**Regional Handbook for the Comprehensive Protection of Boys, Girls and Adolescents in the Context of Migration**

**Draft Document**

**for Consideration by RCM Member**

**Countries**

**prepared by**



**November 2015**

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**ACRONYMS\***

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| BID | Best Interest Determination |
| CRC | Convention on the Rights of the Child |
| ILO | International Labour Organization |
| IOM | International Organization for Migration |
| OPI | Child Protection Officer (Spanish acronym) |
| RCM | Regional Conference on Migration |
| UNHCR | United Nations High Commissioner for Refugees |
| UNICEF | United Nations Children’s Fund |

[\*Translator’s Note: The following acronyms or abbreviations that appear in the Spanish version of the text have not been included in this list of acronyms, since they are not used throughout the English text: **Corte IDH**, spelled out as “Inter-American Court of Human Rights”; **CRC**, spelled out as “Committee on the Rights of the Child” (this acronym is used for “Convention on the Rights of the Child” in the English text); and **NNA**, spelled out as “boy, girl or adolescent”, “boys, girls or adolescents” or “boys, girls and adolescents”, depending on the context.]

**FOREWORD**

In its almost 20 years of existence, the Regional Conference on Migration (RCM) has been characterized by its noble ability to evolve and adjust to the new dynamics and challenges of migration in the region and thus, has been able to effectively respond to these challenges. One of the primary challenges has been to protect migrant boys, girls and adolescents[[1]](#footnote-1).

As a result, the issue of boys, girls and adolescents in the context of migration in the region has been included in the agenda of the RCM since its inception. The issue was consolidated under the Plan of Action of the RCM during the VIII Meeting of the Conference, and efforts were initiated to further address the matter through various meetings, workshops, seminars and, above all, the development of initial regional response mechanisms such as the following:

* Regional Guidelines for Special Protection in Cases of the Repatriation of Child Victims of Trafficking, approved at the XII RCM, held in the United States in 2007.
* Regional Guidelines for the Assistance to Unaccompanied Children in Cases of Repatriation, approved at the XIV RCM, held in Guatemala in 2009.
* Regional Guidelines for the Preliminary Identification of Profiles and Referral Mechanisms for Migrant Populations in Vulnerable Situations, approved at the XVIII RCM, held in Costa Rica in 2013.

Parallel to these regional instruments, efforts were implemented to address the topic of protection for migrant boys, girls and adolescents in greater depth through two seminars/workshops held in San José, Costa Rica in March 2012 and Antigua, Guatemala in August 2013. A characteristic of these activities is that child protection institutions were included in the work of the RCM for the first time, thanks to the support and technical cooperation of the International Organization for Migration (IOM), the United Nations High Commissioner for Refugees (UNHCR), the International Labour Organization (ILO) and the United Nations Children’s Fund (UNICEF).

As a result of the seminars/workshops, a document entitled “Toward a Regional Mechanism for the Comprehensive Protection of Migrant and Refugee Boys, Girls and Adolescents” was developed as the basis for this Handbook, with the primary objective of guiding RCM Member Countries in their efforts to protect the rights of migrant boys, girls and adolescents and thus, take effective measures at a national and regional level to achieve the comprehensive protection of these populations throughout every phase of their migration process.

The document was approved at the XIX RCM, held in June 2014 in Managua, Nicaragua, during a fundamentally relevant year in regard to migration of boys, girls and adolescents, especially those that are unaccompanied or have been separated from both parents or their legal or customary guardians.[[2]](#footnote-2)

In May and June of that same year, these migration flows – mainly from the countries of the northern triangle of Central America (El Salvador, Guatemala and Honduras) to the United States – reached such magnitude that the Government of the United States declared an *urgent humanitarian situation*.

The establishment of an Ad Hoc Group for Migrant Boys, Girls and Adolescents was approved during the XIX RCM in 2014 under this umbrella, with the primary goal of seeking and generating regional responses to protect migrant boys, girls and adolescents, working on the basis of the document entitled “Toward a Regional Mechanism for the Comprehensive Protection of Migrant and Refugee Boys, Girls and Adolescents”.

The Ad Hoc Group, composed of officials from the migration offices, ministries of foreign affairs and child protection institutes of RCM Member Countries, has met on three occasions: in Guatemala City, Guatemala (August 2014), Mexico City, Mexico (April 2015) and San Salvador, El Salvador (August 2015).

The primary conclusions and agreements from the meetings include the development of a regional handbook for the comprehensive protection of migrant boys, girls and adolescents. Therefore, IOM has developed this proposal of a Regional Handbook for the Comprehensive Protection of Migrant Boys, Girls and Adolescents in the Context of Migration, taking into account all the considerations from the document entitled “Toward a Regional Mechanism for the Comprehensive Protection of Migrant and Refugee Boys, Girls and Adolescents” as well as the input and recommendations developed by RCM Member Countries at the meetings of the Ad Hoc Group, including various national initiatives to protect migrant boys, girls and adolescents. The Handbook has been designed to be used as the primary work manual of the RCM regarding this matter. In addition, the Handbook is a tangible effort of the RCM to ensure that real comprehensive protection is provided to migrant boys, girls and adolescents in the region, demonstrating once more that the RCM is a process that effectively responds to the new dynamics and challenges of migration in a coordinated manner, and especially, with a common regional approach.

**INTRODUCTION**

Migration of boys, girls and adolescents is a priority issue in the world debate on migration due to the relevance of the phenomenon, the complexity of its causes and consequences, the differentiated assistance and protection needs and the need for a comprehensive approach in order to effectively protect the rights of these populations. Furthermore, the majority of migrant boys, girls and adolescents are unaccompanied or have been separated from their families and therefore, a specific approach is needed to be able to provide special protection for them.

As has already been mentioned, this type of migration is not a new phenomenon in the region, and much less a new topic within the RCM. This is a fact that has become increasingly visible in recent years and has been addressed by government institutions, international organizations and civil society organizations, due to the deterioration of the conditions in which boys, girls and adolescents migrate and the increasing risks they face during migration. More recently, the high numbers and the fact that they are unaccompanied and migrate at a very young age have given rise to great concern.

This Handbook has been designed as a guide to strengthen the actions and efforts implemented by each RCM Member Country concerning the protection of boys, girls and adolescents in the context of migration; and above all, the objective of the Handbook is to become the primary tool in order to generate a coordinated and comprehensive regional response with a human rights-based approach.

The Handbook is based, for the most part, on the document “Toward a Regional Mechanism for the Comprehensive Protection of Migrant and Refugee Boys, Girls and Adolescents”, developed as a collaborative effort together with various organizations (IOM, UNHCR, UNICEF, ILO) and approved by the RCM in 2014. In addition, it draws on other instruments[[3]](#footnote-3) and studies[[4]](#footnote-4) on this matter, as well as various national efforts and protocols established by countries in the region.

Accordingly, the Handbook outlines the **basic principles** that should be considered in order to ensure the protection of the rights of migrant boys, girls and adolescents, and suggests actions for the effective protection and comprehensive assistance for those in vulnerable situations and in need of international protection, always considering their best interest.

The suggested **protection actions** are described in detail according to the various phases of the migration process: prior to departure, during detection and reception in countries of transit and destination, and during integration or return and reintegration processes in countries of origin. In addition, a series of indicators for the identification of vulnerabilities are considered which will allow the users of the Handbook to identify the most appropriate protection actions, according to the different vulnerabilities of each boy, girl or adolescent.

The suggested actions are addressed from different **approaches**: human rights, gender, diversity, generational, contextual, interculturality and progressive autonomy. These approaches are considered in humanitarian principles, international human rights law and international and regional instruments on migration and children. In addition, the actions consider the necessary coordination with child protection institutions, international organizations and civil society organizations.

Finally, it is very important to emphasize that the Handbook is a guide for RCM Member Countries and for the Conference itself and that, in order to be able to implement the actions recommended in the Handbook to provide comprehensive protection to migrant boys, girls and adolescents, intersectoral, inter-institutional, bilateral and regional coordination is required. Only if States take on shared responsibility will the RCM be able to prove to be the first regional consultation process at a global level to achieve a real coordinated regional response in terms of comprehensive protection of the rights of migrant boys, girls and adolescents.

**GENERAL OBJECTIVE**

The proposed Handbook, submitted to RCM Member Countries for consideration, has been designed as a general guide for applying the guiding principles and actions to protect migrant boys, girls and adolescents contained in the document of the RCM entitled “Toward a Regional Mechanism for the Comprehensive Protection of Migrant and Refugee Boys, Girls and Adolescents”, approved in June 2014.

**SPECIFIC OBJECTIVES**

The Handbook seeks to be more than a general guide and, of course, more than a regional publication; it seeks to be a model for changing the vision and approach toward migrant boys, girls and adolescents, not only in the region but at a global level. Therefore, the specific objectives of the Handbook are:

* To foster regional collaboration and cooperation in providing assistance and protection to boys, girls and adolescents in the context of migration.
* To strengthen national, binational and regional efforts concerning the protection of the rights of migrant boys, girls and adolescents and those in need of international protection through guiding principles and with a human rights-based, gender, diversity, generational, contextual interculturality and progressive autonomy approach.
* To promote improved inter-institutional coordination within RCM Member Countries, involving all competent institutions as well as civil society in the protection of the rights of migrant boys, girls and adolescents and those in need of international protection.
* To be able to go beyond short-term actions in order to coordinate sustainable actions for the protection of rights that can be improved over time.
* To serve as an example of an effective practice for other regional consultation processes at a global level, and for all regional and multilateral efforts focused on the protection of the rights of migrant boys, girls and adolescents and those in need of international protection.

**GLOSSARY**

**Boy or girl:**

The Convention on the Rights of the Child (CRC) states that “a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.” (Article 1).

**Adolescent:**

For the purposes of the present Handbook, an adolescent shall be understood as every human being over the age of twelve years and below the age of eighteen years[[5]](#footnote-5) and shall only be used to differentiate in order to provide appropriate protection. Adolescence is recognized as a stage separate from early childhood and adulthood and therefore, adolescents require special assistance and protection.

**Migration:**

Involves the movement of persons toward the territory of another State or within a State. Encompasses all movements of persons, regardless of their magnitude, composition or causes; includes migration of refugees, displaced persons, uprooted persons and migrants for economic reasons. Internal migration is the temporary or permanent movement of persons from one region to another within the territory of a country with the aim of establishing a new residence, while international migration takes place when an international border is crossed. For the purposes of this Handbook, the term “migration” refers to international migration.

**Migrant[[6]](#footnote-6):**

Any person that is on the move or has crossed an international border or moved within the territory of a State, away from his or her place of habitual residence and children, irrespective of (1) the legal status of the person; (2) the voluntary or involuntary nature of the movement; (3) the causes of the movement; or (4) the duration of the stay.

**Refugee boys, girls and adolescents:**

Boys, girls and adolescents that meet the criteria to be recognized as refugees, in accordance with the 1951 Convention on the Status of Refugees and its 1967 Protocol and the relevant internal legislation of each State.

**Boys, girls and adolescents seeking asylum:**

Boys, girls and adolescents seeking to be admitted as refugees in a country and those that are waiting for a decision on their refugee status application, in accordance with applicable national and international instruments.

**Unaccompanied boys, girls and adolescents:[[7]](#footnote-7)**

Boys, girls and adolescents that have been separated from their parents and other family members and are not under the care of an adult responsible for them, by law or custom.

**Separated boys, girls and adolescents:[[8]](#footnote-8)**

Boys, girls and adolescents that have been separated from their parents or legal or habitual guardians, but not necessarily from other family members.

**Boys, girls and adolescents victims of trafficking:**

Boys, girls and adolescents that are victims of trafficking, according to Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, which complements the United Nations Convention Against Transnational Organized Crime, and in accordance with the internal legislation of each State.[[9]](#footnote-9)

**Boys, girls and adolescents subject to migrant smuggling:[[10]](#footnote-10)**

Boys, girls and adolescents travelling within a migrant smuggling network and who are more exposed to risks and vulnerabilities such as criminal offences, violence, abuse, abduction, extortion, forced recruitment or criminal activities, among others.

**Boys, girls and adolescents that could be at risk if they are reunified with their families and/or return to their place of origin or habitual residence:[[11]](#footnote-11)**

Boys, girls and adolescents persecuted or at risk of being persecuted by criminal groups; victims or at risk of forced recruitment; witnesses of criminal offences; victims of persecution for living in areas contested by gangs or criminal groups or for having family ties with such groups; victims of sexual or gender-based violence; victims of physical, psychological or emotional violence; victims of persecution or violence due to sexual orientation and gender identity.

**Boys, girls and adolescents in other vulnerable situations:**

Pregnant girls and adolescents and boys, girls and adolescents in situations of exploitation, with disabilities or with serious medical conditions.

**The best interest of the child:**

Involves prioritizing the decisions that favour the full exercise of all human rights of persons under eighteen years of age. As detailed below, the best interest is a concept encompassing three dimensions: it is a right, a principle and a procedure.

**International protection:**

International protection is understood as the protection provided by a State to a foreign national because his or her human rights are threatened or violated in the country of nationality or habitual residence, where this person was unable to obtain appropriate protection since it was not accessible, available and/or effective. While the international protection provided by the receiving State is initially linked to refugee status, different sources of international law show that this concept also encompasses other types of regulatory frameworks concerning protection. **[[12]](#footnote-12)**

This includes, among others, protection for asylum and refuge seekers based on international conventions or relevant internal legislation; protection obtained by any foreign national based on international human rights obligations, and particularly, the principle of non-refoulement and what is referred to as complementary protection or other forms of humanitarian protection, and the protection obtained by stateless persons in accordance with relevant international instruments on this matter.

**Return[[13]](#footnote-13):**

In a broad sense, the act or process of returning. Return may take place within the territorial boundaries of a country; for example, returning internally displaced persons and demobilised combatants; or from the receiving country (transit or destination) to the country of origin, for example, refugees, asylum seekers and qualified national citizens. Furthermore, return sub-categories exist that describe the way in which the return is organized: voluntary, forced, assisted and spontaneous; and other sub-categories describe the returning persons; for example, repatriation (of refugees).

**Reintegration:**

To include again or reincorporate a person into a group or process; for example, to reincorporate a migrant into the society of the country of origin.

**Detection:**

A process through which the non-obvious needs of migrants are identified.

**APPROACHES**

When speaking about addressing the protection of migrant boys, girls and adolescents from different perspectives, we are referring to how each particular case should be viewed, understood, analysed and addressed in different situations. In order to adequately use the different approaches, we need to view the situation of each migrant boy, girl or adolescent in a comprehensive manner, to avoid the mistake of treating boys, girls and adolescents as a homogeneous group. Therefore, we need to identify the distinctive features and specific conditions of each one of them. For example: What is the migrant’s age? What are the practical implications of migrating at 8 years or 16 years of age? What ethnic group does he or she belong to and what language does he or she speak? Does the migration experience contribute to the exercise of the child’s rights or does it lead to violation of these rights? Is the child male or female? Could his or her sexual orientation be the motivation for migrating? What might he or she need?

In this regard, the present Handbook suggests to incorporate various approaches into national programmes, policies and plans and regional actions, considering the positive and negative impacts of migration on boys, girls and adolescents. To this end, the following approaches are proposed to guide the actions of government institutions, civil society and international organizations to enable them to appropriately respond to the characteristics and realities of this population group, considering not only gender or ethnic origin but also age and emotional maturity level.

**Human Rights-Based Approach[[14]](#footnote-14)**

The main focus of this approach is to recognize every person as a holder of rights, which are inherent, irrevocable, inalienable, non-transferrable, unwaiverable and progressive. It involves placing the protection of the human rights of boys, girls and adolescents involved in migration processes at the centre of the priorities and actions of competent institutions, understanding that the well-being and human development of this population group should be essential elements of public policies and social actions.

For the purposes of this Handbook, it is especially important to recognize boys, girls and adolescents as subjects of rights and not merely as beneficiaries of the institutional decisions and the assistance that can be provided through these institutions; that is, they are **rights holders.** Migrant boys, girls and adolescents, as subjects of rights within the international legal framework, have the same rights as adults and also other special rights, as they are still growing. Boys, girls and adolescents are categorised as vulnerable populations and are often in risk situations. In particular, the CRC specifically establishes aspects relating to the prevention of violations of the rights of boys, girls and adolescents, the responsibility of States to immediately restore the rights when they have been violated and the obligation to provide comprehensive protection to boys, girls and adolescents in their territory.

In this regard, given that boys, girls and adolescents are rights holders, holders of obligations also exist, including communities, families, societies and, of course, States, whose obligation is to respect, protect and promote the human rights of all their citizens.

Addressing the protection of migrant boys, girls and adolescents from a rights-based approach involves recognizing that these populations have the right to free movement and to choose their place of residence in the territory of their country, as well as the right to leave any country, including the country of origin, and to return to their country.[[15]](#footnote-15) In addition, it involves restoring all the rights that the boy, girl or adolescent has been deprived of, that have been denied and/or violated and that were the reason why they decided to migrate at the time. Another objective of this approach is to leave aside the adjective of “migrant” once the rights of the boy, girl or adolescent have been restored, and to consider him or her again just as a boy, girl or adolescent.

**Gender Approach[[16]](#footnote-16)**

Under this approach, all those social and cultural conditionings are recognized and taken into account that establish differentiated types of behaviour, thinking and acting of women and men which have enabled and perpetuated relations of unequal power, discrimination and violence in the past. Historically, unequal power relations between men and women have also been built based on gender-related biological/physical characteristics. In addition, different mandates, roles and expectations have been developed which have a greater impact on women and the exercise of their rights.

This approach recognizes the existence of unequal relations between women and men and therefore, promotes transformations oriented towards achieving gender equality and equity. For example, it allows women to have greater control over their lives and their bodies and helps to avoid devaluing the feminine. In addition, it is fundamental to be able to visualize how the experiences of girls and female adolescents are different from the realities facing boys and male adolescents and thus, to propose actions to respond to the different realities and help ensure an effective enforcement of rights.

**Generational Approach**

This means that public policies and social actions as well as institutional practices and provisions should be adjusted, in their full scope, to respond to the life cycle of boys, girls and adolescents. In addition, it involves conceiving new relations between adults and under-age persons, based on recognition of and respect for their rights.

The generational approach is based on the recognition that the biological and social differences between persons that are derived from their age create situations where some have power over others. This manifests in various ways, generating asymmetric relations between adults, boys, girls and adolescents. Furthermore, this approach involves recognizing the existence of generational groups with specific interests and needs which, as such, should be considered in their singularity, without leading to cancellation, imposition or exclusion.

This approach recognizes the value and contribution of the different generations and supports solidarity between generations.

**Progressive Autonomy Approach[[17]](#footnote-17)**

This approach recognizes that, in order to analyse the migration experiences of boys, girls and adolescents, their characteristics and realities need to be identified and reaffirmed, not only based on gender or ethnic origin but also considering their age and emotional maturity level. This approach involves understanding that childhood and adolescence are part of a process of comprehensive development throughout the life cycle, where boys, girls and adolescents prepare to lead a responsible and independent life. They progressively gain the ability to exercise their rights and demand the enforcement of their rights without any intermediaries.

**Diversity Approach[[18]](#footnote-18)**

This approach is based on considering the wishes, aspirations, expectations, values and creative and cultural practices of the various persons that make up a society. It includes the perspectives of boys, girls and adolescents, young people, senior citizens and persons with disabilities.

Furthermore, the approach recognizes the specificities, realities and differentiated needs related to ethnic origin, national origin, motivations for migrating, condition of disability, language, gender, age, sexual orientation, gender identity and/or expression, socio-economic situation, physical or mental limitations, etc., as well as differentiated vulnerabilities, threats and risks.

The objective is to ensure non-discrimination and non-exclusion on the grounds of ethnicity, nationality, gender, sexual orientation and religion, among others. This approach does not involve treating all boys, girls and adolescents in the same manner; on the contrary, not to discriminate is precisely to take their specificities, realities and needs into account, which put each person in a different place in society, to ensure that the relevant actions contribute to the restoration of their human rights.

**Contextual Approach**

This approach proposes that every institutional and social intervention take into account the historical conditions of the particular society as well as the family, community, institutional, economic-political and sociocultural context of each migrant boy, girl and adolescent. In addition, it seeks to integrate economic, political, social and cultural aspects into public policies and social actions, with the aim of gaining a comprehensive understanding of how individuals operate within their social and cultural environment and why they express themselves as they do.

**Interculturality Approach[[19]](#footnote-19)**

Under this approach, any institutional or social action should recognize the different ethnic, cultural and national origin-related characteristics of each boy, girl and adolescent. In addition, the approach proposes identifying the inequalities between the different ethnic groups, cultures and nationalities.

Interculturality seeks recognition of and respect for all cultures, thus achieving a mutually enriching relationship, and at the same time seeks to stop racism and discrimination against indigenous and afro populations as well as xenophobia towards migrant populations.

**GUIDING PRINCIPLES**

The principles are the guidelines, ways of thinking, feeling and acting that every person involved in providing assistance and protection to migrant boys, girls and adolescents should follow; that is, officials from governments, civil society organizations and international organizations. These principles are enshrined in international law, particularly the Convention on the Rights of the Child (CRC), General Comments No. 6, 12 & 14 of the Committee on the Rights of the Child and Advisory Opinion 21/14 of the Inter-American Court of Human Rights.

Given that everything that is established and agreed on within the RCM is not binding for Member Countries, taking the following guiding principles into account does not involve an obligation for those who work with and for migrant boys, girls and adolescents. However, it does involve the commitment to analyse and apply the guidelines in situations where assistance and protection needs to be provided to migrant boys, girls and adolescents or those in need of international protection.

1. **Recognizing the boy, girl or adolescent as a subject possessing full rights**

This principle involves applying a protection approach based on the recognition of the boy, girl or adolescent as a subject possessing full rights. Boys, girls and adolescents enjoy the same rights as adults and in addition, they have other special rights and needs because they are still growing. Furthermore, this principle also involves recognizing the capacity to act, independence and initiative that each migrant boy, girl or adolescent has in regard to his or her plans or objectives relating to migration.

1. **The best interest of the child**

The best interest of the child is “a right, a principle and a rule of procedure”[[20]](#footnote-20) and is regulated in Article 3.1 of the CRC, which establishes the following: “In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration”. At the international level, it has been understood that “the highest interest of the child [is] based on the very dignity of the human being, on the characteristics of children [that is, boys, girls an adolescents] themselves, and on the need to foster their development, making full use of their potential.”[[21]](#footnote-21)

This principle should be applied in all decisions and/or actions concerning boys, girls and adolescents and should be respected throughout every phase of the migration process. In these phases, **the Best Interest Determination (BID)** should be documented in preparation of any decision.[[22]](#footnote-22)

The procedure to determine the best interest of the child involves two phases. The first one is the *Assessment*, where the specific circumstances are assessed that make the boy, girl or adolescent unique. Preliminary enquiries are made and the elements are assessed which are necessary to make a decision regarding a boy, girl or adolescent or a group of boys, girls and/or adolescents. The aspects that are considered during an assessment are: the opinion and identity of the boy, girl or adolescent; preserving the family environment and maintaining family ties; care, protection and security; situations of vulnerability; the right to health; and the right to education. The assessment can be jointly carried out by one or more persons and one or more institutions.

The second phase is the *Best Interest Determination (BID)*, which is a structured process with safeguards to determine the best interest of the boy, girl or adolescent based on the previous assessment. The aspect to consider are: the right of the boy, girl or adolescent to express an opinion of their own; identifying the facts; and the perception of time. This process should be carried out by trained professionals, with legal representation, legal arguments, mechanisms to examine or review the decisions and an assessment of the impact on the rights of the boy, girl or adolescent. All institutions involved in protecting the rights of migrant boys, girls and adolescents should participate in the BID process, including civil society organizations to the extent possible. Moreover, it is essential to complete the process before suggesting long-term solutions for the boy, girl or adolescent. Any suggestion should be based on the results of the BID process.

1. **Equality before the law and the right to non-discrimination**

The CRC establishes in Article 2 that the States Parties shall take all appropriate measures to ensure that the boy, girl or adolescent “is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members”. In addition, it establishes that all the rights of boys, girls and adolescents contained in the Convention should be ensured and applied equally to all, without any distinction. In this regard, States “have the obligation not to introduce discriminatory regulations into their laws, to eliminate discriminatory regulations from their laws and to combat discriminatory practices”.[[23]](#footnote-23)

These rights also apply to foreign boys, girls and adolescents[[24]](#footnote-24), regardless of their migration status. In this regard, the principle establishes that the protection needs be differentiated according to age, gender or other conditions of diversity, considering that migrant boys, girls and adolescents are in an especially vulnerable situation (that is, as under-age persons and as migrants), and this could affect their rights and guarantees if they are subjected to discrimination.

1. **Protection of life, survival and development**

Article 6 of the CRC recognizes the inherent right to life of every boy, girl and adolescent and establishes the obligation of States Parties to ensure to the maximum extent possible the survival and development of the boy, girl or adolescent. When speaking of survival, we are referring to the maximum possible protection against every type of violence and exploitation. This takes on even more relevance for migrant boys, girls and adolescents, given that they are at greater risk of becoming victims of violence or any type of exploitation.

This principle is fundamental for determining the best interests[[25]](#footnote-25) of migrant boys, girls and adolescents, since protection measures are applied in situations where their lives and integrity are at risk and in addition, the potential consequences of different long-term solutions can be assessed.

1. **Family unification**

Article 9 of the CRC establishes that it should be ensured that the boy, girl or adolescent “shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child”.

In the context of migration, this principle establishes that States shall ensure at all times that boys, girls and adolescents can be with their parents or relatives throughout their entire migration process, except when it is determined that staying with them, or some of them, is contrary to their best interests (i.e., when the relative of the boy, girl or adolescent has been the perpetrator of the abuse suffered by the boy, girl or adolescent).

1. **Effective access to protection procedures and procedural guarantees**

This principle addresses the establishment of protection measures and rules to ensure guarantees of due process for migrant boys, girls and adolescents,[[26]](#footnote-26) which must be adopted by States in all legal or administrative procedures and in addition, must be adopted by the family, community and society of the boy, girl or adolescent.[[27]](#footnote-27)

Effective access to procedures to provide protection to migrant boys, girls and adolescents is essential for safeguarding their rights. To achieve this, effective inter-institutional coordination is required.

1. **Participation and the right to an opinion**

Article 12 of the CRC considers the right of every boy, girl and adolescent who is capable of forming his or her own views, to express those views freely and to have the opportunity to be heard in all matters that affect him or her, taking into account the views of the boy, girl or adolescent in accordance with their age and maturity. To be heard involves taking into account the independence and initiative of every boy, girl or adolescent concerning their migration plans or objectives.

In regard to migrant boys, girls and adolescents, the right must be ensured to express their views and be heard in all decisions concerning their proceedings and/or migration status, even when a legal guardian has been appointed for them. In this regard, relevant and accurate information should be available to them, in accordance with their age and maturity, about their rights, the available services (health, education, housing, means of communication, etc.), the right to consular notification, the procedure to apply for refugee status or obtain complementary protection, locating relatives, etc. To ensure this principle, an interpreter should be available, if necessary, during all phases of the administrative migration procedure and/or the refugee status determination procedure.

1. **Confidentiality**

States should guarantee the protection of the information about migrant and refugee boys, girls and adolescents, ensuring that it is kept confidential and used appropriately. Information will only be exchanged with the objective of protecting the rights of the boy, girl or adolescent, always safeguarding the right to privacy.

The principle of confidentiality should be respected at all times throughout the migration process, including refugee status applications.[[28]](#footnote-28) Furthermore, the migrant or refugee boy, girl or adolescent should be informed, in a language that he or she can understand, that their entire procedure – beginning with the interview – will be kept confidential.[[29]](#footnote-29)

1. **Non-detention**

This principle means that no migrant and/or refugee boy, girl or adolescent shall be kept in a detention centre for migrants, considering detention as a measure of last resort which only is applied when it has been determined that it is absolutely necessary and in the best interest of the child.

In Article 37, the CRC establishes that no boy, girl or adolescent shall be deprived of his or her liberty unlawfully or arbitrarily and that the detention of a boy, girl or adolescent shall be used only as a measure of last resort and for the shortest appropriate period of time.

This is one of the guiding principles that represents a major challenge to States, since they have the obligation to make appropriate facilities available to provide accommodation to migrant boys, girls and adolescents during their administrative migration procedure.

1. **Non-refoulement**

The principle of *non-refoulement* is the cornerstone of the international protection of refugees and asylum seekers.[[30]](#footnote-30) Article 22.4 of the American Convention on Human Rights prohibits the expulsion or refoulement of any foreign national to another country where “his right to life or personal freedom is in danger of being violated”.

Accordingly, the protection of the principle of non-refoulement covers “any alien and not only […] asylum seekers and refugees”.[[31]](#footnote-31) Therefore, it should be applied to any behaviour causing the devolution, expulsion, deportation, return, extradition, rejection at the border or non-admission of any migrant boy, girl or adolescent who has the right to international protection and whose devolution would put his or her life or freedom at risk (for example, torture or other cruel, inhuman or degrading treatment or other forms of serious harm).

In addition, boys, girls and adolescents applying for refugee status should enjoy specific and appropriate procedural guarantees to ensure that fair decisions are made and that an environment of trust is established throughout the entire process: “This necessarily means that such persons may not be rejected at the border or expelled without an adequate and individualized analysis of their requests”.[[32]](#footnote-32)

1. **Presumption of Minority**

This principle urges States to presume, in accordance with the principle of the best interest of the child, that a person is under eighteen years of age in cases where there is doubt whether he or she is a minor or not, unless the contrary is proven. The above with the objective of providing the protection and assistance required by the boy, girl or adolescent during his or her migration process, always and under any circumstance.

1. **Principle of Non-Victimization**

The revictimization of a boy, girl or adolescent is an institutional issue. While it does not occur intentionally, it is in fact harmful to the minor. Migrant and refugee boys, girls and adolescents have often been victims of violation or deprivation of one or more of their rights; and they have regularly been victims of some type of crime or sexual abuse during their migration process or have witnessed crimes such as migrant smuggling or trafficking.omo la trata de personas o el tras o el tra cuando, repetidamente, cada una de las autoridades encargadas de su asistencia y pro

In this regard, the revictimization of migrant or refugee boys, girls or adolescents takes place, inter alia, when an authority in charge of providing assistance and protection repeatedly asks the boy, girl or adolescent to state why he or she decided to migrate and what happened during the migration process (departure, transit, stay, return, etc.), thus increasing the psychological stress suffered by the boy, girl or adolescent.

Therefore, the principle of non-revictimization means that States must develop and apply institutional, inter-institutional and bilateral tools to avoid repeated requests for testimonies that affect boys, girls and adolescents, revictimizing them during return and reintegration.

**COMPREHENSIVE PROTECTION ACTIONS THROUGHOUT THE VARIOUS PHASES OF THE MIGRATION PROCESS**

As stated above, the primary objective of this Handbook is to guide actions for the effective and comprehensive protection of boys, girls and adolescents throughout the various phases of their migration process: **before departure, during detection and reception in countries of transit and destination and during integration or return (provided that this is in the best interest of the child) and reintegration in their countries of origin.** Migration – whether voluntary or forced – can involve risks and violations of rights. Boys, girls and adolescents are more exposed to these risks and therefore, are highly vulnerable populations.

The majority of the actions recommended in this chapter for each phase of the migration process are contained in the document entitled “Toward a Regional Mechanism for the Comprehensive Protection of Migrant and Refugee Boys, Girls and Adolescents”. However, the chapter also includes actions recommended by RCM Member Countries during the meetings of the Ad Hoc Group on Migrant Boys, Girls and Adolescents. These efforts are already being implemented in RCM Member Countries and are embodied in various national protocols and procedures. Furthermore, actions are considered which have been recommended by international organizations and civil society organizations, through the Regional Network for Civil Organizations on Migration (RNCOM).

The appropriate implementation and effectiveness of these actions will depend largely on the coordination between RCM Member Countries and international organizations and civil society organizations; this coordination is essential.

Before addressing the proposed actions, **the need to establish indicators for the identification of migrant boys, girls and adolescents** should be highlighted. In addition, potential indicators will also be established (as a recommendation) to be used during some phases of the migration process. It should be noted that, while the recommended indicators could seem to be repeated, it is very important to take them into account during each phase of the process, since it is not necessarily easier to identify a boy, girl or adolescent in a vulnerable situation in one phase than in another. Therefore, using the indicators will enable us to identify, for each case, if the boy, girl or adolescent requires special protection based on specific identified conditions.

It is essential to encourage and promote joint efforts oriented toward ensuring respect for the rights of migrant boys, girls and adolescents, particularly those that are subject to discrimination and exploitation. Guaranteeing the rights of boys, girls and adolescents is a moral, political, social, legal and economic imperative for every State, society and family. In accordance with the rights-based approach, the causes as well as the consequences of migration need to be addressed, and solutions need to be found for problems arising as a result of the migration process which affect boys, girls and adolescents and all their rights. These solutions require crucial joint and coordinated cooperation between States, international organizations and civil society organizations.

The following routes of action for comprehensive protection, as a whole, are oriented toward avoiding short-term efforts and coordinating rights protection actions which are sustainable and can be improved over time. In this regard, a broad vision of the migration cycle of boys, girls and adolescents should be considered for each route of action.

**Protection Actions Before Departure (in the Country of Origin)**

During various meetings conducted within the framework of the RCM, discussions have been held on the establishment of indicators to identify the vulnerable situations that could lead boys, girls and adolescents to migrate. It has been concluded that these indicators are of a structural nature and that many more government institutions should develop and use them (recalling that only ministries of foreign affairs, migration offices and – for boys, girls and adolescents – child protection institutions participate in the RCM). However, if the efforts are focused on the areas or regions with the highest rates of expulsion of migrants, some indicators could be considered that would help us identify boys, girls and adolescent that are more prone to engaging in risky migration processes because of the vulnerable situations they face. Some of these situations are detailed below[[33]](#footnote-33):

* Boys, girls and adolescents with family members that have migrated, have been abroad for a long time or have died;
* Boys, girls and adolescents who are living on the streets or have been abandoned by their parents;
* Boys, girls and adolescents who have been forced or are being forced to work without any compensation or who are engaged in work that could be dangerous o hinder their education, or that is harmful to their health or physical, mental, spiritual, moral or social development[[34]](#footnote-34);
* Boys, girls and adolescents who need to migrate to seek better socio-economic opportunities and who are encouraged by their parents to do so;
* Boys, girls and adolescents who have dropped out of school;
* Boys, girls and adolescents who are suffering or have suffered abuse at home and/or violations of their rights (theft, rape, abduction, mistreatment and/or physical, sexual or psychological violence);
* Boys, girls and adolescents who are suffering or have suffered discrimination, abuse or violence based on sexual orientation, identity and/or gender expression;
* Boys, girls and adolescents who have been or are being threatened or persecuted by gangs or other organized crime groups;
* Boys, girls and adolescents who have been or are victims of internal trafficking, especially from rural areas to urban areas or border regions;
* Boys, girls and adolescents whose lives, physical integrity, freedom or other basic rights are at risk.

The protection actions before departure are oriented toward minimizing unsafe migration, preventing irregular migration and ensuring appropriate conditions to enable boys, girls and adolescents to exercise their right to not migrate, that is, offering the necessary real opportunities for well-being, education and employment to prevent forced migration. These actions could include the following:

| **Protection Actions** | **Competent Institution(s)** |
| --- | --- |
| 1. To establish programmes to provide assistance and protection to boys, girls and adolescents in vulnerable situations in order to promote rootedness and strengthen resilience. | Child protection, health, education, social development and labour institutions |
| 1. To develop and strengthen a network of child and adolescent care services for boys, girls, adolescents and other dependents (Guidelines from the plan entitled “Plan Alianza para la Prosperidad del Triángulo Norte” (Alliance Plan for the Prosperity of the Northern Triangle), 2014). | Child protection, finance, and social development institutions |
| 1. To promote actions oriented toward combating discrimination and violence against historically excluded and discriminated populations, especially women, indigenous peoples and LGBTI populations, including prevention and social awareness-raising actions. | Human rights ombudsman’s offices, child protection institutions, women’s institutions, the Judiciary,  security institutions |
| 1. To establish and strengthen assistance centres providing social services and to facilitate access to specialized services for boys, girls and adolescents, according to their age and risk situation, promoting programmes to prevent addictions and gender-based violence and provide the necessary assistance, and programmes on sexual and reproductive health, remedial learning, training and education for the workplace, registration, etc. (Guidelines from the Alliance Plan for Prosperity of the Northern Triangle, 2014). | Child protection, health and education institutions, women’s institutes, social development and labour institutions; special prosecutor’s offices |
| 1. To combat the impacts of generalized violence through the establishment of immediate support services for boys, girls and adolescents in the above-mentioned vulnerable situations (violence, abuse, threat, discrimination, exploitation, etc.). | Child protection, health and security institutions, special prosecutor’s offices |
| 1. To strengthen education and child welfare institutions and to implement social and economic policies for boys, girls and adolescents to prevent vulnerable situations. | Child protection, education and social development institutions |
| 1. To continuously follow up on and monitor public policies, plans and projects on boys, girls and adolescents, providing counsel and accompaniment at a local level. | Child protection and social development institutions, special prosecutor’s offices, mayor’s offices |
| 1. To develop, implement and apply specific instruments to identify boys, girls and adolescents victims of internal trafficking, particularly those that are transferred from rural areas to urban areas or border regions, with a special focus on indigenous populations. | Labour and security institutions and inter-institutional committees to combat trafficking in persons |
| 1. To conduct information campaigns to raise awareness among the general public about the risks of irregular migration, and programmes to prevent the migration of boys, girls and adolescents, with support from returned migrant boys, girls and adolescents. While RCM Member Countries have already implemented efforts in this regard, it is recommended to conduct a regional campaign including common basic elements, which can be adjusted for each country. | Child protection, education, migration and health institutions, ministries of foreign affairs, special prosecutor’s offices, inter-institutional committees to combat migrant smuggling |
| 1. To conduct campaigns to prevent trafficking in persons, with a focus on boys, girls and adolescents. | Special prosecutor’s offices; child protection institutions and migration offices, inter-institutional committees to combat trafficking in persons |
| 1. To promote the mainstreaming of the topic of migration of boys, girls and adolescents in national policies, especially in all social programmes, in order to make visible and systematize the indicators for identifying boys, girls and adolescents that are prone to engaging in risky migration processes. | All institutions, led by child protection institutions |
| 1. To design and disseminate guides on means of protection and assistance for boys, girls and adolescents that migrate. These guides should include information about visa requirements of different countries; programmes related to regular migration status; contact information of consular networks and different protection mechanisms of the networks; rights and obligations of migrants with irregular migration status; etc. | Education, foreign affairs, migration and child protection institutions |
| 1. To implement mechanisms to control the exit of boys, girls and adolescents, especially those that are unaccompanied. | Migration offices, ministries of foreign affairs and child protection institutions |
| 1. To promote the rights and the existing reporting mechanisms for boys, girls and adolescents victims of rights violations, fostering the active participation of boys, girls, adolescents and young people. | All institutions |
| 1. To implement the existing protocols, regulations and procedures to ensure respect for the rights of indigenous boys, girls and adolescents.[[35]](#footnote-35) | All institutions |
| 1. To develop strategies to ensure access to justice for boys, girls and adolescents, to enable them to fully exercise their rights before the legal system, promoting favourable conditions to enable access for indigenous boys, girls and adolescents. These strategies should consider the age and comprehensive development of boys, girls and adolescents, using language that is easy to understand and avoiding unnecessary formalities. | The Judiciary, child protection institutions |

Furthermore, characterizations should be done with the aim of effectively providing comprehensive protection. These characterizations should include information about the number and current situation of migrant boys, girls and adolescents that are at risk or have been victims of rights violations, as well as the actions implemented by States and institutions to prevent and address these issues. When specific information about each case is not recorded in the information systems of competent institutions, or when variables or specific indicators are lacking, it becomes more difficult to provide comprehensive protection.

**Protection Actions during Detection and Reception in Countries of Transit and Destination**

Migrant boys, girls and adolescents can be detected throughout the entire migration circle: upon leaving the country, in the country of transit, in the country of destination; and this is perhaps the most important moment in the migration process of boys, girls and adolescents for identifying vulnerable situations. Immediate protection and assistance actions or actions to ensure international protection need to be established. As stated in the “Regional Guidelines for the Preliminary Identification of Profiles and Referral Mechanisms for Migrants in Vulnerable Situations” approved at the XVIII RCM, the following indicators should be considered when first establishing contact with a boy, girl or adolescent:

* Travels unaccompanied or separated from his or her family or legal guardian;
* Travels or is accompanied by an adult who is not a parent or legal guardian;
* Is a victim of a rights violation (theft, physical or sexual abuse, mistreatment, exploitation, abduction, etc.);
* Does not speak the local language, is not familiarized with the local customs and has difficulty communicating fluently;
* Has a health condition, physical disease or obvious proof of ill health (dehydration, burns, malnutrition, injuries, amputations, extreme weakness, etc.);
* Shows an altered emotional state (disorientation, fear, extreme anxiety, tears) or is suspected of being under the effects of a drug or medication;
* Was forced to leave the place of origin due to persecution on the grounds of race, religion, nationality, belonging to a given social group or political opinions;
* Is afraid of returning to the country of origin or being persecuted;
* The reason for leaving the country of origin was generalized violence, recruitment by gangs or criminal groups, armed conflict, persecution or situations putting his or her life or integrity at risk;
* Has been subject to forced displacement as a result of a natural disaster or climatic conditions;
* Travels within the framework of a migrant smuggling network;
* Is suspected of being controlled or watched by the person accompanying him or her, or communication takes place through a third person;
* Shows signs of or expresses not knowing in what country he or she is;
* Specifically asks for help or protection.

Different protection actions are required: some need to be implemented by the authorities from the transit or destination country that have identified the boy, girl and adolescent, while others need to be implemented by consular authorities in the country of origin of the boy, girl or adolescent.

Let us begin with the **actions that should be implemented by relevant authorities in the country of transit or destination:**

| **Protection Actions** | **Competent Institution(s)** |
| --- | --- |
| 1. To meet immediate needs, such as food, health care and psychological assistance. | Migration offices and child protection, health and security institutions |
| 1. To inform the identified boys, girls and adolescents about the procedures that will be followed. | Migration offices, child protection and security institutions |
| 1. To conduct an initial interview, considering the needs, age and gender of the child or adolescent. The interview should be conducted by trained professionals[[36]](#footnote-36) in a language that the boy, girl or adolescent can understand and in an appropriate space, in order to ensure privacy. The interview will enable collecting data and personal information to determine the identity, nationality and situation of the boy, girl or adolescent (accompanied, unaccompanied or separated from the parents or legal guardian) and identify his or her protection needs.   During the interview, the boys, girls and adolescents will be informed about all their rights, including the right to apply for refugee status or another special protection measure. If possible, the trained professionals should be in charge of following up on the entire migration process, in coordination with all institutions involved in providing protection and assistance to boys, girls and adolescents. | Migration offices, child protection institutions |
| 1. To ensure immediate consular notification, except for boys, girls and adolescents applying for refugee status. | Migration offices, child protection institutions |
| 1. To separate boys, girls and adolescents from the adults accompanying them, when appropriate. | Migration offices, child protection institutions |
| 1. To favour the stay of boys, girls and adolescents in temporary shelters or facilities appropriate to their age and needs and in safe conditions. Accommodation in migration centres or any other detention centre or shelter for migrants should be a measure of last resort. | Migration offices, child protection institutions, civil society organizations |
| 1. To ensure that consular authorities are able to enter the centres used for sheltering boys, girls and adolescents. | Migration offices, child protection institutions |
| 1. To provide information and legal aid to boys, girls and adolescents and to ensure access to justice and due process through inclusive and gender-sensitive strategies, promoting the necessary conditions to ensure access for indigenous populations. | Migration offices, child protection institutions, the Judiciary |
| 1. To designate a legal guardian. | Migration offices, child protection institutions |
| 1. To improve and ensure access to differentiated and high-quality procedures to determine refugee status (Cartagena+30, 2014). | Migration offices, child protection institutions, refugee protection institutions and committees receiving refugee status applications |
| 1. To ensure some type of complementary protection is provided if the boy, girl or adolescent is not eligible for refugee status. | Migration offices, refugee protection institutions and committees receiving refugee status applications |
| 1. To ensure the participation of other actors with experience in providing assistance to migrant boys, girls and adolescents, in order to ensure that appropriate care is provided to these populations. | Migration offices, child protection institutions, civil society organizations |
| 1. To implement adequate mechanisms for the assessment and the process to determine the best interests[[37]](#footnote-37) of the boy, girl or adolescent, to be able to assess (for cases of return) the family resources or support networks and ascertain that no well-founded fear exists preventing the boy, girl or adolescent from returning to the country of origin and that his or her life and integrity is not risk. | Migration offices, child protection institutions, consulates of countries of origin, civil society organizations and other relevant institutions, depending on each particular case |
| 1. To monitor the implementation of the best interest determination procedures. | Migration offices, child protection institutions, consulates of countries of origin |
| 1. To favour the family unit in every administrative migration process, based on a best interest determination process. | Migration offices |
| 1. To develop and implement protocols or procedures concerning the protection, assistance and identification of lasting solutions for unaccompanied or separated boys, girls and adolescents and asylum or refuge seekers (Cartagena+30, 2014). | Migration offices, child protection institutions, consulates of countries of origin, refugee protection institutions and committees receiving refugee status applications |
| 1. To develop and implement pre-established protocols for referral to competent and suitable institutions. | Migration offices, child protection institutions, refugee protection institutions and committees receiving refugee status applications |
| 1. To adopt measures alternative to detention – oriented toward the prohibition of detention – for migrant boys, girls and adolescents with irregular migration status (Cartagena+30, 2014). | Migration offices, child protection institutions |
| 1. To build capacities on timely identification and assistance to boys, girls and adolescents victims of gender-based violence, and specifically, victims of sexual abuse during transit and in the country of destination, including psychosocial assistance and prophylactic emergency care. This includes reviewing relevant regulations, policies and protocols and training staff to ensure prophylaxis for HIV and preventing unwanted pregnancies (including emergency contraceptive methods). | Migration offices, health and child protection institutions |
| 1. To train staff from relevant institutions (especially migration, police, shelters and staff processing asylum applications) on discrimination based on sexual orientation and gender identity and the specific rights and needs of migrant LGBTI populations. | Child protection institutions, human rights ombudsman’s offices, civil society organizations |
| 1. To develop protocols on assistance to migrant LGBTI populations, including respect for gender identity in migrant shelters. | Child protection institutions, civil society organizations and human rights ombudsman’s offices |
| 1. To ensure that cultural and language diversity is considered in providing assistance, in order to address the specific needs of indigenous boys, girls and adolescents and other populations through the establishment of protocols, training staff from institutions involved in providing assistance to migrant boys, girls and adolescents and allocating the necessary resources, including cultural interpreters. | Institutions for indigenous populations, human rights institutions, ministries of foreign affairs |
|  |  |

For **consular authorities**, the following actions are recommended:

| **Protection Actions** | **Competent Institution(s)** |
| --- | --- |
| 1. To verify the identity and nationality of the boy, girl or adolescent as soon as possible, and to identify his or her family ties. | Consulates, with support from authorities from the civil registry |
| 1. To ensure that staff from embassies and consulates are trained to provide specialized assistance and protection to migrant boys, girls and adolescents. | Ministries of foreign affairs, with support from child protection institutions |
| 1. To provide legal aid and to accompany the boy, girl or adolescent at all times to ensure access to justice. | Consulates |
| 1. To expedite procedures for the issuance of migration documents through consulates. | Consulates, migration offices |
| 1. To establish consular protection networks which include joint mobile consulates, in addition to mutual protection mechanisms. | Consulates of RCM Member Countries |
| 1. To develop and apply protocols or handbooks on consular protection for boys, girls and adolescents. | Ministries of foreign affairs, migration offices and child protection institutions |
| 1. To strengthen consular networks, especially at the borders, in order to improve assistance for migrant boys, girls and adolescents in transit, facilitating documents, ensuring adequate conditions for their return and coordinating efforts with civil society organizations to ensure the protection of their rights (Guidelines of the Alliance Plan for the Prosperity of the Northern Triangle, 2014). | Ministries of foreign affairs, migration offices, child protection institutions and civil society organizations |
| 1. To develop technology tools to seek and identify missing boys, girls and adolescents. | Ministries of foreign affairs, human rights ombudsman’s offices, international organizations and civil society organizations |
| 1. To establish and strengthen videoconference programmes in order to support communication between migrant boys, girls and adolescents and their families. | Consulates |
| 1. To establish a single interview format and registration record card, together with migration and child protection authorities, to prevent the revictimization of migrant boys, girls and adolescents. | Consulates, migration offices, child protection institutions |
| 1. To develop a regional platform to exchange information between consular authorities from RCM Member Countries. | Ministries of foreign affairs and migration offices of RCM Member Countries |

**Protection Actions in Integration Processes**

During this phase of the migration process it may not be necessary to establish indicators for the identification of vulnerabilities if it is determined, during the detection and reception phase, to be in the best interest of the boy, girl or adolescent to remain in the country of transit or destination. In this case, some of the following actions are required to ensure adequate integration:

| **Protection Actions** | **Competent Institution(s)** |
| --- | --- |
| 1. To guarantee the fundamental right to an identity and a nationality for migrant boys, girls and adolescents with irregular migration status through the issuance of identity documents or granting a migration status that enables them to regularize their situation[[38]](#footnote-38). |  |
| 1. To establish, within the various social programmes, cross-cutting programmes on integration of migrant boys, girls and adolescents, to ensure that legal regulations exist which facilitate adequate integration and that the necessary resources are available. | All institutions |
| 1. To promote emergency plans including the immediate incorporation of boys, girls and adolescents into social protection programmes, fitting out adequate physical spaces to improve assistance, awareness-raising of relevant staff on the particular characteristics of this population group, and establishment of protocols for assistance, in order to ensure their security and well-being (Guidelines of the Alliance Plan for the Prosperity of the Northern Triangle, 2014). | Migration offices, child protection, social development, health, education and labour institutions, civil society organizations |
| 1. To provide viable alternatives to counteract child labour. | Child protection, education, health and labour institutions, civil society organizations |
| 1. To ensure that boys, girls and adolescents are sheltered in a specialized temporary or permanent reception and protection centre, if they do not have any relatives that could receive them in the country. | Child protection institutions and civil society organizations |
| 1. To seek solutions within families or communities before making use of institutions[[39]](#footnote-39), such as establishing programmes for temporary accommodation, extended family and foster or adoptive families as a measure aimed at facilitating adaption to the new society, and if this is considered to be a more appropriate solution to ensure the best interest of the boy, girl or adolescent. | Child protection institutions and civil society organizations |
| 1. To ensure that the boy, girl or adolescent is accompanied by a designated guardian at all times. | Child protection institutions |
| 1. To ensure access to essential services (care, education, technical training, health, medical assistance) and to ensure that the boy, girl or adolescent obtains the required documents to be able to access these services and enjoy his or her fundamental rights. | Child protection, health, education, labour and social development institutions and migration offices |
| 1. To ensure that the boy, girl or adolescent has access to administrative and legal child and adolescent protection procedures at all times. | Migration offices, child protection institutions; refugee protection institutions and committees receiving refugee status applications |
| 1. To ensure that the boy, girl or adolescent has access to livelihoods and comprehensive development, in accordance with his or her specific situation and considering age, gender and other personal characteristics. | Child protection, health, education and labour institutions |
| 1. To ensure that the boy, girl or adolescent is protected against discrimination of any type (on the grounds of gender, ethnicity, sexual orientation and gender identity) and against xenophobia, and to implement actions to effectively combat such practices. | Child protection, health, education and labour institutions, migration offices, ministries of foreign affairs |
| 1. To incorporate the distinctive features of migrant populations in public policies and different programmes aimed at eradicating child labour and protecting adolescent workers. | Child protection, labour, education and health institutions, migration offices |

**Protection Actions during Return Processes**

As with the integration phase, when speaking about return processes it may be assumed that it is not necessary to use indicators to identify vulnerable situations, provided that return has been established as the best solution for the boy, girl or adolescent in an appropriate best interest determination process, as recommended in this Handbook. That is, the vulnerabilities and risks related to return have been assessed, including family resources or support networks in the country of origin, and it has been verified that the boy, girl or adolescent does not have a well-founded fear of returning to the country of origin and that his life is not at risk if he returns.

In this regard, protection actions should be established to be taken by competent authorities in the country where the boy, girl or adolescent is and from where he or she will return to the country of origin. Regional documents on protection actions during return processes have been developed within the RCM; specifically, the “Regional Guidelines for Special Protection in Cases of the Repatriation of Child Victims of Trafficking” (2007) and the “Regional Guidelines for the Assistance to Unaccompanied Migrant Boys, Girls and Adolescents in Cases of Repatriation” (2009). Some of the actions described below are already described in these two documents.

| **Protection Actions** | **Competent Institution(s)** |
| --- | --- |
| 1. To clearly explain to the boy, girl or adolescent the meaning and implications of the concepts of return and reintegration (RNCOM, 2015). | Migration offices, child protection institutions, consulates |
| 1. To expedite the issuance of passports and/or travel documents. | Consulates |
| 1. To establish appropriate time schedules and locations for the return of boys, girls and adolescents by land and air. | Migration offices y ministries of foreign affairs of the country of origin and transit or destination |
| 1. To implement return procedures by air wherever possible within the budgetary and logistical constraints. | Migration offices |
| 1. To ensure accompaniment by staff trained in child and adolescent protection during the return process (for example, Child Protection Officials or OPIs). | Migration offices, child protection institutions |
| 1. To exchange all relevant information about the boy, girl or adolescent with the competent authorities in the country of origin to prevent revictimization upon return, ensuring the confidentiality of the information at all times. | Migration offices, ministries of foreign affairs, child protection institutions |
| 1. To develop, update and implement protocols for return processes and emergencies. | Migration offices, ministries of foreign affairs, child protection institutions |
| 1. To keep accurate records of the returned boys, girls and adolescents, including all information required for the return by air or land and reception in the country of destination. | Migration offices, ministries of foreign affairs, child protection institutions |

**Protection Actions in Reception and Reintegration in the Country of Origin**

As with the return processes, it may not be necessary to use indicators to identify vulnerable situations, provided that return has been established as the best solution for the boy, girl or adolescent in a best interest determination process.

During **reception**, the following protection actions should be implemented by relevant authorities in the country of origin:

| **Protection Actions** | **Competent Institution(s)** |
| --- | --- |
| 1. To make appropriate physical spaces available to receive boys, girls and adolescents, including all the necessary elements to meet their basic needs (i.e. food, health care, psychological assistance and communication with their families). | Migration offices, ministries of foreign affairs, child protection institutions, civil society organizations |
| 1. To ensure that the reception process is conducted by staff trained in child and adolescent protection.[[40]](#footnote-40) | Migration offices, child protection institutions; special prosecutor’s offices (in cases of victims of trafficking or other crimes) |
| 1. To involve child protection institutions in the reception of boys, girls and adolescents. | Migration offices and child protection institutions |
| 1. To exchange all relevant information about the boy, girl or adolescent with the competent authorities in the country of transit or destination and with consular authorities in order to prevent revictimization upon reception, ensuring the confidentiality of this information at all times. | Migration offices, ministries of foreign affairs, child protection institutions |
| 1. To create adequate data records, to be used in conducting relevant data analyses, ensuring the confidentiality of the data at all times. | Migration offices, ministries of foreign affairs, child protection institutions |
| 1. To develop or strengthen and implement inter-institutional protocols for reception. | Migration offices, ministries of foreign affairs, child protection institutions |

The following protection actions are recommended for **reintegration** processes of boys, girls and adolescents:

| **Protection Actions** | **Competent Institution(s)** |
| --- | --- |
| 1. To strengthen inter-institutional teams – where they are in place – in charge of establishing the most appropriate reintegration route for the boy, girl or adolescent, or to establish such teams where necessary. | Migration offices, child protection institutions, ministries of foreign affairs, education, health and labour institutions |
| 1. To provide psychosocial accompaniment to the boy, girl or adolescent, if necessary. | Child protection and health institutions, migration offices |
| 1. To identify the real reintegration needs according to the specific characteristics of each boy, girl or adolescent. | Child protection, health, education and labour institutions, migration offices |
| 1. To guarantee the right of the boy, girl or adolescent to maintain his or her identity, including nationality, name and family ties, respecting cultural and language diversity. This includes the right of the boy, girl or adolescent to use an indigenous name, which should be recognized by States. | Migration offices, ministries of foreign affairs, child protection institutions, civil registry |
| 1. To verify family ties. | Child protection institutions, migration offices, civil registry |
| 1. To designate a person as a legal guardian, if the family of the boy, girl or adolescent is unable to ensure that a legal guardian is available. | Child protection institutions |
| 1. To ensure the reintegration of the boy, girl or adolescent into the educational system, securing funds for scholarships, technical training options and homologation and recognition of school education, as required. | Education and child protection institutions, ministries of foreign affairs |
| 1. To ensure certification of the skills and competencies of the returned boys, girls and adolescents. | Education, labour and child protection institutions, ministries of foreign affairs |
| 1. To ensure access to livelihoods and comprehensive development, according to the specific conditions of each boy, girl or adolescent and considering age, culture, gender and other personal characteristics. | Education, labour, health and child protection institutions |
| 1. To provide assistance in terms of technical training, employment and entrepreneurship, provided that the conditions and age allow the boy, girl or adolescent to work, in accordance with applicable international and national legislation.Crear e implementar protocolos de reintegración. | Labour and child protection institutions |
| 1. To ensure that the returned boy, girl or adolescent is protected against discrimination and xenophobia and that such practices are combated. | All institutions |
| 1. To establish mechanisms to regularly monitor and follow up on returned boys, girls and adolescents. | Child protection institutions |
| 1. To develop clear and formal policies on reintegration of returned boys, girls and adolescents. | All institutions |

**CONCLUSIONS AND RECOMMENDATIONS**

Without intending to be too repetitive, we would like to remind the RCM Member Countries that the primary purpose of this Handbook is to guide actions to address different situations faced by boys, girls and adolescents during their migration process. The Handbook includes a set of recommended actions to enable RCM Member Countries to advance toward providing real comprehensive protection to migrant boys, girls and adolescents, including those in need of international protection.

As mentioned in the introduction to this Handbook, the implementation of these actions requires coordinated efforts between public institutions, civil society organizations and international organizations. It should be noted that the public institutions that participate in the RCM are migration authorities and ministries of foreign affairs and also child protection institutions, when issues relating to migrant and refugee boys, girls and adolescents need to be addressed. However, when the aim is to provide comprehensive protection through various approaches, additional government institutions will inevitably need to participate in such efforts as well. This will require resolute action by RCM Member Countries to establish and strengthen their inter-institutional teams.

In this regard, we conclude that it should not be too complicated for the RCM Member Countries to implement efforts at a national level, since a wide variety of actions, instruments, agreements and programmes are already in place for the protection of migrant boys, girls and adolescents (including refugees and those in need of international protection). Therefore, the focus should be on building a coordinated regional response in order to develop an effective protection mechanism.

Furthermore, we have already mentioned that the RCM has implemented several efforts at the regional level, reflected in the development of three documents, or Regional Guidelines[[41]](#footnote-41). While the regional guidelines contain elements that are essential for the protection of migrant boys, girls and adolescents (including refugees), the current protection needs of this vulnerable population group have not been met. That being the case, the RCM has a unique opportunity to prove to itself and to the rest of the world that it has the ability to surpass its own limitations and become the first regional consultation process to build a regional mechanism for the comprehensive protection of boys, girls and adolescents in the context of migration. And this mechanism will be inclusive, since civil society organizations and international organizations will be involved as well.

Finally, a small but important comment: while the vision should be of a regional nature, we should always remember that the beneficiaries of this Handbook are migrant boys, girls and adolescents and those in need of international protection; and not the RCM or the institutions participating in the RCM, and much less the international organizations or civil society organizations. In this regard, the most effective way to measure the impact of the protection actions described in this Handbook will be through the voice of the beneficiaries. Therefore, the final recommended action is to **establish statistical mechanisms at a national level to enable collecting and analysing information about the experience of the boys, girls and adolescents that have been beneficiaries of one or more of the actions outlined in the Handbook.**

The path travelled to this point has not been smooth; however, things have been even more complicated for boys, girls and adolescents seeking new opportunities or a simple change in their lives. In recent years, it has been shown that the RCM Member Countries are on the right path. Therefore, the future looks promising and the goal seems close. Reaching it depends on the commitment and enthusiasm of each user of this Handbook, the way in which the Handbook is applied and the meaning that each person sees in it.

1. We are referring to boys, girls and adolescents as populations included in the concept of “child” of the International Convention on the Rights of the Child, that is, every person under 18 years of age. [↑](#footnote-ref-1)
2. The full definition of the term “unaccompanied and separated boys, girls and adolescents” is included in the glossary of this document. [↑](#footnote-ref-2)
3. Proposals for actions of governments, international organizations and civil society are included, such as the guidelines of the Alliance Plan for the Prosperity of the Northern Triangle (2014), Cartagena+30 (2014), the proposals of the Regional Network for Civil Organizations on Migration (RNCOM) and proposals of civil society organizations collected by Instituto para las Mujeres en la Migración, INUMI (2014). [↑](#footnote-ref-3)
4. Among others: IOM, “Curso especializado sobre niñez migrante, con énfasis en niñez migrante no acompañada y/o separada en el Triángulo Norte y México” (Specialized course on migrant children, with a focus on unaccompanied and/or separated migrant children in the countries of the northern triangle of Central America and Mexico) (2015); UNHCR, Children on the run. Unaccompanied children leaving Central America and Mexico and the need for international protection (2015). [↑](#footnote-ref-4)
5. An internationally accepted definition of the term “adolescent” does not exist. This Handbook uses the definition contained in other documents developed within the framework of the RCM (i.e. “Toward a Regional Mechanism for the Comprehensive Protection of Migrant and Refugee Boys, Girls and Adolescents”). [↑](#footnote-ref-5)
6. Definition of IOM, under development. [↑](#footnote-ref-6)
7. **General Comment No. 6, Committee on the Rights of the Child,** Treatment of unaccompanied and separated children outside their country of origin**, Thirty-ninth session (2005), U.N. Doc. CRC/GC/2005/6 (2005), Paragraph 7.** [↑](#footnote-ref-7)
8. *Ibid.*, **Paragraph 8.** [↑](#footnote-ref-8)
9. Article 3 of the Protocol establishes that trafficking in persons is the recruitment, transportation, transfer, harbouring or receipt of persons for the purpose of exploitation. Exploitation of boys, girls and adolescents includes child labour, sexual exploitation, abduction or sale or trafficking of under-age persons. [↑](#footnote-ref-9)
10. Article 3 of the Protocol against the Smuggling of Migrants by Land, Sea and Air, which complements the United Nations Convention Against Transnational Organized Crime, defines smuggling of migrants as “the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.” [↑](#footnote-ref-10)
11. Protocol on Protection and Assistance to Salvadoran Migrant Boys, Girls and Adolescents (Protocolo de Protección y Asistencia a Niñez y Adolescencia Migrante Salvadoreña), developed by the Coordinating Committee on Protection and Assistance to Migrant Boys, Girls and Adolescents (2015). [↑](#footnote-ref-11)
12. Advisory Opinion No. 21/14, Inter-American Court of Human Rights, Paragraph 37. [↑](#footnote-ref-12)
13. IOM Glossary on Migration (2006). [↑](#footnote-ref-13)
14. IOM, “Curso especializado sobre niñez migrante, con énfasis en niñez migrante no acompañada y/o separada en el Triángulo Norte y México” (Specialized course on migrant children, with a focus on unaccompanied and/or separated migrant children in the countries of the northern triangle of Central America and Mexico), 2015.

    Advisory Opinion 21/14, Inter-American Court of Human Rights, Paragraph 68. [↑](#footnote-ref-14)
15. Article 13, Universal Declaration of Human Rights. [↑](#footnote-ref-15)
16. IOM, “Curso especializado sobre niñez migrante, con énfasis en niñez migrante no acompañada y/o separada en el Triángulo Norte y México” (Specialized course on migrant children, with a focus on unaccompanied and/or separated migrant children in the countries of the northern triangle of Central America and Mexico), 2015. [↑](#footnote-ref-16)
17. IOM, “Curso especializado sobre niñez migrante, con énfasis en niñez migrante no acompañada y/o separada en el Triángulo Norte y México” (Specialized course on migrant children, with a focus on unaccompanied and/or separated migrant children in the countries of the northern triangle of Central America and Mexico), 2015. [↑](#footnote-ref-17)
18. *Ibid.* [↑](#footnote-ref-18)
19. *Ibid*. [↑](#footnote-ref-19)
20. Comment No. 14 of the Committee on the Rights of the Child, Paragraph 1. [↑](#footnote-ref-20)
21. Inter-American Court of Human Rights. The case of Bulacio vs. Argentina. Merits, Reparations and Costs. Judgment of September 18, 2003. Series C, No. 100. Paragraph 134. [↑](#footnote-ref-21)
22. Committee on the Rights of the Child, Articles 18, 19 & 20. [↑](#footnote-ref-22)
23. Inter-American Court of Human Rights. Advisory Opinion No. 18. Legal status and rights of undocumented migrants. September 17, 2003. Paragraph 88. [↑](#footnote-ref-23)
24. Inter-American Court of Human Rights, Advisory Opinion 21/14, Note 72, Paragraph 61. [↑](#footnote-ref-24)
25. General Comment No. 14, CRC, Paragraph 42. [↑](#footnote-ref-25)
26. Inter-American Court of Human Rights, Advisory Opinion 21/14, Paragraph 113. [↑](#footnote-ref-26)
27. Article 19, American Convention on Human Rights. [↑](#footnote-ref-27)
28. Inter-American Court of Human Rights, Advisory Opinion 21/14, Paragraph 254. [↑](#footnote-ref-28)
29. UNHCR. Improving asylum procedures: comparative analysis and recommendations for law and practice. Detailed research on Key Asylum Procedures Directive Provisions. A UNHCR research project on the application of key provisions of the Asylum Procedures Directive in selected Member States, Op. Cit. P. 99. [↑](#footnote-ref-29)
30. 1951 Convention on the Status of Refugees and its 1967 Protocol. [↑](#footnote-ref-30)
31. Advisory Opinion 21/14, Inter-American Court of Human Rights, Paragraph 215. [↑](#footnote-ref-31)
32. Advisory Opinion 21/14, Inter-American Court of Human Rights, Paragraph 210. [↑](#footnote-ref-32)
33. RCM, Toward a Regional Mechanism for the Comprehensive Protection of Migrant and Refugee Boys, Girls and Adolescents (2014) and Protocol for the Protection and Assistance to Salvadoran Migrant Boys, Girls and Adolescents (2015). [↑](#footnote-ref-33)
34. CRC, Article 32.1. [↑](#footnote-ref-34)
35. Comprehensive migration policy, Costa Rica, 2013. [↑](#footnote-ref-35)
36. Comment No. 6, Committee on the Rights of the Child, Paragraph 31 a) ii). [↑](#footnote-ref-36)
37. This procedure should be implemented by officials from child protection institutions in each country, together with civil society organizations, who should conduct the interviews to determine the best interests of the child (RNCOM, 2015). [↑](#footnote-ref-37)
38. An action considered in various protocols developed by the PANI-DGME Bipartite Commission, Costa Rica. [↑](#footnote-ref-38)
39. Advisory Opinion 21/14, Inter-American Court of Human Rights, Paragraph 167. [↑](#footnote-ref-39)
40. Trained staff are already available in some RCM Member Countries to carry out this task. Staff members have been trained with the same tools as the Child Protection Officers (OPIs) of Mexico. [↑](#footnote-ref-40)
41. In this regard, we recommend implementing the “Regional Guidelines for the Preliminary Identification of Profiles and Referral Mechanisms for Migrant Populations in Vulnerable Situations”, approved by the RCM in 2013. The Guidelines establish, as one of the vulnerability profiles, the profile of “migrant, unaccompanied and/or separated boy, girl or adolescent”, which is a reference for specific protection and assistance. [↑](#footnote-ref-41)