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Orphanage trafficking: The role of parliaments in reducing harm

*Draft resolution submitted by the Standing Committee on Democracy and Human Rights**

Rapporteur: Ms. L. Reynolds (Australia)

The 147th Assembly of the Inter-Parliamentary Union,

- (1) *Recalling* the United Nations Convention on the Rights of the Child (1989), its Optional Protocol on the sale of children, child prostitution and child pornography (2000), the Guidelines regarding the implementation of that Optional Protocol (2018), and the Convention on the Rights of Persons with Disabilities (2006),
- (2) *Welcoming* United Nations General Assembly resolution 74/133 of 18 December 2019 on the rights of the child, in particular its focus on children without parental care, its call for States to progressively replace institutionalization with quality alternative care, including, inter alia, family and community-based care, and to take appropriate measures and approaches, and its paragraph 35(t), which calls on United Nations Member States to take “appropriate measures to protect children who are victims of trafficking and are deprived of parental care, enact and enforce legislation to prevent and combat the trafficking and exploitation of children in care facilities, support children who are victims of human trafficking in returning to their families and in receiving appropriate mental health and psychological assistance that is victim-centred and trauma-informed”, and to take “appropriate measures to prevent and address the harms related to volunteering programmes in orphanages, including in the context of tourism, which can lead to trafficking and exploitation” (a phenomenon known colloquially as “voluntourism”, a form of tourism in which travellers participate in voluntary work overseas),
- (3) *Acknowledging* recommendation D.1 of the United Nations Committee on the Rights of the Child 2021 Day of General Discussion Outcome Report, which, inter alia, calls on United Nations Member States to “adopt legislation and regulations to eliminate orphanage tourism and volunteering in orphanages, prevent incentives driving institutionalization and family separation and ensure adequate offences and penalties to prevent and enable the prosecution of violations of children’s rights in alternative care, including orphanage trafficking”,
- (4) *Highlighting* paragraph 93 of the Guidelines for the Alternative Care of Children, welcomed in resolution 64/142 adopted by the United Nations General Assembly on 18 December 2009, and included in its annex, which provides that “all alternative care settings should provide adequate protection to children from abduction, trafficking, sale and all other forms of exploitation”,
- (5) *Recalling* Articles 35 and 36 of the Convention on the Rights of the Child, which respectively require States Parties to “take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form”, and to “protect the child against all other forms of exploitation prejudicial to any aspects of the child’s welfare”,

* - The delegation of India expressed a reservation on operative paragraph 4.

- The delegation of the Islamic Republic of Iran expressed a reservation on the reference to SDGs 4.1 and 4.2 in preambular paragraph 22.

(6) *Acknowledging* the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000), supplementing the United Nations Convention against Transnational Organized Crime (2000), in particular Article 3(c), which confirms that child trafficking involves the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation, and Article 9.5, which requires States Parties to “adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking”,

(7) *Underlining* the guiding principles of the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities (2006), i.e. the best interests of the child, non-discrimination, participation, protection, inclusion, and survival and development, that provide the framework for all actions concerning children,

(8) *Recognizing* the urgent need to address orphanage trafficking, which is a multi-dimensional and complex phenomenon as it interacts with a wide range of factors that involve the recruitment, transportation, transfer, harbouring or receipt of a child into residential care for the purposes of exploitation and/or profit, and particularly the absence of legal safeguards and regulations and child protection systems, including those which are inadequate or contain loopholes, and which result in severe harm to children’s physical, emotional and psychological well-being,

(9) *Recognizing also* the urgent need for legislators and governments to take more proactive national steps to combat and reduce the risk of trafficking in human beings,

(10) *Noting* that orphanage trafficking as a form of trafficking and modern slavery is a growing international concern that must be addressed through cross-border collaboration and cooperation between the countries of origin, transit and destination, including measures to prevent such trafficking, to punish the traffickers and to protect the victims of such trafficking, which requires extensive and wide-ranging intervention at local, national, regional and international levels by all actors and stakeholders working together,

(11) *Acknowledging* “A study on the exploitation and sexual abuse of children in the context of travel and tourism; a closer look at the phenomena of voluntourism”, presented by the United Nations Special Rapporteur to the United Nations General Assembly in October 2023, on the sale, sexual exploitation and sexual abuse of children,

(12) *Acknowledging also* the efforts to eradicate the phenomenon of orphanage trafficking that is still widespread due to the scourges of war and internal conflicts, and which leads to the breakdown of child protection systems,

(13) *Recognizing* the necessity of a multifaceted approach to prevent and combat orphanage trafficking, including the collection of reliable data on children in orphanages, in order to protect children from such exploitation in the first place, including within the travel and tourism sector, domestically and in destination countries,

(14) *Recognizing also* the urgent need for States to strengthen child protection systems worldwide to safeguard the inherent rights and holistic well-being of all children, especially those in vulnerable situations, such as children with disabilities, refugees, internally displaced children, and children affected by armed conflicts,

(15) *Recognizing further* that many orphan children worldwide who have been placed in care homes for a variety of reasons are the most affected during times of war and conflict because they are forced to contend with the ills of orphanhood, isolation and the repercussions of war, which expose them to an uncertain fate,

(16) *Recognizing* that a family caregiving setting is the most conducive environment for the growth, well-being and safety of children, and that removing a child from the family should, wherever possible, only be considered as a temporary last resort,

(17) *Concerned* that not all States currently have the necessary legal framework to combat orphanage trafficking, in particular legal provisions to criminalize it, or the budget, technical expertise or human resources to address the problem,

(18) *Concerned also* by the lack of regular monitoring of orphans' residential care facilities and the lack of regulation of voluntourism, in particular voluntourism activities involving children, which place children at risk of commodification, exploitation and sexual abuse in the context of for-profit activities, and which increase vulnerabilities to human rights violations,

(19) *Recognizing* the importance of creating awareness of the risks and indicators of orphanage trafficking and the harms associated with it, notably the adverse impacts on child rights, among the public, particularly parents, teachers, children, community leaders, social workers, legislators and other relevant policymakers and stakeholders,

(20) *Highlighting* the precarious situation of the children involved in cases of orphanage trafficking where victims and survivors often lack appropriate legal remedy, support and access to justice, and the importance of a victim-centred and trauma-informed approach when combating the problem, as well as of child-centred rehabilitation processes,

(21) *Noting* that orphanage trafficking is a commercial and exploitative act that may be driven by economic motivations, and may subject victims to various forms of exploitation including sexual exploitation, forced begging and forced labour, and may be exacerbated in conflict and post disaster contexts,

(22) *Recognizing* that addressing orphanage trafficking will contribute towards achieving the United Nations Sustainable Development Goals (SDGs) and their targets by 2030, including:

- SDG 1.3 on social protection systems and measures
- SDG 1.a on ending poverty
- SDG 4.1 on free, equitable and quality primary and secondary education
- SDG 4.2 on quality early childhood development, care and pre-primary education
- all targets of SDG 5 on gender equality
- SDG 8.7 on the eradication of forced labour, modern slavery, human trafficking and child labour
- SDG 16.2 on ending the abuse, exploitation, trafficking and all forms of violence against and torture of children,

(23) *Recognizing also* United Nations General Assembly resolution 77/159 of 14 December 2022 on enhancing the role of parliaments in accelerating the achievement of the SDGs,

(24) *Highlighting* the importance of paragraph 31 of United Nations General Assembly resolution 74/133 of 18 December 2019 on the rights of the child, which urges States to "strengthen child welfare and child protection systems and improve care reform efforts",

(25) *Taking note* of the guiding principles stipulated in the Global Code of Ethics for Tourism adopted by the General Assembly of the World Tourism Organization in 1999, which advises States, the private sector and other stakeholders on responsible and sustainable development of tourism, including measures to prevent and protect children from sale and exploitation in the travel and tourism industry, particularly sexual exploitation, as well as of the 2020 *Tips for a responsible traveller* developed by the World Committee on Tourism Ethics, which calls on tourists to observe human rights and protect children from exploitation and abuse,

(26) *Concerned* that well-meaning support for institutions through donations, child sponsorship programmes, orphanage volunteering or tourism, and faith-based missions, can lead to unnecessary family-child separation, perpetuate institutional models of care, undermine the development of more appropriate family-based care services, and create an economic incentive for orphanage trafficking,

(27) *Welcoming* the efforts of governments who have issued travel advisories and information materials to travellers, particularly tourists, in tourism source and destination countries, discouraging orphanage tourism and volunteering due to the risk of exploitation and profiteering,

(28) *Highlighting* that poverty and inequality, as key drivers of orphanage trafficking, are exacerbated by humanitarian disasters, climate change, armed conflict, political instability, lack of education, inequitable social-economic structures, family violence and gender discrimination,

(29) *Recognizing* the unique needs of children belonging to minority groups or who are of indigenous origins,

(30) *Emphasizing* that cooperation and coordination between parliaments and their governments aimed at combating and eradicating the drivers of orphanage trafficking at the early stages are of utmost importance,

(31) *Highlighting* that gender-based discrimination and violence against women and girls, as well as a lack of sexual and reproductive health services and education, often result in teenage or unwanted pregnancies which in turn increase the risk of orphanage trafficking,

(32) *Recalling* Article 8.2 of the Convention on the Rights of the Child of 20 November 1989, adopted by United Nations General Assembly resolution 44/25, which provides that: "Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity",

(33) *Recalling also* the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption of 29 May 1993, which establishes four main principles: the best interests of the child as the primary consideration; the prohibition of any profit to prevent trafficking; the double subsidiarity of international adoption (the latter is considered only if no solution can be found in the child's country of origin); and the requirement to go through accredited bodies before being able to adopt,

(34) *Recalling further* the International Convention for the Protection of All Persons from Enforced Disappearance of 23 December 2010,

(35) *Deeply concerned* about illegal international adoptions, whereby thousands of children around the world have been taken away from their families and placed illegally on the international adoption market, whether through orphanages or not,

(36) *Highlighting* the fact that, for the people concerned by these illegal adoptions, the consequences are dramatic in both human and administrative terms,

(37) *Bearing in mind* that many States have undertaken or are undertaking investigations on illegal adoptions and are taking concrete measures to prevent them and help the victims,

(38) *Bearing in mind also* the *Joint statement on illegal intercountry adoptions* issued by the United Nations Human Rights Office on 29 September 2022, which indicates that illegal intercountry adoptions can constitute crimes against humanity, and which establishes three obligations for States, as follows: to prevent, investigate and remedy such crimes,

1. *Condemns* all forms of orphanage trafficking and orphanage tourism, including orphanage volunteering;
2. *Emphasizes* the importance of cohesive international efforts to combat orphanage trafficking amidst armed conflicts or other humanitarian disasters;
3. *Calls upon* parliaments to cooperate and coordinate with their governments to introduce legal measures aimed at combating orphanage trafficking at the national level;
4. *Calls upon* the IPU to draft a model law for sending and receiving States, formalizing, in the best interests of the child, a clear legislative framework to combat orphanage trafficking and prevent orphanage tourism, address remaining gaps and ongoing challenges, in law and practice, whereby in all actions concerning children, their rights, education, voices, needs and security are at the centre of any proceedings that affect their well-being, and to share knowledge of existing legislation and implementation;

5. *Also calls upon* the IPU to prepare a parliamentary guide that sets out the working mechanisms for parliaments to discuss legislation on combating orphanage trafficking and prohibiting orphanage tourism, as well as to develop international principles and standards governing voluntourism activities that are in accordance with human rights norms and standards and particularly with the rights of the child, providing tools to monitor public policies on the protection of children from orphanage trafficking, and specific mechanisms of action that are applicable to parliaments in different regions of the world;
6. *Invites* those States that have not yet done so to consider ratifying and fully implementing the United Nations Convention on the Rights of the Child, the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (2000), and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000), as key international instruments in the fight against orphanage trafficking and related crimes;
7. *Stresses* the importance of multidisciplinary, multisectoral and international cooperation, including cross-border cooperation, in strategies to combat orphanage trafficking and tourism, and in ensuring the safe repatriation and rehabilitation of trafficked children;
8. *Calls upon* parliaments and parliamentarians to actively engage in promoting a shared, up-to-date national understanding of the nature of orphanage trafficking;
9. *Acknowledges* that migrant populations, including refugees and internally displaced persons, as well as children from war zones and temporarily occupied territories, are particularly vulnerable to orphanage trafficking and exploitation;
10. *Calls for* the protection of the rights of refugee and migrant children, especially those separated from their families and susceptible to orphanage trafficking, in accordance with international law and child protection standards;
11. *Encourages* parliaments to build synergies with their respective governments to implement appropriate legislative, administrative and other measures that take account of the differentiated needs and experiences of children according to their age, sex, gender, race, religion, ethnicity, culture, language, disability, migration status or other socio-economic factors, while also taking account of parental responsibilities and ensuring children's participation in the development of measures pertaining to them, and by gathering and analysing data on gender in this domain;
12. *Also encourages* parliaments to ensure, through relevant legislation, that victims of trafficking are provided with long-term tailored assistance, irrespective of their readiness to cooperate with law enforcement;
13. *Urges* parliaments to adopt legislative and regulatory measures that promote the reintegration of children from institutions, such as orphanages, children's homes and rescue centres, back into their families, or their placement in suitable family-based care, such as foster care and kinship care,
14. *Calls upon* parliaments to provide adequate budgetary allocations and resources for the effective implementation of the laws and measures in place to deliver quality care to children in institutional and alternative care settings and to ensure the effective protection of children from exploitation and abuse in the context of orphanage trafficking and voluntourism;
15. *Urges* parliaments to ensure the development and implementation of robust screening processes for organizations and individuals involved in the establishment or funding of orphanages, to secure transparent, accountable and temporary practices;
16. *Strongly urges* parliaments to prioritize the allocation of resources for robust legislative frameworks and effective enforcement mechanisms to prevent and combat orphanage trafficking, including rigorous inspections of and licensing procedures for childcare facilities, and comprehensive victim support systems;

17. *Emphasizes* the importance of a commitment by the private sector, including the travel industry, civil society, academia, charities and communities to work together and collaboratively with governments to combat orphanage trafficking and to stop the flow of funds and volunteers to institutions which commodify children;
18. *Urges* parliaments and parliamentarians to promote awareness in both sending and receiving countries among governments, civil society, charities, community groups, faith-based organizations, educational institutions and families of orphanage trafficking, of the harms of orphanage tourism, donations to orphanages, and the importance of family-based care, and thus provide protection to children to grow in a family-based environment under their own cultural conditions;
19. *Also urges* parliaments to enable the rapid exchange of information amongst anti-trafficking actors to adjust responses according to the constantly changing tactics of traffickers, as well as to promote awareness and monitoring among related agencies operating in the same space, with an emphasis on cooperation, technology and information sharing;
20. *Invites* the IPU to schedule periodic meetings and workshops with the United Nations Special Rapporteur on the sale and sexual exploitation of children, and with other stakeholders, experts and activists, emphasizing local and regional initiatives for preventing and tackling the problem of orphanage trafficking and orphanage tourism, and other activities to allow parliaments to exchange information regarding good practices and successful experiences in combating orphanage trafficking and prohibiting orphanage tourism in line with international human rights standards;
21. *Calls upon* national parliaments to accelerate their efforts in poverty eradication and reaffirm that investment in children and the realization of their rights through an integrated and multifaceted approach based on the well-being of children, under the Sustainable Development Goals is one of the best ways to protect children from unnecessary institutionalization and the risk of trafficking and exploitation;
22. *Urges* parliaments to take effective action to implement international commitments and bring their domestic legal and regulatory framework into full conformity with the Convention on the Rights of the Child, Guidelines for the Alternative Care of Children and United Nations General Assembly resolution 74/133 of 18 December 2019 on the rights of the child, including by:
 - a. Ensuring criminal laws enable the prosecution of orphanage trafficking and exploitation offences, including the unlawful removal of a child from parents or guardians and placement in a care facility for the purpose of exploitation and/or profit and/or to ensure that countries are not used as safe havens or channels for exploitation and abuse of children;
 - b. Criminalizing the grooming of children and of trusted persons (parents, guardians, caregivers) to facilitate both online and offline sexual exploitation especially by persons in positions of power, authority or trust, and undertaking efforts to adopt legislation that enhances online safety and establishes mandatory efforts and liability for technology companies, creates standards for monitoring and reporting of harmful online acts to protect potential victims and prevent future instances of exploitation;
 - c. Establishing by law extraterritorial jurisdiction for all offences of child trafficking, exploitation and grooming;
 - d. Establishing enforceable child protection regulations for the travel, volunteering and tourism industry that include a prohibition on orphanage volunteering and non-family visits to orphanages, and regulation of other forms of voluntourism activities involving children;
 - e. Incorporating regulations on the participation of voluntourists, volunteers and visitors into existing child protection, child welfare and alternative care regulations, and specifically restricting non-family visits to and volunteering within residential childcare facilities;

- f. Ensuring that a child- and disability-friendly and gender-responsive reporting mechanism, as well as regular monitoring and supervision, is accessible to children in residential care, and to children and young people who have transitioned out of care, while ensuring the confidentiality and safety of the reporter and witnesses;
- g. Establishing sufficient not-for-profit sector regulations and ensuring charitable activities comply with international child rights norms, safeguard children's best interests, and protect children, especially children with disabilities, from harm, abuse and rights violations;
- h. Strengthening the implementation of child protection laws and regulations, including the licensing, monitoring and oversight of residential care facilities in cooperation with civil society, and protective measures to avoid the re-traumatization and re-victimization of child victims as a result of any interactions with State authorities including in investigative and judicial processes;
- i. Ensuring that laws related to the protection and welfare of children provide that, insofar as possible, children remain in the custody and care of their families except in circumstances in which harm can only be prevented by temporarily placing the child in a home, orphanage or rescue shelter;
- j. Calling for robust measures to hold accountable all individuals or entities involved in orchestrating or facilitating the deportation and abduction of children from temporarily occupied territories, including through the potential use of orphanages for exploitation and profit;
- k. Establishing by law the right to remedies, including compensation, for children who are subjected to trafficking, including orphanage trafficking;
- l. Strengthening international adoption regulations to ensure that intercountry adoptions are conducted transparently, ethically and in the best interests of the child, with a focus on preventing trafficking and exploitation in the context of adoption;
- m. Preventing international adoption by parties to an armed conflict, particularly prohibiting such adoption of children from conflict-related regions;
- n. Developing and enforcing a domestic volunteering framework that includes conducting thorough background checks on volunteers and providing training and support to eradicate unskilled volunteering, ensuring that volunteers understand and respect the rights of children;
- o. Ensuring that children who are transitioning out of care upon reaching the age of majority receive dedicated, comprehensive assistance prior to leaving care that effectively and meaningfully prepares them for independently living out of care, including on how to enter the job market, and an assistance and measures package to meet their needs once they have left care, as well as a point of contact for ongoing and periodic safety and well-being reviews;
- p. Encouraging governments and national tourism authorities to improve their administrative and legal processes in regulating the private sector within the travel and tourism industry to ensure compliance with the United Nations Guiding Principles on Business and Human Rights and child rights' obligations, and the "do no harm" principle by creating incentives for tourism operators to actively prioritize child protection to vulnerable children in touristic destinations and to undertake human rights due diligence, as part of their Corporate Social Responsibility programmes;
- q. Developing robust national databases on the scope and prevalence of voluntourism within national contexts by improving and securing a comprehensive approach to data collection through multisectoral partnership which is essential for developing targeted prevention;
- r. Providing national children and youth protection authorities with a sound legal basis and sufficient financial and human resources in order to fulfill their tasks and enable continuous oversight of residential care facilities and effective protection of individuals entrusted to such institutions;
- s. Strengthening deinstitutionalization programmes and family-focused development targeting poor parents and disadvantaged families through formal education, training on parenting capacities and economic incentives;

- t. Advocating for the development and implementation of safe repatriation, reintegration and rehabilitation programmes for children who have been victims of orphanage trafficking, exploitation or forcible transfers;
- u. Prioritizing investment in multi-sectoral collaborative partnerships by working cooperatively with relevant stakeholders to find sustainable solutions to address the root causes of orphanage trafficking and voluntourism, which includes investment in poverty reduction, food security, sexual and reproductive health rights, security and the rule of law;
- v. Strengthening social services for child protection and making systems inclusive to respond to the needs of all children, regardless of their migration status, with a focus on both primary violence prevention for all children and more targeted prevention and child-friendly response services, particularly for children in vulnerable situations; as well as by giving priority to legal services and safeguards for children at risk or who are victims of sale, abuse and exploitation;
- w. Promoting inclusive and responsive family-oriented policies, including those designed to strengthen parents' and caregivers' ability to care for children and to support social policies that work towards the deinstitutionalization of children and address negative social norms that affect equal access to quality education, and to prevent the exploitation of children within childcare institutions or alternative care;

23. *Calls upon* IPU Member Parliaments to request their governments to pay particular attention to situations of illegal intercountry adoptions and, if they have not already done so, to conduct investigations into the matter in order to shed full light on these facts and to understand the processes that have made it possible for illegal adoptions of abducted or trafficked children to be validated, legalized and authenticated;

24. *Also calls upon* IPU Member Parliaments and their governments to do their utmost, once such investigations have been terminated, to ensure that the conclusions drawn lead to concrete measures aimed at helping victims, on the one hand, and, on the other, at preventing other persons from becoming victims in the future;

25. *Further calls upon* IPU Member Parliaments and their governments, on the basis of such investigations, to acknowledge that cases of illegal adoption have indeed taken place and to recognize the persons concerned as victims.