**Human Rights Council Advisory Committee**

**UNACCOMPANIED MIGRANT CHILDREN AND ADOLESCENTS AND HUMAN RIGHTS**

**Questionnaire**

*This questionnaire forms part of consultations undertaken by the Human Rights Council Advisory Committee with* ***civil society organizations*** *with a view to developing a research-based study on the global issue of unaccompanied migrant children and adolescents and human rights, pursuant to Human Rights Council resolution 29/12.*

**Background**

In its resolution 29/12, the Human Rights Council requested the Advisory Committee to develop a research-based study on the global issue of unaccompanied migrant children and adolescents and human rights, in which it identifies areas, reasons and cases where this issue arises in the world, and the ways in which human rights are threatened and violated, and makes recommendations for the protection of human rights of members of this population, and to submit it to the Council at its thirty-third session for its consideration.

In this context, the Advisory Committee decided, at its fifteenth session held in August 2015, to establish a drafting group in charge of the preparation of this study.[[1]](#footnote-2)The drafting group will present a draft progress report at the sixteenth session of the Committee in February 2016, before its submission to the thirty-third session of the Council.

In its preparation of the study, the drafting groupdecided to seek the views and inputs of Member States of the United Nations, international and regional organizations (including UNICEF, IOM andOHCHR), relevant special procedures mandate holders and treaty bodies(such asthe Special Rapporteur on the human rights of migrants and the Committee on the Rights of the Child), national human rights institutions, civil society organizations and other relevant stakeholders.

The drafting group elaborated the hereunder questionnaire in order to seek the views and inputs from civil society organizations. Respondents are advised to reply only to questions that are applicable to them, on the basis of theircountry’s situation (source, transit or destination country).

**1. General situation**

**1.1**What is the situation of unaccompanied migrant children[[2]](#footnote-3) and adolescents in your country? Please provide available statistics and relevant information.

Haiti is more a country of origin for migrant children towards the Dominican Republic particularly. In the borders areas many children across the borders to Dominican Republic in search of better life conditions. This situation creates the condition for trafficking in children activities including sexual exploitation and other forms of abuse. According to the Protection Cluster Mid-year report for January to June 2013, coordinated by OCHA, about 200 children daily who cross the border Ouanaminthe (North-East Department) to the Dominican Republic are victims of trafficking. And in accordance with the Border Network Jeannot Success, 325 children deported from the Dominican Republic in the first three months of 2013, 13 Children were unaccompanied.

However, there is an important migratory flow within the country from rural communities to the urban areas. Among the population concerned are many unaccompanied children that increase the number of Restavèk children (Children in domesticity) and street children. These categories of children are exposed to exploitation and violence of all sorts.

From August 2015 to date in the context of repatriation of Haitian migrants in the Dominican Republic following the implementation of foreign regulation plan 15 unaccompanied migrant children were received by the support group returnees and refugees. Currently 10 unaccompanied migrant children are supported in the Central Plateau, awaiting family reunification

**1.2**What are the main causesthat force or encourage children and adolescents into situations of unaccompanied migration?

These cases relate especially to the Haitian-Dominican migration. On repatriation of Haitians, it happens that families are separated, the father, the mother or parent may be deported in a frontier zone and children in another

1. Structural causes

* Economic causes: the main cause for Haitian children to migrate to another country is the incapacity of parents to provide for their basic needs. The lack of employment opportunity for parents, the lack of productivity of agricultural work contribute to exacerbate the condition of extreme poverty and encourages the migration of children towards the Dominican Republic.-
* Lack of knowledge of the risks. The social structure of fundamentally unequal country excludes the mass of peasants who don’t always have access to sources of information (books, newspaper and mass media social media).
* Weakness of state entities (lack of control at the borders, lack of human and logistic resources,
* Cultural causes: The mentality that, where the situation is better elsewhere, was abroad. Perception of the Diaspora
* Migratory policy of Dominican Republic towards illegal Haitian migrants. As a result of the application of the rule 168-13 of the constitutional court of the DR, many people of Haitian descent are expulsed from the Dominican territory since July 2015. Among the deportees are many unaccompanied children that arrive separated from their families.
* Non respect of international applicable rules and standards in migration. Another

1. Immediate causes.[[3]](#footnote-4)

* Political unrest. Haiti faces a recurrent political instability that results regularly in social disorders. Statistics show an increase in the amount of people including children crossing the border in such context.
* Natural disaster. At the time of and consecutively to natural disasters an increase in the migratory flow to D R is observed.
* Lack of information: The Dominican republic is considered as a land of opportunity for most of Haitian living in rural areas. They are not aware of the risks of exploitation and other difficulty they may be facing in the process.

Course of the repatriation process outside protection standards: On repatriation of Haitians, it happens that families are separated; the father, the mother or parent may be deported in a Haitian-Dominican frontier zone and children in another

**1.3**Based on your organization’s experience, what are the transit, reception and livingconditions of unaccompanied migrant children and adolescents in your country?

The National Office of the Migration, the designated instance to control migratory movement on the national territory has very poor reception capacity. They face logistic and resources limitations that impair their ability to fulfill their mission. It is important to mention that GARR[[4]](#footnote-5), an organization of the civil society that support ONM in the reception of unaccompanied migrant children.

There is no reception structures dedicated to children specifically. Unaccompanied children are kept together with repatriated adults in transit centers operated by the government. In general the centers do not met the general standards in terms of hygiene, potable water and balanced food.

Currently, there is in one of the border points (Belladère) a shelter run by the Institute of Welbeing and Research and supported by UNICEF. Children received by GARR are routed there pending their Family tracing and Reunification (FTR).

**1.4**What are the main human rights violations faced by unaccompanied migrant children and adolescents in or from your country? Please give examples.

Throughout the process of repatriation of children from the Dominican Republic, it is not taking into account their quality child; they are retained and transported in the same spaces as adults. Furthermore, no consideration is made between girls and boys, which can lead to cases of sexual violence.

Their right to education is violated because the Haitian education system doesn’t facilitate their reintegration into the school system.

**2. Cross-cutting issues**

**2.1**In connection with article 12 of the Convention on the Rights of the Child, in your country or region, are there specific mechanisms or procedures to ensure that migrant children and adolescents’ views are heard and fully taken into account in all matters affecting them? If yes, please describe.

Based on the situation of unaccompanied migrant children or adolescents from Dominican Republic, there’s any mechanisms or procedures to ensure their right to participate in the process.

**2.2**If your answer to question 2.1 is positive, what have unaccompanied children or adolescents expressed as their main reasons for migrating? And what did they describe as their reception and living conditions in transit and destination countries?

**2.3**Based on your organization’s experience, do you think the human rights violationsinflicted on unaccompanied migrant children and adolescents are motivated by gender considerations?

The violations inflicted on unaccompanied migrant children and adolescents aren’t motivated by such considerations, Both girls and boys are treated equally by the Dominican Republic, during their repatriation. Except that the children being repatriated with adults, there is a greater risk of sexual exploitation and other form of violence for girls.

**2.4**In your country, what is the legal definition of a child / an adolescent?

All Haitian regardless of sex aged less than 18years old are children according to the constitution. There is no legal definition for adolescents. However, within the organizations working in the field of child protection some subdivisions are made in regards to age groups between infants (0-5 years old), children (6-12) and adolescents (13-17 years old).

**3. Laws, policies and coordination mechanisms**

**3.1**Do you consider that your country’s migration policies take into account the protection of the rights of migrant children and adolescents in general, and of unaccompanied migrant children and adolescents in particular? Is the migrant child/adolescent considered as a distinct right-holder by policy-makers? Are there anyspecific measures implementedto protect the rights of unaccompanied migrant children and adolescents? If yes, please provide details.

Yes, Haiti disposes a complete legal framework to protect children. Specifically we can mention: the ratification of the convention on children rights, the law against trafficking in persons, etc…

However the coordination mechanisms need to be strengthening for an effective control of migratory movement from and toward Haiti. For instance there is a lack of collaboration between the the states entities involved in migratory control at the border.

At bilateral level a memorandum of understanding on the mechanisms of repatriation was signed between the 2 states of the island, december2, 1999 contains legal provisions to protect children and adolescent in general

**3.2**What are the main challenges and barriers (legal, political, financial, administrative, economic, social and cultural) that impede the effective protection of unaccompanied migrant children and adolescents in your country/from your country?

The challenges and barriers are:

Political: Haiti still unable to enforce child protection standards contained in the bilateral agreements and international standards ratified by Haiti and the Dominican Republic

Administrative: Weakness in human resources and materials available for the state institutions

Financial: Low budget of the institutions involved in the care of migrants.

**3.3**As a civil society organization, do you participate and collaborate with governmental and other

World Vision International Haiti elaborated and contributed to effective measures to protect the rights of migrant children and adolescents, monitor and evaluate their implementation.

World Vision International Haiti has contributed to the development of the national contingency plan through the proposals submitted to OCHA in view of deportations of Haitian migrants from RD

World Vision International Haiti is a member of the support group for refugees and returnees (GARR) that is part of the National Solidarity Committee formed by the Haitian Government in relation to the Haitian-Dominican migration context

Through GARR, World Vision was able to make proposals to the government on the national contingency plan

Within the NGO Coordination Committee, WV has helped develop an advocacy strategy and positioning notes for the rights of migrants and denationalized Dominicans, particularly children

**3.4**Do you think there is an effective collaboration between countries in your region to guarantee

At bilateral level, there is good collaboration between NGOs, international organizations and human rights organizations in Haiti and the Dominican Republic

**4. Others:**

**4.1**What is the role of your organization in the protection of unaccompanied migrant children and adolescents?

- Integrate and influence the consultation spaces Coordinate actions to be taken in terms of response

- develop advocacy strategies for the respect of migrants' rights

- Provide support to organizations working with unaccompanied migrant children

- Family tracing reunification

- Development and publication of positioning notes

- develop National and Bi-national contingency plans

- Periodic assessment of the situation and collection of data

- Share unaccompanied Children form to other organizations which into account the Child protection aspects.

**4.2**Please provide examples of best practices with regard to issues related to unaccompanied migrant children and adolescents.

Coordination between actors involved in Child Protection.

Development and Sharing data base in partnership

Willingness of family members of an unaccompanied child to receive him

**Deadline for submission of responses to the questionnaire:**

All parties are encouraged to submit their responses via email or faxas soon as possible but no later than **9 November 2015**to:

[**hrcadvisorycommittee@ohchr.org**](mailto:hrcadvisorycommittee@ohchr.org)[Subject line: HRC AC unaccompanied migrant children and adolescents]

or

Secretariat of the Human Rights Council Advisory Committee

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Thank you in advance for your contribution.

For more information about the Advisory Committee, please visit<http://www.ohchr.org/EN/HRBodies/HRC/AdvisoryCommittee/Pages/HRCACIndex.aspx>

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1. A/HRC/AC/15/L.2 [↑](#footnote-ref-2)
2. According to CRC General Comment No.6 (2005), “Unaccompanied children” (also called unaccompanied minors) are children, as defined in article 1 of the Convention, 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. [↑](#footnote-ref-3)
3. Structural and immediate causes are defined as follows: The structural causes are those depending on a system already installed. In the case of migration, this could be the control of production and distribution of national resources, social norms or social organization.

   The immediate causes or direct causes are actions, events, flaw, or forces that are the immediate, initiating, or primary agent which leads to, or allows an action, event, or state to happen. One can refer to: beliefs, behaviours, practices, access to services and people's capabilities. [↑](#footnote-ref-4)
4. GARR is an organization platform which World Vision International Haiti is a member [↑](#footnote-ref-5)