COMMITTEE ON MIGRATION ISSUES OEA/Ser.W

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CONCEPT NOTE

THEMATIC SESSION: “MORE-EFFECTIVE MECHANISMS TO ENSURE   
THE FULL EXERCISE OF RIGHTS FOR MIGRANT CHILDREN”

(March 14, 2023)

(Prepared by the Chair of the CAM with support from the Technical Secretariat)

In the context of migratory flows in the Americas, a growing number of children and adolescents are forced to migrate in irregular conditions as a result of poverty and inequality, food insecurity, lack of access to education and job opportunities for their families, natural disasters, the impact of climate change, and different forms of violence to which they are subjected, among other factors.

Many of them travel unaccompanied or separated from family members, with a view to reuniting with their parents or other relatives in the receiving country. Other minors seek international protection by applying for refugee status and contend with multiple risks and abuses in countries of origin, transit, destination, and return.

According to the United Nations Children’s Fund (UNICEF), in December 2021 it was estimated that with the increase in mixed migration flows in Latin America and the Caribbean (LAC) 3.5 million children and adolescents in the region would be affected by migration and forced displacement in 2022,[[1]](#footnote-1) an increase of 47 percent compared to the previous year.

For its part, UNHCR, the UN refugee agency, estimates that children and adolescents account for around 40 percent of the total number of people affected by forced displacement in the Americas, which amounts to more than 7 million minors.

Given the conditions of vulnerability faced by migrant children, these figures, in addition to alerting us to the high number of minors in contexts of human mobility in the Americas, are also indicative of the risks to which they are exposed while on the move, as well as the multiple forms of violence to which they are subjected.[[2]](#footnote-2) UNHCR also reports on the vulnerability they face on account of their age and migratory status, further heightened by ethnic prejudice, xenophobia and racism, as well as violations of their human rights. This situation is exacerbated further when other adverse factors converge, owing to a lack of protection as a result of “de jure situations” (legal inequalities between nationals and foreigners), as well as de facto ones (structural inequalities).

They often travel along dangerous routes that expose them to the possibility of falling victim to human traffickers, servitude, and even slavery, as well as the risk of accidents, recruitment into organized crime networks, and institutional mistreatment upon repatriation.[[3]](#footnote-3)

Approximately 270 children and adolescents are estimated to have died between 2014 and 2022 in the region,[[4]](#footnote-4) 2022 being the worst year, with 55 recorded deaths of minors on the move in the first seven months of the year. In 2021 alone, nearly 30,000 children and adolescents had survived the journey through the Darien jungle, one of the most dangerous migration corridors in the world, due to its complex geography, lack of potable water and basic services, and the presence of extortive gangs.[[5]](#footnote-5)

In addition, because children and adolescents are in the developmental stages of their capacities, they also have difficulties avoiding, resisting, and recovering from experiences of violence, exploitation, or abuse.[[6]](#footnote-6) Early childhood is the most important growth period of life, as it is during their early years that children develop most rapidly physically, mentally, and emotionally, so investment in human capital during early childhood is a key driver of economic growth, development, and equity in countries.

The situation of migrant children in the Americas is therefore multisectoral and it is appropriate for CAM, for the purposes of its mandates, to reflect on the challenges faced by migrant children and adolescents, as well as by refugees in the Americas, and responses for addressing them. This includes effective hemispheric coordination and cooperation mechanisms to best safeguard their rights, in accordance with international human rights law, their best interests, and their status as persons entitled to special protection, non-discrimination, and equal protection.

Likewise, it is essential that States and other stakeholders intensify their coordinated efforts to ensure the safety of migrant children and adolescents in the region, especially when both their age and their migratory status put them in a situation of “dual” vulnerability which, in the absence of protection frameworks, results in serious violations of their human rights with grave consequences for their physical and mental well-being.

The systems for protecting the human rights of migrant children in the Americas—based on the principle of the best interests of the child—aim to fully and effectively guarantee the rights and comprehensive development of children and adolescents. Under this principle and based on national law and international instruments, States have a duty to guarantee the physical, psychological, moral, and spiritual integrity of children and adolescents without distinction as to nationality, age, migratory status, language, ethnicity, or any other condition. In order to fulfill that duty, States have adopted different approaches providing assistance to migrant children and adolescents to ensure that their circumstances are *evaluated* and their best interests *determined*, in order to see to it that their opinions, identity, and the principles of family unification, care, protection, safety, and health, among others, are taken into account.[[7]](#footnote-7)

These differentiated approaches should lead to the application of long-term solutions to improve the conditions and well-being of migrant children and adolescents. Thus, for example, separation from their families, deprivation of liberty, or expulsion from a country without due process are situations that do not contribute to their well-being; on the contrary, they directly undermine their well-being and ability to enjoy a decent life.

As this is a major task, systems for the protection of the human rights of migrant children must be built and strengthened through commitment and coordination between States, in conjunction with civil society organizations, international agencies, and other stakeholders. Their actions should focus on mitigating the risks and violations faced by children and adolescents through a “comprehensive protection chain” that,[[8]](#footnote-8) once implemented, guarantees protection for the rights of children and adolescents in countries of origin, as well as countries of transit, destination and return, through coordinated action by the appropriate authorities.

Efforts to move towards more-effective, comprehensive protection systems in the Americas have focused on defining guidelines on assistance and protection for migrant children and adolescents. In that sense and by virtue of the American Convention on Human Rights, the Inter-American principles on the Human rights of All Migrants, Refugees, Stateless Persons and Victims of Human Trafficking emphasize the right of children to be heard, express opinions and participate; the right to non-discrimination and equal protection; the right to the prohibition of all forms of violence; and the right to prevention and protection against stigma, racism, xenophobia and related intolerance; among others.

The effective application of protection systems and inter-American principles still requires the definition of clear, consensual actions with earmarked resources and budget appropriations. There are still challenges that require the creation of bilateral and regional arrangements based on regulatory frameworks, policies, and mechanisms to ensure early childhood rights and well-being in countries of origin, transit, destination, and return. The above should also take into account the need to enhance the supply of mental and socioemotional healthcare services and strategies for children and adolescents, as well as their caregivers.

Within this framework, this thematic meeting will serve to present the efforts made at the regional level to improve the protection framework for migrant children and adolescents in accordance with their best interests, as well as how those efforts tie in with the differentiated approach in providing assistance from a human rights perspective and taking into account the principle of shared responsibility, so as to enable the adoption of joint actions in line with the capacities of each member state involved in the migration process.

Following presentations by panelists, delegations will have an opportunity to speak on the aforementioned topics. States are requested in particular to share good practices in these areas in order to enable discussions on developing a system for coordinating and exchanging information on security and humanitarian issues related to migratory flows involving migrant children and adolescents and strengthening financing mechanisms through international cooperation, among others, with a view to consolidating information and making it available to member states.

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1. . Figures available at the UNHCR website: <https://www.acnur.org/noticias/press/2022/8/62f42d604/> [↑](#footnote-ref-1)
2. . UNICEF, *Migrant and Refugee Children in Latin America and the Caribbean.* Available at: <https://www.unicef.org/lac/en/migrant-and-refugee-children-latin-america-and-caribbean>. [↑](#footnote-ref-2)
3. . For more information, see the following UNICEF link:

   <https://www.unicef.org/guatemala/migraci%C3%B3n-de-ni%C3%B1as-ni%C3%B1os-y-adolescentes>. [↑](#footnote-ref-3)
4. . Figures available at the UNHCR website: <https://www.acnur.org/noticias/press/2022/8/62f42d604/> [↑](#footnote-ref-4)
5. . For more information, see the following UNICEF link: <https://www.unicef.org/lac/comunicados-prensa/america-latina-y-el-caribe-cerca-de-3.5-millones-de-ninos-y-ninas-podran-verse-afectados-por-la-migracion-el-proximo-ano>. [↑](#footnote-ref-5)
6. . This interpretation was based on the “Operational Guide for Applying the Best Interests of the Child and Adolescents in Contexts of Human Mobility” of the Regional Conference on Migration. Available at:

   <https://temas.crmsv.org/sites/default/files/Documentos%20Files/2.guidebestinterestofthechild-v3.pdf> [↑](#footnote-ref-6)
7. . As stipulated in the “Consular Protection Recommendations for Unaccompanied and Separated Migrant Boys, Girls and Adolescents Including Those in Need of International Protection” of the Regional Conference on Migration. [↑](#footnote-ref-7)
8. . As proposed in the “Consular Protection Recommendations for Unaccompanied and Separated Migrant Boys, Girls and Adolescents Including Those in Need of International Protection” of the Regional Conference on Migration. [↑](#footnote-ref-8)