

Ending child immigration detention

“Protect and respect the rights and best interests of the child at all times, regardless of their migration status, by ensuring availability and accessibility of a viable range of alternatives to detention in non-custodial contexts, favouring community-based care arrangements, that ensure access to education and healthcare, and respect their right to family life and family unity, and by working to end the practice of child detention in the context of international migration.”

Global Compact for Migration Objective 13(h)



EXAMPLES



Mexico

In 2020, the Mexican Congress took the important positive step forward of approving a legislative reform to comprehensively prohibit the detention of children – accompanied or unaccompanied – as a result of their migration status, and transfer responsibility for migrant children from the National Migration Institute (INM) to the National System for the Protection of Children. Besides harmonizing legislation, the reform adds impetus to the implementation of the Protocol for the Protection of Migrant and Refugee Children which was developed in 2019 and provides a roadmap for protection that includes screening, evaluation, referral and community placement for children including by coordination with federal, state and local authorities. The law reforms clarify the responsibilities of INM officials towards migrant children traveling alone or with family, and establish that the Department of Family Services (DIF) and the Offices for Child Protection (PPNNAs) are responsible for protecting migrant children and determining their best interests. The new law designates the Social Assistance Centres (shelter system) of the DIF as the appropriate facilities to temporarily house them. It establishes that migrant children and their families should receive temporary humanitarian immigration status to protect them while the PPNNAs determine a plan. To fully achieve their aims, the legal reforms will need strong implementation protocols and require adequate investments to strengthen the child protection system.

“Harmonization of the Migration and Refugee Laws pertaining to migrant children with the provisions of the General Law on the Rights of Children, is fundamental to guarantee that no minor child is detained arbitrarily in any of our country’s immigration detention centres...on the understanding that determinations on the best interests of the child will be entrusted to an authority other than the migration authority.”

Representative Nayeli Arlen Fernández Cruz, September 2020

Zambia

Zambia is working to amend its laws to ensure better protection of migrants and non-detention of children, and is developing a national migration policy. Zambia has robust guidelines and tools for protection and assistance for vulnerable migrants through its National Action Plan. This includes a National Referral Mechanism that trains frontline officials to screen migrants and identify vulnerable groups, to divert them from the detention system to appropriate alternative arrangements. In practice, vulnerable groups, including children, tend not to be detained. Non-national children are sometimes assigned to foster homes or legal guardians. The Ministry for Community Development and Social Welfare has established and renovated shelters for vulnerable children.

This “promising practices series” highlights practices that show positive movement towards achieving GCM Objective 13. The inclusion of an example does not signify that all elements of the practice of the country are considered positive and that its practical implementation is flawless.

