



# General Assembly

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## Sixty-ninth session Third Committee

Agenda item 68 (b)

### **Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms**

#### **Ecuador, El Salvador, Guatemala, Honduras, Paraguay and Uruguay: draft resolution**

#### **Migrant children and adolescents**

*The General Assembly,*

*Recalling* all relevant instruments, including the International Covenant on Civil and Political Rights,<sup>1</sup> the International Covenant on Economic, Social and Cultural Rights,<sup>1</sup> the Convention on the Rights of the Child<sup>2</sup> and the Optional Protocol thereto on the sale of children, child prostitution and child pornography,<sup>3</sup> the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime,<sup>4</sup> the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime,<sup>5</sup> the International Convention on the Elimination of All Forms of Racial Discrimination,<sup>6</sup> the Vienna Convention on Consular Relations,<sup>7</sup> the Convention on the Rights of Persons with Disabilities,<sup>8</sup> the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,<sup>9</sup> the 1951 Convention relating to the Status of

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<sup>1</sup> See resolution 2200 A (XXI), annex.

<sup>2</sup> United Nations, *Treaty Series*, vol. 1577, No. 27531.

<sup>3</sup> *Ibid.*, vol. 2171, No. 27531.

<sup>4</sup> *Ibid.*, vol. 2237, No. 39574.

<sup>5</sup> *Ibid.*, vol. 2241, No. 39574.

<sup>6</sup> *Ibid.*, vol. 660, No. 9464.

<sup>7</sup> *Ibid.*, vol. 596, No. 8638.

<sup>8</sup> *Ibid.*, vol. 2515, No. 44910.

<sup>9</sup> *Ibid.*, vol. 2220, No. 39481.



Refugees<sup>10</sup> and the 1967 Protocol thereto<sup>11</sup> and the Conventions concerning Minimum Age for Admission to Employment and the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour of the International Labour Organization,

*Taking into account* general comment No. 6 (2005) of the Committee on the Rights of the Child on the treatment of unaccompanied and separated children outside their country of origin, and noting the holding of the day of general discussion of the Committee in 2012 on the rights of all children in the context of international migration,

*Recalling*, in particular, that the Convention on the Rights of the Child protects the rights of every human being below the age of 18 years, without discrimination of any kind, and includes rights such as registration immediately after birth, access to family reunification, protection from violence and abuse, access to health, education and rest and leisure, protection from exploitation, prohibition of child labour and protection from sexual abuse,

*Recalling also* all previous resolutions of the General Assembly, the Commission on Human Rights and the Human Rights Council on the protection of the human rights of migrants and Commission on Population and Development resolution 2013/1 of 26 April 2013 on new trends in migration: demographic aspects,<sup>12</sup> as well as the Declaration of the High-level Dialogue on International Migration and Development, held in October 2013,<sup>13</sup>

*Recognizing* the humanitarian crisis, prevailing in some regions, of the mass migration of accompanied and unaccompanied children, including adolescents, defined as those under 18 years of age, or those separated from their parents, irregularly travelling to third countries or facing vulnerable situations by attempting to cross international borders without the required travel documents,

*Concerned* by the fact that migrant children, including adolescents, in particular those in an irregular situation, may be exposed to grave human rights violations and abuses at various points in their journey, which can threaten their physical, emotional and psychological well-being in the countries of origin, transit and destination, and that many irregular migrants may not be aware of their rights and may be exposed to vulnerable situations and to risks and abuses committed by perpetrators of transnational organized crime and common crime, including theft, imprisonment, kidnapping, extortion, threats, trafficking in persons, child labour, forced labour, sexual abuse and exploitation, forced disappearance, bodily harm and death,

*Underlining* the importance for States, in cooperation with civil society, including non-governmental organizations, workers' organizations and the private sector, among other relevant stakeholders, to undertake information campaigns aimed at clarifying opportunities, limitations, risks and rights in the event of migration in order to enable everyone to make informed decisions and to prevent anyone from utilizing dangerous means to cross international borders,

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<sup>10</sup> Ibid., vol. 189, No. 2545.

<sup>11</sup> Ibid., vol. 606, No. 8791.

<sup>12</sup> See *Official Records of the Economic and Social Council, 2013, Supplement No. 5 (E/2013/25)*, chap. I, sect. B.

<sup>13</sup> Resolution 68/4.

*Aware* that the migration of accompanied and unaccompanied children, including adolescents, may be the result of diverse causes and factors, such as poverty, crisis situations, lack of social and economic opportunities in their communities of origin, the death of one or both parents, family break-up, all forms of violence and lack of personal safety,

*Recognizing* that the detention of unaccompanied children should be permitted only as a measure of last resort and only when it has been determined to be in the best interest of the child, for the shortest appropriate period of time and in conditions that ensure the realization of the rights enshrined in the Convention on the Rights of the Child,

*Encouraging* States to adopt alternatives to detention that fulfil the best interests of the child, along with their rights to liberty and family life,

*Aware* that the risks related to irregular migration can have a negative impact on the enjoyment by children, including adolescents, of their economic, social and cultural rights, as well as their political and civil rights and other rights as set forth in the Convention on the Rights of the Child,

*Recognizing* that States, in accordance with their obligations under international law, are responsible for promoting and protecting the human rights and fundamental freedoms of all migrants, regardless of their immigration status, including accompanied and unaccompanied children, including adolescents, within their territory and subject to their jurisdiction, and encouraging States to promote national child and adolescent protection systems, in consultation with all sectors of society, including migrant communities, civil society organizations and others who contribute to guaranteeing these rights,

1. *Takes note with appreciation* of the report of the Secretary-General on the promotion and protection of human rights, including ways and means to promote the human rights of migrants,<sup>14</sup> and the recommended principles and guidelines on human rights at international borders referenced therein;

2. *Calls upon* countries of destination to facilitate family reunification as an important objective in order to promote the welfare and the best interest of migrant children, including adolescents, in accordance with applicable law and due process and the spirit of the Convention on the Rights of the Child,<sup>2</sup> and to comply with the consular notification and access obligations set forth in the Vienna Convention on Consular Relations;<sup>7</sup>

3. *Calls upon* States to ensure that every child shall have the right from birth to a name and to acquire a nationality and that every child should be registered immediately after birth;

4. *Also calls upon* States to promote and protect effectively the human rights and fundamental freedoms of all migrants, regardless of their migration status, especially those of women and children, including adolescents, and to address international migration through international, regional or bilateral cooperation and regular dialogue and a comprehensive and balanced approach, recognizing the roles and responsibilities of countries of origin, transit and

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<sup>14</sup> A/69/277.

destination in promoting and protecting the human rights of all migrants and avoiding approaches that might aggravate their vulnerability;

5. *Calls upon* States and the international community to address the irregular migration of children, including adolescents, from a human rights and a humanitarian perspective, taking into account the principle of the best interest of the child while promoting and protecting their human rights and fundamental freedoms, and to facilitate effective and humane consular assistance, and calls upon States parties to ensure the full implementation of the Convention on the Rights of the Child;

6. *Urges* States to intensify cooperation with relevant stakeholders in different areas to jointly identify positive alternatives to reduce, mitigate and eliminate the causes and structural factors in countries of origin that lead to irregular migration, so as to prevent minors from feeling compelled to migrate from their communities, and urges other Governments to cooperate in this regard;

7. *Encourages* all States to address the irregular migration of children, including adolescents, as a multi-causal phenomenon, to work on its regularization and to give priority to the personal safety and physical, emotional and psychological integrity of migrant children, including adolescents, at all times, keeping in mind the different needs of boys and girls and adolescent women and men in these situations;

8. *Recognizes* the importance of coordinating efforts among countries of origin, transit and destination, recognizing their roles and responsibilities with regard to the irregular migration of children, including adolescents, particularly in carrying out efforts to discourage this phenomenon;

9. *Encourages* States to protect and provide assistance to migrant children, including adolescents, who are victims of national and transnational organized crime, including through the implementation of gender-responsive programmes and policies that provide for protection and access to medical, psychosocial and legal assistance, where appropriate, and to prosecute perpetrators and abusers;

10. *Recognizes* the need for international cooperation to address, in a holistic and comprehensive manner, the challenges of irregular migration to ensure safe, orderly and regular migration, with full respect for human rights;

11. *Requests* States and all relevant stakeholders to assume their commitment to strengthen cooperation mechanisms on the basis of joint cooperation, shared responsibility, dialogue and consensus at all times, in order to build a migration paradigm based on respect for human rights, sustainable development, gender equality and multiculturalism, recognizing the interdependent roles of the international community, civil society and State institutions;

12. *Underlines* that the principle of the best interest of the child should guide legislation, policies and practices relating to children, including in the context of migration and regardless of their status, and calls upon States to carry out individualized, case-by-case, comprehensive assessments of the status and protection needs of migrant children, including adolescents, in accordance with the best interest of the child, and to carry out early and prompt assessments of victims of violence that may qualify for refugee status;

13. *Calls upon* States to recognize that human mobility has become an integral part of the current social, economic and environmental situation and that future sustainable development goals should reflect the reality of migration and its multiple direct impacts on the development prospects of migrants, their families and communities and on the development of countries of origin and destination, and encourages the international community to work so that aspects related to children and to migration considered in the elaboration of the post-2015 development agenda can also be applied in the case of accompanied and unaccompanied migrant children;

14. *Encourages* States to establish effective safeguards and “firewalls”, where applicable, between public service providers, such as providers of child services and other social services, and immigration enforcement authorities in order to better ensure the human rights of migrant children and adolescents;

15. *Calls upon* States to strengthen their public policies and programmes aimed at the most vulnerable sectors of the population, so as to help reduce migration push factors, and in this regard calls upon States and all other relevant stakeholders to join these efforts in a systematic and permanent way, promoting investment and economic exchange, as well as cooperation, at all levels;

16. *Also calls upon* States to combat xenophobia, racism and discrimination of any kind against migrants, specifically children and adolescents, girls and other members of vulnerable groups, and further calls upon States to take appropriate measures to prevent, punish and investigate all human rights violations and abuses experienced by migrants within their territory and to take appropriate steps to help facilitate such measures in response to abuses outside their territory, in cooperation with national States and all other relevant stakeholders;

17. *Requests* the Secretary-General to continue to provide information on the situation of accompanied and unaccompanied migrant children and adolescents and to include this matter in his future reports on the issue of migration;

18. *Decides* to remain seized of the matter.

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