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Human rights of migrants**

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on the human rights of migrants, Gehad Madi, submitted in accordance with Human Rights Council resolution 61/17.

* A/81/150.

** The present report was submitted to the conference services for processing after the deadline so as to include the most recent information.

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Report of the Special Rapporteur on the human rights of migrants

Children's right to family life and family unity in the context of migration and asylum policies

Summary

The present report examines children's right to family life in migration and asylum contexts and highlights a growing gap between States' international obligations and migration policies that undermine family unity. The Special Rapporteur argues that migration governance should be guided by the best interests of the child and recognizes that family life is closely linked to children's rights to development, healthcare, education, identity and protection.

The report focuses on the harm caused by family separation through detention, deportation and other migration enforcement measures, emphasizing that immigration detention of children and families is never in a child's best interests. The Special Rapporteur also raises concerns about externalization policies and barriers to family reunification, including restrictive requirements and inadequate safeguards.

In his recommendations, the Special Rapporteur calls on States to end immigration detention of children and families, prevent family separation, strengthen family reunification procedures, expand regular migration pathways and regularization measures, improve cross-border child protection cooperation and address xenophobia affecting migrant families.

I. Introduction

1. Family is the fundamental group unit of society and is entitled to the widest possible protection and assistance by society and the State.[1] Given the cardinal importance of family, States have incorporated into several human rights treaties numerous provisions[2] aimed at protecting and guaranteeing enjoyment of the right to family life by all human beings without any discrimination, including on the basis of one's country of origin, nationality or migration status.

2. Family life is a fundamental human right that imposes corresponding duties on States aimed at: (a) respecting the right of children to preserve their identity, including nationality, name and family relations; (b) safeguarding family unity by protecting children against separation from their parents unless it is in their best interests; (c) facilitating their right to family reunification; (d) refraining from arbitrary or unlawful interference with the family; and (e) rendering appropriate assistance to parents and caregivers in the performance of their child-rearing responsibilities. The protection of children's right to family life is particularly crucial in migration contexts. States have also made concrete commitments to uphold this right in the Global Compact on Refugees and the Global Compact for Safe, Orderly and Regular Migration.

3. The Special Rapporteur is deeply alarmed about the increasing challenges to the enjoyment of the right to family life in migration contexts. There is a growing disparity between the fundamental value given to family by the international community and the multiple means by which States restrict or deny the right to family life within migration and asylum policies.

4. The Special Rapporteur is particularly alarmed by the obstacles faced in exercising the right to family life by migrants in an irregular situation. It is important to stress that the condition of irregularity is first and foremost an indicator of vulnerability, rather than a law infringement issue.[3]

5. The present report aims to examine the main issues, practices and international standards for the effective realization of the right to family life in migration contexts, with the aim of contributing to tackling and overcoming challenges. The report includes a set of recommendations designed to bridge existing gaps in the fulfilment of international legal duties. The Special Rapporteur welcomes the written submissions received, as well as participation of stakeholders in the consultations held to inform the present report.[4]

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[1] Universal Declaration of Human Rights, art. 16.3; International Covenant on Civil and Political Rights, art. 23(1); International Covenant on Economic, Social and Cultural Rights, art. 10.

[2] Universal Declaration of Human Rights, arts. 12 and 16; International Covenant on Civil and Political Rights, arts. 17, 23 and 24; International Covenant on Economic, Social and Cultural Rights, art. 10; Convention on the Elimination of All Forms of Discrimination Against Women, arts. 10(h), 11(2)(c), 13(a) and 14(1); Convention on the Rights of the Child, arts. 5, 8–10, 16, 18 and 22; International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, arts. 4, 14, 17(6), 44, 50 and 69; Convention on the Rights of Persons with Disabilities, arts. 22 and 23; and International Convention for the Protection of All Persons from Enforced Disappearance, arts. 17(d), 24(6), 25(2) and 25(4).

[3] A/HRC/20/24, para. 13; and joint general recommendation No. 39 (2025) of the Committee on the Elimination of Racial Discrimination and general comment No. 8 (2025) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families on thematic guidelines for eradicating xenophobia towards migrants and others perceived as such, para. 36.

[4] See www.ohchr.org/en/calls-for-input/2026/call-input-childrens-right-family-life-context-migration-and-asylum-policies.

6. For the purpose of this report, "family" must be interpreted broadly to include not only biological parents, but also adoptive or foster parents, other members of the nuclear or extended family, and a variety of other community-based arrangements that can provide for children's care and development, consistent with the child's rights and best interests.[5]

II. Interdependence between the right to family life and other child rights

7. Children's right to family life is inseparably linked to children's right to life, survival and development and the ability of children to enjoy other rights under the Convention on the Rights of the Child. Protecting the right to family life is essential to preserving the child's identity, including nationality, name and family relations, and all aspects of the child's material, emotional, mental and spiritual development. Family life provides protection and care, and facilitates the realization of the rights to education, healthcare, housing, an adequate standard of living and social protection. When family unity is effectively protected, children are more likely to enjoy their rights to freedom of expression, leisure and participation, and protection from violence, neglect, trafficking, exploitation and abuse. Conversely, the effective realization of these rights is vital if children are to enjoy the right to family life.

8. In migration contexts, it is critical to underscore the interdependence between the right to family life and nearly all children's rights. Therefore, legislative and other measures should ensure a comprehensive child-rights approach in all aspects of migration, asylum and related policies, in order to prevent any unlawful or arbitrary interference with children's family life, including protection against separation from their parents and facilitation of family reunification.

9. The exercise of the right to family life is a key complement of the right to seek and enjoy asylum, and vice versa. In the context of forced displacement, it is essential to strengthen measures to guarantee durable solutions that include enjoyment of the right to family life and other interdependent rights, regardless of the nationality, ethnic and racial origin and migration status of those in need of international protection.[6]

III. Prevention of family separation

10. Inherent to the right to family life is an obligation to safeguard family unity, including by preventing family separation. As the physical separation of parents and children by public authorities is the most extensive interference with the right to respect for family life,[7] article 9.1. of the Convention on the Rights of the Child requires States to ensure that a child not be separated from their parents against their will, except in specific and exceptional circumstances, namely when necessary to uphold the best interests of the child, such as in cases of child abuse or neglect.

[5] Committee on the Rights of the Child, general comment No. 7 (2005), para. 15, and general comment No. 14 (2013), para. 59.

[6] Joint general recommendation No. 39 (2025) of the Committee on the Elimination of Racial Discrimination and general comment No. 8 (2025) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families on thematic guidelines for eradicating xenophobia towards migrants and others perceived as such, para. 93.

[7] Stefanie Schmahl, ed., *United Nations Convention on the Rights of the Child: Article-by-Article Commentary* (Bloomsbury Publishing, 2021).

Substantive and procedural hurdles to execute a separation under article 9 and 16 of the Convention must be correspondingly high.[8]

11. The Special Rapporteur noted that family unity "is a protective factor for children in the context of migration and assists in the integration (or reintegration) of children and families".[9] While family unity saves lives and is at the core of safe and regular migration management, family separation has profound consequences on children.[10] Family separation can have severe and long-lasting effects on children, worsening every dimension of child development, and increase the risk of mental health issues, including anxiety, depression, emotional distress, trauma and feelings of abandonment; educational drop-out, social exclusion, homelessness and poverty; and vulnerability to exploitation, child labour, trafficking, different forms of violence and abuse, including gender-based violence, forced marriage and domestic servitude.

12. A critical corollary of articles 9 and 16 of the Convention is the principle of non-separation, including a presumption against family separation.[11] Legislative and operational measures should be in place to ensure family life and unity. Within the context of immigration enforcement, arguments relating to general migration control cannot override children's rights.[12] The separation of families for non-rights-based reasons is never in the best interests of the child, exceeds the requirement of necessity, becomes grossly disproportionate and, in some cases, may constitute cruel, inhuman or degrading treatment. States shall ensure that the best interests of the child are given primary consideration and prioritized in the development and implementation of migration and asylum policies, including in decision-making on individual cases related to family unity.[13]

A. Criminalization, arrest and immigration detention

13. The Special Rapporteur recalls the following key international principles: (a) criminalization of irregular migration exceeds, without exception, the scope of States' right to regulate the entry and stay of foreign nationals; (b) immigration detention should only be applied as an exceptional measure of last resort; (c) non-custodial measures and alternatives to detention should be regulated by law and prioritized; and (d) immigration detention of children, families, asylum-seekers, pregnant and breastfeeding women, older persons, refugees, persons with disabilities and other persons in vulnerable situations must be immediately forbidden by law and eradicated in practice. Immigration detention is never in a child's best interest, is a

[8] Ibid.

[9] A/79/213, para. 25.

[10] Input submitted by the United Nations Children's Fund (UNICEF).

[11] See Yulia Iofee, "The right to family reunification of children seeking international protection under the Convention on the Rights of the Child: misplaced reliance on Travaux?", *International Journal of Refugee Law*, vol. 34, No. 2 (June 2022); and Jaap Doek, *Article 8: The Right to Preservation of Identity; Article 9, The Right Not to Be Separated from His or Her Parents* (Martinus Nijhoff, 2006).

[12] Committee on the Rights of the Child, general comment No. 6 (2005), para. 86; and joint general comments No. 3 and No. 4 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 22 and No. 23 of the Committee on the Rights of the Child (2017) on the human rights of children in the context of international migration, para. 33.

[13] Joint general comment No. 3 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 22 of the Committee on the Rights of the Child (2017) on the general principles regarding the human rights of children in the context of international migration, para. 29.

form of violence[14] and violates multiple child rights, including the right to family life, regardless of the name given to the practice or the place of detention.[15] Despite these robust international standards, many States continue to resort to immigration detention of children and families.

14. In the United States of America, statistics evidence a dramatic increase in the number of migrant children and families being detained, as well as parents of United States citizens, including thousands who had been living in the country for many years. Meanwhile, the Return Regulation approved by the European Parliament in June 2026 stipulates that migrants, including children and families, can be detained for up to 24 months, extendable to 30 months. Similarly, the European Union's Pact on Migration and Asylum included regressive steps in regard to children and family immigration detention,[16] followed by domestic reforms that internalized the regional regulation. The Special Rapporteur is alarmed by these practices, which are in clear contradiction to basic legal obligations and key principles under international human rights law.

15. Immigration detention has multiple human rights consequences, including on children's right to family life. While the most direct and profound harm occurs when children and families are the ones deprived of their liberty, children's right to family life is also impacted when one or both of their parents are detained. Many specialized reports have described in detail the severity and range of short- and long-term damage that immigration detention causes to children.[17]

16. The Special Rapporteur recalls that the duty to protect family unity cannot be used as grounds for detaining families for migration purposes. This arbitrary practice is usually aggravated due to detention conditions, and damages parents' ability to care for their children, affects parents' mental health and can diminish parental authority. The imperative requirement not to deprive the child of liberty extends to the child's parents and requires authorities to ensure alternatives to detention and non-custodial solutions for the entire family.

17. Children's right to family life is also affected when their parents are detained. Children are drastically affected in these circumstances, as every dimension of their family life is immediately disrupted, including loss of family income. Fear, sadness, uncertainty, depression and other trauma are some of the possible mental health effects.[18] This practice is a disproportionate measure that unlawfully interferes with

[14] United Nations Task Force on Children Deprived of Liberty, "End immigration detention of children", February 2024.

[15] Joint general comment No. 4 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 23 of the Committee on the Rights of the Child (2017), paras. 6–12; and joint general recommendation No. 39 (2025) of the Committee on the Elimination of Racial Discrimination and general comment No. 8 (2025) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families on thematic guidelines for eradicating xenophobia towards migrants and others perceived as such, para. 60, and Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, general comment No. 5 (2021), para. 46.

[16] See International Commission of Jurists, "Never in the best interests of the child: risks of child detention in the screening and border procedures under the 2024 EU Migration Pact", November 2024. See also communication OTH 144/2023, and reply of 2 March 2024.

[17] Joint general comment No. 4 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 23 of the Committee on the Rights of the Child, para. 9. See also A/HRC/28/68, para. 80; and submissions from the Association for Legal Intervention, International Detention Coalition, Kids in Need of Defence (KIND), Platform for International Cooperation on Undocumented Migrants (PICUM), Red Jesuita Migrantes and University of Sydney.

[18] Submissions from the International Detention Coalition, KIND, PICUM and Women's Refugee Commission.

children's family life and is never in their best interests. When needed, alternative non-custodial measures could be put in place, without such interference. To eradicate these practices, it is indispensable that the best interests of the child are assessed during migration and asylum proceedings that could result in parents' detention and family separation. Children, as individual rights holders, should be heard in such proceedings. If arrest or detention is enforced, effective remedies for both the parents and the children should be available to prevent harmful impacts on the children.

18. When, despite the legal obligation not to do so, immigration detention of parents continues, States should apply articles 9.3 and 9.4 of the Convention and ensure that children are able to maintain personal relations and direct contact with their parents on a regular basis and provide essential information concerning the whereabouts of the absent members of the family. Information from numerous countries reveals that, in many cases, children are not allowed to be in contact with their parents and are not informed of their whereabouts, and parents' communication tools, such as mobile phones, are confiscated. These measures constitute a violation of children's right to family life, which is aggravated when parents in detention are not given the opportunity to determine what happens to their children.[19] In certain cases, such measures may amount to a form of enforced disappearance,[20] which has a profound impact on the children concerned.

19. The Special Rapporteur also warns of the impact on children's family life of other migration enforcement measures, which in many cases lead to immigration detention. Some States deploy security forces in neighbourhoods and other spaces – such as public transport, stores and workplaces – to search for residents in irregular migration status. In some cases, excessive use of force, including arbitrary killings and different forms of ill-treatment, have been evidenced. Similarly, several States require service providers to report migrants with irregular status.

20. These practices may in themselves constitute an arbitrary or unlawful interference in children's right to family life. Due to the fear they may cause, such enforcement activities are very likely to disturb multiple regular activities of family life. The reporting duties of government agencies and service providers have a dramatic impact on the lives of migrant or mixed families and children's rights. There should be clear firewalls in place between border enforcement agencies and other State agencies, including those responsible for the delivery of rights and services.[21] While the Convention on the Rights of the Child establishes the responsibility of parents for the upbringing and development of their children, such practices are a serious obstacle to parents fulfilling such duties.

B. Return and deportation

21. The Special Rapporteur is alarmed by the persistence of policies and practices that lead to family separation, with States unlawfully prioritizing the deportation or return of one or more family members – often parents – over measures meant to

[19] Women's Refugee Commission, "What about my children: family separation among parents deported to Honduras", 2026.

[20] Committee on Enforced Disappearances, general comment No. 1 (2023), paras. 16 and 35.

[21] A/69/302, para. 99; A/73/178/Rev.1, paras. 33–37; and A/79/213, paras. 43 and 57(q). See also joint general recommendations No. 38 and No. 39 (2025) of the Committee on the Elimination of Racial Discrimination and general comments No. 7 and No. 8 (2025) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families on general guidelines for eradicating xenophobia towards migrants and others perceived as such, paras. 95, and 51, 52 and 54, respectively; and European Commission against Racism and Intolerance, general policy recommendation No. 16 on safeguarding irregularly present migrants from discrimination (2016).

protect family unity. The information received points to a dramatic escalation in initiatives, including national laws and multilateral regulations that are contrary to international child rights and human rights standards.

22. Separating a family by deporting or removing a family member may amount to a violation of the right to family life.[22] The rupture of the family unit by the expulsion of one or both parents based on a breach of immigration law is disproportionate, as the sacrifice inherent in the restriction of family life and the impact on the life and development of the child is not outweighed by the advantages obtained by forcing the parent to leave the territory because of an immigration-related offence.[23] This corollary is founded on the duty to uphold the primacy of the rights of the child in the context of migration.[24]

23. Despite the near-universal ratification of the Convention on the Rights of the Child and, in several countries, the inclusion of children's rights in migration and asylum legislation, existing procedures either disregard or apply its provisions in a restrictive manner. The Special Rapporteur recalls that the principle of the "child's best interests" is also a rule of procedure,[25] leading to concrete duties in migration and asylum cases. To begin with, the legal framework must clearly set out the obligation to carry out an assessment and determination of the child's best interests before issuing a return decision, including adequate resources and mechanisms for ensuring its implementation. It is worth recalling that, within the framework of the Global Compact for Safe, Orderly and Regular Migration, States have also committed to ensuring that return and readmission processes involving children are carried out only after a determination of the best interests of the child and take into account the right to family life and family unity.[26]

24. In addition, procedural guarantees should be established by law and ensured in practice. Fulfilling children's right to be heard is a core obligation to be ensured.[27] Without procedural safeguards, it is virtually impossible for the competent authorities to properly assess children's best interests and ensure that they are given primary consideration. The Special Rapporteur stresses that any decision on return or deportation that may result in the separation of a child from their parents, taken following proceedings that lack due process guarantees, constitutes a violation of the child's rights. Such separation has immediate and permanent detrimental consequences for children and may reshape their whole lives against their will and best interest. Parent-child attachment, education, health, leisure and every single aspect of family life is disrupted.[28] Physical separation between a parent and child, particularly when unexpected, as in the case of deportation, disrupts the essential secure base of a child, thereby risking internalizing symptoms (such as depression or anxiety) and externalizing behaviours (withdrawal or aggression), and may result in social and cognitive difficulties. Deportations involve different kinds of trauma for children, who suddenly lose their parent and possibly their familiar home

[22] Joint general comment No. 4 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 23 of the Committee on the Rights of the Child, para. 28.

[23] Ibid., para. 29.

[24] Joint general comment No. 3 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 22 of the Committee on the Rights of the Child (2017) on the general principles regarding the human rights of children in the context of international migration, para. 13.

[25] Committee on the Rights of the Child, general comment No. 14, para. 6 (c).

[26] Global Compact for Safe, Orderly and Regular Migration, para. 37 (g).

[27] Committee on the Rights of the Child, general comment No. 12 (2009).

[28] Submissions from KIND, University of Sydney, Red Jesuita con Migrantes, Refugee and Migrant Children Consortium, Save the Children and Women's Refugee Commission.

environment. This can even lead to family dissolution, create a childcare crisis, with older siblings having to take care of younger siblings, and lead to housing and food insecurity, psychological distress and poverty.[29]

25. The Special Rapporteur is alarmed by cases of mothers being deported and separated from children with disabilities, infants, breastfeeding babies and other children dependent on their mothers for daily care.[30] Mandatory pregnancy testing of women migrant workers, or fear of dismissal, detention or deportation in case of pregnancy, can also impact family life in multiple ways. In these and other cases, family separations through deportation leave children in the opposite circumstances of those envisioned by States when drafting the Convention on the Rights of the Child. It is imperative to adopt all adequate measures for upholding the primacy of children's rights in migration policies in any case that may lead to family separation.

26. The Special Rapporteur is also deeply concerned about additional practices that lack child rights protection mechanisms after family separation, aimed at facilitating the maintenance of family relations and contact, as stipulated in article 9.3 of the Convention. As this may deepen the immediate effects of separation, concrete, adequate and timely child-sensitive measures should be taken to address and prevent such practices.

27. Another concern relates to cases where, after parents have been deported, authorities refer the children to the alternative care system,[31] without consulting the children or parents. In some cases, parental rights have been removed or ignored, and children adopted. The Special Rapporteur underlines that such measures could have extremely harmful consequences, including children losing their legal identity. Some of these cases may amount to a gross violation of children's rights. The Special Rapporteur is further concerned about deportation and family separation as a result of arbitrary or discriminatory exclusion from citizenship by administrative or judicial decisions.[32]

28. In many cases, authorities order the removal of entire families, including children, through decisions that overlook children's rights by only treating them as dependants of their parents. Children are forcibly deported to countries where, in many cases, they have lived for only a few months or years and have no social ties. In such cases, the potential deportation of both parents places the family in a "lose-lose" dilemma, as both options – family separation or forced return to the parents' country of origin – result in multiple short- and long-term effects on children's right to family life.

29. Through such practices, States may breach international law by either disproportionately separating families or indirectly deporting their own citizens. Carrying out best-interests assessments, giving a critical decisive role to child protection authorities, and ensuring all child-sensitive due process guarantees are key duties for preventing arbitrary family separation. Such guarantees should ensure a gender and an intersectional lens, including for children with disabilities. The Special Rapporteur recalls that appeals before administrative or judicial authorities must have a suspensive effect. States should recognize and facilitate child- and family-centred alternatives to deportation due to irregular status, including regularization.

[29] Bail for Immigration Detainees, "The impact of forced family separation on a child", November 2020, p. 12.

[30] Submission from the Women's Refugee Commission; and United Nations, "UN alert over rising deportations of Haitian mothers and newborns from Dominican Republic", 24 April 2025.

[31] General Assembly resolution 64/142 (Guidelines for the Alternative Care of Children).

[32] For instance, in Assan and Northern India.

30. With regard to cases of deportation of parents on criminal grounds, the Special Rapporteur reiterates existing international standards, including the principle of proportionality.[33] Normative and operational measures should ensure children's rights, including their right to have their best interests assessed and given primary consideration. Specific measures should ensure that children are heard in proceedings, their views are taken seriously, and legal aid is provided. Access to effective remedies and judicial protection must also be guaranteed to children as rights holders.

31. The Special Rapporteur acknowledges existing practices of case law that uphold the right to family unity in migration and asylum proceedings and decisions. Nevertheless, gaps in judicial procedures may lead to family separation, including: (a) lack of mechanisms enabling children to participate and be heard in proceedings; (b) absence of child best-interests assessments; (c) wide scope of discretion granted to migration authorities; and (d) restrictive interpretation or non-existent application of the Convention and other human rights treaties.

32. The Special Rapporteur underlines the importance of measures that ensure effective remedies for reviewing family separations that unlawfully impacted children's rights and best interests. Children who remained in the country of destination should be able to access effective and child-sensitive mechanisms for the review of such decisions by the competent authorities. If it is determined that the separation violated the child's rights and/or unlawfully or disproportionately interfered with family life, remedies should include the revocation of decisions taken, such as lifting re-entry bans, the application of appropriate redress measures, such as annulment of expulsion orders, the facilitation of family reunification and the issuance of residence permits. Likewise, in countries of origin, deported parents should be able to submit complaints to the consulate of the State that deported them or to domestic administrative and judicial bodies. Bilateral cooperation mechanisms, including transnational justice mechanisms, should be developed to ensure effective reparations, including family reunification.

33. Alongside measures to provide access to cross-border remedies to redress arbitrary family separations, States of origin should adopt additional measures to mitigate such separation while it lasts. These measures should include facilitating communication between parents and their children, by competent authorities in the State of origin and through consular assistance, and providing adequate psychosocial support.

C. Externalization policies

34. In previous reports,[34] the Special Rapporteur addressed the growing challenges for protecting human rights in the context of the outsourcing of migration governance. Externalization measures can lead to unlawful or arbitrary interference with family life, including children separated from their parents as a result of deportation to a third country.[35]

35. The Special Rapporteur is acutely alarmed by the inclusion of children and families in the externalization mechanisms developed under the European Union's Return Regulation.[36] The Regulation provides for the possibility of sending children

[33] Joint general comment No. 4 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 23 of the Committee on the Rights of the Child, para. 23.

[34] See A/80/302 and A/HRC/62/35.

[35] A/HRC/62/35, para. 25.

[36] See communication OTH 166/2025; and www.ohchr.org/en/press-releases/2026/06/chisinau-declaration-risks-weakening-protections-migrants-undermines.

and families, including unaccompanied children, to a third country with which they have little or no connection. Families with children could also be sent to so-called return hubs, which are reception or detention centres in third countries.

36. Likewise, the enforcement of externalization bilateral agreements recently promoted by the United States has led to extremely concerning situations, including Asian and Latin American migrants and asylum-seekers being separated from their families and removed to African countries; Cubans being sent to Mexico after being separated from their children and other relatives with whom they lived;[37] and children and families, including asylum-seekers, from several regions being detained in Immigration and Customs Enforcement facilities and subsequently forcibly sent to third countries to which they had no connection.[38]

37. Multiple reports evidence how harmful these practices are, particularly for children and families. This impact is evidenced both when children and families are the object of such measures and when families are separated through the forced removal of a family member to a third country. These removals may permanently separate migrants from family members living in destination countries.[39] For children, externalization may result in living in "indefinite limbo" and family separation. The Special Rapporteur is concerned about how these practices disproportionately affect families from Africa, Asia, Latin America and the Middle East, and create a geography of unequal treatment in regard to international protection, family reunification and other rights.[40]

38. The Special Rapporteur considers that, alongside the human rights concerns already analysed in previous reports, the externalization of migration governance presents serious flaws in relation to children's rights. To begin with, externalization mechanisms, including bilateral agreements, lack a child and family approach, impacting children's rights. In the view of the Special Rapporteur, the forced transfer of children and families to third countries may constitute an extreme form of unlawful or arbitrary interference with family life and child rights, including the right to a legal identity and protection against statelessness and refoulement. Pushbacks at borders, procedures for intercepting migrants on international waters and other migration routes, and detention and deportation practices implemented in transit countries under bilateral agreements also tend to omit the duty to protect children's right to family life.

39. Such practices are never in the child's best interests. In certain circumstances, they may fall into the category of cruel, inhuman or degrading treatment. Therefore, the Special Rapporteur reiterates that children and families must be explicitly exempted from externalization policies.[41] This prohibition should encompass family separation through the deportation of one or both parents to a third country. Separation of children from their parents through deportation due to their immigration status is a disproportionate measure that unlawfully interferes with family life; forced removal to a third country exacerbates its arbitrary and harmful nature.

40. It is worth recalling the extraterritorial character of international human rights obligations. The adoption of bilateral agreements in no circumstance permits States to evade or limit their legal obligations under human rights and humanitarian law,

[37] Human Rights Watch, "'Casting us aside to die': Cuban and other third-country nationals deported from the US to Mexico", 27 May 2026.

[38] Human Rights Watch, "'Nobody cared, nobody listened': the US expulsion of third-country nationals to Panama", 24 April 2025; and Human Rights Watch, "'The strategy is to break us': the US expulsion of third-country nationals to Costa Rica", 22 May 2025.

[39] Submission from Michelle Peterie, University of Sydney.

[40] Input from Women in Migration Network.

[41] A/HRC/62/35, para. 56.

including by outsourcing or externalizing such duties.[42] The Special Rapporteur reiterates that externalization raises broader ethical concerns[43] and may lead to disturbing levels of dehumanization.

IV. Fulfilling the enjoyment of the right to family life and family unity

A. Right to family reunification

41. The right of children to family reunification in enshrined in article 10 of the Convention on the Rights of the Child and a wide range of regional, bilateral and national laws and agreements. Numerous States have developed initiatives aimed at facilitating family reunification, including by expediting visa processing and digitalization, reducing administrative burdens, giving priority to family reunification visa applications, facilitating regularization and other good practices.[44]

42. Nevertheless, effective enjoyment of this right faces several challenges, including: lack of inclusion of the right to family life in domestic legislation; absence of regulations aimed at its realization; lack of due process guarantees and a child-rights approach; disproportionate or discriminatory requirements; narrow definition of family; exclusion of certain residence categories from family reunification;[45] and high degree of discretion and opacity in family reunification proceedings and decisions.[46]

43. Where family reunification has not been transposed in national law, it is difficult to exercise that right, as that fundamental step has not been taken. Likewise, while several States have incorporated the right to family reunification in their migration and asylum laws, this has not been followed by regulations defining the scope of this right and setting out the procedures and conditions for its enjoyment.

44. Economic requirements, including income, housing and related resources, tend to discriminatorily impede family reunification for those in more vulnerable situations and with more pressing needs to migrate and reunite with their relatives. Documentation may also become a major barrier for some families, including those living in conflict areas or where civil registration has structural failures.[47] These requisites may amount to an insurmountable obstacle for children and families in situations of persecution, widespread violence and natural disasters.[48] Lengthy procedures are also particularly harmful for children. Other barriers to be addressed with a child-rights approach include practices that arbitrarily do not recognize the

[42] Joint general recommendation No. 39 (2025) of the Committee on the Elimination of Racial Discrimination and general comment No. 8 (2025) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families on thematic guidelines for eradicating xenophobia towards migrants and others perceived as such, para. 56.

[43] A/HRC/62/35, paras. 53 and 54.

[44] European Migration Network, *Family Reunification of Third-Country Nationals: State of Play of Law and Practice* (2025).

[45] Submission from PICUM.

[46] For further analysis on barriers to accessing family reunification for children, see Nadine Liddy, *Examining the Viability of Family Reunification as a Third Country Solution for Unaccompanied and Separated Children and Adolescents (UASC)* (2026); UNICEF, "Family unity in the context of migration", 2025; and KIND and Global Family Reunification Network, "Mapping of good practices in family reunification for unaccompanied and separated children and adolescents", 2026.

[47] Submission from Gender Empowerment Movement Tigray.

[48] Shaila Pal and Aleksandra Ancite-Jepifánova, *Inaccessible Legal Pathways: Reuniting Child Relatives with Family Members with Protection Status in the UK* (London, King's College, 2026).

validity of official identity documentation, including dual nationality or paternal authorization documents, language skills requirements, or costly DNA testing for proving family relations. The Special Rapporteur stresses the necessity to implement a flexible, expedited and inclusive family reunification legal framework that is accessible and affordable for families, particularly in pressing contexts.

45. The scope of "family" under family reunification regulations may also restrict reunification of children with their siblings and other members of their families, despite their significance to children's family life and their emotional well-being, development and identity.[49] The United Nations Children's Fund (UNICEF) highlights that best practices include flexible use of family reunification mechanisms to respond to humanitarian situations and broadening the definition of family for family reunification schemes to include, for example, siblings and foster children, and a more culturally sensitive interpretation of family.[50]

46. Additional barriers include political or institutional aspects, such as the lack of transparency, and a misguided or disproportionate focus on finding sham family ties. Moreover, the Special Rapporteur is concerned about the decision of some States to temporarily suspend family reunification applications through "waiting periods".[51] This fails to recognize family reunification as a human right and may increase the impact that family separation can have on children. He also regrets some regressive measures, including the cancellation of programmes aimed at facilitating family reunification[52] and reforms giving consular authorities discretionary power to reject family reunification visas for recognized refugees.[53] United Nations committees have warned that time limits, discretionary powers, lack of transparency in administration procedures and insufficient financial resources should not hinder children's right to family reunification.[54]

47. Children may face specific obstacles, including national regulations that recognize applications submitted by parents but do not permit children to apply as sponsors for their parents to join them.[55] This limitation violates children's rights. States should ensure by law and in practice that unaccompanied and separated children can enjoy the right to family reunification and exempt them from certain requisites that may prevent them from doing so, such as financial requirements. Other regulations establish different conditions for granting family reunification on the basis of the child's age, for instance, when they are above 12 or 15 years of age.[56] This type of distinction could constitute a discriminatory practice forbidden under articles 2.1 and 10 of the Convention.

48. Challenges to family reunification should be addressed with an intersectional lens. The Special Rapporteur underlines that financial and housing requirements may specifically impact women migrants and racialized women, who have to contend with additional inequalities regarding income, working conditions or pathways for accessing regular permits, such as in the case of women migrant domestic workers.[57] Same-sex parents, non-gestational parents and transgender parents whose legal

[49] Written input from Ijustice.
[50] Written input from UNICEF.
[51] European Migration Network Study (2025).
[52] For instance, the decision of the United States of America to terminate the Family Reunification Task Force, created in 2021. See submissions from Caritas and KIND.
[53] Argentina, Regulation on Refugee Law, Decree No. 646 (2025).
[54] Joint general comment No. 4 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 23 of the Committee on the Rights of the Child, paras. 33 and 38.
[55] For instance, in Switzerland and the United Kingdom of Great Britain and Northern Ireland.
[56] See European Union, Council Directive 2003/86/EC.
[57] See submissions from Women in Migration Network and PICUM.

gender or parental status does not align with their lived identity are likely to be excluded from family reunification, unless migration, asylum, gender identity and related laws and proceedings are in place. Likewise, the combination of xenophobia and ableism may lead to discriminatory treatment against persons with disabilities in migration and asylum policies, including with regard to the right to family reunification. Health conditions may also constitute discriminatory grounds.[58]

49. Several obstacles to family reunification stem from the lack of due process guarantees, legal aid and, in the case of unaccompanied children, a guardian. This is particularly worrying from a child-sensitive perspective, as it usually leads to an absence of best-interests assessments. Children are rarely heard in proceedings, which usually lack measures for adapting the procedures to the age and maturity of the child involved.[59] States must ensure these safeguards by law and in practice.

50. The variety of legislative, procedural and practical gaps and obstacles for child enjoyment of the right to family reunification reveals a worrying confusion: family reunification appears to be seen as a discretionary, quasi-voluntary decision within migration management, disregarding its nature as a key human right component of child family life, and the legal duty to fulfil it.[60] Such barriers may also be linked to structural patterns of discrimination, and increasingly influenced by xenophobia and racism.[61] The Special Rapporteur considers it essential to reaffirm the binding nature of the duty to facilitate the right to family reunification, ensuring that applications by children or their parents are dealt with in a positive, humane and expeditious manner.

51. The term “positive” refers to the duty to process every application, meaning that this is not a discretionary act. There must be recognition in law, procedural regulations, and all necessary measures to ensure its effective implementation. These measures should facilitate access by children and appoint competent and trained authorities. The reference to “humane” reinforces the primacy of children’s rights, the duty to assess their best interests as a primary consideration, and the prohibition of any form of discrimination. The term “expeditious” comprises the duty to carry out the proceeding in a reasonable time, with due consideration for the impact of its duration on the child. Child-sensitive information and interpretation services should be provided. Participation of child protection authorities, interinstitutional coordination mechanisms at national and international levels, effective remedies, access to justice, and independent monitoring mechanisms are key for ensuring positive, humane and expeditious family reunification proceedings.

52. The Special Rapporteur recalls that the right to family reunification is a key element of durable solutions within international refugee and human rights law. Family reunification restores safety and dignity, identity and belonging, emotional well-being, security, psychological stability and development. It also contributes to achieving long-term integration outcomes, resolving unaccompanied status issues,

[58] Joint general recommendations No. 38 and No. 39 (2025) of the Committee on the Elimination of Racial Discrimination and general comments No. 7 and No. 8 (2025) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families on general guidelines for eradicating xenophobia towards migrants and others perceived as such, para. 44.

[59] Joint general comment No. 4 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 23 of the Committee on the Rights of the Child, para. 36.

[60] Caritas Europe, “Family reunification: a right, not a privilege”, 4 June 2026, p. 12.

[61] Joint general recommendations No. 38 and No. 39 (2025) of the Committee on the Elimination of Racial Discrimination and general comments No. 7 and No. 8 (2025) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families on general guidelines for eradicating xenophobia towards migrants and others perceived as such, para. 34. Noting the multiple harmful impacts of xenophobia on children’s right to family life, the Special Rapporteur calls for the implementation of the recommendations and general comments.

reducing trauma and distress associated with family separation and protection issues, and addressing risks associated with irregular migration integration.[62]

53. In recent decades, regular and safe migration has become increasingly restricted for many people who need to leave their countries. United Nations committees have warned of structural discriminatory patterns behind restrictive policies that hinder channels for the safe and regular enjoyment of the right to leave a country.[63] This has led to family separation and to increased use of dangerous migration routes. In such circumstances, children may travel unaccompanied and be separated from their parents from the start. They may also be separated from their families afterwards, due to a variety of factors, including migration control practices, threats from non-State actors and other risks. The Special Rapporteur emphasizes the urgent need to adopt and fund measures aimed at reuniting families.

54. A key measure in transit and destination countries is to give child protection authorities a central role in all matters relating to the care of children in migration contexts. Cross-border case management procedures should be established in an expeditious manner in conformity with applicable international human rights and child protection treaties. United Nations Committees have emphasized that bilateral, regional and international initiatives should be encouraged to facilitate family reunification and implement best-interests assessments and determinations.[64]

55. The Special Rapporteur underlines that effective cross-border and intersectoral coordination mechanisms are crucial in avoiding unnecessary family separation, safeguarding children's rights, preventing and resolving statelessness, and adopting short and long-term solutions, including family reunification. Through child protection cooperation and information-sharing, as regulated in the 1996 Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children, States are more likely to protect children in transit countries and cross-border situations and implement solutions such as family reunification. Child protection authorities, consulates with adequate child-sensitive consular assistance procedures, civil registries and civil society organizations can play a critical part in such cooperation mechanisms.[65] In addition, ensuring all applicable child rights standards[66] in age assessment proceedings is critical for preventing arbitrary practices leading to child rights violations, including the right to family life.

56. When assessing the best interests of children in transit, border or other migration contexts, including with the aim to protect their right to family life, specific measures should be directed at separated children. Assessments should include the protective status of accompanying adults, whether or not they are members of the same extended family, and any documentation they may have for evidencing their relationship. For instance, in the case of displaced Venezuelans, many children travelled with so-called

[62] Liddy, *Examining the Viability of Family Reunification*.

[63] Joint general recommendation No. 39 (2025) of the Committee on the Elimination of Racial Discrimination and general comment No. 8 (2025) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families on thematic guidelines for eradicating xenophobia towards migrants and others perceived as such, para. 34.

[64] Joint general comment No. 4 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 23 of the Committee on the Rights of the Child, paras. 64 and 65. UNICEF, *Los Derechos de los Niños y Niñas Migrantes No Acompañados en la Frontera Sur Española* (2019); and UNICEF, *Canarias: Niños y Niñas Migrantes en Una de las Rutas Más Peligrosas del Mundo* (2021).

[65] Submissions from KIND and International Social Services.

[66] Gertrude Mafoa Quan and Ann Skelton, "Age determination of unaccompanied migrant children: an appraisal of the jurisprudence of the Committee on the Rights of the Child", *Nordic Journal of Human Rights*, vol. 43, No. 1 (2025).

foster mothers (*madres de crianza*). This role is usually played by a grandmother, aunt or other person who takes emotional, financial and educational responsibility for a child without a direct biological maternal link. In these or other similar cases, the best-interests assessment is critical for identifying and protecting specific family relations.

B. Regular pathways

57. Regular pathways for family migration are critical for children's right to family life. According to a recent report by the Organisation for Economic Co-operation and Development (OECD),[67] 44% of new permanent migrants moved for family-related reasons, namely, to reunite with family already in the host country or as an accompanying family member of labour migrants. The Secretary-General of the United Nations has called on States to recognize the importance of working with stakeholders to expand and diversify rights-based, responsive and regular pathways, including for labour mobility, family reunification, humanitarian purposes and regularization, with particular attention to migrants in vulnerable situations and family reunification.[68]

58. Evidence suggests that the absence of safe and regular family migration pathways, or discriminatory regulations,[69] followed by family separation and the intention to reunite with family, are key drivers of irregular migration.[70] The Special Rapporteur has highlighted that this leads to dangerous migration journeys and that regular pathways contribute to reducing such perils.[71] States should therefore ensure family reunion policies, multiple re-entry permits and access to permanent pathways for migrant workers to enable spouses and children to join them in destination countries, including through bilateral labour migration agreements, on the basis of children's best interests and the preservation of the family unit.[72]

59. There are often limits on secondary visas for family members of migrant workers on temporary labour migration programmes.[73] Gender gaps are also structural barriers. Women migrant workers may experience prolonged family separation due to restrictive labour migration systems that prevent family accompaniment. Likewise, global care chains, whereby women from lower-income countries migrate to provide care work in wealthier societies while being separated from their own children and families creates a profound contradiction: migrant women are expected to care for children, elderly persons and households in destination countries while being denied opportunities to care for their own families.

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[67] Organisation for Economic Co-operation and Development (OECD), "OECD international migration outlook", 3 September 2025.

[68] A/80/632, para. 81.

[69] Joint general recommendation No. 39 (2025) of the Committee on the Elimination of Racial Discrimination and general comment No. 8 (2025) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families on thematic guidelines for eradicating xenophobia towards migrants and others perceived as such, para. 34.

[70] Submissions from the Permanent Mission of Malta, Office of the United Nations High Commissioner for Human Rights, PICUM, Women in Migration Network, IJustice, NRNE and KIND. See also Mixed Migration Centre, "Understanding the role of family reunification within mixed movements in Tunisia", August 2023.

[71] A/79/213, para. 18.

[72] Ibid., para. 26. See also joint general comment No. 4 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 23 of the Committee on the Rights of the Child, para. 37.

[73] *"We Wanted Workers, But Human Beings Came": Human Rights and Temporary Labour Migration Programmes* (United Nations publication, 2022).

Such arrangements undermine the right of children to family life and perpetuate structural gender inequality.[74]

60. At the second International Migration Review Forum, held in May 2026, States noted that regular pathways remain constrained, in particular for migrants in vulnerable situations, including for family reunification and humanitarian purposes, by complex, costly and uneven procedures. States committed to strengthening their efforts to expand and diversify the availability of pathways in a manner that facilitated mobility for humanitarian purposes, family reunification and regularization, with particular attention to migrants in vulnerable situations. Such pathways should promote the realization of the right to family life and family unity and uphold the best interests of the child.[75] This commitment should explicitly encompass labour migration schemes that currently bar domestic workers from family accompaniment.

61. The Special Rapporteur welcomes the information on the initiatives of States aimed at promoting regular pathways that include family accompaniment. He highlights the family unity initiative of the Global Compact for Safe, Orderly and Regular Migration,[76] which he joined in May 2026, and encourages all stakeholders to also join this effort to advance rights-based, family-centred migration pathways to reduce and mitigate the harm of family separation and strengthen action on family unity and family reunification for migrants and their families. Nevertheless, bearing in mind the existing challenges, he calls on States to redouble their efforts to guarantee children's right to family life and family unity within the framework of migration governance, particularly with regard to the visa system, entry permits and any mechanism that facilitates regular migration, including the right to leave a country and to seek asylum.

62. When children are separated from their parents following the parents' migration, including in the case of temporary family separation as a result of labour migration programmes, it is essential that States take all necessary measures to mitigate the impact of such separation on children, including by providing adequate psychosocial support, upholding their development, and preventing all forms of risk and abuse, exploitation and gender-based violence.

C. Regularization

63. The Convention on the Rights of the Child calls on States to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child and stresses that States shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities (articles 18.1 and 18.2). Such obligations have equal application to parents of adolescents.[77] The Special Rapporteur underscores the importance of a comprehensive and child-rights approach to families in irregular migration status.

64. Regularization is an effective tool for addressing children, parents and families in irregular migration status. Given the negative impacts on children's well-being of having an insecure and precarious migration status, it is crucial that clear and accessible status determination procedures for children are in place to regularize their

[74] Submission from Women in Migration Network.
[75] International Migration Review Forum Progress Declaration (2026), paras. 14 and 43.
[76] See www.ohchr.org/sites/default/files/documents/issues/migration/pathways/gcm-family-unity-initiative-concept-note.pdf; and www.ohchr.org/sites/default/files/documents/issues/migration/pathways/gcm-family-unit-initiative-join-us.pdf.
[77] Committee on the Rights of the Child, general comment No. 20 (2016), para. 50.

status on various grounds.[78] United Nations Committees and other stakeholders have highlighted the positive outcomes of regularization, including preventing children from ending up in a street situation or exposed to risks of violence, exploitation and marginalization; promoting children's social inclusion and development; strengthening their access to education and health services; facilitating parents' access to formal employment; increasing income and other resources for families; and contributing to achieving goals of multiple public policies in destination countries.[79] Regularization of parents whose children remain in countries of origin, as well as unaccompanied children, could also lead to further family reunification.

65. Measures aimed at ensuring accessible, affordable and child-sensitive pathways to residence permits and regularization are critical for protecting family unity. In most countries that recognize citizenship based on place of birth, a permanent residence permit is automatically granted to parents after children are born. This practice is an effective, secure and immediate tool for safeguarding family life and preventing harmful effects status. Other regularization pathways – based on child protection, family ties, labour relations, length of residence, regional free movement agreements or humanitarian grounds – also have a significant positive impact on children's right to family unity.

66. The Special Rapporteur stresses that obstructing the regularization of undocumented children and their parents, or denying a residence permit to parents of children who are citizens or regular residents, may constitute a violation of children's rights and the duty to ensure their best interests. Leaving these children or their parents in an irregular migration situation contributes to, or fails to prevent, situations of vulnerability, all kinds of harm, risks and exclusion. It also hinders children's inclusion and development.

67. States have both positive and negative obligations in relation to fulfilling and protecting children's rights through regularization. A key positive measure is the inclusion of family life and unity as grounds for granting residence permits. Children's best interests should have a pivotal place when it comes to regulating by law the criteria for residence permits and regularization. Another measure should be the removal of discrimination due to gender, disability, socioeconomic status or other prohibited grounds.

68. Undocumented migrant workers in precarious informal working conditions, including in domestic care and agricultural work, face multiple barriers to accessing regularization. Furthermore, the requirement for fathers to give consent to grant a residence permit can hinder the positive regularization impact on children and can particularly affect mothers seeking protection from gender-based violence. Residence permit and regularization grounds should address these types of circumstances through gender-responsive and child-sensitive regulations and practices.

[78] A/79/213, para. 23; and joint general comment No. 4 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 23 of the Committee on the Rights of the Child, paras. 24 and 31.

[79] Joint general recommendation No. 39 (2025) of the Committee on the Elimination of Racial Discrimination and general comment No. 8 (2025) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families on thematic guidelines for eradicating xenophobia towards migrants and others perceived as such, para. 69; UNICEF, "Migratory regularization as an essential condition for the comprehensive protection of the rights of children in the context of human mobility", technical note, May 2020; written submissions from Costa Rica, Mexico, Uruguay and human rights institutions; and PICUM, "The impact of regularization measures on people, institutions and wider society: evidence from research from across the world", 2025.

69. Measures for ensuring birth registration and access to legal identity and a nationality, without any discrimination due to parents' nationality and migration status, are critical for facilitating regularization and protecting family life. Firewalls are essential for preventing unregistered births due to fear of immigration enforcement. Specifically, measures should forbid dismissal – and further risk of detention and deportation – based on pregnancy, and States should refrain from denying a birth certificate due to the absence of the father's name. The Special Rapporteur underscores the key role of consulates in facilitating migrants' access to identity documents, birth certificates and other documentation they may need for successfully applying for regularization or a residence permit.

70. States should refrain from imposing formal requirements or practical barriers that would impede regularization in a discriminatory or arbitrary manner, affecting children's rights and best interests. The Special Rapporteur is concerned about regulations or practices that prevent a change in immigration status, from irregular to regular and between residence grounds. States should facilitate individuals and families to leave this situation of vulnerability behind. Other practices that Status should end include automatic loss of derivative residence status upon divorce, separation or widowhood, which disproportionately affects migrant women, and income, housing or other economic requirements for renewing residence permits, which can lead to irregular status and all its associated risks for family life and children's rights.

71. The Special Rapporteur also recognizes the significance of timebound regularization programmes for addressing the structural failings of migration and asylum systems, the vulnerability caused by irregular residence status and the challenges that migrants, including children, and migrant or mixed families face when they are in an irregular status. As evidenced by the manifold regularization programmes adopted across the globe,[80] regularization is a policy tool that plays a central function in addressing migration policy challenges and, more importantly, promoting migrants' inclusion. It is worth noting some regularization programmes, including the programme launched by Spain in 2026, aimed at prioritizing applications from families and children, and ensuring that certain requirements, such as finances, accommodation and minimum length of previous residence, do not prevent their effective regularization.[81]

V. Conclusions and recommendations

72. **The Special Rapporteur acknowledges the efforts by some States to protect the family life of children in migration contexts, including measures aimed at prohibiting child immigration detention, expanding pathways for entry and stay, regularization programmes, and facilitating family reunification.**[82] **However, he remains concerned at the serious gaps in the effective fulfilment of children's right to family life, in spite of the universal legal commitment to protect families, as the fundamental group unit of society, without any discrimination.**

73. **The report identifies key issues for priority action, including:**

(a) **Protection of children from arbitrary interference in family life, including separation from their parents through deportation and return;**

[80] United Nations Migration Network, "Regular pathways for admission and stay for migrants in situations of vulnerability", guidance note, July 2021; and PICUM, "Regularization mechanisms and programmes: why they matter and how to design them", 2022.

[81] Spain, Royal Decree 316/2026.

[82] A/79/213, para. 56.

(b) **Eradication of child and family immigration detention;**

(c) **Protection of children and families' rights in the context of externalization;**

(d) **Fulfilment of the right to family reunification;**

(e) **Effective, regular and safe migration pathways for children and families;**

(f) **Regularisation as an essential tool for protecting children and ensuring that they can enjoy their right to family life;**

(g) **Gender-responsive and intersectional implementation across all aforementioned priority areas.**

74. **To fulfil children's right to family life in the context of migration and asylum policies, the Special Rapporteur urges States to:**

(a) **Take all appropriate measures to ensure that children fully enjoy their right to family life in conjunction with the other rights recognized for all children, without discrimination on grounds of nationality, migration status, length of residence, socioeconomic status or any other social conditions;**

(b) **Urgently implement all adequate measures to prohibit by law all forms of immigration detention of children and families and ensure its complete eradication in practice. Legislative and operational measures must safeguard the best interests of children and their right to family life and family unity by ensuring that parents are not detained on immigration grounds;**

(c) **Ensure that the right to family life is protected against all forms of arbitrary interference within migration laws and policies, including by:**

(i) **Guaranteeing effective firewalls to ensure that service providers do not provide any assistance or information to immigration enforcement authorities;**

(ii) **Refraining from carrying out arrests, raids and other practices used within the criminal justice system, for the purpose of detecting irregular migrants in public spaces;**

(d) **Guarantee by law and ensure in practice that children are not separated from their parents on the grounds of irregular migration status. In all administrative and judicial migration and asylum proceedings that could result in family separation, ensure without exception that:**

(i) **Every child is duly heard and that all other due process rights are upheld;**

(ii) **The best interests of the child are assessed and given primary consideration at all times;**

(iii) **Child protection authorities play a key role in that assessment;**

(e) **Take all adequate measures to ensure that children and families are exempt from practices involving the externalization of migration and asylum policies, in particular forced transfer to third countries and any form of detention;**

(f) **Adopt legislative frameworks and operational measures to effectively fulfil children's right to family reunification, including by:**

(i) **Removing from law and/or practice any discriminatory, arbitrary, discretionary or disproportionate requirement that may obstruct the exercise of that right, contrary to the best interests of the child;**

(ii) **Assessing the best interests of the child in all family reunification proceedings, with the involvement of child protection authorities, and within the framework of a child-sensitive and intersectional procedure that ensures the child's right to be heard and other procedural safeguards;**

(iii) **Ensuring by law and in practice that unaccompanied children can effectively apply for family reunification in order to bring their parents, siblings and, when appropriate, other relatives, exempting children from financial and other requirements that would obstruct the enjoyment of this right;**

(g) **Develop transnational mechanisms for bilateral and multilateral cooperation between child protection authorities and others concerned, aimed at protecting unaccompanied and separated children, and children who have been separated across border, which should include child best-interests assessments and determinations with the aim of protecting children's rights, including family life and family reunification;**

(h) **Review, with a child-rights, gender-responsive and intersectional approach, legislative frameworks, procedures and practices relating to visas and entry permits, with a view to creating and expanding safe and regular pathways and removing barriers to family migration, including within the framework of bilateral and multilateral migration agreements;**

(i) **Adopt measures to protect children and mitigate harms when families are separated during periods of parents' temporary labour migration, ensuring the provision of predeparture counselling and support for family-focused planning on communication, remittance arrangements, caregiving responsibilities and children's well-being;**

(j) **Include, in regional and domestic regulations, family unity and children's best interests as grounds for granting residence permits and regularization, and where necessary establish and implement timebound regularization programmes, with the aim of protecting children's rights, including the right to family life;**

(k) **Join and support the family unity initiative of the Global Compact for Safe, Orderly and Regular Migration.**