



**Statement by H.E. Archbishop Gabriele Caccia  
Apostolic Nuncio and Permanent Observer of the Holy See  
UNGA 78 – Sixth Committee  
Agenda item 81: Expulsion of aliens  
New York, 2 November 2023**

Mr. Chair,

Refugees, asylum seekers, migrants, and victims of human smuggling and trafficking often face immense challenges and are unfairly blamed for today's social problems. Unfortunately, a significant number of persons are forced to leave their homes due to persecution, violence, natural disasters, and poverty. Migration, in such circumstances, is a natural human response to crises, based on the universal human desire for a better life.

Mr. Chair,

The Holy See is grateful for the draft Articles of the International Law Commission which, in order to foster a broad consensus, incorporate elements of State practice, international law, and national legislation. While the draft articles do not call into question the right of States to regulate migration, nor do they impose undue restrictions on the cases in which expulsion of the alien is warranted, they do emphasize the primacy of human rights and human dignity over national interests. For this reason, my delegation welcomes Article 5, which provides that measures relating to the expulsion of aliens must be carried out in accordance with both the domestic legal framework and the State's obligations under international law.

The Holy See strongly supports the extension of the principle of *non-refoulement*, as provided for in draft Articles 23 and 24, as well as the progressive development in the limitation of the death penalty. In this context, my delegation welcomes, in particular, paragraph 2 of Article 23, which extends to those States which currently do not apply the death penalty – although it may still exist in their legislation – the prohibition on expulsion of aliens to States where there is a real risk that they will be subjected to death penalty. Indeed, no person should be expelled, returned or extradited to another State when there are substantial grounds for believing that his or her life or physical integrity would be threatened.

Persons facing deportation must always be treated with dignity. Detention should rather be an exception, not the rule. It should be governed by well-defined criteria. It should be non-arbitrary, non-punitive and fully respectful of human rights.

The highest priority must be given to the right to family life and the prevention of family separation, as indicated in draft Article 18. The best interest of the child should be the primary consideration in all decisions made on their behalf.

It is of paramount importance that aliens facing expulsion are provided with both substantive rights and the necessary procedural mechanisms to exercise those rights. Every person, regardless of his or her legal status, is entitled to due process. The safeguarding of fundamental human rights is in fact unattainable without the provision of procedural rights. For this reason, the Holy See deems the procedural rights set forth in draft Articles 26, 27 and 28 to be essential safeguards. It is nevertheless necessary to provide additional provisions concerning the right to a prompt judicial review of the lawfulness of detention, the right to receive a written decision and the right to information on available legal remedies.

Mr. Chair,

Critical decisions are required of us as we face conflicts in various parts of the world, which are exacerbating the number of marginalized and distressed people. Therefore, the Holy See fully supports the adoption of an internationally binding instrument addressing the expulsion of aliens as well as the establishment of an *ad hoc* committee or an open-ended working group open to all States, to negotiate such an instrument. The complex and politically sensitive nature of this matter, which affects countless people, requires the formulation of common norms and clear standards.

Thank you, Mr. Chair.