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Glossary

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

**Asylum-seeker**: An individual who is seeking international protection, through recognition as a refugee or beneficiary of complementary protection. In countries with individualized procedures, an asylum-seeker is someone whose claim has not been finally decided upon by the country in which the claim was submitted. Not every asylum-seekers will eventually be recognized as a refugee, but every refugee was once an asylum-seeker.²

**Best Interests Determination (BID)**: The Convention on the Rights of the Child describes Best Interests Determination as “a right, a principle and a rule of procedure based on an assessment of all elements of a child’s or children’s interests in a specific situation.”³ The United Nations High Commission for Refugees (UNHCR) categorizes it as follows: “A best interests determination (BID) describes the formal process with strict procedural safeguards designed to determine the child’s best interests for particularly important decisions affecting the child. It should facilitate adequate child participation without discrimination, involve decision-makers with relevant areas of expertise, and balance all relevant factors in order to assess the best option.”⁴

**Children on the move**: Building on UNICEF’s Global Programme Framework for Children on the Move⁵ and Save the Children’s Child Protection Strategy,⁶ children on the move encompasses the following groups of children (aged 0-18):

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

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

**Circular migration**: The movement of people between their places of origin and host areas, typically between different countries. It is a voluntary form of labour mobility, linked to labour needs in the places of destination.⁷
Climate change: The UN Framework Convention on Climate Change (UNFCCC), in its Article 1, defines climate change as: “a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods”. The UNFCCC thus makes a distinction between climate change attributable to human activities altering the atmospheric composition and climate variability attributable to natural causes.  

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

Displacement: “The movement of persons who are forced or obliged to leave their homes or places of habitual residence due to sudden-onset natural hazards and/or slower cumulative pressures” such as those occurring in the context of sea level rise or drought. Displacement may take place within a country and/or across internationally-recognized borders.

Environmental hazards: “Environmental hazards are defined as extreme events or substances in the Earth and its ecological system that may cause adverse consequences for humans and things they value. These include geophysical and meteorological phenomena such as earthquakes and droughts.”

Environmental migrant: According to IOM, “Environmental migrants are persons or groups of persons who, predominantly for reasons of sudden or progressive change in the environment that adversely affects their lives or living conditions, are obliged to leave their habitual homes, or choose to do so, either temporarily or permanently, and who move either within their country or abroad.” This definition encompasses those who move due to the direct and indirect effects of slow- and sudden-onset climate change events and processes.

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

Migrant: Although there is no legal definition of migrant in international law, the International Organization for Migration defines a migrant as “a person who moves away from his or her usual residence, whether within a country or across an international border, temporarily or permanently, and for a variety of reasons.”

Migration: The movement of persons away from their place of usual residence, either across an international border or within a State. It encompasses any kind of population movement, regardless of length, composition and cause, and includes the migration of refugees, displaced persons and economic migrants.
Planned relocation: A form of organized movement of people typically instigated, supervised and carried out by the State. The Guidance on Planned Relocations describes it as a “planned process in which persons or groups of persons move or are assisted to move away from their homes or places of temporary residence, are settled in a new location, and provided with the conditions for rebuilding their lives. A planned relocation is carried out under the authority of the State, takes place within national borders and is undertaken to protect people from risk and impacts related to disasters and environmental change, including climate change.” Relocations should be planned with the full participation of affected populations.

Refugee: A “person who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country.” An individual does not have to be formally recognized as a refugee by any country or organization to meet this definition, although in practice access to a legal status, entitlements and assistance may be contingent upon such recognition. Persons displaced in the context of climate change are currently not recognized as refugees or afforded protection under the 1951 Convention on Refugees.

Stateless person: “a person who is not considered as a national by any State under the operation of its law.”

Unaccompanied and separated children: Unaccompanied children (also called unaccompanied minors) are children who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so. Separated children are those separated from both parents or from their previous legal or customary primary caregiver, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members. It is important to differentiate unaccompanied and separated children from orphans, who are defined as children, both of whose parents are known to be dead. In some countries, however, a child who has lost only one parent is also called an orphan.

Youth: While different societies define youth differently, since 1981, the United Nations has defined youth as those falling between the ages of 15-24 and uses the terms ‘youth’ and ‘young people’ interchangeably.
About the Guiding Principles

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

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

This draft has been developed with inputs from a climate mobility and children working group formed after the virtual symposium of Nov 2020 and a core group of writers from Georgetown University’s Institute for the Study of International Migration, UNICEF, and United Nations University, Center for Policy Research.
Background

According to the Intergovernmental Panel on Climate Change (IPCC) Sixth Assessment Report, human-induced climate change is already affecting weather and climate extremes in every world region.\(^{39}\) From increasing storms, wildfires and heat waves, to the longer-term effects of sea level rise and drought, human-induced climate change is altering the world’s ecosystems, affecting livelihoods and potentially contributing to people’s need or desire to move. However, climate change is not the only factor shaping people's decision and ability to move; instead, the effects – or anticipated effects – of climate change intersect with existing environmental, social, political, economic and demographic conditions.\(^{40}\) For example, people with more economic resources may be better equipped to adapt in place, or indeed to migrate, than those with fewer resources.

Due to this multicausality, it is not possible to link migration exclusively to the impacts of climate change. A recent assessment of evidence on the impact of climate change on migration commissioned by the United Kingdom government concluded that “the clearest evidence of existing relationships between climate change and mobility relates to climatic shock events – floods, storms, droughts and short-term temperature and precipitation fluctuations.”\(^{41}\) The IPCC Sixth Assessment Report confirms that climate and weather extremes are increasingly causing displacement in all world regions, and in particular, in small island States.\(^{42}\) In addition, the Internal Displacement Monitoring Centre (IDMC) estimates that there were around 30 million new displacements due to weather-related shocks such as floods, droughts, wildfires and extreme temperatures during 2020 (2021 estimates to be confirmed in May 2022).\(^{43}\) IDMC also notes that while the changing climate is contributing to population displacement, not all weather-related disasters and associated displacements are directly linked to climate change.

The links between slow-onset climate change processes, impacts or events (such as sea level rise, changes in precipitation patterns, land degradation) and migration are less well understood and evidence about how such changes affect migration patterns remains inconclusive. While some research suggests that slow-onset climate change might preclude people from moving by eroding resources, a number of studies indicate that slow-onset changes can lead to increased migration.\(^{44,45}\) The 2021 Groundswell Report foresees that between 75 million and 216 million people could migrate internally by 2050 in six regions (sub-Saharan Africa, East Asia and the Pacific; South Asia; North Africa; Latin America; Eastern Europe and Central Asia) as a result of slow-onset climate change impacts on livelihoods.\(^{46}\) Awareness of the context within which change takes place, and people’s perceptions of that change, is crucial for understanding the impacts and implications of slow-onset events for mobility.\(^{47}\) In the context of slow-onset climate change, the role of economic, demographic, political and environmental factors and conditions is therefore particularly relevant.
Children and climate change: exposure, impacts and mobility

The impact of climate and environmental change intersects with demographic trends, in particular the growing number of children in places highly susceptible to climate change. In August 2021, UNICEF reported that one billion children – nearly half of the world’s 2.2 billion children – live in 33 countries classified as at extremely high risk to the impacts of climate change. Globally around 500 million children live in areas with very high risk of flooding and nearly 160 million live in areas of extreme or high risk of drought. For example, climate change poses a serious threat to people living in sub-Saharan Africa, which has the youngest population in the world and the proportion of younger age groups on the continent is predicted to continue increasing at least until 2060.

Children and climate change in numbers

- 1 billion children live in 33 countries classified as at extremely high risk to the impacts of climate change;
- 500 million children live in areas with high risk of flooding;
- 160 million children live in areas with very high risk of drought;
- 36 per cent of all deaths among children (aged 0–14) are, in part, caused by environmental factors;
- 9.8 million children were displaced due to weather-related events in 2020; and
- 14 per cent of the total migrant population were children in 2019.

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

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Henrietta Fore, Former Executive Director, UNICEF

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Globally, children and families are already moving due to the impacts of climate change. Their movement ranges from voluntary migration, often motivated by aspirations for better education and economic opportunities elsewhere, to forced displacement in the aftermath of weather-related shocks and disasters. The UN's Food and Agriculture Organization (FAO) notes that rural youth are most likely to migrate due to lack of employment prospects in agriculture, particularly in Africa. While it is difficult to ascertain the exact number of children on the move owing to the absence of age disaggregated data, available evidence suggests that children and adolescents usually move within their country rather than internationally: in 2019, less than 15 per cent of international migrants were under the age of 20. Children also become displaced by sudden-onset climate events or disasters, or by the consequences of the intersection between conflict, climate and environmental hazards.

Children who move in the context of climate change may encounter new opportunities and achieve their aspirations, but they may also be exposed to a variety of risks such as abuse, trafficking, exploitation and other forms of maltreatment. Children are inherently more vulnerable to these risks, because of their evolving physical, psychological and emotional development. In the process of moving, children and their families often encounter new challenges and replace one set of hazards for another. Children may lose access to education, be forced into labour and endure poor living conditions. In addition, while there is increasing recognition of children's needs for protection, there still remain many unmet protection needs in emergency situations, including among children who do not or cannot move.

A note on terminology

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

Due to its multicausal nature, it is not possible to attribute migration exclusively to the impacts of climate change. Hence these Guiding Principles use the term ‘in the context of climate change’ rather than climate migration or climate change-induced migration. While the focus of the Guiding Principles is on climate as a contributing factor to migration, other environmental hazards such as earthquakes, tsunamis and volcanoes, may also lead to displacement and migration of affected populations and these Guiding Principles may also be relevant in these cases.

It is likely that children who move in the context of environmental and climate change have much in common with those who move for other reasons: poverty, family reunification, violence and conflict. Therefore, the Guiding Principles refer to all children who migrate or are displaced, while highlighting the relevance and application of each principle for children who move specifically in the context of climate change.
Youth

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

Young people (aged 15–24) experience similar vulnerabilities and risks as older children (aged 15–18), especially in situations of migration or displacement when they lose their social support networks. Like children, young people very often move on their own. Their education may have been interrupted and young people often find it difficult to continue their education when they move. While access to primary education is enshrined in the Convention on the Rights of the Child, the Convention also mandates making secondary and tertiary education available and accessible to all (Article 28).

Youth may lack life and work-related skills and experience that leave them susceptible to exploitation or abuse. Young people and adolescents already make up a large share of migrants, often moving from rural areas to cities where they face precarious living and working conditions. Issues around job training and livelihoods are particularly relevant to young people. For example, investment in training and capacity-building for rural youth to gain skills in climate-smart agricultural practices and entrepreneurship and encouragement of youth-led innovation are some examples of possible action. When it comes to participation in decisions, young people (aged 15–24) have a right to participation on par with other adults, but in practice are often excluded due to their age.
Guiding Principles

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

Overarching principles

Principle 1: Rights-based

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

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

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

What this means for children on the move in the context of climate change: Children’s rights are often negatively impacted by both the effects of climate change and by their mobility. Children’s rights violations can occur at the time of the hazard or severe weather event, during movement and after reaching their destinations. Children moving in the context of climate change risk losing connections to social networks – and often to family members. They often have difficulty accessing education and social services, including social protection systems. As UNICEF has found, lack of access to social services negatively impacts their resilience and ability to cope with the effects of climate change. The risks increase when children live in situations of poverty or conflict, or both. Children from indigenous communities and religious/ethnic minorities as well as those who are LGBTQI or stateless are particularly affected by climate change and other environmental hazards and may experience additional rights violations when they move in the form of stigma, discrimination and violence. Upholding the rights of children who belong to marginalized groups at different stages of their movement is also challenged by systemic forms of discrimination. Conscious and unconscious bias in the design and implementation of climate change mitigation and adaptation plans and policies often renders the needs of migrant populations, including children, invisible and overlooked.
Gender, age and (dis)ability also shape the ways in which the rights of children who move in the context of climate change are affected at different stages of their movement. Not only do many girls and boys and young women and men experience gender-based violence as a consequence of disaster-induced displacement, but they also often experience difficulties in accessing education, health care and social services. Children with disabilities are not only at risk of harm during disasters but also suffer disproportionately once displaced. An assessment of the impact of Cyclone Pam in Vanuatu in 2015 found that people with disabilities were more than twice as likely to suffer storm-related injuries than those without disabilities. Evacuation facilities and temporary shelters housing children and their families following displacement are not designed with disabled children in mind. A recent Save the Children study found that children with motor impairments find it difficult to move around shelters.

Application of Principle 1, including innovative policy approaches

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

Principle 2: Best interests of the child

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

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

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

What this means for children on the move in the context of climate change: As the International Federation of Red Cross and Red Crescent Societies has observed,
“Climate change-related disasters can also disrupt child protection systems and exacerbate pre-existing tensions and conflicts, leaving children susceptible to violence, abuse, child labour, trafficking and other forms of exploitation.”

For example, in Nepal and India, circular migration patterns have been disrupted by climate change and migrant workers are increasingly compelled to stay away from home for longer periods. Many children who move with their parents gradually discontinue their education and lack the necessary skills, knowledge and experience to access legal or formal employment opportunities. They might engage in hazardous labour on construction sites, risk debt-bonded labour in brick kilns or engage in other informal sector work, in the absence of basic services and social protection. These children are particularly vulnerable to exploitation and have little bargaining power to challenge maltreatment or demand better conditions. Ensuring that the best interests of children moving in the context of climate change are protected is, therefore, paramount in situations where children are disenfranchised and at risk.

Children who move in the context of climate change are at high risk of dropping out of school due to the often-seasonal nature of their movement. Their school attendance is fragmented in their places of origin, while they may not be able to access schooling in their destinations due to linguistic barriers or because they lack formal residence status and/or documentation. The latter is a particularly salient issue in a number of Asian countries where access to services and social protection is tied to a person’s residential registration status, which may not be feasible for temporary or seasonal migrants and their children. Therefore, government actors should explicitly consider the best interests of migrant children and ensure that barriers to accessing vital services such as education are removed.

In applying the principle of the best interests of the child to children who are displaced and on the move, it is essential that when making decisions about returning children to their community of origin consideration is also given to the effects of climate change in that location. This may mean adapting national laws and policies and international frameworks to incorporate environmental conditions along with assessments of family situations and access to services in places of origin in best interests’ determinations. For example, children and adolescents who are left behind by migrating parents in places that are disproportionately vulnerable and exposed to the impacts of climate change, may have to leave school in order to work to support themselves and their families.

Application of Principle 2, including innovative policy approaches:

**Appeal Decision Tuvalu (2014):** Best interests’ considerations played a key role in granting humanitarian asylum for a family of four in New Zealand in this landmark case. A legal case was brought to appeal the decision of the New Zealand Refugees Status Branch to return a family to Tuvalu. The impacts of climate change on Tuvalu were given as the main reason for migrating to New Zealand. Both children were born in New Zealand and had family networks and schooling there. Based on its assessment of the best interests of the child, the Tribunal concluded that it was in the children's best interest to remain in New Zealand because, among other things, “their young age makes them inherently more vulnerable to natural disasters and the adverse impact of climate change.”

Example
General principles

Principle 3: Accountability

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

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

Scope: Governments and other relevant actors should be accountable to the public, including children, for their (in)action with regard to climate change. Accountability for the purposes of this principle is the right to demand a justification for (in)action by those in positions of power to provide an account of their (in)actions to the public. Given the many risks and negative effects of displacement on children, it is in their interests that every possible measure is taken to mitigate the risk of displacement while at the same time recognizing that under some circumstances people, including children, may choose to or need to move, or be evacuated in order to protect them from harm due to disasters and climate change.

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

Therefore, governments should take concerted measures to reduce the risk of disasters and more specifically to reduce the risks of displacement associated with both sudden and slow-onset climate change events. There is a robust literature on both disaster risk reduction and climate change adaptation which can be used by governments to take measures to prevent children from displacement in the context of climate change. Government action to prevent children's climate-related displacement also extends to holding other actors, such as the private sector, accountable with regard to their contribution to climate change while also recognizing that business can play a leading role in promoting climate-smart solutions and spearheading innovation towards achieving zero emissions. Governments can take action by establishing laws, regulations and standards that promote and incentivize the reduction of emissions and the sustainable use of natural resources, as well as putting in place mechanisms for enforcing accountability.
Application of Principle 3, including innovative policy approaches

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

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

Principle 4: Awareness and participation in decision-making

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

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

Scope: The right to information, freedom of expression and participation of all children in decision-making is guaranteed under the Convention on the Rights of the Child. Of course, the extent of their participation depends on their age and maturity. Decisions affecting young children under the age of five, for example, should generally be made by their parents and caregivers, although even very young children have a right to know why and where they are moving and to be reassured of their well-being and protection. Older children have a right to more active participation in decision-making.

This principle also applies to decision-making within families where children should have a right to express their opinions about a decision to move – whether to move onward or to return to their community of origin. They have a right to be heard when adults (including parents and caregivers) decide to move as their movement almost always affects the lives of children within the family.

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

The principle of participation of children on the move in the context of climate change is particularly important because climate change raises issues of intergenerational justice. Decisions to act – or not to act – to prevent human-induced climate change made by today’s generation of political leaders will have the greatest effect on the lives of generations to come. Thus, those making decisions about children who move in the context of climate change have a responsibility to bring children into discussions about climate change mitigation and adaptation policies.

Essential to effective participation in decision-making is access to full and accurate information about the effects of climate change. Recent legal decisions have underscored the public’s right to environmental information which could support individual children in making decisions about whether, where and how to move in response to environmental changes.

One specific form of mobility which is likely to become more prevalent in the future is the relocation of groups or entire communities to protect them from environmental hazards and future disasters. Referred to by the UN Framework Convention on Climate Change as ‘planned relocations’, these initiatives require considerable planning and financing to ensure that the rights of affected people are upheld, including children. While, many of the planned relocation efforts surveyed have included some form of community engagement, there is little information available on whether these engagement mechanisms have included young people and children. As planned relocation is generally intended as a permanent move for people at risk of environmental hazards, it is particularly important to include children’s representatives in planning and decision-making about such moves.

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

For children and young people, protracted displacement is often associated with increased poverty, child labour and greater risk of sexual and gender-based violence.
While governments have the responsibility to support solutions for internally displaced children, they also have the obligation to engage them in discussions of solutions – whether to return to the community of origin (which may not be possible due to damage to the habitat), or to remain where they are, or to settle elsewhere in the country. For those displaced across international borders in the context of climate change, available solutions will depend on the legal status of the children and young people; nonetheless, governments in host countries should seek to include children in decisions regarding solutions that will affect them.

**Application of Principle 4, including innovative policy approaches**

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

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

**Principle 5: Family unity**

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

**Objective:** This principle is intended to reaffirm the principle of family unity – a bedrock of international human rights and child protection law-- for children on the move in the context of climate and environmental change.

**Scope:** For children who move in the context of climate change with or without their parents or caregivers, the government is responsible for their care and protection as well as for reuniting them with their family members, usually in accordance with their
national child protection policies. Children may become separated from their families during their move, either accidentally or intentionally. In some cases, there also may be aid-induced separations – for example, when media coverage leads to pressures for adoption or parents opt to place their children in residential care because they perceive the child will be better off.\textsuperscript{95}

**What this means for children on the move in the context of climate change:** Although most data collected on internal migration and displacement is not disaggregated by age, we can infer the numbers of children from available aggregate data.\textsuperscript{96} Based on figures published in the latest Global Report on Internal Displacement and projections in the 2021 Groundswell Report, it is highly likely that the number of children moving internally in the context of climate and environmental change exceeds the number of those moving to international destinations. This observation was also made in an 11-country study on climate-related displacement by the International Federation of Red Cross and Red Crescent Societies in 2021.\textsuperscript{97} Existing operational guidance for unaccompanied and separated children is for those who cross international borders. In particular, UNHCR’s guidance on utilizing best interest determination procedures in responding to unaccompanied children who cross borders is helpful and may be adapted for children who move on their own within the borders of their countries.\textsuperscript{98}

Children can become accidentally separated from family members during emergency situations – such as evacuations and disaster-induced displacement. Separation may also be deliberate, and families may decide on different migration tracks, for example, by sending a child to live with a relative where educational opportunities are better or to safeguard them from the negative impacts of climate change and environmental hazards.

When children must be evacuated due to environmental hazards, they have the right to stay with their families. Evacuations are often used in sudden-onset disasters to protect people from the effects of the disasters and are recognized as a life-saving protection measure.\textsuperscript{99} The evacuation of children as a group, without their parents, should only happen as a last resort. Children may face increased protection risks in temporary shelters, including risk of gender-based violence and trafficking – particularly when they are not evacuated with their family members. Operational guidance suggests that unaccompanied children who are evacuated should be placed into temporary interim care. Institutional or long-term adoption arrangements should be avoided as long as the situation remains unsettled.

Life in places that are particularly exposed to and increasingly affected by climate change impacts may become untenable or may severely affect the viability of livelihoods, prompting families to move. Some of this movement will likely involve moving across borders. This may be especially relevant for low-lying coastal areas as well as other hazard-prone and vulnerable locations. During movement, children may become separated from their families, either accidentally or as a result of hostile immigration policies. International guidelines stipulate that no one should be subject to arbitrary or unlawful interference with their family and should enjoy legal protection against such interference. Children should not be separated from their parents against their will.\textsuperscript{100} Where separation does occur, every effort should be made to reunite separated or unaccompanied children with their families, unless it is against the best interest of the child.\textsuperscript{101}
Applications of Principle 5, including innovative policy approaches

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

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

Principle 6: Protection, safety and security

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

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

**Scope:** It is a fundamental responsibility of States to protect children. As the Special Rapporteur on the Human Rights of Internally Displaced Persons has said, “Displacement is a process of loss and internally displaced children lose the protective environment around them.” States need to strengthen the protective capacity of families and communities who are the first layers of support. Indeed, it is often the lack of protection in their home countries and in their homes that leads children to move. Most States have established national child protection systems but often children on the move are unaware of how to access them. This is particularly the case with cross-border movements when children may be traveling irregularly or being trafficked and are often reluctant to approach governmental agencies or law enforcement officials out of fear of detention and/or deportation. There also may be people, such as human traffickers who take advantage of the vulnerability of children on the move and available research, even though data are often insufficient, shows that migrant and displaced children are at higher risk of trafficking.

While States have the responsibility to protect children and international and civil society organizations often have programmes to protect children, it is also important to strengthen community and family protection of children.
What this means for children on the move in the context of climate change: Children who move in the context of climate change face heightened risks to their security and well-being. The extent of the risk depends on the nature of the journey, whether they are traveling alone or with family members and other circumstances. These risks further increase when a child is displaced rather than moving voluntarily. It is the responsibility of governments under international law to ensure that the rights of children who move in the context of climate change are considered and respected. This applies to authorities at the national as well as state/provincial and local levels. And indeed, it is often municipal governments, as primary service providers, who are tasked with ensuring that children who move in the context of climate change are able to access their rights to education, health care and other services.

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

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

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

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

While the jurisprudence about how to factor in climate and environmental change into decisions about asylum (which was developed in a very different set of circumstances) is evolving, in October 2019 a view of the UN Human Rights Committee “accepted that States must not send people to places where climate impacts expose them to life-threatening risks, or a risk of cruel, inhuman or degrading treatment.”

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

In addition to asylum, children and young people moving in the context of climate change may also have access to complementary forms of protection. While these forms of protection vary from country to country (and go by different names, such as humanitarian visas or temporary protected status), they often offer less formal and more flexible refugee determination procedures and may include provisions for those leaving their countries because of the risks of environmental hazards.

- **Detention:** Governments worldwide have attempted to prevent irregular migration, including of children moving in the context of climate change. While governments have the sovereign authority to control entry into their countries, they also have obligations – obligations to uphold the rights of children on the move, including those who do so in non-authorized ways.
Children have a right to apply for refugee status/asylum and the 1951 Refugee Convention makes it clear that individuals should not be penalized for crossing a border irregularly in order to make such an asylum claim (Article 31). Penalizing children for irregular entry in order to apply for asylum runs counter to international law. Nonetheless, children who move in the context of climate change via irregular or illegal pathways, are at risk of detention by authorities when they attempt to cross country borders. In more than 100 countries children are still being detained in the context of immigration for varying lengths of time, ranging from just a few hours to prolonged periods. Detention has particularly negative consequences for children – including those who move in the context of the effects of climate and environmental change.

Children’s advocates have long maintained that children should never be detained for immigration-related issues. The Committee on the Rights of the Child issued a joint General Comment with the Committee on the Protection of the Rights of all Migrant Workers and Members of Their Families, calling for the prohibition and abolishment of child and family immigration detention. The UN Global Compact on Safe, Orderly and Regular Migration states that detention should be avoided and used only as a last resort and alternatives to detention should be explored. Guidance from UNHCR also states that where children are separated from their families or move alone, detention should not be the solution, but rather alternative options should be sought in accordance with the Convention on the Rights of the Child.

Application of Principle 6, including innovative policy approaches

*Teitiota v New Zealand (2019)*: In 2013, Ioane Teitiota, of Kiribati, applied for refugee status in New Zealand on the basis that the risks to his life posed by climate change forced him to leave Kiribati. Having exhausted his domestic remedies in New Zealand, he then filed a communication with the UN Human Rights Committee (HRC) under the Optional Protocol, claiming that New Zealand violated his right to life by forcibly returning him to Kiribati. While the HRC denied his claims, it did accept that States should not forcibly return individuals to places where, because of climate changes, their life is at risk, or they are in danger of cruel, inhuman or degrading treatment. Consequently, it represents a significant jurisprudential development in that the Committee explicitly recognized that climate change impacts may trigger the principle of non-refoulement. The ruling could be influential for future jurisprudence because it reminds States that they must consider the effects of climate change and should allow people to apply for protection if they are at risk of harm in their places of origin. The ruling also resonates with Principle 9 of the Sydney Declaration, adopted by the International Law Association in 2018.
Special considerations – the intersection of conflict, climate and environmental change

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

In 2019, 45 of the 50 countries that registered displacement associated with conflict and violence also reported new internal displacements associated with disasters. In some cases, people displaced by conflict were later displaced by the adverse effects of climate change, as in Afghanistan. Similarly, some of those displaced by persecution may also experience disaster-induced displacement. The Guiding Principles on Internal Displacement and the Kampala Convention both recognize that such individuals should be recognized as internally displaced persons and that their rights should be upheld. Children who move because of the effects of both conflict or persecution and climate change often face additional risks due to their gender, age, disabilities, ethnic or religious identity or family situations. Children displaced internally by conflict have rights not only through the Convention on the Rights of the Child but also under international humanitarian law which asserts the right to family life, to not be separated from their parents and to humane family reunification. Children are also entitled to special respect and protection in armed conflict, including care for separated children.

While the rights of children displaced by conflict and in the context of climate change should be protected, in practice, it is often difficult for governments and humanitarian actors to access children to provide such assistance due to the conflict. There also are cases where children move internally in anticipation of or in response to the effects of the intersection of conflict and environmental change, often in the form of rural-urban migration. For example, traditional migration paths used by Maasai herders in Kenya have been altered by the intersecting impacts of climate change and conflict. These changes are also manifest in many young pastoralists opting to move to cities where they struggle to establish new livelihoods due to a lack of skills for urban income generation. Multiple and protracted displacements in the context of conflict and climate change are unfortunately also common. While there is virtually no research on the cumulative effect of multiple displacements on children, it is reasonable to assume that the trauma and dislocation caused by repeated moves, particularly displacement, is detrimental to their well-being.
Principle 7: Continued access to services: education, health care, social services

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

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

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

What this means for children on the move in the context of climate change: Children who migrate or become displaced in the context of climate change, either within their own countries or across country borders, face unique educational vulnerabilities. Their access to quality and inclusive education is often constrained due to a mixture of financial, administrative, political, and linguistic barriers as well as the lack of infrastructure. While there are very few international and regional frameworks on protecting the right to education of children who move in this context, there are a number of relevant instruments that can provide guidance.

Education is among the fundamental rights enshrined in the 1948 Universal Declaration on Human Rights. With regard to those who move in their countries, the Guiding Principles on Internal Displacement emphasize that access to education and training should be facilitated as soon as possible. For those who cross borders, the 1960 Convention Against Discrimination in Education explicitly articulates that States should provide foreign nationals residing within their territory equal access to education. UNESCO recommends that States ensure that the right to education is adopted in and protected by national laws and policies, and that this right is accorded to every individual without discrimination, regardless of citizenship, residency or other legal status. Children who move in the context of climate change should therefore be integrated into the educational system at the earliest opportunity and every effort should be made to remove barriers that may lead to their exclusion or discrimination. For example, gender-sensitive educational programmes are needed in many different situations as girls may face impediments to attending school because of their gender.

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

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

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

Applications of Principle 7, including innovative policy approaches

*Climate resilient and migrant-friendly towns and cities in Bangladesh:* “What we are looking at is providing education facilities at the high school and college level in these towns, both for girls as well as for boys, so that the people who are living in the fragile or vulnerable coastal zones can send their kids to these other towns to study. [...] Studying in a town or a village is traditionally a very good way for migrants to become citizens. It effectively becomes a pathway to citizenship. [...] It’s a combination of local government, national government, NGOs, educational establishments, all trying to work together in what one might call a whole-of-society approach.” (Saleemul Huq, Director, International Centre for Climate Change and Development, Bangladesh)

*Building Resources Across Communities (BRAC) slum schools and boat schools:* In Bangladesh, children make up 40 per cent of the population. While nine out of ten children are enrolled in primary school, only around half of all children are in school by the time they reach upper secondary age.142 Children living in urban slums and hard-to-reach hazard-prone areas are most likely to be out of school. BRAC, with support from the Ministry of Education and external donors, has been providing education in urban slums, as well as in remote rural areas where children drop out of school to help their families. Education is delivered through a single classroom model, also using floating or boat schools in remote haor (wetland) regions.143 This model offers a second chance at education for children from underprivileged backgrounds, including migrant children living in urban slums and children left behind by migrating parents.
Principle 8: Non-discrimination

Children on the move in the context of climate change have the right to non-discriminatory treatment and to provisions necessary to enable them to exercise their rights.

Objective: This principle is intended to highlight the strong international norms providing for non-discriminatory treatment of all persons, including children on the move in the context of climate change.

Scope: This principle reminds States and all stakeholders working with children on the move in the context of climate change of their obligation to ensure that the rights of children are upheld without discrimination based on age, gender, ethnicity, religion, (dis)ability or sexual orientation. Discrimination can occur as a result of implicit or explicit bias in the design and implementation of policies, programmes and interventions. For example, policies or programmes may be overtly biased towards certain normative social categories, while excluding others who do not fall neatly into those categories. Or they might have an element of unconscious bias, linked to prejudice or stereotypes regarding some groups. Discrimination can be manifest through the exclusion and lack of consideration of certain groups, their specific needs and vulnerabilities. Such discrimination might preclude children and their caretakers, who are already vulnerable and at an increased risk of harm, from exercising their rights.

What this means for children on the move in the context of climate change:

Children who move in the context of climate change do so in order to get away from climate-related hazards and their impacts, yet they might face disproportionate exposure to hazards at their destinations and remain largely invisible when it comes to policies and processes such as adaptation planning and disaster response measures. Children from ethnic minority and indigenous backgrounds may be disproportionately vulnerable to climate-related hazards during transit and at their destination. Yet, policies and interventions often do not consider the unique needs of minority groups, such as their language skills or literacy levels, leaving them without access to timely emergency information, and potentially excluding them from the delivery of disaster relief and assistance.

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

The gender identity and sexual orientation of children who move in the context of climate change also have a bearing for their well-being during their move and at their destination. LGBTQI+ persons often face exclusion from policies, programmes and processes due to assumptions about sexual and gender identities and a lack of consideration for the intersection between non-normative gender and sexual identities and other social constructs such as class, race, ethnicity or religion.
On the one hand, children and adults who identify as LGBTQI+ are likely to be more vulnerable to the impacts of climate change and disasters due to their marginalized position within their families and societies. On the other hand, when LGBTQI+ children and adults become displaced due to disasters or climate hazards, they can struggle to access shelters, as a result of policies that only recognize heteronormative gender and sexual identities. For example, during the 2004 Indian Ocean tsunami, aravanis from Tamil Nadu, India – who are born as male, dress in feminine attire and do not self-identify as male or female – were denied shelter, due to their non-normative gender identity. Even when LGBTQI+ individuals are admitted to shelters, they often face harassment, bullying and gender-based sexual violence, due to a lack of consideration for their specific needs. Queer women and girls are especially at risk of sexual violence in these settings, but queer men are also not immune to sexual harassment. Children who move in the context of climate change could be particularly vulnerable, as their sexuality may not be taken seriously, or they may be asked to provide sensitive details to prove their sexual orientation to access protection. Guidance developed by UNHCR can also be used to guide conversations with children who move in the context of climate change to establish their sexual orientation.

During disasters, children with disabilities are more likely to be left behind, abandoned or neglected and may lose essential medications and assistive devices, reducing their level of functioning and resulting in increased dependence on caregivers. In the aftermath of a disaster, children with disabilities may become separated from their caretakers or family and be vulnerable to violence, exploitation and abuse. Children with disabilities are three to four times more likely to be victims of violence than children without disabilities and girls with disabilities are at particular risk. Girls with disabilities are particularly vulnerable in humanitarian contexts and are at risk of sexual and gender-based violence or engaging in survival sex with community members. Children and adolescents with disabilities are rarely included in data collection efforts and too often face an even harder time than other children in participating in decision-making processes.

Children with disabilities who move through normal migration channels, whether regular or irregular, may be invisible to policymakers and service providers because of their disability and special efforts are required to identify those with disabilities and develop appropriate mechanisms to ensure that their rights are upheld. An additional challenge to ensuring non-discrimination with regard to disability in the context of climate-related mobility lies in the way disability is conceptualized. Most immigration policies take a biomedical approach to disability, as opposed to a social-relational one which recognizes the role of social structures in disabling people who have some form of impairment. Policies that regard disability and chronic health conditions as a burden may preclude entry for children and their families who are moving in the context of climate change. Thus, disability acts as a ground for discriminatory treatment that may leave little recourse for children but to pursue more risky migration pathways.

Children with disabilities should be supported through disability-inclusive and disability-targeted interventions during and after their move. UNICEF and others have prepared practical guidance for ensuring that children with disabilities are able to exercise their rights in humanitarian contexts, and many of the suggestions also apply to children who migrate voluntarily.
Applications of Principle 8, including innovative policy approaches

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

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

Principle 9: Nationality

When stateless children move in the context of climate change, States have an obligation to ensure that they have a nationality, including where necessary, granting them the nationality of the receiving State.

Objective: When stateless children move in the context of climate change, States have an obligation to ensure that they have a nationality, including where necessary, granting them the nationality of the receiving State.

Scope: Children may lack nationality for many different reasons. In some countries, nationality passes only through the father and if the father is not present when a child is born, the baby’s birth may not be registered or may not be registered with a nationality. Sometimes migrant parents are unable to register their children’s birth in their country of origin. Sometimes statelessness is hereditary – children born to stateless parents are also stateless, as in the case of Rohingyas in Myanmar. Some statelessness is considered de jure – in that it is the result of national law – while in other cases, de facto statelessness occurs not because it is proscribed by law but rather results from administrative procedures, which are sometimes deliberate, and sometimes unintentional.
For example, children born of Indonesian parents working abroad may lack nationality because their parents are unable to register the births in their community of origin within the 60-day period when birth registration is free. Nonetheless, Article 24 of the International Covenant on Civil and Political Rights states that every child has a right to acquire a nationality.

What this means for children on the move in the context of climate change: Becoming stateless would make already vulnerable populations such as children fall outside the protection mechanisms that are afforded through citizenship of a State. For example, stateless persons are often not covered by disaster relief, health care and adaptation plans. When families and children are forced to move suddenly and their possessions are destroyed by extreme weather events, they may lose documents to prove their identity. Failure to prove their nationality can, in turn, render them stateless.

Children and their families who move in the context of climate change could become stateless if their places of origin ceased to exist as a result of climate change impacts, for example, if small island States were to become submerged by rising sea levels. As, to date, there have not been examples of States that disappeared due to climate change, it is difficult to predict what would happen to children who were once nationals of such States, but some options for how the international community and the affected States themselves might deal with such a situation have been outlined. UNHCR provides a list of practical steps that can be taken by States to proactively deal with statelessness in the context of climate change. These include explicitly incorporating information about the risk of statelessness and steps towards preventing and reducing statelessness in planning documents, policy guidance and information campaigns on climate change, disasters and displacement.

Governments have a responsibility to prevent statelessness within their countries, ensuring that each child born on its territory has a nationality and granting nationality if the child would otherwise be stateless. When these children move to other countries in the context of climate or change, States which have ratified the Convention on the Reduction of Statelessness, are obligated to award nationality to those children and young people. This also applies to unaccompanied and separated children. In addition, governments have a responsibility to ensure that children and young people’s citizenship rights are upheld when they move within their countries.

According to the 1954 Convention relating to the Status of Stateless Persons, a stateless person is someone who is not considered as a national by any State under the operation of its law. While there is no formal international legal definition of a State, statehood is defined by the 1933 Montevideo Convention on the Rights and Duties of States as consisting of four aspects: a defined territory, a permanent population, an effective government, and the capacity to enter into relations with other States.

Children and statelessness, according to UNHCR

- At least 29 per cent of States lack provisions in their nationality laws for granting stateless children born in their territories a nationality and at least 28 per cent of all States have insufficient provisions in their nationality laws.
- At least 29 per cent of all States lack provisions in their nationality laws for granting children of unknown origin found in their territory a nationality, and at least 37 per cent of all States have insufficient provisions to this end.
Children should have their interests, needs and rights recognized in their places of destination, even if this is different from the place where they are registered. In implementing these ambitions, governments and other stakeholders might refer to UNHRC’s Global Action Plan to End Statelessness.\textsuperscript{169}

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

*Preventing statelessness following cyclone Idai:* In the aftermath of cyclone Idai, which made landfall in Zimbabwe in 2019, causing rapid devastation and displacing many from their homes, the Government of Zimbabwe and UNHCR joined forces to prevent the risk of statelessness for those who lost essential documentation. They set up mobile documentation services, which issued as many as 65,000 documents to affected people, including birth certificates and national identity cards.\textsuperscript{170}
Translating the Guiding Principles into practice

These draft Guiding Principles are intended to provide general guidance to national and international policymakers and service providers in responding to children who move in the context of climate change. They are based on existing international law as well as operational guidelines or frameworks which have been developed by a variety of stakeholders. The draft principles will be widely circulated among a range of stakeholders to assess whether in fact they are useful in developing appropriate strategies to what is likely to be the large-scale movement in coming years of children on the move in the context of climate change.

A consultation may be organized in 18 months to solicit feedback and input on these draft principles, to review their utility, and to revise the principles in light of this feedback. As the body of evidence grows on the impact of climate change on children’s mobility, such a revision can also take advantage of the latest scientific knowledge and developments in international case law.

Other possible next steps include testing the utility of the principles by conducting case studies of countries experiencing significant numbers of children on the move in the context of climate change, developing a collection of good practices for responding to these children, and developing checklists for governments and other stakeholders to ensure that the rights of all children on the move are respected.
Annex: Documents consulted in developing these Guiding Principles

13. International Organization for Migration, Glossary on Migration, Environment and Climate Change: Evidence for Policy, 2019, publications.iom.int/system/files/pdf/meclep_glossary_en.pdf?language=en. Also note that IOM’s working definition is not intended to serve a legal and/or normative purpose or have implications for the granting of rights. Rather, it represents an attempt to capture the complexity of the issue at hand. The definition has been cited frequently in academic and other literature on the subject. However, there is no internationally accepted legal definition of the term environmental migrant.
18. United Nations, Fact Sheet: Definition of youth’, United Nations, New York, nd, www.un.org/esa/socdev/documents/youth/fact-sheets/youth-definition.pdf. UNICEF’s adolescent and youth engagement strategic framework distinguishes as follows: Adolescents: 10–19 years; Youth: 15–24 years; and Young People: 10–24 years, which is the term that covers all adolescents and youth. UNICEF’s mandate for children covers adolescents up to the age of 18 and the agency is primarily concerned with the rights of this age group. However, youth over 18 years have proven to be key change-makers and champions of children’s and adolescents’ rights and for this reason are included as key stakeholders.


46 Clement, Viviane, Kanta Kumari Rigaud, Alex de Sherbinin et al., Groundswell Part 2: Acting on Internal Climate Migration, 2021, World Bank, Washington, DC.


51 Ibid.


International Federation of Red Cross and Red Crescent Societies, ́Displacement in a Changing Climate: Localized humanitarian action at the forefront of the climate crisis`, IFCR, 2021, www.ifrc.org/document/displacement-in-a-changing-climate#:~:text= Millions%20of%20people%20around%20the, adverse%20effects%20of%20climate%20change.&text=And%20it%20calls%20for%20more,addres%20this%20urgent%20humanitarian%20challenge.


David Passarelli, ́Children’s Rights in an Era of Climate Mobility´, United Nations University Centre for Policy Research, New York, Forthcoming.


International Federation of Red Cross and Red Crescent Societies, ́We Need to do Better: Policy brief for enhancing laws and regulations to protect children in disasters´, IFCR, 2020, p. 3. https://disasterlaw.ifrc.org/sites/default/files/media/disaster_law/2021-02/We-Need-To-Do-Better-Summary-En.pdf


81 David Passarelli, Children’s Rights in an Era of Climate Mobility, United Nations University Centre for Policy Research, New York, Forthcoming.


87 See for example, the recently-adopted amendment to the Aarhus Regulation intended to allow for increased public security of European Union actions affecting the environment. The Regulation addresses access to information, public participation in decision-making and access to justice on environmental matters.


89 Bower, Erica and Sanjula Weerasinghe, Global Mapping: Leaving Place, Restoring Home: Enhancing the evidence base on planned relocation cases in the context of hazards, disasters and climate change, Platform on Disaster Displacement, 2021, https://disasterdisplacement.org/portfolio-item/leaving-place-restoring-home


94 Convention on the Rights of the Child, Articles 19 and 22(2); African Charter on the Rights and Welfare of the Child, Article 25; Guiding Principles on Internal Displacement, principles 4(2), 16 (1), 27 (1), 27(3); Kampala Convention, Article 9, 2c and 2h; Global Compact on Migration, paragraph 23, f.


113 McAdam, Jane, Protecting People Displaced by the Impacts of Climate Change: The UN Human Right Committee and the principle of non-refoulement’, American Journal of International Law, 114 (4), 2020, pp. 708–725.

114 As the United Nations High Commissioner for Refugees concluded, “If there is a real risk of being subjected to serious harm, that person may be protected from return in accordance with prohibitions on refoulement, including the right to be protected from ‘irreparable harm’ by Articles 6 (right to life) and 7 (prohibition of torture and cruel inhumane or degrading treatment or punishment) of the International Covenant on Civil and Political Rights.” United Nations High Commission for Refugees, ‘Legal considerations regarding claims for international protection made in the context of the adverse effects of climate change and disasters’, UNHCR, 1 October 2020, p. 10, www.refworld.org/docid/5f75f2734.html


117 For more information on governmental policies to those seeking entry because a disaster has occurred or environmental conditions make survival difficult, see: The Platform on Disaster Displacement, ‘An Agenda for Protection: Towards better protection for people displaced across borders in the context of disasters and climate change,’ The Platform on Disaster Displacement, 2015, https://disasterdisplacement.org/the-platform/our-response


120 United Nations Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, ‘Joint General Comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return, UN, 16 November 2017, CMW/C/GC/4-CRC/C/GC/23, www.refworld.org/docid/5a12942a2b.html


124 Ioane Teitiota’s asylum claim in New Zealand was denied and his family was forced to return to Kiribati. He pursued his case at the UN Human Rights Committee, arguing a violation of his right to life under Article 6(1) of the International Covenant on Civil and Political Rights. The Human Rights Committee did not recognize Article 6 violation, but it did entertain the possibility that climate change could violate this right, opening the path for future litigation by would-be climate refugees. The New Zealand Supreme Court wrote: “[...] both the Tribunal and the High Court, emphasised their decisions did not mean the possibility of climate change could violate this right, could never create a pathway into the Refugee Convention or protected person jurisdiction. Our decision in this case should not be taken as ruling out that possibility in an appropriate case.” The European Parliament interprets Teitiota as paving the way for environmental refugee protection, because the Human Rights Committee is deemed to support the position that people fleeing climate-related natural disasters have a valid claim for international protection under the International Covenant on Civil and Political Rights. See, European Parliament Committee on Development for the Committee on Foreign Affairs, ‘Opinion on the Effects of Climate Change on Human Rights and the Role of Environmental Defenders on This Matter’, European Parliament, 18 January 2021, 2020/2134(INI)


138 Ibid.


143 Building Resources Across Communities, ‘Education Programme Bangladesh’, BRAC, Bangladesh, 2019, www.brac.net/program/education/


146 Dominey-Howes, Dale, Andrew Gorman-Murray and Scott McKinnon, Queering Disasters: On the need to account for LGBTI experiences in natural disaster contexts, Gender, Place & Culture, 21, 7, 2014, pp. 905–918.


155 Ibid.

156 Ibid.


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