



Unaccompanied Foreign Migrant Children in South Africa

Fact Sheet¹

Who is included in the term ‘unaccompanied foreign migrant child’?

Unaccompanied foreign migrant children are children who have moved from their country of origin to another, who have been separated from both parents and other relatives, and are not being cared for by an adult who, by law or custom, is responsible for doing so.

For practical purposes there are two further discernible sub-categories:

- Unaccompanied children who have asylum claims or have refugee status, and
- Unaccompanied children who are migrants for other reasons, who do not have asylum claims.

How many unaccompanied foreign migrant children are there in South Africa?

Due to the lack of a proper registration and tracking system, the exact number of unaccompanied foreign migrant children in South Africa is unknown. Furthermore, unaccompanied foreign migrant children may not be visible to the care and protection system due to fear of being deported and therefore this makes it difficult to track the number of unaccompanied foreign migrant children in the country. The United Nations High Commission for Refugees has noted that there is an increasing number of unaccompanied minors entering South Africa. Children come not only from the Southern Africa region, but also from as far as the Democratic Republic of Congo and Somalia.

Why do these children come to South Africa?

Children from war-torn or politically unstable regions consider South Africa as one of the countries where they can seek refuge from the turmoil of their country of origin. Others who come from poor countries see it as a place where they can complete school or find employment in order to better their lives. Migration by the majority of children moving between Southern African countries appears to be motivated by the need for better economic opportunities, rather than the fear of persecution from their countries of origin. However, child migration and its motives remain complex and it is therefore essential that a case-by-

¹ This fact sheet was prepared for PAN: Children by Prof. Ann Skelton and Karabo Ngidi from the Centre for Child Law.

case approach to each child's individual circumstance be implemented when dealing with these children.

What problems do these children face once they are in South Africa?

Getting into the country puts children in danger, because there are human smugglers called 'the Malaishas' and 'the Gumagumas' to mention just a few, whose assistance is sometimes sought by the children to assist with the process of crossing borders, but at the same time pose a risk to these children especially girls who may end up being victims of rape. Once they are in the country they face the risk of being employed for very low salaries in exploitative work on farms or as domestic workers. Those trying to access school may have difficulties because they do not have documents. If they do have asylum claims they must first be taken into the child care and protection system. Although that system means that they have accommodation and food and adult assistance, it does not directly help them with their lack of documentation. Children who apply for asylum have a long wait before they hear if they were successful. Children who do not have an asylum claim must be taken through a children's court process before they can be repatriated, in order to see if there are family members in their countries who can receive them. Children 'drift' in the system, some staying in child and youth care centres for many years, often with their lack of documentation never being resolved. Even if children are to be reunified with their families, the government has no properly developed protocols and practices for getting them safely back home.

What interventions have there been to assist these children?

The decision by the South African government that these children are to be treated as children in need of care and protection under the Children's Act is a positive policy approach. Similarly, there are provisions in the Refugees Act; the Immigration Act and the Prevention and Combating of Trafficking in Persons Act that do aim to protect these children. The Department of Social Development, the South African Police Services and IOM have all drafted sets of guidelines and standards operating procedures to guide the procedure when dealing with unaccompanied foreign migrant children. International organisations such as UNICEF, UNCHR, IOM and Save the Children all play an important role in documenting the problems and in liaising with government and local civil society organisations to find solutions. There are local non-governmental organisations providing support services and advice to unaccompanied foreign migrant children in some cities and towns.

What can be done to provide a coherent, effective system to assist these children?

The following need to be put in place:

- A proper mechanism for the identification, documentation, tracing and reunification of unaccompanied foreign migrant children

- A comprehensive protocol for the management of unaccompanied foreign children with special reference to children's court proceedings, obtaining Home Affairs documentation, and the placement of children in care.
- Training for all personnel who work with unaccompanied foreign children
- A proper mechanism for family tracing and cross-border reunification
- A consideration of the granting of permits to become permanent residents to make this option more accessible to unaccompanied foreign migrant children who are in the care and protection system for a long period
- A clear non-discriminatory policy on school admission into public schools
- Suitable alternative care options that include applicable social assistance
- If children are to be reunified with families in their countries of origin, a detailed, co-ordinated, and properly funded process of reunification

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