration situation. [The Committees therefore] recommend that States ensure the existence of clear and accessible procedures for determining the situation of children so that they can regularize it for various reasons (such as the duration of residence)” (OG 4 CMW 23 CRC: 18)-

Finally, the right to participate and be heard can also be substantially protected from measures that facilitate the regular migration status of children and adolescents and/or their parents. This right envisages, on the one hand, the need to ensure that children and adolescents are heard and their opinions considered in the context of administrative and judicial proceedings that directly or indirectly affect their rights - including immigration and asylum procedures. On the other hand, it includes numerous forms of participation in the family, social and political spheres. It is a tool of social inclusion, the construction of citizenship and the guarantee of integral human development.

Irregular migration and the vulnerability associated with it, on the contrary, obstructs the creation of the essential conditions - personal, family, social and community - that are required to ensure that children and adolescents can exercise their right to be heard and to participate. Therefore, regular migration status contributes to creating these necessary conditions for children and adolescents to develop with the freedoms that allow their integration and inclusion in the society it integrates, that is, to participate actively in the processes and contexts of children and adolescents.

## **2. Regularization and basic children’s rights**

Based on the articles of the CRC and the principles that should guide their implementation - in particular the principle of non-discrimination - all children and adolescents must have the same rights without any distinction. As already stated on the basis of the standards set by the relevant agencies, nationality, immigration status, residence status, statelessness, asylum seeker or the like, cannot be a valid criterion for denying or restricting the rights of children and adolescents in the context of human mobility.<sup>13</sup>

<sup>12</sup> CMW and CRC, Joint General Comment no. 3 CMW and no. 22 CRC, paragraph 44.

<sup>13</sup> CMW and CRC, Committee on the Rights of the Child and Committee on the Rights of Migrant Workers and Their



More specifically, the Committees noted the obligation to guarantee children and adolescents in immigration context, without distinction from national ones, access, inter alia, to rights such as health and education.

All migrant children should have the same access as national children to health care, whatever their immigration status. This includes all health services, whether preventive or therapeutic, and mental, physical or psychosocial care provided in social centers or health care institutions.<sup>14</sup> The current context of the pandemic caused by the COVID-19 virus dramatically reflects the importance of universal access by all people to all health services, as well as adequate living conditions (hygiene, water and other determinants of health) and social protection programmes, with regularization being an essential means of ensuring these rights as well as the effectiveness of these policies;

All children in the context of international migration, regardless of their situation, will have full access to all levels and all aspects of education, including early childhood education and vocational training, on an equal basis with nationals of the country in which they live. This obligation implies that States must ensure equal access to inclusive and quality education for all migrant children, whatever their migration;<sup>15</sup>

Without prejudice to this, it is important to note that in a number of countries access to certain rights, and in particular in the case of rights linked to social services - such as education and health, among others - regular residence acts, *de iure* or *de facto*, as a requirement for exercising them. Even if there were no formal or practical obstacles to children and adolescents in mobility contexts being able to enjoy these rights on an equal footing, the vulnerability associated with irregular migration adversely impacts the way and extent to which those rights are actually exercised.

Moreover, in many cases the programmes and benefits that States implement - at national and/or local level - for the basic social protection of vulnerable persons and groups require non-

---

Families, General Comment no. 3 CMW and 22 CRCs, paragraphs 9, 21-26.

14 CMW and CRC, Joint General Comment no. 4 CMW and no. 23 CRC, paragraph 55.

15 CMW and CRC, Joint General Comment no. 4 CMW and no. 23 CRC, paragraph 59.

nationals to have regular residence in the territory to access them. Sometimes, together with regular migration status, a minimum time of residence - usually a certain number of years - is required to be a beneficiary of these social programs. This is still verified in the current context of the COVID-19 pandemic, while emergency social containment programmes are aimed at the most vulnerable population - particularly affected by this situation - in many countries, in the case of migrants residing there, a regular migration situation, so that they can enjoy basic protection measures.

That is why the regularization of children and adolescents and/or their parents, and the consequent access to a number of rights and, therefore, to a number of resources that improve their living conditions, can contribute significantly to reducing and reversing the levels of vulnerability already described. The protection of a wide range of rights recognized in the CRC, such as the right to education, health, social protection, housing, food, clothing and, ultimately, the right to an adequate standard of living, can be substantially expanded from a regular migration situation. Consequently, this can represent an important contribution to the social integration and human development of migrants children and adolescents and relatives of migrants.

More specifically, these positive effects may, in turn, impact the needs of children and adolescents in an adapted form in each stage of their development. Indeed, regular migration status and its impact on access to basic rights and services can strengthen the protection of children in early childhood. Nutritional aspects and, in general, of adequate development and growth, are among the many positive results.

In this regard, it is necessary to consider, following the Committee on the Rights of the Child, that in order to realize the rights of the child in early childhood, States must ensure that “all young children (and the main ones responsible for their well-being) are guaranteed access to adequate and effective services, in particular health care, care and education programmes specially designed to promote their well-being. Special attention should be paid to the most vulnerable groups of young children and those at risk of discrimination (art. (2) This includes children, children living in poverty, children with

disabilities, children belonging to indigenous or minority groups, children from migrant families, children who are orphaned or lack parental care for other reasons, children living in institutions, children living with their mothers in prison, refugee and asylum-seeking children..."<sup>16</sup>

The situation is similar for adolescents in the context of migration. The Committee on the Rights of the Child has highlighted some of the risks that migrant adolescents may encounter, "such as physical harm, psychological trauma, marginalization, discrimination, xenophobia and sexual and economic exploitation, and when they cross borders, raids against migration and detention. Many migrant adolescents are denied access to education, housing, health, recreational activities, participation, protection and social security. Even when rights to services are protected by laws and policies, adolescents may face administrative and other obstacles to accessing those services, including the request for identity documents..."<sup>17</sup>

In this regards, one may note which central aspects of adolescence, such as the completion of secondary studies, the acquisition of labour skills, aspiration for university training and, in general, everything related to the exercise of rights at that stage of life in which the transition to adulthood and autonomous life begins, may be hindered or obstructed in conditions of irregular migration. Access to a residence permit for adolescents and their parents can be essential so that once they are older and they can develop their lives under the right conditions, that is, having exercised - without discrimination - all the fundamental rights of a person during his teenage years.

In conclusion, in the case of children and adolescents in the context of human mobility, regular migration status represents a way for the effective access and exercise of fundamental rights for all stages of the life and development of children and adolescents. As detailed below, it is also an essential tool for the protection of these children and adolescents against different forms of violence and other abuses.

<sup>16</sup> CRC, Committee on the Rights of the Child, General Comment no. 7, Realization of the Rights of the Child in Early Childhood, 2005, paragraph. 24, the highlight belongs to us.

<sup>17</sup> CRC, General Comment no. 20 on the Effectiveness of Children's Rights during Adolescence, 2016, paragraph 76.

### **3. Regular migration status as a means of preventing violence, exploitation and other violations of the rights of children and adolescents**

The vulnerability of children and adolescents in the context of human mobility and irregular migration (of them and/or their parents) is not solely due to difficulties, obstacles or restrictions on access to certain rights, especially those aimed at ensuring certain fundamental living conditions for adequate development and on an equal footing. This vulnerability is also manifested in a very concrete way in the varied and multiple risks to which the children and adolescents may be exposed by this triple vulnerability condition.

The Committees on the Rights of the Child and the Rights of Migrant Workers and their Families have described this vulnerability, particularly highlighting the incidence of irregular migration - in transit and destination - and then establishing a set of standards that should guide policies and measures to address these issues. In their Joint General Comments, the Committees underlined the following:

“The lack of regular and safe channels for children and families to migrate contributes to them undertaking life-threatening and extremely dangerous immigration journeys. The same is true of border control and surveillance measures that focus on repression rather than facilitating, regulating and managing mobility, especially detention and expulsion practices, lack of opportunities for family reunification in a timely manner and lack of regularization pathways.”<sup>18</sup>

“Children in the context of international migration, in particular, undocumented, stateless, unaccompanied or separated from their families are particularly vulnerable throughout the migration process to various forms of violence, such as neglect, abuse, abduction, abduction and extortion, trafficking, sexual exploitation, economic exploitation, child labour, begging or participation in criminal and illegal activities, in countries of origin, transit, destination and return. These children are at risk of violence by the State or non-state agents or witnessing acts of violence against their parents or others, especially when they travel or reside in a country irregularly...”<sup>18</sup>

<sup>18</sup> CMW and CRC, Joint General Comment no. 4 CMW and no. 23 CRC, paragraph 39.

“Undocumented migrant children and parents who rely on residence or work permits... they are at risk of being reported to immigration authorities by public service providers or other officials or by individuals. This limits your enjoyment of human rights, including protection and access to justice, and makes them more vulnerable to violence and labour exploitation and other types of exploitation and abuse, and may be the result of policies that prioritize the detection of irregular migrants rather than their protection from violence, abuse and exploitation, which makes children more vulnerable to experiences of violence and can make them witnesses to violence against a family member.”<sup>19</sup>

As it is possible to understand from these international standards, irregular migration or lack of channels to enter or remain regularly in a territory, can place children and adolescents in circumstances of high vulnerability. In the same sense, the Committee on the Rights of the Child, together with the Committee on the Elimination of All Forms of Discrimination against Women, stressed that many migrants, particularly women and children, are “in a precarious economic and legal situation, increasing their vulnerability to all forms of violence, including harmful practices.”<sup>20</sup>

For their part, adolescents in migration contexts are particularly exposed to these risks, especially if (they and/or their parents) are in an irregular migration situation. In this regard, the Committee on the Rights of the Child, showing that “or an increasing number of adolescents of both sexes migrate, whether inside or outside their home country, in search of better standards of living, education or family reunification”, for many migration “... it poses risks, such as physical harm, psychological trauma, marginalization, discrimination, xenophobia and sexual and economic exploitation, and when they cross borders, raids against migration and detention.”<sup>21</sup>

The Committee also noted that “as they approach adulthood, adolescents need the right education and support to address local and global problems, such as the... migration (...). Growing

<sup>19</sup> CMW and CRC, Joint General Comment no. 4 CMW and no. 23 CRC, paragraph 42.

<sup>20</sup> CRC and CEDAW committee, General Recommendation no. 31 of the Committee on the Elimination of Discrimination against Women and General Comment no. 18 of the Committee on the Rights of the Child on Harmful Practices, adopted jointly, of 14 November 2014, paragraph, 86.

<sup>21</sup> CRC, Committee on the Rights of the Child. General Comment no. 20 on the Effectiveness of Children's Rights During Adolescence, December 6, 2016, paragraph 76.

up in increasingly heterogeneous and multi-ethnic societies, as a result of increased global migration, also requires greater capacity for understanding, tolerance and coexistence. It is necessary to invest in measures that strengthen the capacity of adolescents to overcome or mitigate these problems, address the social factors that contribute to the exclusion and marginalization of them, and prepare them to operate in difficult and changing social, economic and digital environments.”<sup>22</sup> It can be said, once again, that facilitating regular residence is one of the measures that would strengthen these capacities and reduce risk, exclusion and other hazard factors.

Moreover, the dangers faced by vulnerable children and adolescents, such as those in the context of human mobility in irregular migration status, are not only linked to forms of violence or similar abuses. Marginality and social exclusion may be determined, or exacerbated, in such circumstances, resulting in this situation a number of deprivations to basic rights and, of course, an increased risk of violence and abuse. One of the serious consequences is that the children and adolescents, alone or with their relatives, are in a street situation.

The Committee on the Rights of the Child recently established a number of specific standards on street children’s rights. There, he stressed that “discrimination is one of the main causes of children ending up on the street (...) Children may be subjected to multiple and interrelated forms of discrimination, for example, on the basis of gender, sexual orientation and gender identity or expression, disability, race, ethnicity, indigenous status, immigration status...”<sup>23</sup> Promoting the exit of irregular migration, as well as preventing children and adolescents and/or families from becoming in these conditions, is one of the many measures that States have at their disposal to try to prevent children and adolescents in the context of human mobility from ending up in a street situation, in which, in turn, they are even more exposed to risks of violence and exploitation.

Having examined some of the main dangers to children and adolescents in the context of human mobility and irregular migration,

<sup>22</sup> CRC, Committee on the Rights of the Child, General Comment no. 20, paragraph 12.

<sup>23</sup> CRC, Committee on the Rights of the Child, General Comment no. 21 on Street Children, 21 June 2017, paragraphs 25-27.

it should be recalled that the CRC contains various obligations specifically aimed at establishing obligations of States relating to the protection of children and adolescents against all forms of violence, abuse and exploitation. Article 19 establishes a duty to take all legislative, administrative and other measures to protect the child against any form of physical or mental harm or abuse, neglect or negligent treatment, ill-treatment or exploitation, including sexual abuse. For its part, Article 32.1. recognizes the right of the children and adolescents to be protected against economic exploitation and against the performance of any work that may be dangerous or hinder its education, or that is harmful to its health or to its physical, mental, spiritual, moral or social development. Articles 34 and 36 reinforce the duty to protect children and adolescents against all forms of exploitation, including sexual exploitation.

Article 32. 2. of the Convention, together with other articles, requires the adoption of measures of different nature, including legislative and administrative measures, aimed at preventing all forms of violence, exploitation, abuse and other risks affecting the rights, life and integrity of children and adolescents, as well as to protect victims and ensure comprehensive and timely repair mechanisms. In considering all the above with regard to how irregular migration can contribute to the creation, extension and/or aggravation of such hazards, as well as to hinder or prevent the application of protective and repair measures, it is possible to say that measures should be those aimed at promoting and facilitating the regularity of the migration situation.

#### **4. Regularization of parents as a guarantee of children's and adolescents' rights**

The CRC has a unique characteristic compared to other human rights treaties, in establishing specific obligations to non-state actors. Indeed, parents are primarily responsible for ensuring the upbringing and development of the child (art. 18.1 CRC). However, together with this responsibility of the parents, the CRC has established an obligation for States to provide appropriate assistance to parents for the performance of those functions (art. 18.2). Similarly, while parents have the primary responsibility to provide the living conditions necessary for the physical, mental, spiritual, moral and social

development of the child (art. 27.1), States must take appropriate measures to help parents “give effectiveness to this right” (art. 27.2).

The regular immigration situation as means of guaranteeing the rights of children and adolescents does not refer only to the status of residence in which children and adolescents are located. In many cases, the challenges of protecting and guaranteeing their rights are linked to the immigration status in which their parents or other responsible adults are located, and consequently in the impact this has on the rights of children and adolescents. Therefore, with the provisions referred to in the previous paragraph, the Committee on the Rights of the Child and the Committee on the Rights of Migrant Workers and their Families stressed the importance of regularization as a mechanism for the protection of the rights of children, including the right to family life. The Committees stated that,

*“on the basis of Article 18 of the CRC, a comprehensive approach to the child’s right to a family environment in the context of migration should envisage measures to enable parents to fulfil their child developmental duties. Since an irregular migration situation of children or their parents may be an obstacle to achieving these ends, States should provide regular and non-discriminatory immigration channels, and provide permanent and accessible mechanisms for children and their families to regularize their long-term immigration status or obtain residence permits for reasons such as family unity, industrial relations, social integration or other reasons.”<sup>24</sup>*

In line with what was pointed out in another section, the development of children and adolescents in the context of human mobility is linked to migration status, and this includes the situation of their parents. For this reason, the Committees expressed concern about “the fact that policies or practices that deny or restrict basic rights, such as labour rights and other social rights, to adult migrants due to their..... situation, may directly or indirectly affect children’s right to life, survival and development. Such policies would also hamper the design of comprehensive migration policies and efforts to systematically

24 CMW and CRC, Joint General Comment no. 4 CMW and no. 23 CRC, paragraph 31.



integrate migration into development policies. Therefore, the right of children to development, and their best interests, should be considered when States deal, in general or individually, with the situation of migrants residing irregularly, for example through the implementation of regularization mechanisms as a means of promoting integration and preventing the exploitation and marginalization of migrant children and their families.”<sup>25</sup>

One of the consequences of irregular migration is the prohibition of work. This not only directly impacts the right to work of working-age migrants, but also, of course, the effects it has on the living conditions of the entire family group, and hence on levels of vulnerability. For this reason, it is appropriate to underline what has been expressed by the Committee on the Rights of Migrant Workers and their Families, recalling that “regularization is the most effective measure to end the extreme vulnerability of migrant workers and their irregularly staying families. States parties should therefore consider adopting policies, including regularization programmes, to prevent migrant workers and their families from being in an irregular or in danger of falling into it, or to resolve such situations.”<sup>26</sup>

The impossibility of working in an authorized manner immediately entails a number of difficulties, including the vulnerability of the right to social security through programmes linked to formal employment. In addition, the above should be added to the modalities of social protection arising from policies decoupled from work. In many cases, these programmes are aimed exclusively at nationals, or require, in the case of migrants, the record of regular residence and, on several occasions, certain time of residence in the country. This also affects the family group, affecting, among others, the right of all children and adolescents to social security recognized in Article 26 of the CRC, as well as the right to an adequate standard of living, among other basic rights, and thus expanding the vulnerability of the circumstances in which they are.

---

25 CMW and CRC, Joint General Comment no. 3 CMW and no. 22 CRC, paragraph 44.

26 CMW, Committee on the Rights of Migrant Workers and their Families, General Comment no. 2, paragraph 16.

In addition, the ILO drew attention “to the uncertainty faced by some irregular migrants for long periods of time in trying to regularize their situation, which, in the Commission’s view, makes them vulnerable to abusive conditions and exploitation specifically in the workplace. Aware that the consequences of the slowness of the actions and the difficulties of detecting the illegal employment of migrants could have negative effects on irregular migrant workers, the Commission reiterates the importance of making a quick decision regarding the assessment of their circumstances and whether or not to regularize their situation as well as to humane treatment and respect for their basic human rights.”<sup>27</sup>

In other words, the vulnerability of migrants, and their sons and daughters, is not only given by being able or not to work in an authorized manner, and in the various forms of social protection that arises from it, but also by the risks of exploitation and deprivation of other rights that are often verified. It is necessary to recall here everything that is pointed out regarding the dangers of violence, exploitation and marginalization.

On the other hand, the irregular migration of the parents can affect other rights of the children and adolescents - even if they are in regular immigration status, or even if they are nationals because they were born in the territory. One of the many rights that can be mentioned is that of the mental health of the children, in the face of the uncertainty that is usually associated with irregular migration regarding staying in the territory, or even the fear of decisions that could lead to the separation of the family. In this regard, it is also important to highlight the importance that regular migration status can have as a mechanism for the protection of a central right for the development of children, the right to family life. For this reason, the Committees on the Rights of the Child and the Rights of Migrant Workers and their Families have stressed the following:

---

<sup>27</sup> International Labour Organization, *Promote equitable migration*. International Labour Conference, 105th meeting, ILO, Geneva, 2016, p. 118.

*“the breakdown of the family unit by the expulsion of one or both parents because of a violation of immigration laws related to entry or stay is disproportionate, since the sacrifice involved in restricting family life and the impact on the life and development of the child is not offset by the advantages obtained by forcing a parent to leave the territory due to the offence committed against immigration rules. Migrant children and their families should also be protected in cases where expulsions constitute an arbitrary interference with the right to family and private life. The Committees recommend that States provide ways for the regularization of irregular migrants residing with their children, in particular when a child has been born or when a child has lived in the country of destination for a long period of time, or when the return to the country of origin of one parent would be against the best interests of the child.”<sup>28</sup>*

In short, and considering the interdependence between the rights of children and adolescents and their families - in particular their parents or legal representatives - it is essential that the measures and policies for access to the regular residence of adults are developed in such a way as to adequately address the guiding principles of the CRC and the rights that may be at stake.

#### **IV. THE POSITIVE EFFECTS OF THE MIGRATORY REGULARIZATION IN SOCIETIES AND DESTINATION STATES:**

Regular migration status and sustainable development goals. In September 2015, States around the world, through the UN General Assembly, approved the 2030 Agenda for Sustainable Development.<sup>29</sup>

<sup>28</sup> CMW and CRC, Joint General Comment no. 4 CMW and no. 23 CRC, paragraph 29.

<sup>29</sup> United Nations General Assembly, Transforming our world: the 2030 Agenda for Sustainable Development, Resolution adopted on 25 September 2015, A/RES/70/1, 21 October 2015.

In this resolution, in establishing their “vision for the future”, States underlined their aspiration for “a world in which respect for human rights and the dignity of individuals, the rule of law, justice, equality and non-discrimination is universal; where races, ethnicity and cultural diversity are respected and where there is equal opportunities for human potential to be fully realized and to contribute to shared prosperity; a world that invests in its children and where all children grow up free from violence and exploitation; a world in which all women and girls enjoy full gender equality and where all the legal, social and economic obstacles to their empowerment have been removed; a fair, equitable, tolerant, open and socially inclusive world in which the needs of the most vulnerable are met.”<sup>30</sup>

In UNICEF’s words, the “Sustainable Development Goals promote children’s rights and provide an opportunity to protect all children under the slogan of leaving no one behind (...) Ensuring the well-being of children is an essential condition for meeting the 2030 Agenda. And realizing the SDGs is a commitment to a social and political model that puts children at the center, especially the most vulnerable.”<sup>31</sup> In the same sense, for the Office of the High Commissioner for Human Rights the 2030 Agenda “is a universal programme and is a historic opportunity to promote the effective implementation of the rights of all children... to start his life in the best way, to survive and prosper, and to live without violence or ill-treatment. (...). Governments thus undertake to prioritize reaching out to all children in the world by paying special attention to the most excluded and those most at risk of being deprived of their rights. (...). When children do not have equal opportunities to reach their potential, all society suffers the consequences. If their rights are respected, protected and performed, dividends are earned in the form of global security, sustainability and human progress.”<sup>32</sup>

In analyzing the challenges in the area of children’s rights under the Sustainable Development Goals, the European Union Agency on Fundamental Rights demonstrated how children and adolescents in irregular migration is particularly vulnerable to violation of basic rights. In a report based on the different reports prepared by the Agency,

<sup>30</sup> Ibid, paragraph 8.

<sup>31</sup> See <[www.unicef.es/infancia-ods](http://www.unicef.es/infancia-ods)>.

<sup>32</sup> Human Rights Council, Protection of the rights of the child as part of the implementation of the 2030, Agenda for Sustainable Development, Report of the United Nations High Commissioner for Human Rights, A/HRC/34/27, 15 November 2016.

several of the challenges associated with different 2030 objectives that arise in particular in the case of children and adolescents in the case of irregular migration were highlighted.<sup>33</sup>

In this regard, UNICEF stressed that in “the current context, in which States are driving global commitments on migration and the protection of refugees, on the one hand, and designing policies to reach 2030 with the best possible figures on sustainable development, ... the issue on the integration of unaccompanied migrant children is a crucial step in achieving these goals. The objectives of inclusive education, economic growth, reduction of inequalities, among others, are intrinsically linked to policies aimed at the progressive social, educational and labour integration of unaccompanied migrant children.”<sup>34</sup>

The Sustainable Development Goals (SDG) are obviously closely connected with the guarantee of human rights to all people, and in particular to children and adolescents. Similarly, with people who are most vulnerable to various factors, such as children and adolescents in the context of human mobility in a situation of irregular migration. If most of the objectives are closely observed, as well as the goals and indicators of each, it is possible to identify, on the one hand, how regular migration status can contribute to efforts in achieve those objectives. The flip side of the coin would show that irregular migration, and the restriction of rights and the unprotection of children and adolescents in those circumstances, would be in the opposite direction of the SDG. Analyzing, at least briefly, the objectives and their goals, makes it possible to demonstrate these two routes, one virtuous and one not.

Objective 10, aimed at *reducing inequalities*, does not coincidentally include among its goals (10.7), to facilitate migration and mobility of orderly, safe, regular and responsible people, including through the implementation of planned and well-managed migration policies. The other sections of this document have discussed how, from an approach to children’s and adolescent rights, facilitating regular migration status- that is, pathways to admission and regular tenure - can be effective not only as a tool of migration governance, but also vital for the protection

<sup>33</sup> Office of the High Commissioner for Human Rights, *Contribution to the report of the OHCHR on the protection of children’s rights in the implementation of the 2030 Agenda for Sustainable Development*.

<sup>34</sup> United Nations Children’s Fund, *The rights of unaccompanied migrant children and adolescents on the southern Spanish border*, UNICEF Spanish Committee, Madrid, 2019, p. 108.

of children, and thus to meet objectives of various public policies -e.g., social inclusion, universal primary and secondary education, prevention of violence, human trafficking and other serious crimes.

On this goal, the IOM stressed that this is a recognition “that effective migration governance is key to safer, more orderly and regular migration. It also recognizes the need for global, regional and national migration regimes and comprehensive policy frameworks to manage migration for the benefit of all. This includes promoting regularized migration that respects the rights of all migrants and harnessing the positive impact of migration on development for migrants themselves as well as for all communities and countries.”<sup>35</sup>

This same objective, in its goal 10.2, includes a commitment to “enhance and promote the social, economic and political inclusion of all people, regardless of age, sex, disability, race, ethnicity, origin, religion or economic situation or other condition”. Here it is also possible to identify the coherence and cause-and-effect relationship between this goal and the regular migration status of children and adolescents and/or their families in the destination countries.

Similar analyses can be done on other objectives and goals of the 2030 Agenda for Sustainable Development, as illustrated by the following examples:

**Objective 1.** *End of Poverty.*

Goal 1.4: “By 2030, the understanding that all men and women, particularly the poor and the vulnerable, have the same rights to economic resources, as well as access to basic services, ownership and control of land and other goods...”

**Objective 2.** *Zero Hunger.*

Goal 2.2: By 2030, end all forms of malnutrition... , and address the nutrition needs of adolescent girls, pregnant and nursing women and elder people”

---

<sup>35</sup> International Organization for Migration, *Migration in the 2030 Agenda*, IOM, Geneva, 2018, 27.

### **Objective 3.** *Health and well-being.*

Goal 3.2: "End preventable deaths of newborns and children under 5 years of age, in getting all countries to try to reduce neonatal mortality... and the mortality of children under the age of 5...";

Goal 3.7: Ensuring universal access to sexual and reproductive health services...";

Goal 3.8: "Achieving universal health coverage..., access to quality essential health services and access to safe, effective, affordable and quality medicines and vaccines for all";

### **Objective 4.** *Quality Education.*

Goal 4.1: "Ensure that all girls and boys complete primary and secondary education, that it must be free, equitable and of quality and produce relevant and effective learning outcomes";

Goal 4.2: "Ensure that all girls and boys have access to quality early childhood care and development services and preschool education so that they are prepared for primary education;

Goal 4.4: "Significantly increase the number of young people and adults who have the necessary skills, in particular technical and professional skills, to access employment, decent work and entrepreneurship";

### **Objective 5.** *Gender Equality.*

Goal 5.2: "Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual exploitation and other forms of exploitation";

Goal 5.c: "To adopt and strengthen sound policies and applicable laws to promote gender equality and the empowerment of all women and girls at all levels";

### **Objective8.** *Decent Work and Economic Growth.*

Goal 8.7: "Take immediate and effective measures to eradicate forced labour, end contemporary forms of slavery and human trafficking and ensure the prohibition and elimination of the worst forms of child labour...";

Goal 8.8: “Protect labour rights and promote a safe and risk-free working environment for all workers, including migrant workers, in particular migrant women...”;

**Objective 16.** *Peace and Justice.*

Goal 16.2: “Ending abuse, exploitation, trafficking and all forms of violence and torture against children”;

Goal 16.9: “To provide access to a legal identity for all, in particular by registering births”;;

Goal 16.b: “Promoting and implementing non-discriminatory laws and policies for sustainable development”.

The analysis of the SDGs and their respective goals illustrate how the regular migration status of children and adolescents and/or their parents, and their impact on the exercise of rights and prevention against all forms of violence and exploitation, are undoubtedly interdependent issues. Facilitating regular migration status through permanent channels or pathways, as well as with extraordinary regularization programs, can be a tool that impacts not only migrants and their families, but also public policy objectives that benefit society, i.e. the Sustainable Development Goals.

Ensuring the rights of children and adolescents in the context of human mobility, as well as preventing situations of violence and other risks, has the same positive results at the individual, family, community and social levels as in any other case. While ensuring the rights of all children and adolescents is an inescapable requirement not only to comply with not only the SDG but with the vast majority of immediate and mediated goals in an organized society - in a rule of law aimed at ensuring the general well-being of its entire population - that logical premise must include all children and adolescents that comprises it, without prejudice to its place of origin, nationality or any other factor. In this regard, it was emphasized that the “most effective way to achieve inclusive and sustainable social goals in the long term is to pay attention to the needs of children. Welfare guarantees and the exercise of the rights of all children (including migrants and refugees) are not only a commitment adopted by the signatory States to the Convention on the Rights of the Child; they also represent a fundamental condition for achieving long-term development goals ...”<sup>36</sup>

<sup>36</sup> United Nations Children’s Fund, Office of Research-Innocenti, *Building the Future Children and The Sustainable*



However, as we have developed in this document, the immigration status of children and adolescents and/or their families can act as an obstacle to this, and hence the need to include among the measures to achieve these goals tools to remove these obstacles. The Global Group on Migration (consisting of more than 20 United Nations agencies),<sup>37</sup> analyzing the importance of introducing the migration issue in development policy planning, stressed that migration can have positive and negative effects on the development of children and society. Children and adolescents may be vulnerable to trafficking, abuse, exploitation, discrimination and social marginalization, especially when they are in irregular migration, but stressed that irregular migration can be an obstacle to the benefits that migration brings to development.<sup>38</sup> In this regard, the GMG stated that, among the essential areas of migration governance policies and programmes, measures should be included to facilitate access to a regular migration situation.<sup>39</sup>

In conclusion, the adoption of policies, programmes and measures that promote and facilitate the regular migration status of children and adolescents and/or their families represents a decision that can generate multiple positive effects of a different nature. The first and most immediate is to contribute to effective access - or even recognition, in many countries - by children and adolescents to basic human rights, which should enjoy without any discrimination. In addition, such regular immigration status could help prevent or significantly reduce the exposure of these children and adolescents to different forms of violence, abuse, exploitation and other risks that violate fundamental rights. The regular migration status of your parents or other legal representatives can cause the same effects.

In addition, regularization, as recognized by Latin American States, can be seen as a central element of migration policies, helping to reduce the vulnerability of migrants to situations of discrimination, exploitation and other hazards, but also to strengthen migration governance and to meet numerous public policy goals. Other uses include the promotion of human development, social inclusion, formal employment, economic growth, citizen security, as well as the prevention of exclusion, exploitation, marginality, street people and many other social risks and problems.

---

*Development Goals in Rich Countries*, UNICEF Innocenti, Florence, 2017, p. 2.

37 See <<https://globalmigrationgroup.org/gmg-members>>.

38 Global Migration Group, *Mainstreaming Migration into Development Planning*, Geneva, 2010, pp. 16, 58.

39 Global Migration Group, cit., p. 52.

In this regard, it may be stated that facilitating the regular migration status of children and adolescents and/or its parents is not only a consistent response to the guiding principles of the Convention on the Rights of the Child. It may also be seen as an essential tool for States to be more likely to meet the 2030 Sustainable Development Goals in a global scenario of human mobility growth - but also of the vulnerability that characterizes part of said reality.



United Nations Children's Fund (UNICEF)  
Latin America and Caribbean Regional Office  
Bldg. 102, Alberto Tejada St.  
City of Knowledge  
Panama, Republic of Panama  
P.O. Box: 0843-03045  
Telephone: +507 301 7400  
[www.unicef.org/lac](http://www.unicef.org/lac)  
Twitter: @uniceflac  
Facebook: /uniceflac

unicef   

---

for every child