

**Comments of the Government of the Republic of Singapore
On the Draft Joint General Comment on
The Human Rights of Children in the Context of International Migration**

1 The Government of the Republic of Singapore appreciates the opportunity to comment on the draft Joint General Comment (JGC) on the Human Rights of Children in the Context of International Migration. The draft JGC is being developed by the Committee on the Rights of the Child (“the CRC Committee”) and the Committee on Migrant Workers (“the CMW Committee”). Singapore is firmly committed to upholding its obligations under the Convention on the Rights of the Child (CRC), which it ratified in 1995.

2 Singapore is of the view that the draft JGC should adhere closely to the agreed language found in the CRC and the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW). The views expressed by the Committees and the interpretation of certain concepts in the draft JGC are overly prescriptive and expand the obligations of either Convention beyond what is internationally agreed. Some relevant examples include the following:

- In paragraph 12, it is stated that “State obligations under both Conventions apply to each child within the State’s territory and to all children subject to its jurisdiction *or effective control*” (emphasis added). Article 2 of the CRC and Article 7 of the CMW accord the rights provided for in the respective Conventions only to persons “within [a State’s] territory or subject to their jurisdiction”. Singapore notes with concern that this additional phrase attempts to expand the scope of the Conventions.
- In paragraph 29, it is stated that States should “make clear in their legislation, policy, and practice that the principle of the child’s best interests takes priority over migration and policy or other administrative considerations”. This interpretation prescribes that the best interests of a child are necessarily of higher priority than other national considerations. However, Singapore notes that Article 3(1) of the CRC states only that “the best interests of the child shall be a primary consideration”. In 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), the CRC Committee noted that the words “primary consideration” mean that the child’s interests have high priority and are not just one of several considerations. Nonetheless, the CRC Committee recognised that the child’s interests may not be the *determining* factor. Singapore notes that the prerogative of States to weigh between various primary considerations is beyond the purview of the CRC and CMW Committees.
- In paragraph 44, the draft JGC has taken an expansive interpretation of the principle of *non-refoulement* by including “socio-economic conditions in countries of origin” and “family reunification entitlements in countries of origin and destination” as triggers for the principle of *non-refoulement* to apply. Singapore notes with concern that these two triggers are not part of customary international law.

- In paragraphs 48 and 50, it is stated *inter alia*, that “children should never be detained solely for immigration purposes” or “criminalized or subject to punitive measures because of their or their parents’ migration status”; and that “States should expeditiously and completely cease the detention of children on the basis of their immigration status”. Singapore notes that neither the CRC nor CMW contain these obligations.
- In paragraph 91, it is stated that “States shall provide material assistance and support programs to assist parents and others responsible for the child to implement this right particularly with regard to nutrition, clothing and housing”, pursuant to Article 27 (3) of the CRC.¹ Singapore notes that the Committees failed to include the qualifier in Article 27 (3) of the CRC that such material assistance and support programmes are only “in case of need” and should be provided “in accordance with national conditions and within [each State’s] means”.

3 Overall, the way the draft JGC interprets certain concepts is broader than what is currently understood. The draft JGC needs to sufficiently take into account the right of States to determine their own national policies based on their domestic contexts to best serve the child’s interests and in accordance with applicable international obligations.

4 Singapore would like to thank the CRC and CMW Committees for their efforts in drafting the JGC to improve the implementation of the two Conventions, and urges the CRC and CMW Committees to revise the draft JGC, with particular regard to the comments we have raised in the preceding paragraphs.

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¹ Singapore notes that the reference should be to Article 27 (3) and not Article 27 (2).