

This resolution with report was received after the November 15 filing deadline. Pursuant to §45.5 of the House Rules of Procedure, this late resolution will be considered by the House of Delegates if the Committee on Rules and Calendar recommends a waiver of the time requirement and the resolution is approved by a two-thirds vote of the delegates voting.

AMERICAN BAR ASSOCIATION
COMMISSION ON HOMELESSNESS AND POVERTY
SECTION OF LITIGATION

REPORT TO THE HOUSE OF DELEGATES

RESOLUTION

1 RESOLVED, That the American Bar Association endorses General Comment No. 21 on
2 Children in Street Situations issued in June 2017 by the United Nations Committee on the
3 Rights of the Child.

4

5 FURTHER RESOLVED, That the American Bar Association urges U.S. and other
6 governments, the legal community, and the private sector to utilize General Comment No.
7 21 to develop comprehensive, long-term strategies to realize the rights of children living
8 in street situations.

9

10 FURTHER RESOLVED, That the American Bar Association reaffirms its support for
11 consideration by the Senate and ratification of the United Nations Convention on the
12 Rights of the Child.

REPORT

Today in the United States there are some 1.5 million children living on the street; worldwide, that population approaches 100 million.¹

The United Nations Convention on the Rights of the Child was written to apply to all children, but the enormity of the human rights violations against this unique population of “street children” prompted the development of the United Nation’s General Comment No. 21 on Children in Street Situations (“UNGC 21”) to highlight those provisions in the United Nations Convention on the Rights of the Child (“Convention”) that directly relate to children in street situations. UNGC 21 provides guidance on how those provisions should be implemented holistically by countries, states and local governments, non-profit partners, lawyers and others working to assure that the legal rights and human dignity of those children is protected. UNGC 21 is available online at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsqIkirKQZLK2M58RF%2f5F0vEfsFWjOdIKslb9tVif2Lw3bJZ6aysl1yrqxbwtvU3h5wu f0CV5aKla03pvDcq%2bUedS97nOxmLZF%2bfCuCUwMZpo>.

Who are “children in street situations?”

As UNGC 21 outlines,² the more familiar references include: “street children,” “children of the street,” “runaway children” and “homeless children.” These phrases are inexact because they fail to identify the reality that many of these children have different relationships to their living conditions. For instance, “children in street situations” encompass: children whose livelihood depends upon them living or working on the streets alone, with a family, or with peers, and a larger population of children whose relationship with public spaces may not be constant, but includes children who sporadically live or work on the streets by themselves or with others.

It is this great variety of involvement with public spaces that make more accurate tabulations of the number of children living in street situations highly variable. Some have at least temporary shelter but spend long hours every day working on the streets to support themselves and/or their families rather than attending school. Others may be part of a family that lives in a public street.

This Resolution flows from the International Summit on the Legal Rights of Street-Connected Children and Youth, which ABA President Hilarie Bass convened on November 28-29, 2017, in Sao Paulo, Brazil (“the Summit”). The purpose of bringing together over 100 of the world’s leading experts on street-connected children was to specifically identify how nations, and sub-national entities, can implement the rights compiled in UNGC 21, which was issued June 21, 2017 by the UN Committee on the

¹ See www.streetchildren.org. The population of street-dependent children is never fixed as every night across the world children move from couch-surfing, to different public spaces, to shelters to criminal detention to anywhere they can find. Experts around the world explain that evaluating numbers is a terrific challenge.

² UNGC 21, II.4. Terminology

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Rights of the Child, and to share insights across borders among children's rights experts on how to best realize the child rights goals of UNGC21.

This Resolution accomplishes three objectives:

- (1) To endorse UNGC 21 (against the background of the Association's longstanding support for ratification of the UN Convention on the Rights of the Child, on which UNGC 21 is based), which outlines various steps by which the recognition of a street-connected child's rights will assist in preventing that child from living on the street, or respond to a street-connected child's needs;
- (2) To urge national, state, local and foreign governments, the legal community and private sector to employ UNGC 21 provisions to collaboratively develop long-term, comprehensive strategies to realize the rights of street-connected children and respond to the needs and conditions of children in street-connected lives.
- (3) To reaffirm the ABA's February 1991 support for ratification of the UN Convention on the Rights of the Child³, upon which UNGC 21 is based, and to call on the United States to submit the Convention to the Senate for its advice and consent to ratification.

What the UN General Comment No. 21 on Children in Street Situations Provides

UNGC 21 is a compilation of 33 articles drawn from the Convention on the Rights of the Child applicable to the unique status of street-connected children. It clarifies the responsibilities of countries to implement its child rights approach to working with these children, to provide guidance to governments in protecting against a child's loss of those rights, and to outline the implications for implementing the identified articles of the Convention.

The overarching premise of UNGC 21 is that children in street situations are, first and foremost, rights-bearing individuals. Each of these children possesses basic human rights, regardless of their age or economic status or living condition. This "child rights" approach is fundamental to appreciating that these children are people, in need of respect and dignity and autonomy. By so understanding their status, they will be included in broader governmental efforts to fully recognize their rights, and improve the living conditions of all citizens.

Revealing statements by over 300 children from 32 countries, consulted in the development of UNGC 21, bring life to the challenges UNGC aims to address:

- *"I would like for people who have never lived on the streets to see us as persons with pride, like normal people."*
- *"A child - a poor child - doesn't know he has the right to grow up in a different way."*
- *"They should provide a safe place to live and drinking water. We are not asking for a nice house with air conditioning—just a safe place."*

³ 1991M119

- *"When we come to the police station, then police make us work picking rags. If we don't work, they beat us."*
- *"The press tell bad stories about street kids. But they have to see kids in a good way. If they are in the street, it is their last chance. It is not what they wanted to do. You cannot kill yourself -- so the street is the last chance to survive."*
- *"Living on the street does not mean that we cannot have rights."*
- *"Give us the opportunity to change our story."⁴*

This perspective accepts and assumes that, as we treat these children with the most basic rights that we would ascribe to our own children, we will foster better outcomes for these street-connected young people. Recognizing the basic human rights of street-connected children will assure that they and the communities in which they live will better protect such rights for all people and for strengthening our communities.

The Importance of Implementation of the UN Comment No. 21 on Children in Street Situations

The Convention, ratified by every nation except the United States, has been in effect for over 25 years. UNGC 21 highlights how that long experience with the Convention may thoughtfully and intentionally address the international epidemic of children living in street situations. The following is a list of whole or partial articles from the Convention discussed in UNGC 21, in the order in which they appear in UNGC 21:

Articles:

- 2 Non-discrimination
- 3 (1) Acting in the best interests of the child
- 6 Right to life, survival and development
- 12 Right to be heard
- 4 Right to appropriate measures, meaning the right to employ legislative, administrative and other means to assure implementation of rights.
- 5 Right to benefit from direction and guidance consistent with evolving capacities.
- 15 Freedom of association and assembly
- 7 Right to birth registration
- 8 Right to personal identity
- 13 Freedom of expression
- 17 Access to information
- 16 Right to privacy, honor & reputation
- 20 Special protection and assistance for children deprived of a family
- 9 Separation from parents
- 3(3) Standards of Care

⁴ UNGC No. 21, page 3, I. Introduction: "change our story"; and quotations collected from children from Consultations by the Consortium for Street Children, more information available at www.streetchildren.org.

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- 25 Standards for care and protection in institutional services and facilities and periodic placement review
- 18 Parental responsibility
- 27 Right to adequate standard of living. 23 - Children with disabilities
- 24 Right to health
- 33 Drugs and substance abuse
- 28 Right to education
- 29 Aims of education
- 31 Play and leisure
- 19 Freedom from all forms of violence
- 39 Freedom from violence
- 34 Freedom from sexual abuse, exploitation and trafficking
- 35 (same)
- 36 (same)
- 32 Freedom from child labor abuse
- 37 Juvenile justice
- 40 Juvenile justice
- 38 Freedom from coerced participation in armed conflict

ABA International Summit on the Legal Rights of Street-Connected Children

The November 2017 Sao Paulo Summit built on nearly a decade of ABA leadership in addressing the legal challenge of lawyers working to assist children living in street situations. The Association's Commission on Homelessness and Poverty began work on this issue in 2008, which laid the groundwork for the ABA-sponsored Summit on the Legal Needs of Street Youth on June 16-17, 2015 in London. The product of the London summit substantially contributed to work already underway with the UN Committee on the Rights of the Child toward completion of what is now UNGC 21.

Over 100 Summit participants from around the world spent two days in 36 expert sessions parsing the details of UNGC 21 into actionable steps by which the General Comment's proposals may be implemented by states, local government entities and other interested partners in the public and private sectors. This effort will result in an ABA publication of the *Implementation Mechanisms for the UN Comment on Children in Street Situations*, currently in development.

This Summit is the centerpiece of the ABA's new Legal Needs of Homeless Youth Initiative established by ABA President Bass in August 2017 to substantially increase the commitment of the legal profession to better understand the needs of street-connected children and to expand the delivery of legal assistance to children experiencing homelessness.⁵

⁵ The other element of this Initiative is the Homeless Youth Legal Network, which aims to energize lawyers and law firms to commit greatly expanded legal services, including pro bono counsel, to homeless children. To this end a dozen model programs across the country have stepped up to demonstrate the value of legal advocacy for homeless children and youth.

The Need to Reaffirm the United Nations Convention on the Rights of the Child

One of the original subsidiary agencies of the UN General Assembly was the Commission (now Council) on Human Rights, charged with responding to the horrendous WWII genocide and other human rights abuses, and planning the framework for the world body to develop treaties and other tools to stem future abuses. One of these proposed treaties, the UN Convention on the Rights of the Child, was developed over many years with United States leadership and was unanimously adopted by the General Assembly on November 20, 1989.

Today, this treaty has been ratified by 196 countries, making it one of the most universally approved treaties. The only country that has not ratified the Convention is the United States.⁶ The ABA has long supported its ratification, see Resolution 119 approved by the House of Delegates in February 1991.⁷

The UN's Human Rights Council has created several entities to follow the progress of ratification, and implementation of ratified treaties by member states. Such a body was appointed for the Convention on the Rights of the Child which has periodically prepared "General Comments" highlighting discrete portions of the Convention.

The United States remains the sole nation which has not ratified the Convention or its optional protocols. Given the age of that resolution, and the Association's decades-long attention to the legal system's protection of children's rights — culminating in the Sao Paulo Summit — it is timely for the ABA now to re-affirm its support for the Convention. This point is strengthened by this Resolution's express call on the United States to ratify the Convention.

Conclusion

Children dependent on the street around the world are victims to every disadvantage and consequently denied the basic human rights deserved by all beings. The Convention stated that reality 25 years ago and set in motion a process for the United Nations to highlight the compelling importance of those principles to an vulnerable population of children, known today as street-connected children. Upon passage of this resolution, the ABA will compile the recommendations generated at the recent Sao Paulo Summit, and publish that guidance in a comprehensive statement of Implementation Mechanisms for the UN Comment No. 21 on Children in Street Situations. These Mechanisms are tools that come from the best thinking of leaders in advocacy for street-connected children. The

⁶ No U.S. president has submitted the Convention to the Senate for advice and consent to ratification. However, the United States ratified on December 23, 2002 two Optional Protocols to the treaty: (1) "On the Sale of Children, Child Prostitution and Child Pornography" with one reservation and six understandings, and (2) "On the Involvement of Children in Armed Conflict" with one declaration and five understandings. Both optional protocols were approved May 22, 2000 at the 54th Session of the U.N. General Assembly.

⁷ 1991M119. Since adoption of this policy, the ABA has worked to have the Convention transmitted to the Senate and for the Senate's advice and consent to ratification, through the efforts of the Governmental Affairs Office, the Young Lawyers Division, the Sections of Family Law, International Law & Practice and Civil Rights and Social Justice, the Commission on Homelessness and Poverty, the Center on Children and the Law, the Children's Rights Litigation Committee of the Section of Litigation, the Commission on Youth at Risk, and others.

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broad circulation of the Implementation Mechanisms will continue the ABA's long and energetic advocacy for the rights of all children.

The endorsement by the American Bar Association of these principles and their very practical implementation will strengthen the commitment of American lawyers to the cause of children's rights, and will serve as an example to lawyers, bar associations and nations, including the United States, to seek justice and basic human rights for street-connected children in each of our communities, in our nation and among all nations.

Respectfully submitted:

Craig H. Baab
Chair, Commission on Homelessness & Poverty

Koji Fukumura
Chair, Section of Litigation

February 2018

GENERAL INFORMATION FORM

Submitting Entities: Commission on Homelessness & Poverty
Section of Litigation

Submitted By: Craig H. Baab, Chair, Commission on Homelessness & Poverty
Koji Fukumura, Chair, Section of Litigation

1. Summary of Resolution(s). The American Bar Association endorses General Comment No. 21 on Children in Street Situations issued in June 2017 by the United Nations Committee on the Rights of the Child, and urges U.S. and international governments, the legal community, and the private sector to utilize General Comment No. 21 to develop comprehensive, long-term strategies to realize the rights of children living in street situations. The American Bar Association also reaffirms its support for ratification by the United States of the United Nations Convention on the Rights of the Child, upon which General Comment No. 21 is based, and calls for the United States promptly to submit the Convention to the Senate for its advice and consent to ratification.
2. Approval by Submitting Entities. January 21, 2018
3. Has this or a similar resolution been submitted to the House or Board previously?

The ABA adopted a resolution in February 1991 calling on the United States to ratify the UN Convention on the Rights of the Child. As noted in this report, the United States remains the sole hold-out. Given the age of that resolution, and the Association's decades-long attention to the legal system's protection of children's rights — culminating in the Sao Paulo Summit — it is timely for the ABA now to re-affirm its support for the Convention. This point is strengthened by this resolution's express call on the President promptly to submit the Convention to the Senate for its advice and consent to ratification.

4. What existing Association policies are relevant to this Resolution and how would they be affected by its adoption?

Please see the response to #3.

This policy will not adversely affect or conflict with existing ABA policy. Rather, this policy reaffirms the 1991 policy calling on the United States to ratify the UN Convention on the Rights of the Child and endorses General Comment No. 21 on Children in Street Situations, urging U.S. and international governments, the legal community, and the private sector to utilize General Comment No. 21 to develop

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comprehensive, long-term strategies to realize the rights of children living in street situations.

5. If this is a late report, what urgency exists which requires action at this meeting of the House?

This report flows from the ABA International Summit on the Legal Rights of Street-Connected Children and Youth, which ABA President Hilarie Bass convened on November 28-29, 2017, in Sao Paulo, Brazil. The Summit is the centerpiece of the Legal Needs of Homeless Youth Initiative established by President Bass in August 2017 to substantially increase the commitment of the legal profession to better understand the needs of street-connected children and to expand the delivery of legal assistance to children experiencing homelessness. The Summit convened nearly 100 of the world's leading experts on street-connected children to explore how nations and sub-national entities can implement the rights compiled in UNGC 21, which was issued June 21, 2017 by the UN Committee on the Rights of the Child, and to share insights across borders among children's rights experts on how to best realize the child rights goals of UNGC 21.

6. Status of Legislation. (If applicable)

Released in June 2017, the United Nation's General Comment No. 21 on Children in Street Situations provides guidance on assisting children in street situations using a holistic, child rights approach and addressing both prevention and response in line with the Convention on the Rights of the Child. Now is the time to equip lawyers and advocates with tools to promote the adoption of the strategies outlined in the Comment. While the General Comment is not legislation or a treaty, it does outline a number of tools to improve the lives of children living in street situations which will necessitate the development and adoption of legislation, executive branch actions, local ordinances, etc.

7. Brief explanation regarding plans for implementation of the policy, if adopted by the House of Delegates.

Building on the work accomplished at the Summit, a unique outcome of the policy will be the dissemination of information and best ideas across borders about how nations can implement the rights embedded in the UN's new international instrument. Second, and equally unique, the ABA will produce a first-ever publication of implementation strategies in collaboration with the world's experts on street-connected children and youth that will foster the implementation of each of the legal issues in the UN's General Comment.

8. Cost to the Association. (Both direct and indirect costs)

None. Existing Commission, Section and Governmental Affairs staff and members will undertake the Association's advocacy on behalf of these recommendations, as is the case with other Association policies. Materials will be published and circulated electronically.

9. Disclosure of Interest. (If applicable)

There are no known conflicts of interest.

10. Referrals.

The recommendation has been referred to the following ABA entities:

Administrative Law Section
 Forum on Affordable Housing and Community Development
 Section of Civil Rights and Social Justice
 Criminal Justice Section
 Standing Committee on the Delivery of Legal Services
 Commission on Disability Rights
 Commission on Domestic and Sexual Violence
 Government and Public Sector Lawyers Division
 Commission on Immigration
 Section of International Law
 Judicial Division
 Commission on Law and Aging
 Law Student Division
 Standing Committee on Legal Aid and Indigent Defendants
 Section of Litigation
 Standing Committee on Pro Bono and Public Service
 Section of Real Property, Trust and Estate Law
 Senior Lawyers Division
 Commission on Sexual Orientation and Gender Identity
 Solo, Small Firm and General Practice Division
 Section of State and Local Government Law
 Young Lawyers Division
 Commission on Youth at Risk

11. Contact Name and Address Information. (Prior to the meeting. Please include name, address, telephone number and e-mail address)

Craig H. Baab

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12. Contact Name and Address Information. (Who will present the Resolution with Report to the House? Please include best contact information to use when on-site at the meeting. *Be aware that this information will be available to anyone who views the House of Delegates agenda online.*)

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EXECUTIVE SUMMARY

1. Summary of the Resolution

The American Bar Association endorses General Comment No. 21 on Children in Street Situations issued in June 2017 by the United Nations Committee on the Rights of the Child, and urges U.S. and international governments, the legal community, and the private sector to utilize General Comment No. 21 to develop comprehensive, long-term strategies to realize the rights of children living in street situations. The American Bar Association also reaffirms its support for ratification by the United States of the United Nations Convention on the Rights of the Child (initially approved by the House of Delegates in February 1991), upon which General Comment No. 21 is based, and calls for the United States promptly to submit the Convention to the Senate for its advice and consent to ratification.

2. Summary of the Issue that the Resolution Addresses

The United Nations Convention on the Rights of the Child was written to apply to all children, but the enormity of the human rights violations against this unique population of “street children” prompted the development of the United Nation’s General Comment No. 21 on Children in Street Situations (June 2017) to highlight those provisions in the United Nations Convention on the Rights of the Child that directly relate to children in street situations. UNGC 21 is available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/GC/21&Lang=en and provides guidance on how those provisions should be implemented holistically by countries, states and local governments, non-profit partners, lawyers and others working to assure that the legal rights and human dignity of those children is protected.

3. Please Explain How the Proposed Policy Position Will Address the Issue

The General Comment is an enunciation to the world that the United National Convention on the Rights of the Child applies to equally to street-connected children, an estimated 1.5 million children in the United States and, the United Nations estimates, 100 million street children across the world. The ABA's affirmation of the General Comment will direct the attention of legal advocates around the world to these issues and urge them to put the General Comment into practice. Specifically, it will remind the United States that the Convention must be ratified here so the application of the all the principles of the Convention and its newest extension in the General Comment, can be made real for all children - including street children - across the nation and the globe. Building on the work accomplished at the ABA International Summit on the Legal Rights of Street-Connected Children and Youth, a unique outcome of the policy will be the publication of Implementation Mechanisms which grew from this first-of-its-kind

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international gathering to help states meaningfully realize the rights embedded in the UN's new international instrument. This policy, along with the post-Summit materials, will allow the ABA to equip lawyers and advocates with tools to promote the adoption of the critical strategies outlined in the Comment.

4. Summary of Minority Views or Opposition Internal and/or External to the ABA Which Have Been Identified

None to date