

CHILDREN'S RIGHTS. REFLECTIONS ON THE PROTECTION OF THE REFUGEE CHILDREN

Ovidiu Florin Toderici

Abstract

Armed conflicts, social inequality, the impact of climate change cause people to become refugees, including children who are alone or separated from their families and relatives. Over the last decade, statistics show a doubling of the number of the refugee children. The right to be a child, recognized by the international law, through UNICEF and partner organizations, includes the implementation of child protection activities, identifying the necessary solutions for the social inclusion of refugee children.

Keywords: children rights, legislation, UNICEF, refugees, projects.

‘The rights of the child are the human rights.’ This statement must be understood as a pertinent and relevant statement. The fundamental human rights for millions of children all over the world are neglected or/and violated and they are forced to leave their homes and flee in front of violence, abuse and insecurity. Children are extremely resilient and find ways and means of coping with difficulties and suffering, having the support and help of family, relatives and friends. But in crisis situations, without family or relatives’ protection, children, adolescents and young refugees are frequently exposed to various forms of abuse, exploitation, separation, neglect, violence, exploitation or abusive recruitment.

Worldwide, the children’s displacement is caused by conflicts, social inequality, the impact of climate change, resulting in survival threats, disrupting their education and exposing them to major risks, including violence, abuse,

neglect and exploitation. According to the United Nations High Commissioner for Refugees, the number of refugee children has doubled in the last 10 years, being a phenomenon manifested by cross-border movements in neighbouring countries or continents, as it is the example of the recent refugees crisis in the Middle East, Africa, Europe and Southeast Asia; according to statistical data, in 2017, 173,800 unaccompanied and separated children left their homes, including 45,500 who asked asylum or official refuge.

International and national legislative instruments regarding children's rights

Nevertheless, the human rights of children are endorsed by the international law. The United Nations Convention on the Rights of the Child (UNCRC), unanimously adopted by the United Nations General Assembly on 20 November 1989, represents the most comprehensive treaty which ratified the children's human rights and the first international legislative tool that recognizes for the first time the children as subject to rights, establishing a common legal basis that leads to increased governmental responsibilities, the promotion of legislative reforms and, last but not least, the creation of a favourable global environment in which all children can grow, each child having the right to survival, protection and a safe and happy childhood. Henceforth, the United Nations Convention on the Rights of the Child has been ratified by most of the world's governments, consequently becoming the most adopted treaty on the rights of the child.

Thus, an international legislative and institutional framework on the rights of children has been set up to create a positive, realistic and optimistic future and to stimulate a global commitment to respect children's rights. The 54 articles of the Convention can be divided into three sub-domains: key principles, specific rights and measures of monitoring and implementation. The

guiding principles of the Convention include the right to life, survival and development, best interests of the child, the right of the child to freely express his/her opinions and ideas on issues affecting his/her best interest, children's understanding of Convention rights, without any discrimination of any kind. The Convention promotes a whole range of human rights – civil, political, economic, social and cultural – and sets out the specific ways in which they are available to children:

- defining the child as every human being under 18 years old;
- civil rights and freedoms for a name and nationality, freedom of expression, association and access to information, and the right not to be subjected to torture and deprivation of liberty;
- the family environment and alternative care, including the right to live with parents, the right of reunion or the maintenance of the child-parent relationship (if the child was separated from them) and the necessary alternative care, where appropriate;
- proper standard of living, the rights of children with disabilities, the right to health and medical care, social security, social assistance services and an adequate standard of living;
- education, culture and cultural activities, including the right to education, educational purposes and the right to play, recreation and involvement in cultural life;
- special safeguards including the right of refugee children, those in an armed conflict, administration of juvenile justice, the right of children deprived of their liberty and children suffering from economic, sexual or other exploitation.

The United Nations Convention on the Rights of the Child (UNCRC) concluded the rights of the child based on the following principles: *the principle*

of the best interests of the child affirms the need for all decisions concerning the child to be taken in the interests of the child, not of the adult; *the principle of non-discrimination*: all rights must be applied to all children without any discrimination. The State and the national government of every country must promote children rights and protect them in front of discrimination; *the principle of participation* affirms the requirement that children participate in decision-making process; *the principle of life, survival and development* affirms the inherent right to life and the obligation of the public authorities to provide the proper framework for the development of a child's potential.

Education offers the opportunity to a new generation to perceive their own needs, and literacy - which UNESCO defines as the ability to read and write a simple sentence - represents the key component of education. Some of the world's poorest countries have made progress in education, but other states fail in developing or improving the educational process. In the rich and industrialized countries, more than 95% of the population has a certain level of education. But in poor countries, the percentage varies from 50% to 10% of the population. Romania has a both a low percent of school-aged not included in the educational system or school drop-out children, therefore the low risk-level regarding the education of the young generation or low educational quality do not represent issues of concern, although statistics regarding the school attendance do not show all the social and economic risks that the poor families face and their effects on children's school attendance or abandon.

The family structure works as a support for the child, so it is important for the family to be united and to give the child a set of moral values and principles to guide it throughout life: honesty, honesty, trust, integrity, compassion, courage, self-control, respect and responsibility. These moral values must first be adopted by the parent to be subsequently assimilated by the

child. In case of failure, the child will develop a deviant behaviour, and the society, functioning according to specific values and concise rules, will reject the child or will force him/her to withdraw within a group of deviant correspondents. The specific family patterns require first of all care for the child, the fulfilment of its primary socialization function, meaning the concern for the child's development, education and social integration, and any approach to child issues and difficulties must start from the specifics of every family. The family environment represents the main support for the child, the natural environment in which the child grows, develops and evolves as a personality, as a future adult. According to sociologist, the family can be defined as a social group formed on the basis of marriage, consanguinity and kinship relationships, the group members sharing common feelings, aspirations and values. Thus, the family is a primary group in which direct and informal relationships predominate. The family is one of the primary groups with the highest regulatory burden. The reasons of limited access to education originate in social and economic background, ranging from the impossibility of providing daily food and school packs, appropriate seasonal clothing and footwear, and ending with educational expenses that exceeds the financial potential of the parents, who are thus confronted with a paradoxical situation where the material benefits conditioned by school attendance are far below the educational costs. Nevertheless, formal education is the only way children can escape the vicious circle of social exclusion: poverty – disinterest for school – illiteracy – no profession and no income – poverty. Therefore, it is imperative in nowadays society to bring children to school. In addition to financial measures and investments in the educational system, such as school renovations, equipping laboratories, libraries and cabinets, providing a daily meal at school cafeterias, subsidizing school supplies and textbooks, as well as providing transport in

rural and urban areas for children and teachers to and from school, specific educational measures must be implemented:

- training educators on issues related to poverty, social exclusion, methods of integrating poor children into the classroom and increasing the learning abilities of children with few opportunities;

- providing professional social and psychological services focused on specific area communities and family needs, to create a collaboration network between local authorities, school, family;

- adapting the curriculum to the economic requirements and the social realities, with emphasis on practical skills and abilities;

- diversifying the extracurricular activities to motivate pupils, as well as to promote the social inclusion of children;

- parents inclusion in school activities to increase social activism and thereby raise awareness of the role and importance of school and education in the life of a child.

The response policies and procedures should focus on reducing the social inequalities generated by discriminated access to education and on providing the proper social and economic level of education for the younger generation, thus avoiding the intergenerational transmission of poverty and of the resulting deprivation. It is essential to protect the children at risk by ensuring access to education, considering that the education inequalities, the reduced chances of schooling and later, the lack of vocational training will have major future negative effects on the quality of life of the individual and the society as well. Reducing school drop-out and enhancing school participation through integrated measures of social, economic and educational nature must be the central focus of the educational strategies along with the reintegration in the educational system of the low-educated youngsters and the re-employment of

unskilled adults thus increasing the chances on the labour market and combating social exclusion.

Protection of refugee children. From exclusion to social inclusion

Unaccompanied and separated children from parents and family because of conflicts, forced displacements or natural disasters are vulnerable, and it is imperative the national governments, authorities and organizations to identify them by collecting specific data and report the information internationally. Currently, statistical data on unaccompanied and separated refugee children are limited because many countries, including South Africa and the United States of America - who have a high number of asylum applications, do not report this information globally, to UNICEF or other child rights protection organizations.

The 2017 statistical data indicates that 45,500 unaccompanied and separated children have applied for individual asylum, 67 countries reporting at least one such request. Although underestimated due to under-reporting, the 2017 number of unaccompanied and separated children is lower than in 2016, when 75,000 unaccompanied and separated children were reported, 98,400 children in 2015, and in 2014, 34,300 asylum applications were reported. Most of the applications (33,300) were submitted by children aged 15-17, and the rest (12,200) came from unaccompanied and separated children up to 14 years of age.

In 2017, Italy had the highest number of asylum applications (9,900), representing a 68% increase over 2016, when there were 5,900 asylum applications, and the number of refugee children unaccompanied and separated from family, who arrived in Italy at sea, was estimated at 15,800 children, or 91% of all refugee children. Between 1 January and 31 October 2018, 3,346 unaccompanied and separated children arrived in Italy at sea, accounting for 15% of the refugees arriving in Italy at sea, and the data on the countries of

origin of unaccompanied and separated refugee children indicate Tunisia (814 children), Eritrea (602 children), Sudan (252 children), Pakistan (208 children), Côte d'Ivoire (189 children), Mali (163 children), Nigeria (157 children), Somalia (137 children) and Algeria (137 children). In 2017, Germany received 9,100 asylum applications, the unaccompanied and separated refugee children coming from Afghanistan (2,200 children), Eritrea (1,500 children), Somali (1,200 children), Guinea (900 children), Syria (700 children), Iraq (500 children) and Gambia (400 children). Other countries with more than 1,000 asylum applications include Sweden (2,700 applications), Turkey (2,300 applications), Greece (2,300 applications), United Kingdom (2,200 applications), Tanzania (2,100 applications), Austria (1,400 applications), France (1,200 applications), Zambia (1,100 applications) and the Netherlands (1,100 applications).

The State is primarily responsible for the protection of children, having to establish and implement the proper child protection systems according with the international obligations, ensuring the non-discriminatory protection of all children under its jurisdiction. Furthermore, the international institutions and organisations are obliged to strengthen the national and international child protection systems and services and to promote access for refugee, displaced and stateless children. Given that the State is unable to fulfil its responsibilities towards children, the international institutions together with their partners, are required to establish a parallel and temporary child protection mechanism based on a fair approach to guarantee the rights that provide non-discriminatory access in supporting and helping the children in need. When developing any framework-project for child protection intervention, key issues and stages should be included, such as working in partnership, planning, implementation and monitoring, by ensuring adequate staffing and organizational capacity:

1. *Working in partnership.* Every partnership represents an essential element for a systemic approach and raises the participants' awareness of their complex and important role to create a complex child protection system. The partner institutions must cooperate with the national authorities and strengthen their operational cooperation with UNICEF or other international organizations committed to develop and improve the children protection systems. Thus, the contributes to strengthening the child protection systems that identify, prevent and respond to the child protection risks. In the event of a conflict or disaster, the partners coordinate their action and actively participates in the field through protection groups and existing child protection coordination networks. A partnership-based approach relies on partners' experience, resources, knowledge and skills to enhance child protection in need-based operations.

2. *Planning, implementation and monitoring.* Any framework-project includes operational contexts, including designed and specific strategies that deliver better child protection. The objectives must be realistic, systemic and timely, including mapping the necessary resources, partners, the possible opportunities to strengthen the child's protection systems, and monitoring tools that comprise the results and consequences, as well as the indicators for the expected effects.

3. *Ensuring adequate personnel and the organizational capacity.* The involved members (including community services and professional staff) should contribute to ensuring that children are protected by carrying out designated tasks, being appropriately trained to identify and act against the risks faced by children, to communicate with children, to promote the participation of children in their decisions and to develop strategies and programs in coordination with other child protection institutions.

Child protection must be integrated into all sectors, including means of securing the basic necessities such as health, nutrition, livelihoods, shelter, to ensure that the specific needs of children are considered in the design and implementation of the framework-project through measures such as:

- creating a national/regional/local database including the social (collective and individual) actors, based on common objectives and priorities related to the protection and support of children at risk;

- identifying the real and practical steps, the possible gaps and crises, making realistic recommendations on key priorities, given that: children's rights are always a priority; children have access to appropriate help and care; children should not be by the authorities or sent back to countries where they are not safe; children have access to key services, including education; children are fully protected from exploitation, abuse and violence, including child trafficking; children are not discriminated and can integrate into host communities;

- identifying the innovative solutions and exchanges of promising practices, guaranteeing the principle that first and foremost children are children regardless of migration or their legal status;

- identifying the chances and opportunities for action and mobilization.

Every child needs protection. Armed conflicts, natural disasters, poverty, violence cause the phenomenon of migration, including refugee children, unaccompanied minors or separated from family, orphans, traumatized and at risk. Every child has the right to protection, survival and development, the international and national community having the obligation to comply with child protection legislation and to identify viable solutions that guarantee their social inclusion and the chance for a better future.

Bibliographical References:

Specialized studies

- ***- *Children's Rights: Reality or Rhetoric?*, London, The International Save the Children Alliance, 1999.
- Boldiș, Ioana, *Child's rights. Theoretical and Applicative Perspectives (Drepturile copilului. Perspective teoretice și applicative)*, Cluj-Napoca, Argonaut Publishing House, 2010.
- Goldstein, Joshua S., *International Relations*, New York, Longman, 2001.
- Jones, Phil, Welch, Sue, *Rethinking Children's Rights: Attitudes in Contemporary Society*, New York, Bloomsbury Publishing, 2018.
- Mihăilescu, I., *General sociology (Sociologie generală)*, Iași, Polirom Publishing House, Iași, Editura Polirom, 2003.
- Oprea, Maria, *Vulnerable Groups: Single-parent Family and Teenage Mothers (Grupuri vulnerabile: Familia monoparentală și mamele adolescente)*, Arad, „Vasile Goldiș” University Press, 2014.
- *Social Policies to Protect Children in Risk Situations (Politici sociale de protecție a copilului în situații de risc)*, editor: Elena Zamfir, Bucharest, University of Bucharest Publishing House, 2004.
- *Social Assistance Treaty (Tratat de asistență socială)*, editor: George Neamțu, Iași, Polirom Publishing House, 2003.
- United Nations High Commissioner for Refugees, *A Framework for the Protection of Children*, Geneva, UNHCR, 2012.

- United Nations High Commissioner for Refugees, *Global Trends, Forced Displacement in 2017*, Geneva, UnHCr, 2018.

Virtual Resources

- *Refugees*, U. (2018). UNHCR Global Trends 2017. [online] UNHCR. Available at:
<https://www.unhcr.org/statistics/unhcrstats/5b27be547/unhcr-global-trends-2017.html>
- *The United Nations Convention on the Rights of the Child (UNCRC)*, Ohchr.org. (2018). OHCHR | Convention on the Rights of the Child. [online] Available at:
<https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>
- *Data2.unhcr.org*. (2018). [online] Available at:
<https://data2.unhcr.org/en/documents/download/67231>
- *Childrenonthemove.org*. (2018). [online] Available at:
<https://www.childrenonthemove.org/wp-content/uploads/2017/02/Concept-Note-Global-Conference-on-Children-on-the-Move.pdf>.