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

***Draft resolution submitted by the co-Rapporteurs
Ms. J.A. Salman Nassif (Bahrain) and Ms. G. Cuevas Barrón (Mexico)***

***Amendments to the revised preliminary draft resolution submitted
within the statutory deadline by the delegations of Argentina, Canada, Finland, France, Spain,
Sweden and Switzerland***

TITLE

Amend the title to read as follows:

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

(Switzerland)

PREAMBLE

Preambular paragraph 3

Amend to read as follows:

- (3) *Recognizing* the fundamental principles and rights that must be guaranteed to all children, especially unaccompanied or separated children, in accordance with the Convention on the Rights of the Child **and States' other obligations under international law** ~~and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families~~: the best interests of the child; non-discrimination; non-punishment; 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; and the right to due process guarantees,

(Canada)

Amend to read as follows:

- (3) *Recognizing* the fundamental principles and rights that must be guaranteed to all children, especially unaccompanied or separated children, in accordance with the Convention on the Rights of the Child and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families: the best interests of the child; non-discrimination; non-punishment; non-refoulement; family unity; the right to physical and legal protection; the right to an identity, the right to life and development; **the right to education**, the right to be heard and to participate in decisions that affect them; the right to be protected from violence; and the right to due process guarantees,

(Switzerland)

Preambular paragraph 6

Amend to read as follows:

- (6) *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) ~~and the Convention against Transnational Organized Crime (2000),~~
(Canada)

Preambular paragraph 6bis

Add a new paragraph after preambular paragraph 6 to read as follows:

- (6bis) 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),**
(Canada)

Preambular paragraph 7

Delete preambular paragraph 7 and replace by a new paragraph to read as follows:

- (7) Aware that, in accordance with the 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”,**
(Canada)

Preambular paragraph 7bis

Add a new paragraph after preambular paragraph 7 to read as follows:

- (7bis) Recognizing the importance of UN Security Council resolution 1325 and subsequent resolutions on women, peace and security calling for special measures to protect girls from gender-based violence – particularly rape and other forms of sexual abuse – in situations of armed conflict, and of recent international efforts to prevent and eliminate child, early and forced marriage,**
(Canada)

Preambular paragraph 8

Amend to read as follows:

- (8) *Recalling* that, **in accordance with** ~~according to~~ 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 provisions** and principles of the latter are fully **implemented** ~~reflected~~ and given legal effect in relevant domestic legislation,
(Canada)

Preambular paragraph 9

Amend to read as follows:

- (9) *Recognizing* that parliaments have a crucial role to play in **the domestic implementation of** ~~ratifying~~ international legal instruments on the protection of children ~~and accordingly, in implementing domestic legislation,~~
- (Canada)

Preambular paragraph 10

Amend to read as follows:

- (10) *Underscoring* that the role of parliaments in protecting the rights of children, – in particular unaccompanied migrant children, ~~and~~ children in situations ~~of war,~~ armed conflict **and children affected by** organized crime –, must be in line with international law and based on the best interests of the child,
- (Canada)

Amend to read as follows:

- (10) *Underscoring* that the role of parliaments in protecting the rights of children, in particular unaccompanied migrant children and children in situations ~~of war,~~ armed conflict and organized crime, must be in line with international law and based on the best interests of the child,
- (Switzerland)

Preambular paragraph 10bis

Add a new paragraph after preambular paragraph 10 to read as follows:

- (10bis) Considering that policies criminalizing migrants impact negatively on children's access to basic services,**
- (Argentina)

OPERATIVE PART

Operative paragraph 1

Amend to read as follows:

1. *Invites* the parliaments of States which have not yet signed the **three** Optional Protocols to the Convention on the Rights of the Child ~~on the involvement of children in armed conflict, and on a communications procedure,~~ to urge their governments to proceed with their signature and full accession;
- (Canada)

Operative paragraph 3

Amend to read as follows:

3. *Calls* on parliaments, especially those in countries experiencing **situations of** armed conflicts ~~and situations of organized crime,~~ to amend their existing legislation so as to prevent and punish ~~the~~ **direct participation in hostilities** ~~involvement~~ and **other forms of** exploitation of children in **situations of armed conflict** ~~wars, internal conflicts;~~ **also calls on parliaments to prevent, suppress and punish the exploitation of children by** ~~and~~ organized **criminal groups** ~~crime activities,~~ in line with relevant international law;
- (Canada)

Amend to read as follows:

3. *Calls on* parliaments, especially those in countries experiencing armed conflicts and situations of organized crime, to amend their existing legislation so as to prevent and punish the involvement and exploitation of children in ~~wars~~, internal conflicts and organized crime activities, in line with relevant international law;

(Switzerland)

Operative paragraph 4

Amend to read as follows:

4. *Also calls on* parliaments **to design efficient legislative tools for the legal protection of minors, thus setting up a legal framework effectively guaranteeing the rights of children** ~~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;~~

(Spain)

Amend to read as follows:

4. *Also calls on* parliaments to enact legislation aimed at establishing comprehensive and effective protection systems with adequate resources and coordinated by a high-ranking ~~government~~ **independent** official in order to ensure the best interests of the child;

(France)

New operative paragraphe 4bis

Add a new paragraph after operative paragraph 4 to read as follows :

- 4bis. *Invites* parliaments to confer upon this high-ranking official broad powers of oversight and inquiry, as well as the necessary means to accomplish, in full independence, his/her mission to defend and promote the best interests of the child, and ensure that this high-ranking official can be represented throughout the country by representatives acting on his/her behalf;

(France)

New operative paragraphe 4bis

Add a new paragraph after operative paragraph 4 to read as follows :

- 4bis. *Encourages* parliaments to call on their governments to allocate adequate resources to child protection programmes and entrust coordination of such measures to a high-ranking government official, thus providing the necessary guarantees for defending the best interests of the child in an efficient and effective way;

(Spain)

Operative paragraph 5

Amend to read as follows:

5. *Encourages* parliaments to enact specific legislation aimed at protecting **separated or unaccompanied migrant girls and girls in armed conflict and post-conflict** situations ~~of war and armed conflict~~ from trafficking, sexual exploitation **and sexual and gender-based violence**, and **at preventing and eliminating child, early, and forced** marriage;

(Canada)

Amend to read as follows:

5. ~~Encourages~~ **Urges** parliaments to enact specific legislation aimed at protecting unaccompanied migrant girls and girls in situations of war and armed conflict from trafficking, **rape**, sexual exploitation and early marriage;
(Sweden)

Amend to read as follows:

5. *Encourages* parliaments to enact specific legislation aimed at protecting unaccompanied migrant girls and girls in situations of ~~war~~ and armed conflict from trafficking, sexual exploitation and early marriage;
(Switzerland)

New operative paragraphe 6bis

Add a new paragraph after operative paragraph 6 to read as follows :

- 6bis. **Encourages governments to take action so that separated and unaccompanied children fleeing illegal recruitment by armed forces can cross borders and exercise their right to request asylum and that no child in this category is returned to the border of a State where his/her life is truly at risk;**
(France)

Operative paragraph 7

Amend to read as follows:

7. *Urges* parliaments of countries **with compulsory military service** to raise the minimum age ~~for compulsory military recruitment~~ to 18 years and to ban the voluntary recruitment of children under the age of 18; *also urges* parliaments to take the appropriate steps to amend 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 Additional to the Geneva Conventions Relating to the Protection of Victims of International Armed Conflicts (Protocol I) and Article 4 of Protocol Additional to the Geneva Conventions relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)** with a view to banning the voluntary recruitment of persons under the age of 18;
(Argentina)

Amend to read as follows:

7. *Urges* parliaments to raise the minimum age for compulsory military recruitment to 18 years and ~~to ban the voluntary recruitment of children under the age of 18 and invites parliaments to consider the possibility of increasing the minimum age for voluntary recruitment into the armed forces to 18 years; also urges parliaments to take the appropriate steps to amend Article 2 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict with a view to banning the voluntary recruitment of persons under the age of 18;~~
(Canada)

Operative paragraph 8

Amend to read as follows:

8. *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 conflicts and **those affected by** situations of organized crime in their respective countries;
(Canada)

Operative paragraph 9

Amend to read as follows:

9. ~~Also encourages~~ parliaments to ~~criminalize the premeditated use of children in violent demonstrations, political rallies and riots~~ **respect, protect and fulfil the rights of children involved in demonstrations and political rallies, including their right to protection from violence and their rights to freedom of association and expression;**
(Canada)

New operative paragraphe 9bis

Add a new paragraph after operative paragraph 9 to read as follows :

- 9bis. Invites the IPU to put forward the idea of an international treaty prohibiting the use of children in violent demonstrations, political rallies and riots and/or to ask the International Law Commission to take a stance on it and possibly make such prohibition part of customary law;**
(Finland)

Operative paragraph 10

Amend to read as follows:

10. *Calls on* the parliaments of countries involved in armed conflict to urge their governments to release child combatants or prisoners of war **without waiting for a peace accord or ceasefire** and seek lasting solutions, such as family unification, **or host families**, where possible;
(France)

Amend to read as follows:

10. *Calls on* the parliaments of countries involved in armed conflict to urge their governments ~~to~~, **in close collaboration with the Office of the Special Representative of the United Nations 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 to this end relevant action plans;**
(Spain)

Operative paragraph 12

Amend to read as follows:

12. *Calls on* parliaments to ensure compliance with international standards for the protection of separated ~~or and~~ 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;
(Canada)

Operative paragraph 13

Amend to read as follows:

13. *Also calls on* parliaments to ensure that adequate resources are allocated to enforce laws, implement policies and improve practices related to the protection of ~~separated and unaccompanied~~ children, especially **separated or unaccompanied** migrant children and children in situations of armed conflict;
(Canada)

Operative paragraph 14

Amend to read as follows:

14. *Invites* parliaments to hold hearings and consultations so as to assess the effectiveness of existing laws, policies, and practices on protecting ~~separated and unaccompanied~~ 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;

(Canada)

New operative paragraphe 14bis

Add a new paragraph after operative paragraph 14 to read as follows :

- 14bis. Also invites parliaments, under the guidance of Interpol, to promote the setting up of a comprehensive international and up-to-date register of foreign separated and 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;**

(Spain)

Operative paragraph 15

Amend to read as follows:

15. *Urges* parliaments to hold governments to account **for their humanitarian responsibility** for providing separated and unaccompanied children, especially 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; also urges them to support the establishment of national referral mechanisms to this end;

(Sweden)

Amend to read as follows:

15. *Urges* parliaments to hold governments to account for providing separated and unaccompanied children, especially migrant children and children in situations of armed conflict, with the necessary services, 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;

(Spain)

Amend to read as follows:

15. *Urges* parliaments to hold governments to account for providing ~~separated and unaccompanied~~ children, especially **separated or unaccompanied** migrant children and children in situations of armed conflict, with the necessary services, such as education, medical treatment, counselling, rehabilitation and reintegration, child care, accommodation and legal assistance; *also urges* them to support the establishment of national referral mechanisms to this end;

(Canada)

New operative paragraphe 15bis

Add a new paragraph after operative paragraph 15 to read as follows :

- 15bis. Also urges 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;**
(France)

Operative paragraph 16

Amend to read as follows:

16. *Invites* parliaments to support awareness-raising efforts, especially by working with the media to address xenophobia and violations of the rights of separated and unaccompanied children, especially 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;**
(France)

Amend to read as follows:

16. *Invites* parliaments to support awareness-raising efforts, especially by working with the media to address xenophobia and violations of the rights of ~~separated and unaccompanied~~ children, especially **separated or unaccompanied** migrant children and children in situations of armed conflict;
(Canada)

New operative paragraphe 16bis

Add a new paragraph after operative paragraph 16 to read as follows :

- 16bis 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;**
(Switzerland)

Operative paragraph 17

Amend to read as follows:

17. *Also invites* parliaments to support initiatives aimed at training, educating and continuously building the capacities of child protection professionals, **specifically 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 separated and unaccompanied children, especially migrant children and children in situations of armed conflict and organized crime;
(Spain)

Amend to read as follows:

17. *Also invites* parliaments to support initiatives aimed at training, educating and continuously building the capacities of child protection professionals, law enforcement and immigration officials, border guards and other individuals and agencies involved in protecting the rights of ~~separated and unaccompanied~~ children, especially **separated or unaccompanied** migrant children, ~~and~~ children in situations of armed conflict and **children affected by** organized crime;
(Canada)

Operative paragraph 18

Amend to read as follows:

18. *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 ~~separated and unaccompanied~~ 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;

(Canada)

New operative paragraphe 18bis

Add a new paragraph after operative paragraph 18 to read as follows :

- 18bis. Requests parliaments to promote actions to prevent the migration of such minors from their countries of origin by strengthening cooperation and promoting bilateral conventions with countries of origin;**

(Spain)

Operative paragraph 19

Amend to read as follows:

19. *Calls on* parliaments to **encourage their governments** ~~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 and assistance related to~~ ~~on~~ the protection of the rights of ~~separated and unaccompanied~~ children, especially **separated or unaccompanied** migrant children and children in situations of armed conflict;

(Canada)

Operative paragraph 20

Amend to read as follows:

20. **Also invites the parliaments of States that have not yet signed and ratified the Rome Statute of the International Criminal Court to urge their governments to do so as a matter of urgency, and to encourage their governments to contribute to international efforts aimed at providing the full range of remedies to child** ~~calls on parliaments to establish an international legal body to hold to account non-governmental groups and individuals who exploit children in demonstrations and armed or non-armed conflicts during war or peace times for their actions, and to compensate the victims of violations of international humanitarian and human rights law;~~

(Canada)

Amend to read as follows:

20. **Also calls on parliaments to take measures aimed at better utilizing existing legal avenues and optimizing the relevant judicial procedures in place;** ~~establish an international legal body to hold to account non-governmental groups and individuals who exploit children in demonstrations and armed or non-armed conflicts during war or peace times for their actions, and to compensate the victims of violations of international humanitarian and human rights law;~~

(Switzerland)

Amend to read as follows:

20. *Also calls on parliaments to **promote the establishment of an international legal body framework to hold to account guaranteeing that States and corporations, non-governmental groups and individuals who exploit children in demonstrations and armed or non-armed conflicts during either war or peace times are held to account for their actions and to compensate the victims of these imprescriptible crimes and their families of violations of international humanitarian and human rights law;***

(Argentina)

New operative paragraphe 20bis

Add a new paragraph after operative paragraph 20 to read as follows :

- 20bis. 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;**

(Argentina)

Operative paragraph 21

Amend to read as follows:

21. *Urges parliaments to take appropriate measures to ensure that an effective birth registration system is in place for all children, including separated ~~or and~~ unaccompanied children and migrant children and children in situations of armed conflict;*

(Canada)

Operative paragraph 22

Amend to read as follows and move to after operative paragraph 12:

- 22. Requests parliaments to promote an international protocol for unaccompanied minors establishing basic and unified action lines, regardless of the country where the minor is, and enabling coordination of the work of all relevant institutions and departments, as well as ~~Invites parliaments to work with governments to develop sensitive arrival and reception procedures so as to facilitate the early identification of children at risk, especially separated and unaccompanied children, as well as children in situations of armed conflict;~~**

(Spain)

Amend to read as follows:

22. *Invites parliaments to work with governments to develop sensitive arrival and reception procedures so as to facilitate the early identification of children at risk, especially separated ~~and or~~ unaccompanied **migrant** children, as well as children in situations of armed conflict;*

(Canada)

New operative paragraphs 22bis, 22ter and 22quater

Add three new paragraphs after operative paragraph 22 to read as follows :

- 22bis. Invites parliamentarians and governments to raise awareness of children's rights in receiving communities and to actively work for the most efficient coordination between agencies responsible for receiving unaccompanied children, recognizing the frequency of post-traumatic stress among unaccompanied children and taking every measure to help them;**

- 22ter. 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 the respect for border protection and the right to seek asylum;**

- 22quater. Also calls on parliaments to find ways to ensure a humane and safe return of unaccompanied minors who must return to their country 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, always bringing the child's perspective to bear on cases and ensuring the rights of each individual child;

(Sweden)

Operative paragraph 23

Amend to read as follows:

23. *Also 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 ~~war~~ and armed conflict, with a view to developing a relevant model law;

(Canada)

Amend to read as follows:

23. Also 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 unaccompanied migrant children and children in situations of ~~war~~ and armed conflict, with a view to developing a relevant model law;

(Switzerland)

Operative paragraph 25

Amend to read as follows:

25. *Calls on* governments and parliaments to assume their responsibility for protecting the rights of children, in particular **separated or** unaccompanied migrant children, ~~and~~ children in situations of ~~war~~, armed conflict and **children affected by** organized crime, and to fulfil their obligations to protect child refugees and asylum-seekers.

(Canada)

Amend to read as follows:

25. *Calls on* governments and parliaments to assume their responsibility for protecting the rights of children, in particular unaccompanied migrant children and children in situations of ~~war~~, armed conflict and organized crime, and to fulfill their obligations to protect child refugees and asylum-seekers.

(Switzerland)

New operative paragraphs 25bis and 25ter

Add two new paragraph after operative paragraph 25 to read as follows :

- 25bis. Urges parliaments and governments to include the perspective of minors and to place greater emphasis on children in politics, whereby the voices of young people and children can be better heard;**

- 25ter. Calls on parliaments and governments to include all provisions of the Convention on the Rights of the Child into national legislation in order to guarantee equal rights to all children.**

(Sweden)