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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)

The 130th Assembly of the Inter-Parliamentary Union,

- (1) *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”,
- (2) *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,
- (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 be heard and to participate in decisions that affect them; the right to be protected from violence; and the right to due process guarantees,
- (4) *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”,
- (5) *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”,
- (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), 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),

(7) *Aware* that in accordance with the Cape Town Principles and Best Practices (1997), a child soldier is “any person under 18 years of age who is part of any kind of regular or irregular armed force or armed group in any capacity, including but not limited to cooks, porters, messengers and anyone accompanying such groups, other than family members. The definition includes girls recruited for sexual purposes and for forced marriage”,

(8) *Recalling* that, according to Article 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 provisions and principles of the latter are fully reflected and given legal effect in relevant domestic legislation,

(9) *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,

(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,

1. *Invites* the parliaments of States which have not yet signed the 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;
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 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;
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 official in order to ensure the best interests of the child;
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;
6. *Also 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* 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; *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;
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 unaccompanied migrant children and children involved in armed conflicts and situations of organized crime in their respective countries;
9. *Also encourages* parliaments to criminalize the premeditated use of children in violent demonstrations, political rallies and riots;
10. *Calls on* the parliaments of countries involved in armed conflict to urge their governments to release child combatants or prisoners of war and seek lasting solutions, such as family unification, where possible;

11. *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;
12. *Calls on* parliaments to ensure compliance with international standards for the protection of separated and unaccompanied 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;
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 migrant children and children in situations of armed conflict;
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 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;
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; *also urges* them to support the establishment of national referral mechanisms to this end;
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;
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 migrant children and children in situations of armed conflict and organized crime;
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 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;
19. *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;
20. *Also 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;
21. *Urges* parliaments to take appropriate measures to ensure that an effective birth registration system is in place for all children, including separated and unaccompanied children and migrant children and children in situations of armed conflict;

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 unaccompanied children, as well as children in situations of armed conflict;
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;
24. *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;
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.