

THE ROLE OF PARLIAMENTS IN PROTECTING THE RIGHTS OF CHILDREN, IN PARTICULAR UNACCOMPANIED MIGRANT CHILDREN, AND IN PREVENTING THEIR EXPLOITATION IN SITUATIONS OF ARMED CONFLICT

Resolution adopted unanimously by the 130th IPU Assembly (Geneva, 20 March 2014)

The 130th Assembly of the Inter-Parliamentary Union,

Considering that Article 1 of the Convention on the Rights of the Child defines a child as “every human being below the age of eighteen years”,

Acknowledging that efforts have been made globally to promote the protection of and respect for the human rights of unaccompanied migrant children, separated children and children involved in armed conflicts pursuant to the provisions of the Convention on the Rights of the Child,

Recognizing the fundamental principles and rights that must be guaranteed to all children, especially unaccompanied or separated children, boys and girls, in accordance with the Convention on the Rights of the Child, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and States’ other obligations under international law, including the best interests of the child; non-discrimination; non-punishment; non-detention; non-refoulement; family unity; the right to physical and legal protection; the right to an identity, the right to life, survival and development; the right to be heard and to participate in decisions that affect them; the right to be protected from violence; the right to education; the right to due process guarantees and the right to access to health care and psychological support, reintegration assistance and legal aid,

Recalling that paragraph 7 of General Comment No. 6 (2005) on the Treatment of Unaccompanied and Separated Children Outside their Country of Origin, issued by the Committee on the Rights of Child, defines “unaccompanied children” as those “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”, while paragraph 8 defines “separated children” as “children who have been separated from both parents, or from their previous legal or customary primary caregiver, but not necessarily from other relatives”,

Also recalling that paragraph 13 of General Comment No. 13 (2011) on The right of the child to freedom from all forms of violence, issued

by the Committee on the Rights of Child, states that "Addressing and eliminating the widespread prevalence and incidence of violence against children is an obligation of States parties under the Convention. Securing and promoting children's fundamental rights to respect for their human dignity and physical and psychological integrity, through the prevention of all forms of violence, is essential for promoting the full set of child rights in the Convention",

Recognizing the importance of the Convention on the Elimination of All Forms of Discrimination against Women, the general recommendations of the Committee on the Elimination of Discrimination against Women, UN Security Council resolution 1325 and subsequent resolutions on women, peace and security calling for special measures to protect girls from trafficking, sexual and gender-based violence, sexual exploitation and many forms of harmful practice, such as child/early marriage, forced marriage and female genital mutilation, the incidence of which increases in conflict and post-conflict situations,

Considering that the international legal framework dealing with children and armed conflict includes instruments such as Protocol II to the Geneva Conventions of 1949 relating to the Protection of Victims of Non-International Armed Conflicts (1977); the Convention on the Rights of the Child (1989); ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999) and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (2000),

Also considering that the international legal framework dealing with children and transnational organized crime includes instruments such as the Convention against Transnational Organized Crime (2000), the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (2003), the Protocol against the Smuggling of Migrants by Land, Sea and Air (2004), and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2002),

Aware that, in accordance with the Principles and Guidelines on Children Associated with Armed Forces or Armed Groups (Paris Principles, 2007), a child associated with an armed force or armed group is "any person below 18 years of age who is or who has been recruited or used by an armed force or armed group in any capacity, including but not limited to children, boys and girls, used as fighters, cooks, porters, messengers, spies or for sexual purposes",

Recalling that, in accordance with Articles 26 and 27 of the Vienna Convention on the Law of Treaties (1969), any State party to the Convention on the Rights of the Child must ensure that the rights and

principles enshrined in the Convention are fully reflected and given legal effect in relevant domestic legislation,

Recognizing that parliaments have a crucial role to play in ratifying international legal instruments on the protection of children and accordingly, in implementing domestic legislation,

Underscoring that the role of parliaments in protecting the rights of children, in particular unaccompanied migrant children and children in situations of armed conflict or affected by organized crime, must be in line with international law and based on the best interests of the child,

Considering that policies criminalizing migrant children have a negative impact on children's access to basic rights,

1. *Invites* the parliaments of States which have not yet signed the three Optional Protocols to the Convention on the Rights of the Child to urge their governments to proceed with their signature and full accession;
2. *Urges* parliaments to prohibit all forms of violence and discrimination against children and to pass enabling domestic legislation in order to give full effect to the Convention on the Rights of the Child;
3. *Calls* on parliaments, especially those in countries experiencing situations of armed conflict, internal conflict or occupation, to amend their existing legislation so as to prevent and punish the recruitment of children for direct participation in hostilities and other forms of exploitation of children in such situations; also *calls on* parliaments to prevent, suppress and punish the exploitation of children by organized criminal groups, in line with relevant international law;
4. *Also calls* on parliaments to design efficient legislative tools for the legal protection of minors, thus establishing a legal framework effectively guaranteeing the rights of children and to enact legislation aimed at establishing comprehensive and effective protection systems with adequate resources and coordinated by a high-ranking government official in order to ensure the best interests of the child;
5. *Urges* parliaments to enact specific legislation aimed at protecting unaccompanied migrant girls and girls in armed conflict and post-conflict situations from trafficking, sexual exploitation, sexual and gender-based violence, including rape, and many forms of harmful practice, such as child, early and forced marriage and female genital mutilation;
6. *Encourages* parliaments to enact legislation aimed at addressing the special needs of separated and unaccompanied children and children involved in armed conflicts which, as a minimum, should provide for specific procedures in keeping with the rule of law;

7. *Urges* governments to take action so that separated and unaccompanied children fleeing illegal recruitment by armed forces or groups can cross borders and exercise their right to request asylum and so that no child in this category is returned to the border of a State where his/her life is truly at risk;
8. *Also urges* parliaments of countries with compulsory military service to raise the minimum age to 18 years and to ban the voluntary recruitment of children under the age of 18; *further urges* parliaments to take appropriate steps to have amendments made to Article 2 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, Article 77 of Protocol I additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts, and Article 4 of Protocol II additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts, with a view to banning the voluntary recruitment of persons under the age of 18;
9. *Encourages* parliaments to underscore the importance of working together with United Nations bodies, non-governmental organizations and other entities in order to collect accurate and reliable data on the number of separated or unaccompanied migrant children and children involved in armed and internal conflicts and situations of organized crime in their respective countries;
10. *Also encourages* parliaments to respect, protect and fulfil the rights of children involved in demonstrations and political rallies, including their right to protection from violence and to freedom of association and expression;
11. *Urges* parliaments to discourage the premeditated use of children in violent demonstrations;
12. *Calls on* the parliaments of countries involved in armed conflict to urge their governments, in close collaboration with the United Nations Office of the Special Representative of the Secretary-General for Children and Armed Conflict, to release child combatants or prisoners of war and seek lasting solutions, such as family unification, where possible signing relevant action plans to this end;
13. *Invites* parliaments to share best practices on the protection of children from the perspective of restorative justice with the governments, parliaments and human rights organizations of countries where armed conflict and situations involving organized crime are developing;
14. *Calls on* parliaments to ensure compliance with international standards for the protection of separated or unaccompanied migrant children, including the principles of non-discrimination and non-punishment, prohibition of inappropriate detention of the child, the best interests of the child, the right of

- the child to life and development, and the right of children to participate in decisions that affect them;
15. *Also calls on* parliaments to ensure that adequate resources are allocated from national budgets to enforce laws, implement policies and improve practices related to the protection of children, especially separated or unaccompanied migrant children and children in situations of armed conflict, and to guarantee that these budgets are gender-sensitive;
 16. *Invites* parliaments to hold hearings and consultations so as to assess the effectiveness of existing laws, policies, and practices on protecting children, especially separated or unaccompanied migrant children and children in situations of armed conflict, collect age- and sex-disaggregated data on the scope of the problem, and identify appropriate responses to combat it;
 17. *Also invites* parliaments, in partnership with UNICEF and in consultation with Interpol, to promote the establishment of a comprehensive international and up-to-date register of foreign separated or unaccompanied minors as an efficient tool for safeguarding the rights of such children, and to entrust the responsibility for coordinating such data to a single national authority;
 18. *Urges* parliaments to hold governments to account for their humanitarian duty to provide children, especially separated or unaccompanied migrant children and children in situations of armed conflict, with the necessary services, in order to guarantee basic human rights such as education, medical treatment, counselling, rehabilitation and reintegration, child care, accommodation and legal assistance, bearing in mind the special needs of girls; *also urges* them to support the establishment of national referral mechanisms to this end;
 19. Calls on governments to ensure that minors under the age of 18 recruited illegally into armed forces who are accused of crimes under international law are considered first and foremost as victims, rather than perpetrators, of international law violations;
 20. *Invites* parliaments to support awareness-raising efforts, especially by working with the media to address xenophobia and violations of the rights of children, especially separated or unaccompanied migrant children and children in situations of armed conflict, and *notes* that Universal Children's Day, 20 November, provides a favourable framework for mobilizing and sensitizing public opinion to the protection of minors;
 21. *Also invites* parliaments to support efforts aimed at raising awareness of discrimination against children who have been exploited in armed conflicts and of the importance of the disarmament, demobilization and reintegration process;

22. *Further invites* parliaments to support initiatives aimed at training, educating and continuously building the capacities of child protection professionals, specifically offering training in international human rights law to all members of the armed forces, law enforcement and immigration officials, border guards and other individuals and agencies involved in protecting the rights of children, especially separated or unaccompanied migrant children, children in situations of armed conflict and children affected by organized crime;
23. *Encourages* parliaments to support implementation of the Minimum Standards for Child Protection in Humanitarian Action and ensure that they are integrated into official policies to protect children, especially separated or unaccompanied migrant children and children in situations of armed conflict, so that all stakeholders, including government officials, UN agents and civil society representatives, are aware of them;
24. *Requests* parliaments to promote action to prevent the migration of separated or unaccompanied minors from their countries of origin, by strengthening cooperation and promoting bilateral conventions with countries of origin;
25. *Calls on* parliaments to adopt the necessary legal instruments, such as memoranda of understanding and bilateral and multilateral agreements on collaboration with international organizations and technical and financial assistance, so as to enhance international cooperation on the protection of the rights of separated and unaccompanied children, especially migrant children and children in situations of armed conflict;
26. *Also calls on* parliaments to promote the establishment of an international legal framework guaranteeing that States and corporations, non-governmental groups and individuals who exploit children in demonstrations and armed conflicts, in time of war or peace, are held to account for their actions and compensate the victims of these imprescriptible crimes and their families;
27. *Calls for* a review of international law and international humanitarian law conventions with a view to harmonizing the provisions on special guardianship for minors under 18 years of age;
28. *Urges* parliaments to take appropriate measures to ensure that an effective birth registration system is in place for all children, including separated or unaccompanied migrant children and children in situations of armed conflict;
29. *Requests* parliaments to promote an international protocol for unaccompanied minors establishing basic and unified action lines that take account of gender concerns, regardless of the country where the minor is, and enabling coordination of the work of all relevant institutions and departments, and to facilitate the early identification of children at risk, boys and girls,

especially separated or unaccompanied migrant children and children in situations of armed conflict, so that they can be looked after and brought into a comprehensive protective structure that will guarantee all their rights and facilitate their reunification with their families;

30. *Invites* parliaments and governments to raise awareness of children's rights in receiving communities and to work actively for the most efficient coordination between agencies responsible for receiving unaccompanied children, in recognition of the high incidence of post-traumatic stress among unaccompanied children and in order to take every measure to help them;
31. *Calls on* parliaments and governments to open borders based firmly on values such as the rule of law, democracy, respect for human rights and international conventions, especially when so many victims are children, and to find a way to combine respect for border protection and the right to seek asylum;
32. *Also calls on* parliaments to ensure proper and qualified evaluation of whether unaccompanied minors should return to their country of origin, and to find ways to ensure the humane and safe return of those who must return after receiving a final rejection of their asylum application, so that no minor returns home without a safe and appropriate reception, acknowledging that an important step in the process is to make sure that minors are reunited with their parents, bearing the child's perspective in mind in every case and ensuring the rights of each individual child;
33. *Invites* parliaments and other institutions to share with the IPU their best practices in the protection of children's rights, in particular the rights of separated or unaccompanied migrant children and children in situations of armed conflict, with a view to developing a relevant model law;
34. *Further invites* parliaments to work closely with the IPU, in particular its geopolitical groups, to promote the organization of regional forums to address specific situations requiring customized solutions, thus promoting the establishment of comprehensive protection systems;
35. *Calls on* governments and parliaments to assume their responsibility for protecting the rights of children, in particular separated or unaccompanied migrant children, children in situations of armed conflict or occupation and children affected by organized crime, and to fulfill their obligations to protect child refugees and asylum-seekers;
36. *Urges* parliaments and governments to incorporate the perspective of minors and to place greater emphasis on children in legislation, budgets and policymaking, with a view to ensuring that the voices of young people and children are better heard;

37. *Calls on* parliaments and governments to enact all provisions of the Convention on the Rights of the Child in national legislation in order to guarantee equal rights for all children.