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**SUBMISSION**

**I INTRODUCTION**

1. The Human Rights Clinic at the University of New South Wales is pleased to offer this submission to the UN Committee on the Rights of the Child.
2. The submission highlights contemporary issues affecting the ability of unaccompanied and separated children to enjoy their human rights. We explore the particular vulnerabilities and needs of unaccompanied migrant children, and the obligations of States, with regard to Articles 2, 3, 6, 7 and 18 of the UN Convention on the Rights of the Child (henceforth UNCRC).[[1]](#endnote-1)
3. Taking the view that the UNCRC should be implemented in a holistic matter, taking into consideration the Convention’s four guiding principles and the vulnerability of unaccompanied migrant children, we suggest that the Committee should adopt the following recommendations as part of its recommendations to State Parties:

**Rec 1.** States Parties must ensure that unaccompanied children have full access to public services, in particular accommodation, education, and health care, taking into consideration their particular vulnerabilities, irrespective of whether these children have identification documentation, and regardless of their immigration status.

**Rec 2.** Unaccompanied children should only be deported, including for reunifications with their family, if it is in their best interests. Decision makers must engage in a comprehensive analysis of the child’s specific circumstances and take into account the child’s opinion in making such a decision.

**Rec 3.** If a temporary guardian is appointed at first instance, then State Parties must ensure that an unaccompanied minor is provided with a permanent guardian as soon as practicable. States must ensure that the unaccompanied child’s legal rights (such as access to legal representation) are secured but also that proper custodial care is arranged until such care is no longer necessary (Article 18).

**Rec 4.** An appointed legal guardian must only be responsible for the number of minors that s/he can reasonably and diligently discharge their duties towards.

**Rec 5.** States must appoint an independent legal guardian that is not associated with the States’ immigration department. The best interests of the unaccompanied child must be the basic concern of the appointed legal guardian.

**Rec 6.** The guardian must be a qualified lawyer with experience in children’s rights and children’ welfare law and hold the appropriate qualifications and experience to care for and represent vulnerable children.

**Rec 7.** In order to facilitate the guardian’s exercise of their responsibilities and to enable children to communicate with the guardian and participate in the decision making process State Parties should provide, when necessary, interpreter services to mitigate linguistic barriers.

**Rec 8.** State Parties must identify unaccompanied children who have been trafficked, or are at risk of being trafficked, and take actions to ensure their physical and mental health by referring them to appropriate accommodation, health, and specialist services. These children should not be subject to criminal prosecution or other punishment, including detention, due to their status.

**Rec 9.** State Parties must not turn unaccompanied children away from their territory without properly assessing their claims for asylum and they must protect their human rights while their status is being determined.

**Rec 10.** Unaccompanied children should not be detained for immigration purposes. States must implement alternatives to closed detention and deprivation of liberty for unaccompanied children.

**II GUIDING PRINCIPLES**

1. This submission is guided by the rights contained in the Convention on the Rights of the Child and in particular, the following principles:
	1. A State Party is obliged to care for all children in its jurisdiction, without discrimination, including children seeking asylum, refugees, and migrant children.[[2]](#endnote-2) As such, the enjoyment of UNCRC rights is not reserved for children who are citizens of a State, but for all children irrespective of their nationality, immigration status, or state of statelessness.
	2. The best interests of the child should be a primary consideration in the development and implementation of policies regarding unaccompanied children. [[3]](#endnote-3) In determining the best interests of the child, a holistic approach should be taken, and it should be recognised that what is in the child’s best interests is different for each child and depends on the context of her life. Thus, an assessment of what is in the best interests of the child should comprise an analysis of the child’s identity and cultural background, particularly taking into account the reasons that led them to be deprived from their parents’ care, their vulnerabilities and needs.[[4]](#endnote-4)
	3. State parties’ responses to unaccompanied minors should acknowledge and address both their particular vulnerabilities and their capacity for agency, including the right to participate in decisions affecting them.[[5]](#endnote-5)
	4. States Parties should ensure that the physical, mental and cognitive development of unaccompanied children will be protected and promoted.

**Contextual Information**

1. There have been a number of changes in the global context which have impacted human rights concerning unaccompanied children. There are a growing number of children migrating unaccompanied.[[6]](#endnote-6) Children are migrating for a number of reasons ranging from opportunities and economic attraction, to exploitation, trafficking, and fleeing their home country due to war or other threatened or actual violence.[[7]](#endnote-7) Children who migrate through irregular channels are often much more vulnerable than other children, due to greater risks of sexual (and other) exploitation and abuse, threat of detention, criminalisation and discriminatory practices.
2. There has also been a change in the global climate in terms of attitudes to, and the treatment of, asylum seeking children. This is currently evident in Europe, where an influx of refugees fleeing conflict has been labelled a ‘migration crisis’, and States are pursuing protectionist and anti-immigration policies.[[8]](#endnote-8) We argue that despite the public panic surrounding migrants, States Parties must continue to fulfil their international obligations, and children’s rights should be emphasised and upheld to the highest standard and protected without discrimination. The importance of Article 2 cannot be over emphasised in this context. Article 2 provides no flexibility. It prohibits any differential treatment of children due to their civil status or the ways in which they arrive within the jurisdiction of a State Party. As children, once under the jurisdiction of a State Party, they must be treated as any other child, and their Best Interests, Right to Development and participation rights must inform and be the bases for any policy or action that affect their life.
3. We would like to focus on some specific pressing issues concerning the rights of unaccompanied children.

**III RESPONSE to Articles 7, 18 and 9**

**Article 7: Right to Identity**

1. The right to identity is an important right in the context of unaccompanied minors’ lives. With no identity documentation, children struggle to gain access to public and other vital services, including legal representation, accommodation, care and protection, health, and education. They may also be more vulnerable to trafficking, abuse, and abduction, and may suffer from discrimination. Further, unaccompanied children may be rendered stateless if they do not have, or lose, the nationality of their home country, or documents that indicate what their status or age are.

**Rights and Obligations under Article 7**

Right to registration and nationality from birth

1. Article 7 contains a number of intersecting rights respecting a child’s right to identity including to birth registration, name, nationality and the right to know and be cared for by their parents. Under Article 7, children have the right to be registered, to have a name, and to acquire a nationality from birth however, some States do not adequately or routinely ensure that children are registered and have a designated nationality.

Unaccompanied minors right to registration, nationality and to know parents

1. Currently, it is a condition in many countries to produce identification documents, such as birth registration, before public services can be accessed.[[9]](#endnote-9) As such, States Parties are under a duty to provide unaccompanied children with identification documents that would state their name and other basic information, and will also enable them access the same services, including education, health care, and accommodation, as child citizens of the country.[[10]](#endnote-10) Further, to ensure children are cared for in all circumstances, States Parties should ensure that in the absence of full documentation children should not be discriminated against and have equal access to public services.[[11]](#endnote-11)
2. If the child still has family in their country of origin, States Parties have a positive obligation to commence tracing as soon as possible.[[12]](#endnote-12) The decision of whether a child should be deported, or reunified with their family in their country of origin, should be made while upholding the child’s best interests as a primary consideration ,[[13]](#endnote-13) and after enabling the child to participate in the process.[[14]](#endnote-14) If there is evidence that a child is going to be subjected to serious human rights violations in their country of origin, they should not be deported, as this cannot be in their best interests.[[15]](#endnote-15) This is not currently occurring in all States. For example, Australia has a ‘turn-back’ policy whereby asylum-seekers attempting to arrive in Australia by boat are immediately towed out of Australia’s waters.[[16]](#endnote-16) This is far from best practice, not least because this policy does not include a genuine attempt to identify if any of the asylum seekers are unaccompanied children or what implication such a policy has on their rights.
3. Some unaccompanied children should not be returned to their country of origin, due to statelessness, legitimate refugee claims, or because it is not otherwise in their best interest. Currently, in many countries, unaccompanied children who do not have a visa are placed in immigration detention or are deported. For example, in Australia, children migrating through irregular channels have been placed in mandatory offshore detention or ‘turned back’ by authorities.[[17]](#endnote-17) Children should never be subjected to detention for numerous reasons which are elaborated upon in our exploration of Article 6, below.
4. If children are unable to return to their country of origin, States should grant them a permanent status-in the form of a protection visa, residence permit, citizenship or similar status -which enables them to reside in the country and access essential services.

**Recommendations**

**Rec 1. States Parties must ensure that unaccompanied children have full access to public services, in particular accommodation, education, and health care, taking into consideration their particular vulnerabilities, irrespective of whether these children have identification documentation, and regardless of their immigration status.**

**Rec 2. Unaccompanied children should only be deported, including for reunifications with their family, if it is in their best interests. Decision makers must engage in a comprehensive analysis of the child’s specific circumstances and take into account the child’s opinion in making such a decision.**

**Article 18: Right to Guardianship**

1. The UNCRC recognises that parents, and legal guardians, play an important role in the development of a child.[[18]](#endnote-18) By definition, unaccompanied minors are separated from their parents, their relatives, and all other adults who, by law or custom, are responsible for their care.[[19]](#endnote-19) Thus, unaccompanied children are especially vulnerable because they do not have support through the processes of: claiming asylum; accessing essential services, such as legal representation, education and health care; and integration into society. Accordingly, Article 18 requires States Parties to intervene, and render appropriate assistance, in order to secure the child’s rights and needs.[[20]](#endnote-20)

**Rights and Obligations under Article 18**

The best interests of a child are a legal guardian’s overriding concern.

1. Under Article 3, States have a general obligation to consider the child’s best interests as ‘*a*’ primary consideration. The child’s best interests must be considered concurrently with other important principles, such as the right to non-discrimination.[[21]](#endnote-21) Under Article 18, it is the duty of legal guardians to have the child’s best interest as ‘their basic concern; ’[[22]](#endnote-22) this is a separate and higher standard than the obligation imposed on the State by Article 3.

Appointment of a legal guardian for an unaccompanied child

1. Under Article 18, States are required to render appropriate assistance when parents are not able to perform their child-rearing responsibilities.[[23]](#endnote-23) In the context of unaccompanied minors, States Parties must appoint a legal guardian as soon as the unaccompanied minor arrives in their territory, and maintain such guardianship arrangements until the child has reached the age of majority, has permanently left their territory, [[24]](#endnote-24) or reunites with his or her parent/s.
2. State Parties must ensure that they provide -in addition to effective legal guardianship- proper custodial care of unaccompanied children until such care is no longer necessary. Further, it may be in the child’s best interest to retain custodial arrangements after they have reached the age of majority, but only if the unaccompanied child considers such arrangements appropriate.[[25]](#endnote-25)
3. Today, State Parties are meeting these obligations to varying extents. In Greece, the Juvenile Prosecutor, or any other competent Public Prosecutor, is appointed as ‘Temporary Guardian’ of an unaccompanied minor.[[26]](#endnote-26) However, the duties of the ‘Temporary Guardian’ are limited to the provision of legal representation during the periods of detention and assessment.[[27]](#endnote-27) Once released from detention, the unaccompanied migrant children are not provided a permanent guardian.[[28]](#endnote-28)
4. Additionally, appointed legal guardians are often responsible for an excessive number of unaccompanied minors. In Italy, all unaccompanied minors are provided a legally appointed guardian, who is often the local Mayor, the Councillor of Social Affairs, or a municipal official.[[29]](#endnote-29) Often, the legal guardian is responsible for over 60 children at any one time.[[30]](#endnote-30) This does not secure each individual child’s best interest. The Netherlands provides an example of good practice by limiting appointed guardian's caseload to no more than 24 minors at any one time to ensure that the guardian can discharge their obligations to meet with each child, on average, once a month.[[31]](#endnote-31) An appointed legal guardian should not have a caseload of unaccompanied children which exceeds their ability to reasonably and diligently discharge their duties towards each child.
5. Further, in order to ensure that the unaccompanied child’s legal guardian serves the child’s interests, and her interests alone, State Parties should not appoint a legal guardian that is associated with the immigration departments of the State. Additionally, the appointed guardian must possess the relevant expertise to assess an unaccompanied child’s legal, health, social, and educational needs. An example for a practice that does not ensure the rights of children is the Australian model, where the Minister for Immigration and Border Protection is the appointed legal guardian of all unaccompanied children,[[32]](#endnote-32) and officers of the Department of Immigration and Border Protection are appointed as his delegated guardians.[[33]](#endnote-33) This creates a fundamental conflict, where the Minister or Department of Immigration staff are simultaneously the unaccompanied child’s legal guardian and also the immigration decision-making and enforcement authority.

**Recommendations**

**Rec 3. If a temporary guardian is appointed at first instance, then State Parties must ensure that an unaccompanied minor is provided with a permanent guardian as soon as practicable. States must ensure that the unaccompanied child’s legal rights (such as access to legal representation) are secured but also that proper custodial care is arranged until such care is no longer necessary (Article 18).**

**Rec 4. An appointed legal guardian must only be responsible for the number of minors that s/he can reasonably and diligently discharge their duties towards.**

**Rec 5. States must appoint an independent legal guardian that is not associated with the States’ immigration department. The best interests of the unaccompanied child must be the basic concern of the appointed legal guardian.**

**Rec 6. The guardian must be a qualified lawyer with experience in children’s rights and children’ welfare law and hold the appropriate qualifications and experience to care for and represent vulnerable children.**

**Rec 7. In order to facilitate the guardian’s exercise of their responsibilities and to enable children to communicate with the guardian and participate in the decision making process State Parties should provide, when necessary, interpreter services to mitigate linguistic barriers.**

**Article 6: Right to Life, Survival and Development**

1. Under Article 6 every child has the right to life, survival, and development. This right is particularly important in the context of unaccompanied children. Unaccompanied children who migrate through irregular channels are often exposed to numerous risks in their country of origin, during their time in transit, and upon arrival in the host country which may endanger their safety. Some unaccompanied children may be fleeing their country of origin due to war and other violence. They are likely to suffer from trauma that can impair their short term and long term development and mental health. During transit, children are at risk of trafficking, sexual or other exploitation, and injury or death. Upon arrival in the State, children may be subjected to deportation, detention, exploitation, economic disadvantage, and discriminatory treatment in the community. All these circumstances pose a risk to the child’s life and survival, as well as potentially impede their development.

**Rights and Obligations under Article 6**

1. Article 6 should be read in an unrestricted manner, with States having both positive and negative obligations.[[34]](#endnote-34) In particular, the term ‘development’ should be read holistically[[35]](#endnote-35). ‘Development’ in this context entails providing optimal conditions for children both in the short and long term.

Right to life, survival and development: Trauma in country of origin

1. Unaccompanied children will have particular needs, due to their background and experiences, which States Parties should take into account when addressing their rights. States Parties should identify children who have experienced trauma from the outset and address the needs of these children during the process of assessing and determining their status. State Parties should ensure that these children are referred to psychological, medical, and other mental and physical health services that are needed to support the child, and that they are able to access these resources in the long-term, and despite their immigration status.[[36]](#endnote-36) These services should be child friendly, available to all children and as far as possible, given in the child’s language of choice.
2. Further, as previously mentioned, when State Parties are considering the refugee claims of unaccompanied children seeking asylum, the outcome of this process should accommodate consideration of all of their rights. It should be noted that the decision regarding whether to accept or deny the child’s refugee claim does not necessarily lead to the violation, or ensure the protection, of the rights of the child in itself. If the application is denied, and the child faces deportation, the decision of whether or not to return the child to their country of origin should be made in accordance with the preservation of the rights of the child, including their best interests.

Right to life, survival and development: During transit

1. Unaccompanied minors can be exposed to numerous risks during transit, including trafficking, for both sexual and other exploitative purposes. Children in these circumstances should receive assistance, and should not be criminalised. Although what constitutes ‘trafficking’ is subject to debate, the underlying core element is that it involves some form of exploitation.[[37]](#endnote-37) Thus, the situation where an adult pays a third party to smuggle a child across borders may be conceptualised as human trafficking. Children who have been trafficked should always be treated as victims by States Parties.

Right to life, survival and development: In host country

1. Under Article 6, as well as Articles 20 and 18, when children do not have parents to look after them, as is the case with unaccompanied children, States are obliged to ‘step in’ and to adopt positive measures to ensure that their survival and developmental needs are met.[[38]](#endnote-38) These obligations not only require States to prevent children from coming to harm but also obliges them to institute policies and other active measures that enable children to have the best chance at life and survival and to be provided with optimal conditions for development.[[39]](#endnote-39)
2. Children should always be able to access accommodation and care that takes into account their best interests.[[40]](#endnote-40) Particular vulnerabilities may include the child’s gender, culture, and trauma suffered. In 2014, for these reasons, Sweden, for example, indicated that relevant domestic bodies were considering a report which recommended introducing a new form of accommodation specifically for unaccompanied children: the ‘support home.’[[41]](#endnote-41) However, in other States, such as Greece, we see objectionable practices where children are released into the community without any institutional support with the consequence that some have even been found living on the street.[[42]](#endnote-42)
3. Thus, State Parties should ensure that unaccompanied children have full access to accommodation and care,[[43]](#endnote-43) education,[[44]](#endnote-44)and health care services[[45]](#endnote-45) irrespective of their status. As a matter of best practice, States Parties should take into account the particular needs of unaccompanied minor children, particularly where they may have experienced trauma or may be having trouble adjusting to their new circumstances. For example, unaccompanied children who have fled a distressing situation, such as war, should be able to access psychological and/or other care they may need in the process of recovery.

Impediments to a child’s right to life, survival and development: deportation and detention

1. There are a number of policies and circumstances in State Parties that currently impede the life, survival and development of unaccompanied children in the context of international migration.
2. Unaccompanied children may be deported because State authorities have decided reunification with their families is in their best interests or because their asylum claim has been rejected. However, deportation may also occur because unaccompanied children have attempted to enter the country through irregular channels and States have turned them around. This can be seen in the Australian government’s policy of ‘turning back’ boats carrying asylum seekers without visas.[[46]](#endnote-46) These practices does not include a consideration of any children’s refugee status, resulting in children being exposed to further threat of injury, death, and human rights abuses in transit and in the place they are returned to.
3. A number of countries detain unaccompanied children while processing their claims for asylum. This practice contradicts Arts 37, 3 and 6, and does not follow the Committee’s General Comment 6’[[47]](#endnote-47). Conditions in many detention centres, for example in Australia are not appropriate places for children. Australian-run detention centres, particularly those located offshore on the remote Island of Nauru have been reported to be inadequate for a broad range of reasons, including accommodation that is not safe or suitable for children, and children having little to no access to education and physical and psychological health care.[[48]](#endnote-48) The Australian Human Rights Commission reported in 2014 that 34% of children in detention had serious mental health disorders, and 128 children self-harmed from January 2013 and March 2014.[[49]](#endnote-49)
4. Whilst the recent rise in migration means that many States are struggling to appropriately and safely deal with the number of people seeking asylum, unaccompanied children, owing to their particular vulnerability, should never be subjected to the hardships of detention, and thus States must implement alternatives to closed detention for unaccompanied minors.

**Recommendations**

1. **State Parties must identify unaccompanied children who have been trafficked, or are at risk of being trafficked, and take action to ensure their physical and mental health by referring them to appropriate accommodation, health, and specialist services. These children should not be subject to criminal prosecution or to other punishment, including detention, due to their status.**
2. **State Parties must not turn unaccompanied children away from their territory without properly assessing their claims for asylum and they must protect their human rights while their status is being determined.**
3. **An unaccompanied child should never be detained for immigration purposes. States must implement alternatives to closed detention and deprivation of liberty for unaccompanied children.**
4. We are happy to provide any further assistance to the Committee that may be useful. Thank you for considering our submission.

**Emma Holloway and Jia Xiao**

**UNSW Human Rights Clinic**

1. *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990) (*‘Convention on the Rights of the Child’*). [↑](#endnote-ref-1)
2. *Convention on the Rights of the Child* art 2. [↑](#endnote-ref-2)
3. *Convention on the Rights of the Child* art 3. [↑](#endnote-ref-3)
4. *Convention on the Rights of the Child* art 3. [↑](#endnote-ref-4)
5. *Convention on the Rights of the Child* art 12. [↑](#endnote-ref-5)
6. The number of children arriving in Europe by sea has increased. Whilst in June 2015 the proportion of child sea arrivals was 16%, by January 2016, 34% of people arriving by sea were children. As of 23 March 2016, 35% of the 161 900 people who arrived by sea in 2016 were children. In February 2016, 645 unaccompanied children applied for asylum. See European Commission, *Compilation of Data, Situation and Media Reports on Children in Migration,* (29 March 2016), European Commission, 6 <http://ec.europa.eu/justice/fundamental-rights/files/rights\_child/data\_children\_in\_migration.pdf>. [↑](#endnote-ref-6)
7. *Rights and Guarantees of Children in the Context of Migration and/or in need of International Protection (Advisory Opinion*) [2014] IACrtHR OC-21/14, 14 [35]. [↑](#endnote-ref-7)
8. European Commission, *Compilation of Data, Situation and Media Reports on Children in Migration,* (29 March 2016), European Commission <http://ec.europa.eu/justice/fundamental-rights/files/rights\_child/data\_children\_in\_migration.pdf>. [↑](#endnote-ref-8)
9. Rachel Hodgkin and Peter Newell, *Implementation Handbook for the Convention on the Rights of the Child* (UNICEF, 3rd ed, 2007) 99. [↑](#endnote-ref-9)
10. *Convention on the Rights of the Child* art 2. [↑](#endnote-ref-10)
11. *Convention on the Rights of the Child* art 2. [↑](#endnote-ref-11)
12. *Convention on the Rights of the Child* art 22(2), 9(3) and 10(2). [↑](#endnote-ref-12)
13. *Convention on the Rights of the Child* art 3. [↑](#endnote-ref-13)
14. *Convention on the Rights of the Child* art 12. [↑](#endnote-ref-14)
15. *Boultif v Switzerland* (2001) 33 EHRR 50 [58]. [↑](#endnote-ref-15)
16. Andrew and Renata Kaldor Centre for International Refugee Law, *Factsheet: Turning Back Boats* (26 February 2015) Andrew and Renata Kaldor Centre for International Refugee Law, 1-2 <http://www.kaldorcentre.unsw.edu.au/sites/default/files/Factsheet\_Turning\_back\_boats.pdf>. [↑](#endnote-ref-16)
17. UN Human Rights Council, *National report submitted in accordance with paragraph 5 of the annex to the Human Rights Council Resolution 16/21*, A/HRC/WG.6/23/AUS/1 (7 August 2015) para 56-58. [↑](#endnote-ref-17)
18. *Convention on the Rights of the Child* art 18(1) and art 5. [↑](#endnote-ref-18)
19. UN Committee on the Rights of the Child, *General Comment 6 (2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin,* UN Doc CRC/GC/2005/6 (1 September 2005) para 7. [↑](#endnote-ref-19)
20. *Convention on the Rights of the Child* art 18(2). [↑](#endnote-ref-20)
21. UN Committee on the Rights of the Child, *Questions of a Convention on the Rights of the Child,* UN Doc E/CN.4/RES/1989/57 (8 March 1989) [121]; *Convention on the Rights of the Child* art 2. [↑](#endnote-ref-21)
22. *Convention on the Rights of the Child* art 18(1). [↑](#endnote-ref-22)
23. *Convention on the Rights of the Child* art 18(2). [↑](#endnote-ref-23)
24. UN Committee on the Rights of the Child, *General Comment 6 (2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin,* UN Doc CRC/GC/2005/6 (1 September 2005) para 33. [↑](#endnote-ref-24)
25. *Convention on the Rights of the Child* art 12. [↑](#endnote-ref-25)
26. UN Committee on the Rights of the Child, *Consideration of reports submitted by States parties under article 44 of the Convention: Second and third periodic reports of States parties due in 2000 (Greece)*, UN Doc CRC/C/GRC/2-3 (6 July 2009) [376]. [↑](#endnote-ref-26)
27. UN Human Rights Council, *Report of the Special Rapporteur on the human rights of migrants, Francois Crepeau: Mission to Greece*, UN Doc A/HRC/23/46/Add.4 (3 December 2012) [77]. [↑](#endnote-ref-27)
28. UN Human Rights Council, *Report of the Special Rapporteur on the human rights of migrants, Francois Crepeau: Mission to Greece*, UN Doc A/HRC/23/46/Add.4 (3 December 2012) [77]. [↑](#endnote-ref-28)
29. UN Human Rights Council, *Report of the Special Rapporteur on the human rights of migrants, Francois Crepeau: Follow up mission to Italy*, UN Doc A/HRC/29/36/Add.2 (1 May 2015) [90]. [↑](#endnote-ref-29)
30. UN Human Rights Council, *Report of the Special Rapporteur on the human rights of migrants, Francois Crepeau: Follow up mission to Italy*, UN Doc A/HRC/29/36/Add.2 (1 May 2015) [90]. [↑](#endnote-ref-30)
31. Martine Goeman et al, *Core Standards for guardians of separated children in Europe: Goals for guardians and authorities* (Defence for Children - ECPAT The Netherlands, The Netherlands, 2011) 45. [↑](#endnote-ref-31)
32. *Immigration (Guardianship of Children) Act 1946* (Cth) s 6. [↑](#endnote-ref-32)
33. *Immigration (Guardianship of Children) Act 1946* (Cth) s 5; Department of Immigration and Border Protection, *IGOC Factsheet* (2012) 2. [↑](#endnote-ref-33)
34. Rachel Hodgkin and Peter Newell, *Implementation Handbook for the Convention on the Rights of the Child* (UNICEF, 3rd ed, 2007) 84. [↑](#endnote-ref-34)
35. Rachel Hodgkin and Peter Newell, *Implementation Handbook for the Convention on the Rights of the Child* (UNICEF, 3rd ed, 2007) 83. [↑](#endnote-ref-35)
36. *Convention on the Rights of the Child* art 2. [↑](#endnote-ref-36)
37. UN General Assembly, *Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime* (15 November 2000) art 3(1). [↑](#endnote-ref-37)
38. C*onvention on the Rights of the Child* art 18. [↑](#endnote-ref-38)
39. Rachel Hodgkin and Peter Newell, *Implementation Handbook for the Convention on the Rights of the Child* (UNICEF, 3rd ed, 2007) 93. [↑](#endnote-ref-39)
40. *Convention on the Rights of the Child* art 20 and 22. [↑](#endnote-ref-40)
41. UN Human Rights Council, *National Report submitted in accordance with paragraph 5 of the annex to the Human Rights Council resolution 16/21: Sweden*, A/HRC/WG.6/21/SWE/1 (14 November 2014) para 85. [↑](#endnote-ref-41)
42. UN Human Rights Council, *Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15(c) of the annex to the Human Rights Council resolution 5/1*, A/HRC/WG.6/11/GRC/3 (28 January 2011) para 75. [↑](#endnote-ref-42)
43. *Convention on the Rights of the Child* art 20 and 22. [↑](#endnote-ref-43)
44. *Convention on the Rights of the Child* art 28, 29, 30 and 32. [↑](#endnote-ref-44)
45. *Convention on the Rights of the Child* art 23, 24 and 29. [↑](#endnote-ref-45)
46. Andrew and Renata Kaldor Centre for International Refugee Law, *Factsheet: Turning Back Boats* (26 February 2015) Andrew and Renata Kaldor Centre for International Refugee Law, 1-2 <http://www.kaldorcentre.unsw.edu.au/sites/default/files/Factsheet\_Turning\_back\_boats.pdf>. [↑](#endnote-ref-46)
47. UN Committee on the Rights of the Child (CRC), *General Comment 6 (2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin,* UN Doc CRC/GC/2005/6 (1 September 2005) para 61. [↑](#endnote-ref-47)
48. Australian Human Rights Commission, *The Forgotten Children: National Inquiry into Children in Immigration Detention* (2014) 51-77. [↑](#endnote-ref-48)
49. Australian Human Rights Commission, *The Forgotten Children: National Inquiry into Children in Immigration Detention* (2014) 59 and 62. [↑](#endnote-ref-49)