**Report Submitted to the Office of the High Commissioner for Human Rights on "Children's Rights and Family Reunification"**

The right to family protection and the prevention of family separation are of particular importance in a wide range of international and regional human rights instruments, including the Convention on the Rights of the Child, the International Covenant on Civil and Political Rights and the International Convention on the Protection of All Migrant Workers and Members of Their Families. In interaction with the information requested by the Office of the High Commissioner for Human Rights on specific issues related to "Children’s rights and family reunification," in light of the Human Rights Council meeting in 2022, " Children’s rights and family reunification" and the report to the Human Rights Council in this context, Maat for Peace, Development and Human Rights has given special consideration to this issue as one of the main areas to which Maat for peace attaches importance, particularly since young people are the future generations and without them all the goals of sustainable development will not be achieved. Children's underdevelopment may set us back decades. Therefore, Maat for Peace calls upon the Family Unit to prevent separation of children except in cases that are contrary to the best interests of the child as defined in the Convention on the Rights of the Child. In this report, we have tried to provide sufficient and comprehensive information on some of the questions raised by the Office of the High Commissioner for Human Rights, with a focus on unaccompanied and separated migrant children, and children separated from their families in the context of armed conflicts.[[1]](#footnote-1)

**First: What are the main "concerns" affecting children separated from their families and the priorities for strengthening global and national frameworks to prevent family separation?**

The separation of children from their parents presents a wide spectrum of fundamental human rights, including the right to liberty and security of person, the right to equality and non-discrimination, the right to movement and protection from violence and exploitation, especially for children separated from their parents across borders and in the context of an asylum application. Maat for Peace also has an urgent need to give special consideration to children who are separated from their families in the context of armed conflict, and unaccompanied and separated children, who are the target of a wide range of risks due to their fragile and vulnerable nature.

1. **Right to personal freedom:**

A huge number of children separated from their families face arbitrary measures represented in their detention while crossing the borders, either alone or accompanied by their families, under the pretext of illegal entry to the country of destination. The detention of such children, even if they have entered illegally, is incompatible with article 31, paragraph 1, of the 1951 Convention relating to the Status of Refugees. Maat for Peace agrees with the international and regional human rights bodies that the detention of children who cross borders completely contradicts the best interests of the child, affects his psychological and physical health, and constitutes a flagrant violation of international human rights law. According to the Special Rapporteur on the human rights of migrants, the number of detained children exceeds 300,000 annually, in more than 77 countries.[[2]](#footnote-2)

For example, the number of immigrant and student children who have been detained by the United States of America has reached more than 21,000 children, of whom only 4,500 are children in the Fort Bliss facility in Texas, and although some shelters in the US are safe for the residence of children, other centers pose a danger gravely detrimental to their health, according to mental health experts and human rights advocates.[[3]](#footnote-3) Despite the promises of the US administration to reunite separated children from their parents separated by the Trump administration, from February 2021 to June 2021 the efforts of the new US administration only succeeded in reuniting seven children with their families.[[4]](#footnote-4) In general, there is a slow pace of reunification of children in different countries of the world, which requires accelerated action to create effective mechanisms for family reunification for child’s best interest.

In Libya, the United Nations Children's Fund (UNICEF) reported that there were currently about five separated children in detention, as well as 30 infants[[5]](#footnote-5). In addition to the detention under extremely high conditions represented a high degree of confidence in the mental, physical and mental health of children.[[6]](#footnote-6) This requires alternatives from the countries that include detention of children only as a last resort and for a specified and appropriate period. Even in the case of children convicted of crimes, their detention should not be a priority for immigration departments in destination countries, and this could be replaced by placement of such children in institutional care and integration into vocational training programs, separating them from adult men in separate places reserved for them alone,[[7]](#footnote-7) in line with article 40, paragraph 4, of the Convention on the Rights of the Child.[[8]](#footnote-8)

1. **Forced recruitment and exploitation of children separated from their families**

Separated children are more likely than others to engage in forced recruitment, to join non-State armed groups and to engage in sexual, commercial and other exploitation. The issue of the recruitment of separated children is linked specifically to conflict areas. The prolonged armed conflict and humanitarian disasters cause the number of children separated from their families to grow, according to an organization. "Save the Children." Over 5,000 children separated from their families because of the conflict in the region of Tigray, Ethiopia. Most of them live in informal camps and are vulnerable to malnutrition and recruitment by armed groups.[[9]](#footnote-9)

In the Arabian Peninsula, the percentage of unaccompanied and separated migrant children increased from 6% of the overall number of migrants to 9% in 2020. Yemen is a transit country for these children and they may often be forced to survive and earn money to provide the basic necessities of life to engage with non-state armed groups, some of whom are killed in the battles between the Houthi movement and government forces, and others are subjected to captivity, and few of them are able to escape from the battles and extreme poverty.[[10]](#footnote-10)

Because of the continuation of the conflict between the Houthis and government forces, a large number of children were separated from their families in Yemen due to the death of their parents or the children’s efforts to earn money, and they were subjected to forced recruitment by all parties to the conflict. This contradicts Article 4 (C) of Additional Protocol II of 1977, which states, “Children under the age of fifteen shall not be recruited into armed forces or groups, nor shall be permitted to participate in hostilities. The recruitment of children also contravenes Article 4 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts adopted by the General Assembly in May 2000. In this context, Maat supports what was stated in the discussions of the UN Security Council Working Group on Children and Armed Conflict in December 2020, particularly the focus of the working group on giving special importance to children in light of the current armed conflict, Maat also supports United Nations Security Council Resolution No. 1612. (2005) and subsequent resolutions on children and armed conflicts as effective tools for improving the protection of children in wars.

In a related context, there are approximately 1,000 unaccompanied and separated children in Al-Hol camp in Al-Hasakah city, northern Syria. Their continuation in the camp may pose a danger to these children and they may try to escape at any time under the influence of extremist ideas in the camp, which calls for facilitating the procedures aiming at returning them to their countries of origin[[11]](#footnote-11).

Here, Maat draws attention to the fact that one of the most important obstacles facing the return of some of these children to their original homeland is the control of non-governmental armed groups supported by external parties over northeastern Syria, in addition to the refusal of the return of these children by some countries of origin, which requires more initiatives aiming to create understandings with these groups to return children to their countries and return them to their families and urge countries of origin to allow these children to return, in a way that guarantees these children reintegration back into their societies, and what this may entail over time in stabilizing their lives, in a way that guarantees them access to good and equitable education in line with the fourth goal of the sustainable development goals. It also prevents them from forced recruitment, forced labor, and engaging in the worst forms of child labor, in contravention of target 8.7 of the sustainable development goals.

**Second: Priorities for strengthening global and national frameworks to prevent family separation**

The family is the basic unit of any society. Article 23 of the International Covenant on Civil and Political Rights states that the family is the normal and basic group unit in society, and the state has to protect the family from any dangers that may lead to its dismantling, in a way that protects the most vulnerable groups of the family, namely children. Maat believes that it is absolutely necessary to adopt an additional protocol to the Convention on the Rights of the Child that includes the protection of unaccompanied and separated children. We also believe the need to encourage the United Nations and its bodies to issue guidelines and \ promote the rights of children separated from their families and to call for family reunification. We also believe the need for the report of the High Commissioner for Human Rights to dedicate a special space to demand states to harmonize their national legislation with international human rights treaties and to urge them to adhere to the optional protocols after the Convention on the Rights of the Child. In a related context, the integration of family rights into the national plans of countries and the issuance of national strategies for alternative care and early childhood should be accompanied by a broad focus on family reunification. Dedicating broad axes to this issue may result in a reduction in family separation cases, and providing financial support may be of great importance to maintaining family stability and preventing its fragmentation.

**Third: How can the right to family life be preserved for children in cross-border situations, particularly migrant children who have been separated from their families?**

International human rights treaties, including Article 23 of the International Covenant on Civil and Political Rights and Article 10 of the Committee on the Rights of the Child, as well as the mandate of the Executive Committee of the United Nations High Commissioner for Refugees (UNHCR) program, have emphasized the importance of the family unity and preventing its disintegration. Across borders, children are separated after the arrest of their parents who are imprisoned by border security, and these children are often entrusted to detention centers and health facilities, as happened in the United States of America. This may alleviate the general situation of these children, but at the same time, the children suffer from psychological effects and continuous mental disorders due to their separation and suffer from post-traumatic stress disorder, as a result of the dispersal of families.

Preserving the right to family life for children who cross borders, separated or unaccompanied ones requires the establishment of an investigation mechanism regarding violations of the rights of separated children and to arrange the reintegration of these children into their families again. It also requires the speedy determination of the legal status of the parents of these children so that they can either return with their children again to the country of origin or allow them to reside in the countries in which they were detained and they intend to stay there, which is consistent with the opinions agreed that in the case of dealing with separated children, their best interests should be secured, whether by temporary or sustainable solutions. This requires countries to consider requests to enter or leave a country together in the humanitarian context. In all cases, states are required to preserve the unity of the family and prevent all reasons that may require the separation of children from their parents, unless this separation is in the best interests of the child as contained in the Convention on the Rights of the Child, and as detailed in General Comment No. 14 of 2013 on the right of the child concerning his best interests as a primary consideration[[12]](#footnote-12)

**Fourth: How can the best interests of migrant children separated from their families be promoted while crossing borders?**

The work of the best interests of the child requires the full implementation of the Convention on the Rights of the Child, in particular paragraph 1 of Article 3 of the said Convention, in addition to Article 9 of the Convention on the necessity of not separating the child from his parents and Article 10 on family reunification.

In light of that, and in order to promote the best interests of the separated and cross-border migrant children, there is an urgent need to take steps to ensure the application of this principle in an indivisible manner. These steps are:

1. Allowing children who have been separated from their families while crossing the borders to enter the territory of the country of destination and create safe conditions for their stay in the country until they are reunited with their families, as mentioned in the report of the Special Rapporteur on the human rights of migrants[[13]](#footnote-13).

2. Not to resort to administrative detention for these children in line with Paragraph No. 61 in General Comment No. 6 of 2005 of the Committee on the Rights of the Child on the treatment of unaccompanied and separated children outside, and to find non-custodial and appropriate alternatives that do not harm the health of these children and their psychological and physical growth[[14]](#footnote-14).

3. Appointing a qualified legal representative for these children if they are referred by the Immigration Department to asylum seekers or other administrative and judicial procedures, provided that these children are addressed in a language they understand as in the previous study prepared by the Office of the High Commissioner for Human Rights on challenges and best practices in the implementation of the international framework to protect children's rights in the context of migration[[15]](#footnote-15).

4. Ensuring the provision of health care to separated children throughout their stay away from their families in a manner equal to children of the nationality of the destination country, taking into account the principle of non-discrimination contained in the Convention on the Rights of the Child[[16]](#footnote-16).

5. Preventing the forcible return of children who have been separated, as long as their parents are still in detention in the country of destination, and as long as the High Commissioner for Refugees is still not finished finding an incubator or suitable alternative care in the country of origin.

**Fifth: Recommendations**

**Maat for Peace, Development and Human Rights recommends the following:**

* Taking steps to eliminate the practices of detaining unaccompanied and separated children, particularly those in refugee and immigration status
* We believe in the need for the Office of the High Commissioner for Human Rights to attach special importance in its report submitted to the Human Rights Council to urge states, when setting their policies regarding migrant children, to treat them as victims, not criminals.
* The need for the Office of the High Commissioner for Human Rights to acknowledge, in its report to be submitted to the Human Rights Council, the central importance of the family unity to the child's development, well-being, and enjoyment of all basic human rights
* Initiating steps in practice to ensure that separated children have access to effective remedies and facilitated procedures to resort to the judiciary in the country of immigration.
* The need to expand the establishment of programs for unaccompanied and separated children to support refugee and immigrant children in countries of destination.
* The need to take serious steps in order to develop a preliminary draft of a global strategy for family reunification and preventing the separation of children from their parents
* The need to focus attention on considering armed conflicts and human and natural disasters as major causes for the disintegration of families and the prevention of family reunification, and to allocate a global emergency fund in order to address family separation in the context of these crises.
* The need to harmonize the national legislations of countries with global frameworks for the protection of separated children and international human rights treaties and to ensure the full implementation of these treaties in practice

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3. Migrant children held in mass shelters with little oversight, Associated Press News, 11 May 2021, Available at the following link: <https://bit.ly/3GMWhj9> [↑](#footnote-ref-3)
4. U.S. reunites only seven immigrant children with parents since Feb, Reuters, 8 June 2021, Available at the following link: <https://reut.rs/3BAelc5> [↑](#footnote-ref-4)
5. The safety and wellbeing of children at high risk in detention centers in Libyan, UNICEF, 12 October 2021, Available at the following link: <https://uni.cf/2ZH83dS> [↑](#footnote-ref-5)
6. Ibid [↑](#footnote-ref-6)
7. Report of the Independent Expert leading the United Nations global study on children deprived of liberty, a paragraph 20, Available at the following link: <https://undocs.org/en/A/74/136> [↑](#footnote-ref-7)
8. Convention on the Rights of the Child, Article 40, Available at the following link: <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx> [↑](#footnote-ref-8)
9. Six months on: Almost 5,000 children separated from parents by conflict in Tigray, says Save the Children, Save The Children, 3 May 2021, Available at the following link: <https://bit.ly/3EufKmz> [↑](#footnote-ref-9)
10. ارتفاع نسبة الأطفال المهاجرين غير المصحوبين الذين يحاولون الوصول إلى دول الخليج، أخبار الأمم المتحدة، 10 أغسطس 2021، على الرابط التالي: <https://bit.ly/31itbaY> [↑](#footnote-ref-10)
11. Children and armed conflict in the Syrian Arab Republic Report of the Secretary-General, a paragraph 16, Available at the following link: <https://bit.ly/2ZFeGwQ> [↑](#footnote-ref-11)
12. General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1), Convention of Right Child, <https://undocs.org/en/CRC/C/GC/14> [↑](#footnote-ref-12)
13. Ibid, <https://www.undocs.org/en/A/75/183> [↑](#footnote-ref-13)
14. التعليق رقم 6 لسنة 2005، معاملة الأطفال غير المصحوبين والمنفصلين عن ذويهم خارج ديارهم، الفقرة 61، ص 18، على الرابط التالي: <http://hrlibrary.umn.edu/arabic/CRC209.pdf> [↑](#footnote-ref-14)
15. Study of the Office of the United Nations High Commissioner for Human Rights on challenges and best practices in the implementation of the international framework for the protection of the rights of the child in the context of migration, Paragraph 38, Page 10, Available at the following link: <https://undocs.org/en/A/HRC/15/29> [↑](#footnote-ref-15)
16. اتفاقية حقوق الطفل، المادة 2، على الرابط التالي: <https://www.ohchr.org/ar/professionalinterest/pages/crc.aspx> [↑](#footnote-ref-16)