



Geneva Centre for the Democratic Control of Armed  
Forces (DCAF)

Occasional Paper - №8

**War is no Child's Play:  
Child Soldiers from Battlefield to Playground**

*Lilian Peters*

Geneva, July 2005



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### **About the Author**

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## Background

For more than a decade, the author of this paper has been involved with children in conflict, including child soldiers. In the summer of 2004 she worked as protection officer for the United Nations (UN) in South Darfur, where she met with sixteen year old Mubarak, who was forcibly recruited by the Sudanese rebel group SLA. When he escaped he was caught by the government supported Janjaweed militias, and finally released in the care of a Sudanese government official who used him to show the Western media that the rebels in Darfur are using child soldiers. Through high level intervention, Mubarak was released in the care of a Sudanese protection agency and reunited with his family. His story has featured on the front page on the New York Times and the International Herald Tribune. Following are some passages from the article.

### **Want, Violence and Death Steal Childhood in Sudan**

Mubarak's village, Kudum, a tiny place with 200 families in southern Darfur, was overrun last August by members of these militias, called Janjaweed. Mubarak recalls the chaos as the men, on horses and camels and shooting in the air, moved in fast, and he and his family and the other villagers ran for their lives. Behind him, he says, he remembers fire.

Mubarak's father and mother and his four siblings took refuge in a wooded area nearby. But when his father left to scout out their escape route, the Janjaweed reappeared. Mubarak watched as the militiamen told his mother to take off her clothes... He also says that he saw them shoot his little sister, who was 6. When the men left, the family dug a hole and buried her, the boy says... His father returned, and both parents took Mubarak to a nearby Koranic school for safety.

Young men and boys have been targets of the militias, who suspect them of being part of the armed groups in Darfur that have been fighting the government in Khartoum. Mubarak was especially vulnerable because he is from the Fur tribe, which has backed the rebels. But some time after Mubarak arrived, the school was raided by rebels...

The rebels rounded up dozens of boys: Mubarak said -- himself included -- and marched them into the countryside. The armed men asked the boys if any of them wanted to go, and eight of them raised their hands. Mubarak said the rebels told them they could run away. He said he still recalled the loud bangs when the men shot two of the escaping boys. The remaining boys became rebels. "I had to join them" Mubarak said, "I was afraid I would be killed, too."

The new recruits were given guns and trained to use them. They were given plenty of food and water, but being a rebel was dangerous, Mubarak said. Government aircraft would shoot down on them. Terrified that they would die, Mubarak and another boy used one such attack to escape, he said.

The two boys walked so far that they lost all sense of direction. They had no water, and the sun beat on them. After days of moving, they heard camels and horses nearby. Mubarak's friend ran. Mubarak said he was too weak to get away. He was captured by a group of Janjaweed. They tied him up and forced him to march with them. They were abusive, he said, and though he is a Muslim like them, they told him that if they saw him praying, they would kill him, he said.

The militiamen debated whether to kill Mubarak. But one of them argued that he ought to be turned over to the authorities. Finally, in Kaliek, a southern town, the Janjaweed took Mubarak to a police station and presented him to the authorities, who put him in jail.

Later, Ahmed Angabo Ahmed, a local politician who was loyal to the government, visited the jail and saw young Mubarak sitting on the floor. After hearing his story, Mr. Ahmed won Mubarak's release and took him to nearby Kass.

When foreign visitors went to Kass, Mubarak would be brought forward to tell his account. Mr. Ahmed would ask him to be especially detailed in recounting how the rebels had mistreated him. Eventually, aid workers heard of Mubarak and urged Mr. Ahmed to release him...<sup>1</sup>

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<sup>1</sup> Marc Lacey. New York Times, August 15, 2004. Want, Violence and Death Steal Childhood in Sudan.



# War is no Child's Play: Child Soldiers from Battle Field to Playground

*Lilian Peters*

## 1. Child Soldiers, an Introduction

An estimated 300.000 children under 18 years of age are recruited and used by armies and armed groups in violent conflicts in almost 30 countries worldwide. The estimated number of 300.000 child soldiers reflects the number of children being used at any one time. As conflict develops and children are killed, wounded or replaced by others, the cumulative number over time is likely much higher.<sup>2</sup> Appendix 1 gives an overview of the countries with child soldiers, as of January 2003.

Ninety per cent of today's violent conflicts are in countries characterized by internal wars, poverty, social and economical exclusion, and pursuit of political and economic power by violent means. Civilians, including children, are involved in these conflicts, both as perpetrators and victims.<sup>3</sup> The International Coalition to Stop the Use of Child Soldiers (CSC) states in its Global Report 2004 that government armed forces of at least 10 countries continued between 2001 and 2004 to use children on the frontlines. Among these countries are Burundi, the Democratic Republic of Congo (DRC), Sudan and Myanmar. Government forces have used children informally as spies, messengers, porters and to run errands. Other governments, like in Colombia and Zimbabwe, backed paramilitary groups, militias and local defense groups using children to fight and kill, to commit human rights abuses against civilians and to loot and destroy property. Some governments, like the DRC, have targeted children suspected of membership of armed political groups, detained them and sentenced children to death in unfair trials, including in military courts. Children have been killed during military "clean up" operations in Burundi, Indonesia and Nepal, or "disappeared" like in Chechnya. Children have also been tortured, often to extract information, for example in Israel.<sup>4</sup> At a US military base in Guantanamo Bay in Cuba, persons younger than 18 years have been detained as "illegal or unlawful combatants" and denied the protection of Prisoner-Of-War (POW) status as defined in international humanitarian law. "Illegal combatants" are private persons who do not have the right to take part in the conflict, since they do not conduct their operations in accordance with the laws and customs of war.<sup>5</sup> Illegal combatants are protected as civilians under the Fourth Geneva Convention and the two Additional

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<sup>2</sup> Machel, Graça, International Conference on War Affected Children. 2000. Winnipeg, Canada. The Impact of Armed conflict on Children, a critical review of progress made and obstacles encountered in increasing protection for war-affected children.

<sup>3</sup> McConnan, Isobel, and Uppard, Sarah. 2001. The Save the Children Fund. Children not Soldiers: Guidelines for working with child soldiers and children associated with the fighting forces.

<sup>4</sup> International Coalition to Stop the Use of Child Soldiers. 2004. Global Report 2004. p. 13-14.

<sup>5</sup> A combatant who is not a member of a recognized armed force but wants to be accorded POW status, must adhere to Article 4 of the Third Geneva Convention, meaning that he or she has to be under command and part of a hierarchical organized force; have a fixed or distinctive sign that is recognizable from a distance; carry arms openly, and conduct operations in accordance with the law and customs of war. Persons detained by the adverse party who do not comply with these criteria, can be defined as 'illegal combatants' and protected by humanitarian law as civilians.

Protocols (AP) of 1977. Moreover, children, being anyone under 18 years of age, are during armed conflict also protected by the Convention on the Rights of the Child (CRC).<sup>6</sup> According to Human Rights Watch, three detainees were believed to be between the ages of 13 and 15. They were released in January 2004 and returned to their home countries. The US Department of Defense acknowledged that an unspecified number of children, aged 16 and 17, remained at Guantanamo Bay, not separated from adult detainees and without education or rehabilitation assistance.<sup>7</sup> Without going into detail, one can conclude that the US is not respecting international humanitarian and human rights law in their treatment of the prisoners, including minors, at Guantanamo Bay.

Most child soldiers, both boys and girls, are drawn from the poorest, least educated and most marginalized social sectors. Especially at risk are children with a disrupted family background, refugee and internally displaced children, children living in conflict zones and garrison towns, children from a particular ethnic, racial or religious group, and former child soldiers. The recruited children are used to fight, lay mines and explosives and as spies, messengers, guards, scouts, cooks, porters, servants and for sexual purposes. They are all at risk of getting wounded, maimed or disabled and extremely vulnerable to health problems. As a result of sexual abuse, children may get infected with HIV/AIDS or other sexually transmitted diseases and numerous girls get pregnant with an unsafe abortion or teen-age motherhood as the tragic consequence.

Some children join voluntarily as a matter of survival and an alternative to unemployment or because they believe in the cause they are fighting for: a holy war, religious freedom, ethnic or political liberty or social justice. The children's commitment to the armed group may have been part of their upbringing and reinforced by the idealization of a culture of violence. Many child soldiers have witnessed abuses against their families and communities and some are seeking revenge. In general, voluntary recruitment into armed groups or forces is significantly influenced by children's personal experience with harassment by the adverse party; the loss of home or family members of forced displacement or exile.<sup>8</sup> Also the availability of small arms and light weapons (SALW) contributes to the involvement of children in hostilities as combatants.

The most important international legal instruments to protect children from recruitment and use for military purposes are: the Convention on the Rights of the Child of 1989 (CRC) and the Optional Protocol on the Involvement of Children in Armed Conflict of 2000 (OP-CRC), which came into force in 2002; the four Geneva Conventions of 1949 (GC) and the two Additional Protocols of 1977 (AP); the Rome Statute of the International Criminal Court of 1998 (ICC); International Labor Organization Convention 182 of 2000 (ILO); and the African Charter on the Rights and Welfare of the Child of 1999. Relevant for children in detention are: the UN Standard Minimum Rules for the Administration of Juvenile Justice of 1984 (The Beijing Rules), and the International Covenant on Political and Civil Rights of 1966. The Guiding Principles on Internal Displacement of 1998 protect internally displaced children, from recruitment and participation in hostilities.

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<sup>6</sup> International Coalition. 2004. p. 18; Carvin, Stephanie. 2003. The Canadian Institute of Strategic Studies. POWs, The Geneva Convention and the Second Gulf War, [www.ciss.ca](http://www.ciss.ca)

<sup>7</sup> International Coalition. 2004. p. 153-154.

<sup>8</sup> Action for the Rights of Children (ARC). 2002. Critical Issues "Child Soldiers" Published by Save the Children, OHCH, UNHCR and UNICEF.

The plight of children affected by armed conflict was first made visible on a global scale in 1996 in the UN Report on the Impact of Armed Conflict on Children, also known as the 'Machel Report' named after the expert for children affected by armed conflict, Ms. Graça Machel, who got appointed by the UN Secretary-General. Since the launch of the Machel Report, substantial progress has been made in the development of an international legal and policy framework to protect children from involvement in armed conflict. In 2004, Ms. Machel wrote in her preface by the Second Global Report on Child Soldiers:

When my report was published in 1996, there was strong but little knowledgeable perception that children were at best marginal to the 'real' security issues of the 'real' world. Now the UN Security Council regularly discusses children and armed conflict and the long-term protection of children is seen as a cornerstone of peace and security.<sup>9</sup>

Since 1999, the UN Security Council Resolutions condemned in several resolutions the recruitment and use of child soldiers, outlining progressively stronger measures to stop this practice.<sup>10</sup> A list of parties to armed conflict using child soldiers has been drafted, consisting of 54 armed forces and groups in 15 countries and child protection advisors are assigned to peacekeeping missions in Angola, Côte d'Ivoire, DRC and Sierra Leone to ensure that child protection and the well-being of children are included in peace negotiations and agreements.

The Special Representative of the UN Secretary-General on Children and Armed Conflict played a crucial role in all this.

Between 2001 and 2004, wars ended in Afghanistan, Angola, Sierra Leone and Southern Sudan, resulting in the demobilization of at least 40.000 children. Demobilization programs for child soldiers have been officially established in at least 12 countries where UN agencies are working in partnership with governments and non-governmental organizations (NGOs). Community, church and grassroots organizations have supported demobilized children and assisted them to return home, with special attention for the situation of girls and other vulnerable groups.<sup>11</sup>

In December 2003 the EU Council adopted the 'Guidelines on Children in Armed Conflict', asking EU Member States representatives in conflict zones to report on the use of child soldiers and listing possible actions, ranging from diplomatic interventions and public statements to targeted sanctions. A Special Envoy or group of experts should be appointed to ensure the mainstreaming of child rights issues in the external relations of the European Union.<sup>12</sup>

The Member States of the Human Security Network (HSN)<sup>13</sup> pledged during their meeting in Graz in 2003, their commitment to prevent children rights violations and assist child victims of armed conflict, including child soldiers.<sup>14</sup>

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<sup>9</sup> International Coalition. 2004. Global Report 2004. p. 9.

<sup>10</sup> UN Security Council Resolutions on Children and armed conflict 1261 (1999); 1314 (2000); 1379 (2001); 1460 (2003); and 1539 (2004).

<sup>11</sup> International Coalition. 2004. p. 14-26.

<sup>12</sup> International Coalition. 2004. p. 24.

<sup>13</sup> Council of the European Union. 2003. EU Guidelines on Children and Armed Conflict. 15634/03.

## 2. Child Soldiers and Recruitment

The International Coalition to Stop the Use of Children as Soldiers (CSC) defines a child soldier as “any person under 18 years of age who is a member of, or attached to, government armed forces or any other regular or irregular armed force or group, whether or not an armed conflict exist. They may perform a range of tasks, including participation in combat, logistical and support functions, and domestic and sexual services.”<sup>15</sup>

Another commonly used definition is formulated in the ‘Cape Town Principles’ drafted in 1997 and stating that a child soldier is “any person less than 18 years of age who is part of any kind of regular or irregular armed force or armed group in any capacity other than purely as a family member. It does not, therefore, only refer to those carrying arms, but includes cooks, porters, messengers, and those accompanying such groups, including girls recruited as concubines or for forced marriage.”<sup>16</sup>

The two “maximum” definitions qualify all children associated with armed forces and groups as soldiers and thus qualifying for special protection and demobilization and reintegration programs. However, it should be stressed that international humanitarian law makes a distinction between children between 15 and 18 years old who adhere to the four criteria of a combatant and children associated with armed forces and groups that do not meet these criteria. In order to avoid the association of soldiers with combatants, ‘child soldiers’ are often referred to as ‘children associated with armed forces and groups’. For the purpose of this paper the term ‘child soldier’ will be used for a person under the age of 18 who is associated with armed groups or government forces, in any capacity other than a family member. The term ‘child combatant’ will be used for a person under the age of 18 who is or has been actively participating in hostilities in such a manner that he or she adheres to the criteria set in international humanitarian law.

‘Recruitment’ is a general term covering any means, whether *compulsory*, *forced* or *voluntary*, by which a person becomes part of an armed force or group. The manner in which children are recruited varies. The most common form of compulsory recruitment is conscription by governments.

The legal minimum age for the recruitment and use of children for military purposes as defined in the CRC stems from international humanitarian law setting 15 years as the minimum age for recruitment by national armed forces in international and non-international conflicts. Due to intensive lobbying an Optional Protocol on Children in Armed Conflict was adopted in 2000, raising the minimum legal age to 18 years for compulsory recruitment and 16 for voluntary recruitment. Some conscripted children may be younger due to a lack of identity records like a birth registration, or because they were caught up in a quota enlistment carried out by persons or agencies that do not check the age of the conscripts.

When an enlarged force is needed, the conscription policy might be changed or ignored, which merges into forced recruitment. Forced recruitment is per definition illegal and

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<sup>14</sup> 5<sup>th</sup> Ministerial Meeting of the Human Security Network. Graz, 8-10 May, 2003. Bridging the Gap-Support Strategy for Children Affected by Armed Conflict.

<sup>15</sup> International Coalition. 2004. *Global Report 2004*. p. 15.

<sup>16</sup> [www.unicef.org/emerg/index\\_childsoldiers.html](http://www.unicef.org/emerg/index_childsoldiers.html)

often targeted at certain ethnic groups, tribe or families that are expected to support the armed group. Children might also voluntarily join the armed force or group out of cultural, ideological or economic reasons or because of family and peer pressure. The children's commitment to the armed group may have been part of their upbringing and the idealization of a culture of resistance or violence. In general, voluntary recruitment into armed groups or forces is significantly influenced by children's personal experience with harassment by the adverse party; the loss of home or family members or forced displacement or exile.<sup>17</sup>

### 3. International Legal Instruments Relevant to Child Soldiers

In times of armed conflict, children are protected by the laws and customs of war, especially the four Geneva Conventions of 1949 and their two Additional Protocols of 1977. The Geneva Convention and Additional Protocol I list a number of violations committed in international conflicts that are considered to be 'grave breaches' of humanitarian law, regardless the age of the victim. States Parties are obliged to refrain from recruitment and direct involvement in hostilities of children less than 15 years in any form of armed force or armed group and during any type of armed conflict.<sup>18</sup> Additional Protocol I (AP I) to the 1949 Geneva Conventions<sup>19</sup>, stipulates that children require special respect and protection against any form of indecent assault. All parties to the conflict must provide children with the required aid and care. Children younger than 15 years, who take part in hostilities and fall into the power of an adverse party, are entitled to continue to benefit from the special protection. If arrested, detained or interned for reasons related to the armed conflict, children must be held separately from adults except where families are accommodated in family units. The death penalty for an offence related to armed conflict cannot be executed on a person who was younger than 18 years at the time of the offence. Additional Protocol II (AP II)<sup>20</sup> to the 1949 Geneva Conventions forbids the recruitment or deployment of children younger than 15 years. It also requires that appropriate steps to family reunification must be taken, as well as all measures to remove children, preferably with the consent of their parent or primary caregiver, from conflict zones to safer areas within the country. While doing so, the children must be accompanied by persons who are responsible for their safety and well-being.<sup>21</sup>

The UN Convention on the Rights of the Child (CRC)<sup>22</sup> is the main instrument for the protection of children and the promotion of their rights and ratified by 192 countries. States Parties to the Convention have the main responsibility for the implementation of the CRC through their national laws. They should ensure that the four Guiding Principles of the CRC are honoured at all time. These principles are: The right to life,

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<sup>17</sup> Action for the Rights of Children (ARC). 2002. *Critical Issues "Child Soldiers"* Published by Save the Children, OHCH, UNHCR and UNICEF.

<sup>18</sup> UNICEF Innocenti Research Centre. 2002. *International Criminal Justice and Children*. XPress S.r.l. Rome, Italy. p. 43-44.

<sup>19</sup> AP I, Article 77.

<sup>20</sup> AP II, Article 4.

<sup>21</sup> [www.hrw.org/campaigns/crp/int-law.htm](http://www.hrw.org/campaigns/crp/int-law.htm)

<sup>22</sup> [www.unicef.org/crc/crc.htm](http://www.unicef.org/crc/crc.htm)

survival and development; Non-discrimination; The best interest of the child as the primary consideration; and weighting the opinion of the child in decisions concerning the child.

The CRC includes civil, political, economic, social and cultural rights, adapted to the specific needs of children, brought together in three main chapters:

1. The right to access to basic services like education, health care and welfare;
2. Protection rights, incl. protection against all forms of violence, abuse and exploitation;
3. The right to participation, incl. the freedom of expression, religion and association.<sup>23</sup>

Although all articles in the CRC are relevant to all children worldwide, the most relevant articles for child soldiers are: article 34, protection from sexual exploitation and abuse; article 35, the State's obligation to prevent the sale, trafficking and abduction of children; article 36, protection from all forms of exploitation; article 37, prohibition of torture and the deprivation of liberty; article 38, protection of children in armed conflict and respect of humanitarian law, setting 15 as the minimum age for recruitment; article 39, the right to recovery and reintegration; article 40, treatment in the juvenile justice system; and article 20, protection of children without families.<sup>24</sup>

Article 38 specially deals with the recruitment and use of children for military purposes, stipulating the State's obligation to respect and ensure respect for humanitarian law as it applies to children. It confirms that no child younger than 15 years may take direct part in hostilities or be recruited into the armed forces. States are also obliged to ensure that child victims of armed conflicts, torture, neglect, maltreatment or exploitation receive appropriate treatment for their recovery and social reintegration.<sup>25</sup> Torture, cruel treatment, capital punishment, life imprisonment, unlawful arrest and deprivation of liberty are forbidden at all times and under all circumstances. The CRC confirms the principles of appropriate treatment of children during incarceration, including separation from detained adults, the right to have contact with family and access to legal and other assistance.<sup>26</sup> The human rights of children who are alleged or recognized as having committed an offence, should always be respected and juveniles have the right to benefit from all aspects of due process of law, including legal and other assistance in preparing and presenting their case. As a principle, judicial proceedings and institutional placements should, where possible and appropriate, be avoided.<sup>27</sup> The State is obliged to provide special protection for children who are deprived of their family environment, like unaccompanied children and orphans, and to ensure that appropriate care or institutional

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<sup>23</sup> Innocenti Research Centre. 2002. p. 35.

<sup>24</sup> Save the Children. 2002. p. 20.

<sup>25</sup> CRC, Article 39.

<sup>26</sup> CRC, Article 37.

<sup>27</sup> CRC, Article 40.

placement is made available to them.<sup>28</sup> This is an important preventive measure since unaccompanied children are vulnerable to forced or voluntary recruitment.<sup>29</sup>

In 2000, the United Nations General Assembly adopted the Optional Protocol on the Involvement of Children in Armed Conflict (OP-CAC), which lifts the minimum age for compulsory recruitment from 15 to 18 years<sup>30</sup>. State parties are also obliged to lift the minimum age for voluntary recruitment into State armed forces, recognizing that persons under the age of 18 are entitled to special protection. State Parties must ensure stringent safeguards regarding proof of age, parental or other legal consent, the truly voluntary nature of the commitment and clear understanding by persons under 18 of the duties involved in the military service. Upon ratification, each Party is required to declare the minimum age at which voluntary recruitment into its national armed forces is permitted.<sup>31</sup> Non-state actors are explicitly not permitted to recruit any person less than 18 years or involve them into hostilities.<sup>32</sup> The OP-CAC stresses in the preamble that the conscripting or enlisting children younger than 15 years, or using them actively in hostilities, in both international and non-international armed conflicts, is considered to be a war crime in the Rome Statute of the ICC.<sup>33</sup> At November 17, 2004, a total of 117 governments have signed and 88 have ratified the OP-CAC,<sup>34</sup> with most countries maintaining 18 as the minimum age for both compulsory and voluntary recruitment, also known as the 'Straight 18-position'. Ten State Parties to the OP-CAC continue the voluntary recruitment of 16-years old children, including the UK, Canada, Ireland, Serbia and Montenegro. In at least 60 countries outside conflict zones, 17 year is the official minimum age for voluntary recruitment, including Australia, Austria, Germany, Jordan, the Netherlands and the United States. The OP-CAC also stipulates that "State Parties shall take all feasible measures to ensure that members of their armed forces who have not attained the age of 18 years do not take a direct part in the hostilities."<sup>35</sup> Although the US ratified in 2002 the OP-CAC, while not the CRC, the Director of Military Personnel Policy for the US Army stated in a letter to Human Rights Watch that "A total of 62 soldiers were 17 years old upon arrival to both Afghanistan and Iraq during 2003 and 2004... serving in all capacities in the army". As of 29 March 2004, there were no soldiers in Iraq who were 17 years old.<sup>36</sup>

Since the adoption of the CRC in 1989, the ban on the recruitment of children has been considered in a number of legal instruments. In 1990, the African Charter on the Rights and Welfare of the Child<sup>37</sup> defines every person younger than 18 years as a child and obliges States Parties to refrain from any recruitment of children,<sup>38</sup> stipulating that States Parties shall respect international humanitarian law and take all measures to ensure that no child shall be recruited or take direct part in hostilities. States Parties must also protect

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<sup>28</sup> CRC, Article 20.

<sup>29</sup> Defence for Children International (DCI). Convention on the Rights of the Child, official text and unofficial summary.

<sup>30</sup> OP-CAC, Article 2.

<sup>31</sup> OP-CAC, Article 3.

<sup>32</sup> OP-CAC, Article 4.

<sup>33</sup> [www.unhcr.ch/html/menu2/6/protocolchild.htm](http://www.unhcr.ch/html/menu2/6/protocolchild.htm)

<sup>34</sup> [www.ohchr.org/english/countries/ratification/11\\_b.htm](http://www.ohchr.org/english/countries/ratification/11_b.htm)

<sup>35</sup> OP-CAC, Article 1.

<sup>36</sup> International Coalition. 2004. p. 24-26, 153.

<sup>37</sup> ACRWC, Article 2 and 22.

<sup>38</sup> Innocenti Research Centre. 2002. p. 45.

the civilian population in armed conflict and ensure the protection and care of children affected by armed conflict, whether international or internal armed conflicts, tension and strife.<sup>39</sup>

International Labor Organization (ILO) Convention 182 of 1999, which came into force November 2000,<sup>40</sup> condemns the forced or compulsory recruitment of children under 18 for use in armed conflict as one of the worst forms of child labor.<sup>41</sup> By August 2004 a total of 150 governments ratified this Convention. In 2003 the ILO Committee reviewed the first 31 state reports and found evidence of recruitment of children younger than 18 year in Burundi, DRC, Myanmar, Sri Lanka and Uganda.<sup>42</sup>

The Rome Statute of the International Criminal Court (ICC)<sup>43</sup> reconfirms international humanitarian law and defines the conscription or enlistment of children younger than 15 years into national armed forces or using them to actively participate in hostilities, as a war crime in both international and non-international armed conflict.<sup>44</sup> Active participation includes military activities linked to combat such as scouting, spying, sabotage, and using children as couriers or at military checkpoints. Recruitment and use of children under 18 by non-state actors is also a war-crime, as is forced recruitment. The ICC focuses on those responsible for the recruitment and use of child soldiers, not the children themselves since it has no jurisdiction over persons who were younger than 18 years at the time of the alleged crime. In 2004 the ICC announced its first investigations into crimes under international law committed in Northern Uganda, and the Democratic Republic of Congo where many child soldiers were recruited and used in combat.<sup>45</sup>

Child soldiers that are incarcerated, are protected by the CRC, and several other international instruments, especially the United Nations Standard Minimum Rules for the Administration of Juvenile Justice of 1985 (The Beijing Rules) and the International Covenant on Civil and Political Rights of 1966. The Beijing Rules emphasizes the involvement of family, volunteers and the wider community for the well-being of juveniles, with the aim to reduce the need for legal intervention and to promote a humane approach.<sup>46</sup> Diversion is preferred over judicial procedures and sentencing and must be aimed at reformation and social rehabilitation instead of punishment.<sup>47</sup> Accused and convicted juveniles should be incarcerated separately from adults and juvenile offenders must be brought to trial as soon as possible and they are entitled to a fair trial and due process.<sup>48</sup> They should always be treated according to their age and legal status, and cannot be sentenced to life imprisonment or death. The International Covenant on

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<sup>39</sup> [www.child-soldiers.org](http://www.child-soldiers.org), select "International Standards".

<sup>40</sup> [www.ilo.org](http://www.ilo.org), select "English" and "Conventions".

<sup>41</sup> ILO 182, Article 3.

<sup>42</sup> International Coalition. 2004. p. 25-26.

<sup>43</sup> [www.un.org/law/icc](http://www.un.org/law/icc)

<sup>44</sup> ICC, Article 8.

<sup>45</sup> International Coalition. 2004. p. 16, 25.

<sup>46</sup> Beijing Rules, Article 1(3).

<sup>47</sup> Beijing Rules, Article 11.

<sup>48</sup> Beijing Rules, Article 10.



Civil and Political Rights<sup>49</sup> prohibits imposing the death sentence for crimes committed by persons younger than 18 years.<sup>50</sup>

The Guiding Principles on Internal Displacement (1998)<sup>51</sup> confirms the right of all internally displaced persons, including children, to be protected against recruitment into armed forces or groups and forbids cruel, inhumane or degrading practices that compel compliance or punish dis-compliance.<sup>52</sup>

An important step in ending the recruitment and use of children for military purposes is persuading governments, which have not done so, to introduce laws setting the minimum age for compulsory and/or voluntary recruitment at 18 years. Governments should regulate recruitment into any armed group that they establish, condone or permit to bear arms, including security services. The international principles regarding child recruitment for military purposes are also binding for armed groups that do not have the legal capacity to sign international instruments, but are subject to international humanitarian law. These groups, like the Security Forces in the occupied Palestinian territory, should be approached and kept up to their legal commitment as well.

#### 4. Root Causes of Child Soldiering

There are many reasons for *voluntary* recruitment, like ideological, survival, protection, economic and social. Voluntary recruitment of children is not as exceptional as one should expect. Numerous children sign up because they are seeking protection, having experienced harassment by other armed forces, or the loss of home or family members. Especially internally displacement or refugee children may have witnessed abuses against their families and communities, and are sometimes left to provide for themselves. Some children may join as a result of peer pressure, particularly in urban areas or garrison towns.

In specific cultures, the participation in military or warlike activities is glorified and children are taught to revere military leaders. Value systems that endorse bearing arms as a sign of masculinity may draw youngsters into the armed forces or groups. Some children voluntarily join the armed forces or armed groups because they believe in what they are fighting for, like a holy war, religious freedom, ethnic or political liberty, or social justice.<sup>53</sup> In the occupied Palestinian territory, for example, children volunteer to join armed groups out of ideological and political reasons and to resist injustice.<sup>54</sup>

Joining the armed forces or groups can be a survival strategy, especially when there is little work and massive unemployment. In times of extreme hardship, the family may influence the child's decision to sign up, because they need the income.<sup>55</sup> In Colombia, for example, some children were recruited by the paramilitary, who gave them money

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<sup>49</sup> Int. CCPR, Article 6.

<sup>50</sup> Save the Children. 2002. p. 290-291. [www.ohchr.org](http://www.ohchr.org), select "International Law".

<sup>51</sup> GP-IDP, Principle 13.

<sup>52</sup> <http://ochaonline.un.org>, select "Humanitarian Issues" and "Internally Displaced Persons".

<sup>53</sup> ARC. 2002.

<sup>54</sup> International Coalition. 2004. p. 312-313.

<sup>55</sup> ARC. 2002.

and clothes to induce them to join. It might happen that the child's wages are paid to the family, or that there are other incentives such as food or the provision of medicines.<sup>56</sup> The army may also represent a route to influence, or upward social mobility, like in Jordan where children can voluntarily join the army at the age of 17. With a population of 5.3 million people, Jordan has an armed force of an estimated 100,500 troops, which makes it the biggest army in the region, only to be compared by Israel with an armed force of 167,600 troops on a population of 6.3 million. Conscription is suspended and volunteers, both males and females, are required to have completed tenth grade in school to qualify for a basic military training. The Armed Forces' Directorate of Education is also responsible for running 19 schools in socially deprived areas for around 9,500 students with the aim to build the Jordanian character.<sup>57</sup> The State sends the most talented students abroad to gain higher scientific or military education. Joining the military gives certain privileges for the staff member and his family, e.g. housing, insurances, schooling and a retirement plan.

The longer a conflict continues the more likely children are *forcibly* recruited because of shortage of adult soldiers. Children are also often recruited because they are believed to have special qualities, like obedience, they do not compete with the leadership; are quick, invisible, fearless, and mainly cheap. In countries like Liberia, Côte d'Ivoire and Sierra Leone, huge numbers of children were recruited as combatants and servants to the adult combatants. It is not exceptional that they were given drugs to be kept dependent upon their commanders.<sup>58</sup>

The availability of lightweight, easy to use and low cost small arms also contributes to the use of children as combatants. The term 'small arms' refers to various weapons such as machetes, hand-guns and landmines. They are popular with government forces and non-governmental groups, the police and civilians and can be used and transported by children as young as nine years old. The trade in these arms is largely unregulated and embargoes are often not respected. The proliferation of small arms and light weapons fuels violent conflict and creates conditions of severe human rights violations and grave breaches of international humanitarian law.<sup>59</sup> Somalia illustrates how an increased flow of light weapons and small arms boosted the number of child soldiers. Since the collapse of the central government in 1991, an estimated 200,000 children have carried a gun or were involved with a militia.<sup>60</sup>

In many regions, armed conflicts are financed through the illicit exploitation and trade in natural resources and precious minerals like diamonds, gold and timber, but also in narcotics. Child soldiers have been used to protect the mining and other extractive operations, since the parties to the conflict rely on the exploitation and marketing of the resources, sometimes with the cooperation of the private sector and neighbouring countries. In sub-Saharan Africa, the illicit trade in diamonds has financed civil wars in Angola, Liberia and Sierra Leone. In Colombia, Myanmar and Afghanistan drugs are traded by many parties in the armed conflicts. In the Democratic Republic of the Congo, parties to armed conflict exploit gold, diamonds, timber and coltan - an important

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<sup>56</sup> International Coalition. 2004. p. p. 126-128.

<sup>57</sup> International Coalition. 2004. p. p. 305-306.

<sup>58</sup> International Coalition. 2004. p. 58-59, 76-77, 96-97.

<sup>59</sup> [www.un.org/special-rep/children-armed-conflict](http://www.un.org/special-rep/children-armed-conflict), select "The issues", select "Small arms".

<sup>60</sup> International Coalition. 2004. p. 32-33.

resource in high-technology industries - and export those resources illegally across the country's borders.<sup>61</sup>

Forced recruitment is often done through special "recruiters" pressuring the children and their family to join the armed group, or through abduction, especially from girls. In Uganda, the Lord's Resistance Army (LRA) has abducted since 1986 an estimated 20,000 children. Nearly 10,000 of them were taken since mid-2002. Apart from combat duties on the front line, they were made to carry out raids, loot and burn houses and kill other child soldiers and civilians. Girls were abducted in large numbers, mostly for to serve the commanders or to become their "wives".<sup>62</sup>

The proximity of camps for refugees or internally displaced persons to conflict zones exposes children to the risk of forced recruitment. Especially separated and unaccompanied children, who have to provide for themselves, are especially at risk of forced or voluntary recruitment, often along ethnic and tribal lines. Many of them may lack an identity document which makes it difficult to check their age and background.<sup>63</sup> In Darfur, for example, where more than a million Sudanese people from non-Arab origin are displaced from their homes, children are used by the two opposition groups, the Sudanese Liberation Army and the Justice and Equality Movement, in their fight against the government and its allied militias.<sup>64</sup>

## 5. Prevention

In almost every conflict child soldiers, both boys and girls, are drawn from the poorest, least educated and most marginalized sections of the society. Their coping strategies, and those of their families, are good indicators for protection problems and intervention programs.<sup>65</sup>

Separation of children from their family, for example, might be a coping strategy of families, when parents decide to send their children to safe places, such as boarding schools or workplaces. Unfortunately such schools and workplaces are at risk of becoming a target for "recruiters". Prevention programs should thus inform families of the risks of separation and promote and support measures to keep the family together, e.g. during their flight from the hostilities. In cases of separation, programs for identification of separated children, family tracing and reunification are a priority and it is likely to be necessary to provide temporary institutional or foster care for separated children or children released from the armed forces who cannot immediately return home.<sup>66</sup>

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<sup>61</sup> [www.un.org/special-rep/children-armed-conflict](http://www.un.org/special-rep/children-armed-conflict), select "The issues", select "Illicit trade etc."

<sup>62</sup> International Coalition. 2004. p. 105-107.

<sup>63</sup> United Nations High Commissioner for Refugees. Refugee Children Coordination Unit. 2003. *Summary Update of Machel Study Follow-up Activities in 2001-2002*. p. iii.

<sup>64</sup> International Coalition. 2004. p. 318-319.

<sup>65</sup> Stichick, Theresa and Bruderlein, Claude. 2002. Policy Paper produced for the Canadian Department of Foreign Affairs and International Trade (DFIT). *Children facing insecurity: New Strategies for Survival in a Global Era*.

<sup>66</sup> Save the Children. 2002. p. 45-46.

Since recruitment is often just one of several risks that children are likely to face during armed conflict, it is advisable to mainstream prevention measures into a wider child protection strategy in which the family and community is supported in their efforts to protect their children from violence and recruitment. For a sound understanding of the situation and scope of the problem, cases of child recruitment must be documented and reported. Interviewing friends and families of recruited children might be helpful in this. It is important to know how the community normally protects their children, their perception of childhood and who they allow to fight and under what circumstances. The next step is to compare this with international legal standards and come to an agreement on a minimum age for child recruitment and ways to protect them, aiming for the highest possible age, preferably 18.<sup>67</sup> For example, at a workshop in Gaza City in August 2003, the author of this paper met with a range of Palestinian community leaders to discuss the need to protect children, defined as any person younger than 18 years, from active participation in the hostilities. The representative of the Hamas movement explained that in his view the definition of a child is not based on age but on the person's place in society and capabilities. In an interview conducted by a researcher from a Palestinian NGO, a member of Islamic Jihad declared that the maturity age in Islam is 16 years and that they do not take into consideration foreign policies.<sup>68</sup>

Since poverty is an important reason for children to sign up, prevention could include the provision of families with alternative income generating opportunities. This is a long-term undertaking that should be part of a broader poverty reduction strategy aimed at vulnerable households. Economic opportunities for poor households are also essential in rehabilitation and reintegration programs for child soldiers. The same can be said for education, since the possibility to attend free quality education reduces the attraction of joining armed groups or forces and provides good opportunities for awareness raising and youth and community participation. Another effective way of protecting children against under-age recruitment and re-recruitment is the provision of birth certificates and discharge documents. Unfortunately documents like these are not always available and often meaningless in the eyes of non-state armed groups.<sup>69</sup>

For effective preventive measures research, situation assessments and awareness campaigns are essential. However, prevention is usually this is not a priority for national governments, and international actors for that matter. Lobbying by non-governmental and intra-governmental agencies is needed to enhance knowledge about the issue and generate interest in addressing it. The international community can support this by allocating sufficient funding for research and preventive programming as well as offering expertise and human resources. International support for programs for poverty alleviation and good governance are also important, since they address important root causes of conflict. The mainstreaming of children rights and child protection issues in general bilateral and multilateral development cooperation ensures that attention will be paid to children at risk and therefore contributes to the prevention of the involvement of children in hostilities.

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<sup>67</sup> Save the Children. 2002. p. 47-53.

<sup>68</sup> Shomaly. J.A. Perspective on Child Soldiers. *Use of Children in the Occupied Palestinian Territories*. 2004. Defence for Children International/Palestine Section. p. 21.

<sup>69</sup> Save the Children. 2002. p. 54-60.

## 6. Advocacy

The recruitment and use of children for military purposes is an issue of humanitarian, military, political and legal concern. Therefore, advocacy should take place at the community, national, regional and international level, addressing all those responsible, the 'Duty Bearers' and involving children as 'Right Holders'. As a principle, advocating for children rights includes the participation of the child and the community and requires good coordination between agencies at the local, national and international level. Activities can vary from silent behind the scenes diplomacy to public campaigning, which is most effective when done together with other agencies, like the International Coalition to Stop the Use of Child Soldiers.

At the local level, advocacy should include on the ground monitoring, with frequent visits to sensitive areas and, where possible, personal contact with the children, their family and the community. These contacts can also be used for awareness raising and the design of local prevention strategies in which local leaders and the media may play an important role. It is worthwhile to involve well respected military, civilian, religious or government spokespersons who can be helpful in public campaigns and in approaching people in decision-making positions.

At the national level, duty bearers must be held accountable and supported in developing intervention policies, for example with funding and advice. National governments should be urged to sign and ratify the relevant international instruments, i.e. the Optional Protocol on Children in Armed Conflict and the Rome Statute of the International Criminal Court, and encouraged to incorporate this into domestic law.

At the international level, organizations should lobby their governments with the message that the problem of children affected by armed conflict must be kept on the agenda of international, regional and national political bodies, including the UN Security Council. In situations of flagrant violations of children rights and grave breaches of international humanitarian law, governments and international bodies are obliged ensure respect for the law by putting pressure on warring parties through diplomatic means or measures like cutting off, or limiting, their sources of support and arms supply. When doing so, the impact of economic measures on children has to be carefully assessed and minimized. Another powerful advocacy tool is to deny recognition to individuals and groups responsible for crimes against children, in case they come to power. Advocacy should also, where possible, address non-state actors responsible for the military recruitment and use of children. This is a sensitive undertaking that has to be well coordinated and carefully done as not to drive the illegal and harmful practices underground or otherwise backlash on the children.<sup>70</sup>

## 7. Negotiating the Release of Child Soldiers

Negotiating the release or demobilization of child soldiers is a sensitive process that requires confidence building and quiet diplomacy. It is advisable to stress the humanitarian nature of the issue, instead of the political, legal, military or criminal

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<sup>70</sup> Save the Children. 2002. p. 61-66.

aspects, as this might be felt as accusing and threatening by perpetrators, and harm the process. Important players in the negotiation process leading to the release or demobilization of children are the commanders, their supporters and the community. All these parties have to be convinced that the release is in the best interest of the child and not part of a political or military maneuver. Therefore negotiations should be well coordinated among agencies and with responsible politicians and military staff. It might be worthwhile to establish a working-group representing the concerned parties and to appoint a lead-agency for coordination. For the negotiations start, a thorough analysis of the armed group's ideology, relationships and command structure, constituency, national law, recruitment policy and group culture is needed. Valuable sources of information for this purpose are local knowledge and the experiences of children who are released or escaped. Special attention should be given to cross-border recruitment and to the government's treatment of children who have left or escaped armed groups. It is important to avoid open criticism and the threat of prosecution, as this might be counter-productive in generating cooperation and public support.

The implementation of reached agreements ought to be monitored, documented and shared with relevant bodies. If necessary, follow-up visits by senior military, political or humanitarian figures - with or without public exposure - can help to reinforce the agreements. Especially the UN Special Representative of the Secretary-General on Children affected by Armed Conflict (SRSG CAC) and the UN office for the High Commissioner for Human Rights can play a role in such monitoring and reporting to the UN. The UN Security Council has emphasized in several resolutions the need to train peacekeeping personnel in children rights and child protection and called for the inclusion of children issues in peace negotiations and agreements.<sup>71</sup> Peace agreements should, for example, address disarmament, demobilization and reintegration (DDR) of all child soldiers, and outline the basic approach, strategy and time-frame. In situations where the UN is involved with a peacekeeping operation, DDR for adults as well as for children is the responsibility of the head of the peacekeeping mission. In those situations, Child Protection Advisors might be employed and expertise from child protection agencies is advisable. Relevant national government ministries or departments should, where possible, be involved in policy making and implementation, if necessary with the assistance of child protection agencies.<sup>72</sup>

## 8. Disarmament, Demobilization and Reintegration

Disarmament, demobilization and reintegration (DDR) are part of the formal procedure following a peace agreement. *Disarmament* is the collection of small arms and light and heavy weapons within a conflict zone and should be part of an arms-management program. *Demobilization* is the process of disbanding military structures, including the formal and controlled discharge of combatants, and the beginning of their return to civil life. *Reintegration* is the process of adapting to life as a civilian.<sup>73</sup>

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<sup>71</sup> Save the Children. 2002. p. 68-85.

<sup>72</sup> Save the Children. 2002. p. 94-99.

<sup>73</sup> Save the Children. 2002. p.88-89.

In February 2000, the UN Secretary-General presented his report on “The Role of United Nations Peacekeeping in Disarmament, Demobilization and Reintegration”<sup>74</sup>, in which he emphasized the need to include child soldiers within the DDR programs of peacekeeping operations. He also called for a minimum three-year commitment of staff and resources to the children’s long-term needs for education, vocational training and psychosocial support and linkages between DDR programs with addressing children’s health needs. Special attention should be given to vulnerable groups, i.e. girls.<sup>75</sup> A Working Group on Child Protection Training for UN Peacekeeping personnel was formed in 2001, jointly initiated by the office of the UN Special Representative for Children and Armed Conflict, UNICEF and Save the Children Sweden. A complete training kit has been prepared, containing a pool of training resources which should be adapted to the specific needs of the target group. The kit is currently in its pilot phase of implementation.<sup>76</sup>

Planning of DDR requires a situation analyses that should at least include data on the age and number of boys and girls fighting or associated with the fighting forces, including the children who are dependants of adult combatants. Knowing the experience and years that the children “served” is important to assess their educational level. Studying their health and nutrition requirements and the economic impact of the conflict on the local economy and community is equally important. The political and social context and the legal status of the children are crucial for determining their reintegration chance. While conducting a situation analyses it can be expected that local military commanders are reluctant to provide the requested data as to conceal the real number of children in their force. Cooperation with local and national organizations might be helpful in this, as well as interviewing children who have left the force previously. All interviews with children should be kept confidential and conducted on an individual basis, away from their peers and commanders as they might influence the child’s story.<sup>77</sup>

Children might also be released because of sickness, shortage of supplies or for tactical military reasons or as the result of a political agreement or arrangements with a child protection agency. When they present themselves at disarmament sites, the children should immediately be separated from adults and moved to a protective location for demobilization. Only adult combatants who have their families with them, have the right to stay together in special facilities. Since many children associated with armed forces do not actually carry weapons but perform support roles, handing in a weapon should not be the sole criteria to qualify for demobilization. Military personnel and agencies involved in the demobilization should make sure to actively search for children within the armed forces that have not presented themselves for demobilization or are not listed by their commanders; especially girls and children with disabilities. Further, UN and other peacekeeping forces that play a key role in disarmament and demobilization processes ought to be trained on relevant child protection issues. It is also advisable to have child protection officers present at disarmament and demobilization sites and, if possible, female personnel for girls.

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<sup>74</sup> S/2000/101 (2000).

<sup>75</sup> [www.un.org/Docs/sc/reports/2000/sgrep00.htm](http://www.un.org/Docs/sc/reports/2000/sgrep00.htm)

<sup>76</sup> Human Security Network. Child Rights Training Curriculum. 2003. *Child Protection, Monitoring and Rehabilitation*. p. 7 [www.humansecuritynetwork.org/docs/childcurriculum-e.pdf](http://www.humansecuritynetwork.org/docs/childcurriculum-e.pdf)

<sup>77</sup> Save the Children. 2002. p. 100-101.

At the beginning of the demobilization process, the child's identity should be established after which they receive discharge papers and, if necessary, a new identity document (ID). Next are a medical check up and the tracing of family members or communities with whom the child might be reunited. A family reunification program should start as soon as the child is in contact with a child protection or care agency.<sup>78</sup> Agencies involved in family reunification should ensure good coordination, a unified tracing and reunification support system and similar training and supervision of staff and volunteers. Also necessary are similar support mechanisms, standardized registration forms and mutually compatible information systems. For reasons of sensitivity, it is advisable to develop a separate information system for ex-combatant children. A needs assessment should include the number, age and length of separation of children, the location of the family and home-community and the existing capacity for family tracing. Regional coordination is required for children who have been recruited in other countries or who are recruited while being refugees.<sup>79</sup>

Demobilization or release from armed forces and groups is a first step towards normalization of the children's lives. Unfortunately, most children will return to economical, political, social and cultural conditions that are similar, if not worse, than during their recruitment. A sound analysis of the root causes is thus helpful for the design and implementation of a comprehensive rehabilitation and reintegration program, preferably as part of a long-term program for poverty reduction and good-governance that reduces the risk of new conflict and re-recruiting. The needs of so called 'camp followers' like family members and other dependants of the combatants including many children, should be incorporated into the assistance programs, in order to avoid social tension that can jeopardize the whole DDR program. Demobilized children ought to be provided with a demobilization package to facilitate their return home. This package can consist of clothes and goods that are useful to the household, like cooking pots and tools. The DDR process should be explained to the children and wider community, to avoid confusion and problems, for example when the children are seen as left to provide for themselves or, on the contrary, rewarded for their actions.<sup>80</sup>

In order to demobilize, the children need accurate information and confidence in the DDR process and face a new situation without the power of weapons and command structures. Political will and financial support are crucial for agencies that have to deliver the promises made to the children, their families and communities, as well as the commanders. Some children may prefer to stay with the armed group because of emotional attachment to their commanders or peers. Others might be afraid for the reaction of their family and community, especially when they were forced to kill family or community members or return with an illegitimate child. In these situations, agencies have to work closely with the family and community or look for alternative ways of reintegration and living in a civil society.<sup>81</sup>

One of the challenges is that child soldiers have spent a significant part of their childhood in a hierarchical structure experiencing a socialization process that serves the interests of the military command. This might cause difficulties during the reintegration

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<sup>78</sup> Save the Children. 2002. p. 66-67.

<sup>79</sup> Save the Children. 2002. p 134-135.

<sup>80</sup> Save the Children. 2002. p. 102.

<sup>81</sup> Save the Children. 2002. p. 124-133.



phase, when the former child soldiers have to re-learn new codes of behavior and build relationships that are not based on power or fear. Some children may emotionally suffer from guilt and shame for what they previously did or find it difficult to accept their new role in the society and adjust to expectations associated with childhood, such as norms and rules of school and family life.<sup>82</sup> It happens that the new environment make the former child soldiers feel useless, excluded, discriminated against and unfairly blamed for many community problems. This frustration may cause them to rejoin the military or leave for other challenging areas, like big cities where they usually end up in street gangs.

Since child DDR places pressure on existing infrastructure, i.e. education, short-term programs need to be combined with long-term interventions addressing the broader social reintegration needs of both the returnees and host community. In this the needs of all vulnerable children have to be addressed, and the host-community must be involved in identifying the needs and the development of appropriate responses, which will lead to the development of local child protection structures, owned and operated by the community.<sup>83</sup>

Children who are not part of formal demobilization processes often find their own way out. Some may escape and return home by themselves. While being on the run, they are at risk of being captured by other forces or taken into State custody. Children who fall in the hands of government forces are often detained or transferred to a state judicial or care system. Their plight depends greatly on their legal status and factors like the availability of protection agencies and judicial guarantees.

Since children have the right to be listened to, their opinion should be taken into account and they should be allowed to express themselves on matters that concern them. Child soldiers should thus be informed about what will happen to them, consulted and where possible included in decision making processes. Their participation should always be in their best interest, taking into account their age and development, as well as the political and social circumstances, the number of children involved and the local customs regarding the role of children in decision making. It should be avoided that consulting or involving children is perceived by the local community as indoctrination or forcing decisions by using them. Therefore transparency and approaching children and adults simultaneously in a cultural appropriate manner is crucial.

Child soldiers might find it difficult to participate, since they are used to either being commanded or exercise power by violence. However, children can learn how to participate in decision making that concerns them. Aim is to consult and inform children in such a manner that they can formulate their opinion and share this with the adults responsible for them. Manipulation of children, or using their participation as meaningless decoration, should be avoided by all means. Participation of children, who have left the armed group, can strengthen local protection since they will most likely provide valuable information about recruitment and the situation of not-demobilized children. Their participation can be facilitated through the creation of alternative meeting places, like youth club's and children spaces for playing and alternative education. The activities depend on their age and development, and can range from puppet-play, to

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<sup>82</sup> ARC. 2002.

<sup>83</sup> Robertson, Chris, and McCauley, Una. Forced Migration Review. Nr. 21 - September 2004. *The return and reintegration of child soldiers'in Sudan" the challenges ahead.* p. 31-32.

drawing, performances and story writing. Providing the children with an opportunity to express their thoughts, feelings, opinions and wishes will help them to prepare for their return and reintegration with their home community. Staff should be trained on what child participation involves, including organizing meaningful activities, asking children for their opinions and involving them in decision making.<sup>84</sup>

## 9. Children with Special Needs

Groups that need special attention in DDR programs are girls, children with disabilities, children with health problems, and unaccompanied, internally displaced or refugee children. The UN Security Council underlines in Resolution 1314 (2000) the importance of giving consideration to the special needs and particular vulnerabilities of girls affected by armed conflict, including those heading households, orphaned, sexually exploited and used as combatants. Their human rights, protection and welfare should be incorporated in the development of policies and programs, including prevention, disarmament and reintegration.<sup>85</sup>

More than half of the estimated 20 million refugees and internally displaced persons worldwide are children under the age of 18. Many refugee and displaced children have limited access to health and education services or humanitarian assistance and are at risk of becoming the victim of violence, abduction, disease, malnutrition and death. For the protection of refugee and displaced children from military recruitment, it may be helpful to relocate camps or settlements that are in danger of being raided by armed groups. Humanitarian staff should be trained to monitor recruitment practices in the camps or settlements and report this to protection officers or agencies.<sup>86</sup>

Unaccompanied children are especially vulnerable to forced recruitment, abduction and trafficking. They may also voluntarily join an armed group or force seeking physical protection and food or out of peer pressure, political ideology or feelings of revenge and adventure. Their protection increases strongly through family reunification or alternative care in foster families or other living arrangements.<sup>87</sup>

Girls may be “invisible” as child soldiers since they are often, although not always, used in a variety of support roles and not listed for formal demobilization. It is important to include them in peace and demobilization negotiations, and to find out what encourages them to leave the armed force and what their reintegration needs are. Most girls are forcibly recruited or abducted; others might have joined the armed group voluntarily to escape violent domestic living conditions or hazardous labor like sexual exploitation. These girls are not likely to agree on returning home. Girls, who do return to their family and home community, might be ostracized for being sexually abused or having a child outside wedlock. Reintegration programs should be sensitive not to worsen these problems and stigmatization of girls by providing activities especially targeted at sexually abused girls and women. A better approach is to organize reproductive health care

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<sup>84</sup> Save the Children. 2002. p. 228-234.

<sup>85</sup> United Nations Security Council (UNSC). 2002. Resolution 1314, Article 13.

<sup>86</sup> United Nations High Commissioner for Refugees (UNHCR). Reprint 2001. *Refugee Children, Guidelines for Protection and care*. p. 85-86.

<sup>87</sup> [www.un.org/special-rep/children-armed-conflict/English/DisplacedChildren.html](http://www.un.org/special-rep/children-armed-conflict/English/DisplacedChildren.html)

facilities that serve the whole community, with male staff for boys and men and female staff for girls and women. Foster care or adoption should be arranged for children of young mothers who indicate that they do not want to take of their child.

Since rape, sexual slavery and enforced prostitution are defined as war crimes within the jurisdiction of the International Criminal Court (ICC), proper documentation of rape and sexual violence is important. Interviewing victims of rape should be done in a respectful and professional manner and not more often than absolutely necessary. The interviewees have the right to be protected against possible repercussions of the perpetrators. Care givers, peace keepers and national troops should be trained in dealing with child soldiers in general and girls in particular. They are expected to adhere to a strict code of conduct that requires dignified and respectful interaction with the civilian population.

Children with disabilities are, similar to girls, often “invisible” and not likely to show up at demobilization places. They usually have become disabled through mine and bullet injuries while serving in the armed force or group. Many children also suffer loss of hearing or eyesight. The reintegration of disabled or sick children with their families and home community might be extra complicated, especially when the child needs constant care and can not contribute to the household economy. Tailor made vocational training, assistance with job opportunities and support to their families will help their reintegration. Community based rehabilitation of disabled children works usually best when former child soldiers and other disabled children are treated equally and trained staff and proper infrastructure are available.

The health of most child soldiers is affected by the conflict and living conditions. Of special concern for both boys and girls, are sexually transmitted diseases, including HIV/AIDS. Girls may also suffer from complicated pregnancies, unsafe abortions and problematic unattended child birth, sometimes complicated by female genital mutilation (FGM). Lack of hygiene, nutritious food and clean water poses extra risks. In certain countries, substance abuse is widely spread and a real health hazard. DDR programs should thus include healthcare provisions, a comprehensive medical check-up and a referral system for serious health problems. The child has to be encouraged to agree on an HIV test, provided that pre- and post test counseling is available. Mental health problems are difficult to diagnose and treat, but it does help if children can return as soon as possible to a normal life style contributing to their family and community and restoring the child’s sense of dignity, usefulness and belonging. Hygiene education should be part of the DDR process and community work.<sup>88</sup>

## 10. Reintegration

Restoring a sense of “normality” through the provision of food, shelter, medical care, education and a structured supportive environment will help the former child soldier to adapt to the new living situation. Children with severe problems are likely to need special assistance. When family reunification is not immediately possible, interim care provided by institutions, group homes or foster care, is needed as a bridging period, but should never become permanent since reunification and community-acceptance of the child is

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<sup>88</sup> Save the Children. 2002. p. 104-123.

the preferred aim. If this is not possible, children need to be supported in independent living or foster-care, preferably near or in the community. Boys and girls should be separated and girls with children should have their own living arrangements. The living standards should not be higher than those of the community and the centers should be well protected against attacks, attempts of re-recruitment and looting.

Foster-care families may receive support but never direct payments in order to avoid commercial motives for adoption. The foster families also have to agree on monitoring and the return of the foster child to the natural families as soon as possible. Support and supervision from the community and trained local staff will help the children to readjust to civil life and prevent re-recruitment or banditry by the children.

Long-term support for communities is central in the planning of reunification and reintegration, since there might be tension against the demobilized children because of their actions in the past or because they are perceived as receiving better treatment than other children. Careful preparation of the reintegration in consultation with the community can help to divert or handle these sensitivities. The children should also be consulted and informed about the community's views and what will happen to them upon return. It is advisable to include them in the dialogue with the community, before they actually return.

Discussions with demobilized children about their families, past and future are often sensitive and emotional and require trained staff that knows how to deal with the child's reaction, cultural taboos and feelings of anxiety or shame. Issues related to sexual abuse are best addressed by staff from the same gender and in single-sex groups. Staff could act as mediator between the children and their families, but only if this is agreed upon by all parties involved. It is also possible that children are afraid to return home and, for example, provide false information. Their reasons for doing so can be manifold, like shame, fear of revenge or a history of domestic violence. Some children might still feel attached to their commanders or "husbands" in the armed group and are reluctant to leave them.

Demobilized children have, like everybody else, a right to privacy. Therefore, sensitive information shared by the children that might be relevant for court cases, should be kept confidential. Media contacts and the dissemination of the children's photo's and stories can be dangerous and should be handled with care. As a rule, interviews can only take place with the child's consent and the use of the information should be explained to them.

Guided reconciliation between the child and the family and home-community might be required, more so when children are sexually abused, sick or disabled. It is very well possible that parents, community leaders, and religious leaders all have to be involved in the reconciliation process. Local ceremonies and cleaning or healing rituals can be useful, provided that they are not harmful to the child. For social acceptance it is helpful if the children are able to contribute to their family and community and develop their talents and skills through community based formal and informal education, life skill education or vocational training.<sup>89</sup>

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<sup>89</sup> Save the Children. 2002. p. 137-174.

Education is a right of every child and restores their routine and a sense of normality, thus contributing to the reintegration, and possibly reconciliation and poverty alleviation. Education, whether formal, non-formal or informal, should be relevant to lives of children and responsive to their needs and those of the community. In order to avoid resentment, former child soldiers should, where possible, be included in programs for other children affected by war. Providing free and meaningful education is primary responsibility of the State, but given the war situation, the government's capacity to do so might be limited. Assistance to the rehabilitation of schools, availability of educational material, development of a curriculum and training of teachers in dealing with war affected children is usually required. It also has to be understood that school-fees may never be an obstacle for children to enroll. Further, schools have to be made accessible for all children, including the disabled, which puts conditions on the status of the building, premises, roads and safety of the location. Landmines, for example, have to be cleared and the schools should be presented as zones of peace, where guns and other weapons are prohibited. Teachers might be reluctant to teach children who have committed crimes against their family or community. The children too may find it difficult to adapt to the school life and obey the teacher. Teachers should therefore be supported with school supplies, training, praise and recognition and a salary that allows them to devote their time to their teaching job.

It can be expected that demobilized children will have different educational needs, depending on their age, situation, history and background. While being in interim care, they can be prepared for the formal schools with catch-up or accelerated learning programs. If this is not possible, for example because of their age, health or the fact that they have a child to take care of, vocational and life-skill training are options. The children might also need help with job placement; start up funds; tools and equipment. Cooperation with local businesses, craftspeople or banks for internships, on the job-training and advice, can be a great asset and contribution to the involvement and ownership of the community.<sup>90</sup>

## **11. Criminal Justice and Child Soldiers**

The level of culpability of child soldiers is under debate. In general, the recruitment and use of children for military purposes is considered a war crime for which adults are to be held responsible since children are not in decision-making positions but act on instruction. Thus, children should not be prosecuted for participation in fighting forces or groups. However, given their experience, communities and states involved might have different views. Their position on the minimum age at which children bear culpability for their actions and what adequate punishment entails, is likely to be relevant for the treatment alleged child perpetrators of serious crimes during hostilities.

Crimes under international law - such as genocide, crimes against humanity and war crimes which includes the recruitment of children younger than 15 years - are subject to the principle of universal jurisdiction. According to this principle, all States can prosecute perpetrators of these crimes, regardless where they are committed, by whom and against whom. The principle of universal jurisdiction is codified in the 1949 Geneva

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<sup>90</sup> Save the Children. 2002. p. 177-192.

Conventions and has become part of customary international law and is reiterated in the Rome Statute of the ICC. In most national jurisdiction, crimes under international law are also punishable under national law. There are examples of cases where individuals have been prosecuted for crimes under international humanitarian law committed in a different State than the prosecuting one. Denmark and Germany, for example, tried several perpetrators from former Yugoslavia for genocide and war crimes and a Belgian court convicted four Rwandan nationals for genocide. Thus far crimes against children have not been specifically brought before national courts.<sup>91</sup>

Legal accountability mechanisms for grave breaches of international humanitarian law, can take many forms, such as the International Criminal Court (ICC) in The Hague. Other examples are *ad hoc* tribunals like the International Criminal Tribunal for the former Yugoslavia (ICTY), established in 1993, or the ICT for Rwanda (ICTR) established in 1994. The Special Court for Sierra Leone, which was established in 2000, is an example of a special court or tribunal. Other mechanisms are national courts and truth commissions.<sup>92</sup>

The Rome Statute of the ICC considers the use of children under age 15 as war crime under international humanitarian law and recognizes that States have the primary responsibility to prosecute crimes under international law and preferably cooperate with the ICC. Child Rights advocates should thus campaign for as many States as possible to ratify the Rome Statute of the ICC and amend their national law accordingly; meaning that genocide, war crimes and crimes against humanity should be made crimes under national law. Penalties under national law should reflect the seriousness of the crime and Heads of States should not be allowed immunity for these crimes. The ICC has no jurisdiction to prosecute persons below 18 years of age, which might be different for national courts.

The ICTY and the ICTR are established to prosecute similar crimes as the ICC. Although both Tribunals have not specified a minimum age for persons under their jurisdiction, persons under 18 years have thus far not been prosecuted.<sup>93</sup> The Special Court for Sierra Leone prosecutes those responsible for atrocities during the civil war since November 30, 1996 and considers conscription or enlisting children under the age of 15 years into armed forces or groups, or using them to actively participate in hostilities, as a war crime.<sup>94</sup> The Special Court has jurisdiction over persons aged 15 years or above at the time of the alleged commission of the crime, but recognizes that it is unlikely that any-one under 18 years of age would be in a decision-making position. According to the Statute, defendants of 15-18 years old will be treated with dignity, taking into account their age and desirable rehabilitation and reintegration into society, in accordance with international human rights standards concerning the Rights of the Child. The Special Court shall order: “clear guidance and supervision, community service, counselling, foster care, correctional, educational and vocational training programs, approved schools and programs for disarmament, demobilization and reintegration.”<sup>95</sup> The Special Court does not recognize any amnesty granted to any persons falling within

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<sup>91</sup> Innocenti Research Centre. 2002. p. 121-124.

<sup>92</sup> Innocenti Research Centre. 2002. p. 13-14.

<sup>93</sup> Innocenti Research Centre. 2002. p. 19-20, 22.

<sup>94</sup> Statute Special Court Sierra Leone, Article 4.

<sup>95</sup> Statute Special Court Sierra Leone: Article 7.

its jurisdiction in respect to crimes against humanity and serious violations of international humanitarian law.<sup>96</sup>

The UN Security Council stressed in Resolution 1261 (1999) the responsibility of all States to bring an end to impunity and their obligation to prosecute those responsible for serious crimes against children and exclude them from amnesty provisions.<sup>97</sup> In the outcome document of the UN Special Session on Children, ‘A World for Children’, adopted in 2002 by the General Assembly, governments undertake to: “Put an end to impunity, prosecute those responsible for genocide, crimes against humanity, and war crimes, and exclude, where feasible, these crimes from amnesty provisions and amnesty legislation, and ensure that whenever post-conflict truth and justice seeking mechanisms are established, serious abuses involving children are addressed and that appropriate child-sensitive procedures are provided.”<sup>98</sup>

Trials in a national court of alleged violators of international humanitarian law may have the advantage that these can be followed by the local population and thus contribute to a sense of justice and rule of law. Unfortunately, the necessary administrative and judicial infrastructure is often not available in the post-conflict situation, which can cause serious problems for children and adults who are suspected of having committed atrocities. Files and documents may be missing and the accused may be held in custody without trial for indefinite period of time or the community may take “the law in their own hands” and deal with the accused without proper trial. Therefore it is important that national legal systems ensure the protection of children in conflict with the law, who should be treated according to their age, circumstances and needs.<sup>99</sup>

Key elements of a child-friendly juvenile justice system are alternatives to deprivation of liberty and successful integration into the society. Deprivation of a child’s liberty should only be used as a last resort, for the shortest possible time and separate from adults. Alternatives to detention of children should be promoted, including the development of diversion structures and programs that enable non-judicial bodies to deal with juvenile offenders. A restorative justice approach aimed at the reintegration of the child into the community and justice for the victim could be suitable. Traditional justice mechanisms can be an alternative to national courts, provided they maintain the basic international standards of justice and children rights. Monitoring this process is essential and can be the task of child protection officers. Traditional methods and rituals often focus on reparation to the victim or community and restore the relations within the community, facilitating the re-integration of the child.<sup>100</sup>

Several States established truth commissions to address the accountability for human rights abuses, sometimes based on traditional systems. Truth commissions also aim to establish an accurate historical record of past atrocities through the gathering of testimonies that are the basis for recommendations for prevention of future abuses. They can reach a large section of the public and involve the community, and are thus complementary to judicial proceedings that are usually dealing with individuals. The

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<sup>96</sup> Statute Special Court Sierra Leone: Article 2, 3, 4.

<sup>97</sup> [www.un.org/special-rep/children-armed-conflict/](http://www.un.org/special-rep/children-armed-conflict/)

<sup>98</sup> Innocenti Research Centre. 2002. p. 12.

<sup>99</sup> Innocenti Research Centre. 2002. p. 21.

<sup>100</sup> Innocenti Research Centre. 2002. p. 120-121, 133-136.

mandates of truth commission vary from recording what happened to naming persons responsible for atrocities and handing them over to the judicial system. Thus far children under 18 have been excluded from the formal process of giving testimony, but special child-friendly regional hearings were held in South-Africa. Depending on the situation in their country, truth commissions should determine a minimum age for children's participation and appropriate methods for children of different age groups.

Since adults will remain the most important sources of information, it is essential that truth commissions systematically question witnesses about crimes committed against children, including child soldiers, and that child rights are an integral part of information gathering. This way truth-seeking processes can provide information on crimes committed against children, within a correct historical, social and cultural context and recommend reform of institutions and systems that facilitated violence against children.<sup>101</sup>

Local conflict resolution and reconciliation methods can also be a good alternative to legal procedures, provided that they are not harmful to the child. Involving community leaders and opinion formers is also helpful in influencing the public perception regarding the alleged child perpetrators, conveying the message that the child is first and foremost a victim that needs support and rehabilitation. In general, a community based approach, combined with national initiatives for peace and reconciliation, is likely to be more effective, than a pure judicial procedure. This includes dialogue with the civil, judicial, police and military authorities, addressing national law, local customs and international legal standards. It is likely that relevant government ministries and departments need specialized advice and support to meet the required standards for juvenile justice. National organizations like lawyer's groups can be involved in monitoring, legal representation and follow-up of cases of convicted child perpetrators. Peace agreements or agreements to secure the release and reintegration of children are a major opportunity to advocate for non-prosecution of children who have participated in fighting forces and appropriate processes for children accused of committing war crimes.<sup>102</sup>

Child soldiers who are handed over to state authorities may face further violations of their rights due to poor detention facilities, the lack of proper judicial process or a functioning judicial system. Under-age deserters may be subject to military discipline, including physical punishment or even execution. Therefore, child protection agencies should make sure that captured children are treated according to international humanitarian law, the Convention on the Rights of the Child (CRC) and international standards for juvenile justice. The minimum age for the prosecuting of children should be defined by national law, not contradicting relevant international standards.

According to the CRC, the key principle concerning child perpetrators is to promote their reintegration and return to a constructive role in society and restore the child's respect for the human rights of others.<sup>103</sup> The right of child victims to recovery and reintegration extends to children involved with juvenile justice systems.<sup>104</sup> Further,

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<sup>101</sup> Innocenti Research Centre. 2002. p. 124-131.

<sup>102</sup> Innocenti Research Centre. 2002. p. 124-135.

<sup>103</sup> CRC, Article 40(1).

<sup>104</sup> CRC, Article 39. International Covenant on Civil and Political Rights, Article 6(5).



children must be protected from unlawful arrest, arbitrary detention, life imprisonment, summary execution, torture, cruel treatment and punishment.<sup>105</sup>

Criminal proceedings undertaken against a child should meet the requirements for a fair trial as defined by human rights law. The act, for example, should constitute a crime under national or international law at the time of its commissions, and the child should be presumed innocent until proven guilty and has the right to appeal.<sup>106</sup> While awaiting trial, children should be released in custody of a parent or legal guardian.

States should maintain a separate system of juvenile justice, including special court and detention facilities and trained staff, like judges, prosecutors, defense attorneys and prison warders. During all procedures, especially during trial, children are entitled to free legal representation and interpreters if they don't understand the language. Children cannot be forced to testify or confess and children who give evidence should be protected and supported.

International child protection standards also set limits on the sentencing of child offenders. The most severe sentences, like death penalty or life imprisonment without possibility of release, cannot be imposed on persons younger than 18 years and on persons who were younger than 18 years of age at the time the offence was committed.<sup>107</sup> If a child is sentenced to imprisonment, a number of provisions apply regarding the conditions. First of all it is mandatory that children should be detained separated from adults and segregated by gender.<sup>108</sup> However, imprisonment should be used as a last resort and for the shortest period of time. Alternatives to penal institutional care should be made available to convicted children, including counseling, probation, foster care, education and vocational training.<sup>109</sup> As a rule, children should be treated in a manner appropriate to their age and measures should be primarily reformative rather than punitive and aimed at re-integration into the society.<sup>110</sup>

Since trial by court is in general incompatible with the reintegration of former child soldiers into their society as it is stigmatizing, children who have committed war crimes should be offered the opportunity to acknowledge their actions in such a way that it contributes to reconciliation and their reintegration into the society, for example through community mediation, reconciliation and peace building initiatives. This approach is indicated as "restorative justice", and aimed at acknowledgement of the act and harm caused by the offender and reparation to the victim and community. Since mistrust and alienation are often surrounding the commission of crimes under international law, a community based restorative justice approach is only possible when it includes basic protective and procedural guarantees.<sup>111</sup>

According to international humanitarian law, combatant children of 15 years and older have prisoner-of-war status if they are captured in an international armed conflict.<sup>112</sup>

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<sup>105</sup> CRC, Article 37.

<sup>106</sup> CRC, Article 40. International Covenant on Civil and Political Rights, Articles 14, 15, 16.

<sup>107</sup> CRC, Article 37.

<sup>108</sup> CRC, Article 37.

<sup>109</sup> CRC, Article 40(4).

<sup>110</sup> CRC, Article 40.

<sup>111</sup> Innocenti Research Centre. 2002. p. 56-60. [www.ohchr.org/english/law](http://www.ohchr.org/english/law)

<sup>112</sup> Third Geneva Convention, Article 4(a)(1).

Children younger than 15 years of age, who take direct part in hostilities and fall in the power of an adverse Party, continue to benefit from special protection.<sup>113</sup> However, most children are involved in non-international armed conflicts where the prisoner-of-war status does not exist. In those cases, children in incarceration are protected under the CRC and international law and standards for juvenile justice. Monitoring children in incarceration as the result of armed conflict is the responsibility of the International Committee for the Red Cross (ICRC), where possible in cooperation with child protection agencies, e.g. in approaching the government or providing practical services. As a general principle, juveniles should be released immediately into the custody of civilian authorities or protection agencies. When former child soldiers are obliged by law to undergo a period of rehabilitation before being released, agencies should work with the government to ensure that this period meets the standards of the CRC and appropriate training of staff should be provided.<sup>114</sup>

## **12. International Initiatives to Stop the Recruitment and Use of Children in Armed Conflicts**

### **12.1. UN Study on the Impact of Armed Conflict on Children**

Since the World Summit for Children in 1990, the United Nations paid increasingly attention to the situation of children in armed conflict. The General Assembly recommended in its Resolution 48/157 of December 20, 1993, the appointment of an independent expert to study the impact of armed conflict on children. Ms. Graça Machel, former Minister of Education of Mozambique, got assigned to the task. In 1996 she submitted to the General Assembly her, well received, final report, entitled “Impact of Armed Conflict on Children”<sup>115</sup>. Concerning child soldiers, she recommends that the recruitment of children younger than 18 years must end, child soldiers should be demobilized and their needs incorporated in peace agreements and demobilization programs. The children concerned should be discouraged to participate in armed conflicts. The needs of children and women must be at the heart of all actions to resolve conflicts and to implement peace agreements and military staff, peacekeeping troops and humanitarian personnel should be trained on their responsibilities towards women and children.

She also recommends that arms transfers must be monitored and shipment to conflict zones should be forbidden. Also the use, production, trade and stockpiling of land-mines must be banned and children should follow mine awareness programs. Health, psychosocial well-being and education should be paramount in humanitarian assistance for children in emergencies and monitoring and reporting of violations of children rights should be made a priority. Social-economic causes of conflict should be addressed by governments, NGOs and donors, and local protective infrastructure and initiatives

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<sup>113</sup> Additional Protocol 1, Article 77(3).

<sup>114</sup> Save the Children. 2002. p. 193-209. [www.ohchr.org/english/law](http://www.ohchr.org/english/law)

<sup>115</sup> A/51/1306 (1996).

deserve to be supported. Finally, issues of children and war should be kept on the international human rights, peace, security and development agenda.<sup>116</sup>

In 2001 Machel published, with UNICEF support, a review of the progress made since the 1996 study. In a presentation she identified as progress concerning child soldiers, the adoption of the Optional Protocol on Children and Armed Conflict to the Convention on the Rights of the Child (2000); ILO Convention 182 (2000); the Statute of the International Criminal Court (1998) and actions of the UN Security Council and Secretary-General. She also mentioned the inclusion of child soldiers in demobilization and reintegration programs and peacekeeping operation mandates and commends the UN Special Representative of the Secretary-General for his role in ongoing negotiations with governments and rebel forces in the Democratic Republic of Congo, Sierra Leone, Sri Lanka and Colombia, to end the use of child soldiers. Machel further recommends the ratification without reservation of the Optional Protocol, with 18 as the standard minimum age for voluntary recruitment and participation in hostilities. DDR programs should include measures to ensure the protection of children from exploitation and re-recruitment and address the special needs of girls and children with disabilities.

Governments and armed groups are urged to be active in preventing recruitment of children, and to ensure the inclusion of child soldiers in DDR processes. Judicial proceedings involving children must take place within the framework of restorative justice, preventing them from retribution, summary execution, arbitrary detention, torture and punitive measures.<sup>117</sup>

## **12.2. United Nations Special Representative of the Secretary-General for Children and Armed Conflict**

In response to the so called “Machel Report”, the General Assembly adopted in February 1997 Resolution 51/77<sup>118</sup>, taking over Machel’s recommendation to the Secretary-General to appoint a Special Representative on the impact of armed conflict of children. In September 1997 Mr. Olara A. Otunnu got assigned to this position, and has fulfilled it since. The role of the Special Representative is to build awareness of the needs of war affected children, to propose ideas and approaches to enhance child protection and to bring together key actors to promote concerted and effective responses. In order to assess progress and difficulties in the protection of children in situations of armed conflict, he conducts fact finding visits and promotes the collection of information. He also encourages the development of networking and international cooperation to ensure the protection and rehabilitation of children affected by conflict. To achieve this, the Special Representative undertakes humanitarian and diplomatic initiatives. The Office of the Special Representative does not implement programs but works with relevant UN agencies, such as UNICEF, UNHCR and the Department of Peacekeeping Operations (DPKO) and a range of non-governmental organizations and networks. The Special Representative is assisted by Child Protection Advisors assigned to peacekeeping operations while working under his guidance, in consultation with UNICEF and the DPKO. They provide training to peacekeeping personnel, conduct monitoring and

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<sup>116</sup> [www.unicef.org/graca/10rex.htm](http://www.unicef.org/graca/10rex.htm)

<sup>117</sup> Machel, Graça, International Conference on War Affected Children, September 2000, Winnipeg, Canada.

<sup>118</sup> A/51/615 (1997).

reporting, and maintain contact with UN missions, national governments, NGOs and the diplomatic and donor community.

In his Report to the General Assembly of October 8, 2004<sup>119</sup>, the Special Representative emphasized that mainstreaming the concerns of children affected by armed conflict within key United Nations entities and in system-wide activities, is critical for the protection of war-affected children and the safeguarding and improvement of their lives.<sup>120</sup>

### **12.3. United Nations Security Council Resolutions and Reports of the Secretary-General**

Since 1999 the United Nations Security Council adopted several resolutions on children and armed conflict, condemning the recruitment and deployment of children as soldiers, identifying children and armed conflict as an issue affecting international peace and security, under Chapter VII of the Charter of the United Nations.<sup>121</sup> In progressively stronger resolutions, the Council addressed issues like international legal instruments; training of peacekeeping and humanitarian personnel; monitoring and reporting; children in need of special protection; HIV/AIDS; the illegal trade in natural resources and small arms; the curbing of cross-border activities; children rights in peace keeping, negotiations and peace-building; child participation; ending impunity; children in justice and truth-seeking processes; and the allocation of the necessary funds and resources. The UN Secretary-General also “named and shamed” parties to conflicts on the Council’s agenda who are recruiting and deploying children.<sup>122</sup>

On August 25, 1999, the Council adopted Resolution 1261<sup>123</sup> on Children and armed conflict, building on the Geneva Convention (1949) and the Additional Protocols (1977), the Convention on the Rights of the Child (1989), International Labor Organization Convention 182 (1999), and the Rome Statute of the International Criminal Court (1998). The Council urges the “end of the recruitment and use of children in armed conflict in violation of international humanitarian law, through political and other efforts including promotion of alternatives for children to their participation in armed conflict.”<sup>124</sup> Recognizing the serious impact of the proliferation of arms on the security of civilians, particularly children,<sup>125</sup> the Council stresses the importance of all Members to restrict arms transfers which could provoke or prolong armed conflicts and urges States and the UN system to facilitate, and accelerate, the disarmament, demobilization, rehabilitation and reintegration of children used as soldiers.<sup>126</sup> All parties to armed conflict should include the protection, welfare and rights of children in peace negotiations, and the consolidating of peace after the conflict<sup>127</sup> and take special measures to protect children,

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<sup>119</sup> A/59/426 (2004).

<sup>120</sup> [www.un.org/special-rep/children-armed-conflict](http://www.un.org/special-rep/children-armed-conflict)

<sup>121</sup> [www.un.org/aboutun/charter/chapter7.htm](http://www.un.org/aboutun/charter/chapter7.htm)

<sup>122</sup> International Coalition. 2004. p. 24-25.

<sup>123</sup> S/RES/1261 (1999).

<sup>124</sup> S/RES/1261, Paragraph 13.

<sup>125</sup> S/RES/1261, Paragraph 14.

<sup>126</sup> S/RES/1261, Paragraph 15.

<sup>127</sup> S/RES/1261, Paragraph 7.

especially girls, during and after the conflict.<sup>128</sup> UN personnel involved in peacemaking, peacekeeping and peace building activities should receive training in the protection, rights and welfare of children,<sup>129</sup> and states and relevant international and regional organizations are urged to train their personnel.<sup>130</sup>

One year later, in August 2000, the Security Council adopted Resolution 1314<sup>131</sup> on Children and armed conflict, welcoming the adoption by the UN General Assembly on May 25 2000 of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict. The resolution also refers to the Ottawa Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and their Destruction, as well as several regional initiatives on war-affected children, including the West-African Conference on War-Affected Children held in Accra, Ghana, and the International Conference on War-affected Children held in Winnipeg in Canada.

Resolution 1314 reconfirms Resolution 1261 and condemns the targeting of children in armed conflict, the harmful impact of armed conflict on children and the long-term consequences for durable peace, security and development.<sup>132</sup> It identifies refugee and internally displaced children that are in need of special protection<sup>133</sup> as well as girls affected by armed conflict, i.e. those heading households, orphaned, sexually exploited and used as combatants.<sup>134</sup> The resolution also emphasizes the responsibility of all States to put an end to impunity and to prosecute those responsible for genocide, crimes against humanity and war crimes, including child recruitment, while stressing the need to exclude these from amnesty provisions and relevant legislation.<sup>135</sup> In the resolution, the Security Council expresses its grave concern about the linkages between illicit trade in natural resources and armed conflict, and the linkages between the illicit trafficking in small arms and light weapons and armed conflict, which can prolong armed conflict and intensify its impact on children.<sup>136</sup> Further the resolution calls for the involvement of children in peace negotiations and peace agreements<sup>137</sup> and reaffirms the Council's wish to include child protection advisers in peacekeeping operations.<sup>138</sup> Efforts of regional and sub-regional organizations for the protection of children affected by armed conflict are welcomed, with the recommendation to establish within their secretariats child protection units for the development and implementation of policies, activities and advocacy for children affected by armed conflict.<sup>139</sup> Regional organization should focus on cross-border activities, including the recruitment, abduction, trafficking and sale of children, attacks on camps and settlements of refugees and internally displaced, and the illicit trade in arms and natural resources. All Parties to armed conflict are encouraged to promote the release of children abducted during armed conflict and the reunification

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<sup>128</sup> S/RES/1261, Paragraph 10.

<sup>129</sup> S/RES/1261, Paragraph 19.

<sup>130</sup> [www.un.org/Docs/scres/1999/sc99.htm](http://www.un.org/Docs/scres/1999/sc99.htm)

<sup>131</sup> S/RES/1314 (2000).

<sup>132</sup> S/RES/1314, Paragraph 1.

<sup>133</sup> S/RES/1314, Paragraph 6.

<sup>134</sup> S/RES/1314, Paragraph 13.

<sup>135</sup> S/RES/1314, Paragraph 2.

<sup>136</sup> S/RES/1314, Paragraph 8.

<sup>137</sup> S/RES/1314, Paragraph 8.

<sup>138</sup> S/RES/1314, Paragraph 12.

<sup>139</sup> S/RES/1314, Paragraph 16.

with their families.<sup>140</sup> National institutions and local civil society have to be strengthened to ensure the sustainability of local initiatives for the protection of children.<sup>141 142</sup>

In the Resolution 1379 on Children and armed conflict<sup>143</sup>, adopted on November 20, 2001, the Security Council reaffirms the two previous resolutions on this subject. The resolution underlines the inclusion of the conscription, enlistment and deployment of children younger than 15 years as a war crime in the Rome Statute of the ICC and urges parties to armed conflict to abide by the concrete commitments they have made to the UN Special Representative of the Secretary-General for Children in Armed Conflict and other relevant UN bodies.<sup>144</sup> The Council further “expresses its intention to consider taking appropriate steps to address the linkages between armed conflict and terrorism, the illicit trade in precious minerals, the illicit trafficking in small arms and light weapons, and other criminal activities which can prolong armed conflict or intensify the impact on civilian populations, including children.”<sup>145</sup> The Council also undertakes to consider the economic and social impact of sanctions on children, with a view to minimize such impact.<sup>146</sup>

UN Member States are urged to end impunity and prosecute those responsible for genocide, crimes against humanity, war crimes and other crimes against children, which should be excluded from amnesty provisions. Where applicable, post-conflict truth and reconciliation processes should include serious abuses involving children. The Member States are also asked to consider, where appropriate, measures to discourage corporate actors from maintaining commercial relations with parties to armed conflicts that are on the Security Council’s agenda, when those parties violate international law on the protection of children in armed conflict. Member States should also consider measures against corporate actors, individuals and entities under their jurisdiction that engage in illicit exploitation of and trade in natural resources and small arms.<sup>147</sup>

The Secretary-General is requested to take child protection into account in peacekeeping plans submitted to the Security Council and child protection staff should be included in peacekeeping and peace building operations on a case-to-case basis. The Secretary-General should also ensure guidance of peacekeeping personnel on HIV/AIDS related issues, as well as training in international human rights, humanitarian and refugee law relevant to children. Monitoring and reporting by peacekeeping personnel should be intensified.<sup>148</sup>

Agencies, funds and programs of the UN are requested to include reduction of child recruitment in their assistance programs and to allocate resources to the rehabilitation of children affected by armed conflict. Local capacity to address post-conflict rehabilitation and reintegration should be supported and a culture of peace promoted, i.e. through

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<sup>140</sup> S/RES/1314, Paragraph 17.

<sup>141</sup> S/RES/1314, Paragraph 18.

<sup>142</sup> [www.un.org/Docs/scres/2000/sc2000.htm](http://www.un.org/Docs/scres/2000/sc2000.htm)

<sup>143</sup> S/RES/1379 (2001).

<sup>144</sup> S/RES/1379, Paragraph 8.

<sup>145</sup> S/RES/1379, Paragraph 6.

<sup>146</sup> S/RES/1379, Paragraph 7.

<sup>147</sup> S/RES/1379, Paragraph 9.

<sup>148</sup> S/RES/1379, Paragraph 10.

peace education and non-violent conflict prevention and resolution.<sup>149</sup> International and regional financial and development institutions are encouraged to devote part of their assistance to rehabilitation and reintegration programs for child soldiers, with special attention to local, regional and sub-regional organizations.<sup>150</sup> Regional and sub-regional organizations are urged to eliminate cross-border activities, including recruitment, abduction, trafficking and sale of children, attacks on camps and settlements of refugees and internally displaced persons and other criminal activities. The Secretary-General is requested to attach to his report to the Council on the implementation of the resolution a list of parties to armed conflict in situations on the Council's agenda who are recruiting children for use in armed conflict.<sup>151</sup>

In November 2002, the Secretary-General listed in his report to the Security Council on Resolution 1397<sup>152</sup>, 23 parties in five countries who are recruiting or using children for military purposes. The five countries are Afghanistan, Burundi, Democratic Republic of the Congo (DRC), Liberia and Somalia.<sup>153</sup> In his report of October 2003, this list was updated, including 44 parties in the following 15 countries: Afghanistan, Burundi, Côte d'Ivoire, the Democratic Republic of Congo, Liberia, Somalia, Chechnya, Colombia, Myanmar, Nepal, Northern Ireland, Philippines, Sri Lanka, Sudan, and Uganda.<sup>154</sup> In his closing observations, the Secretary-General writes that: "Dissemination, advocacy, monitoring and reporting are key components that an 'era of application' must encompass." He refers to the need to promote and disseminate the international standards and norms on child soldiers and to raise awareness on the ground. He also emphasizes the need for a well-functioning monitoring and reporting mechanism to identify the violators and take action against them.<sup>155</sup>

On January 30, 2003, the Security Council adopted Resolution 1460<sup>156</sup> on Children and armed conflict, reaffirming the previous resolutions on the same subject. The resolution emphasizes the responsibility of States to end impunity and to prosecute those responsible for genocide, crimes against humanity, war crimes and other egregious crimes perpetrated against children, including the recruitment and use of children less than 15 years for military purposes.

The Members of the Security Council expressed their intention to enter into dialogue, or support the Secretary-General in doing so, with parties to armed conflict on the recruitment or use of children in armed conflict, with the aim to develop clear and time bound action plans to end this practice. Parties listed in the Secretary-General's report on Resolution 1397 will be the first to be addressed.<sup>157</sup> Member States and international organizations are called upon to ensure that children affected by armed conflict are involved in all disarmament, demobilization and reintegration processes, with special attention for girls, emphasizing the need for education and monitoring of schools to

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<sup>149</sup> S/RES/1379, Paragraph 11.

<sup>150</sup> S/RES/1379, Paragraph 12.

<sup>151</sup> S/RES/1379, Paragraph 16. [www.un.org/Docs/scres/2001/sc2001.htm](http://www.un.org/Docs/scres/2001/sc2001.htm)

<sup>152</sup> S/2002/1299.

<sup>153</sup> [www.un.org/Docs/sc/reports/2002/sgrep02.htm](http://www.un.org/Docs/sc/reports/2002/sgrep02.htm)

<sup>154</sup> [www.un.org/Docs/scres/2003/sc2003.htm](http://www.un.org/Docs/scres/2003/sc2003.htm)

<sup>155</sup> [www.un.org/Docs/sc/reports/2002/sgrep02.htm](http://www.un.org/Docs/sc/reports/2002/sgrep02.htm)

<sup>156</sup> S/RES/1460 (2003).

<sup>157</sup> S/RES/1460, Paragraph 4.

prevent re-recruitment of demobilized children.<sup>158</sup> The Secretary-General is requested to follow up on the parties listed in his report of Resolution 1379 and to include an assessment of violations of rights and abuses of children in armed conflict, including the context of illicit exploitation and trafficking of natural resources and the illicit trafficking of small arms in conflict zones.<sup>159 160</sup>

In October 2003, the Secretary-General presented his report on children in armed conflict to both the UN General Assembly and the UN Security Council.<sup>161</sup> He stated that since the issue of war-affected children has been put on the agenda of the Security Council, progress has been made, encompassing four resolutions; an annual debate; an annual report submitted by the Secretary-General; the incorporation of child-specific concerns into the briefs of Security Council fact-finding missions; contribution to monitoring and accountability through the listing of parties to the conflict that violate children rights; and the inclusion of information on children in country specific reports. Children's rights and needs have also been incorporated into peace negotiations and accords in Northern Ireland (1998), Sierra Leone (1999), Burundi (2000), Liberia (2003), Sri Lanka (2003) and the Sudan (2004). He specially commended his Special Representative on Children affected by Armed Conflict for his important role in these positive developments.<sup>162</sup>

Security Council Resolution 1539<sup>163</sup> on Children in armed conflict was adopted on April 22, 2004, especially noting the progress made in the field of advocacy and development of norms and standards and stressing their concern over the lack of progress on the ground. The Council emphasized that they do not make any legal determination as to whether the situations referred to in the Secretary-General's reports are armed conflicts according to international humanitarian law, or judge the legal status of the non-State parties involved in these situations.

In the resolution, the Council requested the Secretary-General, preferably within three months, to devise an action plan for a systematic and comprehensive monitoring and reporting mechanism, utilizing the expertise of the UN system, national governments and regional and non-governmental organizations. Aim is to provide the Council with accurate and reliable information on the recruitment and use of child soldiers and other violations and abuses committed against children affected by armed conflict, for consideration and appropriate action by the Council.<sup>164</sup> The parties listed by the Secretary-General in his report are called upon to prepare within three months concrete time-bound plans to halt recruitment and use of children. They will be assisted by United Nations peacekeeping missions and country teams.

The Secretary-General is requested to promote a coordinated follow-up program and review of the compliance by the parties. This should involve all stakeholders at the country level and can be coordinated by a focal point, engaging parties in a dialogue leading to time-bound action plans. Parties should report to the Secretary-General

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<sup>158</sup> S/RES/1460, Paragraph 13.

<sup>159</sup> S/RES/1460, Paragraph 16.

<sup>160</sup> [www.un.org/Docs/scres/2003/sc2003.htm](http://www.un.org/Docs/scres/2003/sc2003.htm)

<sup>161</sup> S/2003/1053 and A/58/546.

<sup>162</sup> [www.un.org/Docs/sc/reports/2003/sgrep03.html](http://www.un.org/Docs/sc/reports/2003/sgrep03.html)

<sup>163</sup> S/RES/1539 (2004).

<sup>164</sup> S/RES/1539, Paragraph 2.



through his Special Representative, by July 31, 2004. Further, the Council considers imposing targeted and graduated measures against parties who refuse to enter into dialogue, fail to develop an action plan or do not meet the commitments included in their action plan. Measures can be done through country specific resolutions and include a ban on the export or supply of small arms and light weapons, other military equipment and military assistance.<sup>165</sup>

The Council welcomes the European Union “Guidelines on Children and Armed Conflict” and encourages regional organizations to mainstream the protection of children affected by armed conflict into their advocacy work, policies, programs and peace- and field operations, with special attention for girls, while calling for sub- and interregional initiatives to end cross-border recruitment and abduction of children, the illicit movement of small arms and illicit trade in natural resources.<sup>166</sup>

Finally, the Council encourages support for the development and strengthening of national and regional institutions and local and regional civil society networks to ensure sustainability of local initiatives for advocacy, protection and rehabilitation of children affected by armed conflict.<sup>167 168</sup>

Related Security Council resolutions that are referred to in the five resolutions on Children affected by armed conflict, are: Resolution 1265 of September 17, 1999<sup>169</sup> and Resolution 1296 of April 19, 2000<sup>170</sup>, both on the Protection of civilians in armed conflict; Resolution 1308 of July 17, 2000, on the Responsibility of the Security Council in maintaining international peace and security: HIV/AIDS and international peacekeeping operations<sup>171</sup>; and Resolution 1325 of October 31, 2000 on Women, Peace and Security.<sup>172 173</sup>

The UN Conference on the Illicit Trade in Small Arms and Light Weapons of July 2001 resulted in a Program of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons.<sup>174</sup> The States Parties to the Conference recognized that the illicit trade in SALW sustains conflict, exacerbates violence, contributes to the displacement of civilians, undermines respect for international humanitarian law, and impedes the provision of humanitarian assistance and fuels crime and terrorism.<sup>175</sup> They are “gravely concerned about the devastating consequences on children, many of whom... are forced to become child soldiers.”<sup>176</sup> The participants reconfirm the responsibility of Governments for prevention, combating and eradication of the illicit trade in SALW<sup>177</sup>, while recognizing the contributions from the civil society in assisting

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<sup>165</sup> S/RES/1539, Paragraph 5.

<sup>166</sup> S/RES/1539, Paragraph 12.

<sup>167</sup> S/RES/1539, Paragraph 13.

<sup>168</sup> [www.un.org/Docs/sc/unsc\\_resolutions04.html](http://www.un.org/Docs/sc/unsc_resolutions04.html)

<sup>169</sup> S/RES/1265 (1999).

<sup>170</sup> S/RES/1296 (2000).

<sup>171</sup> S/RES/1308 (2000).

<sup>172</sup> S/RES/1325 (2000).

<sup>173</sup> [www.un.org/Docs/scres/](http://www.un.org/Docs/scres/)

<sup>174</sup> A/CONF.192/15 (2001).

<sup>175</sup> A/CONF.192/15, Paragraph 5.

<sup>176</sup> A/CONF.192/15, Paragraph 6.

<sup>177</sup> A/CONF.192/15, Paragraph 15.

the governments in their efforts.<sup>178</sup> The adopted Plan of Action emphasizes several times the need to develop and implement effective disarmament, demobilization and reintegration programs and include where applicable necessary specific provisions in peace agreements. The special needs of children affected by armed conflict should be addressed, i.e. the reunification with their family, reintegration and rehabilitation.<sup>179</sup>

#### 12.4. UN General Assembly Special Session on Children

In May 2002, the UN General Assembly gathered in New York in a Special Session on Children (UNGASS) to review the progress made since the World Summit for Children in 1990. The outcome document ‘A World Fit for Children’, contained a Declaration and a Plan of Action for the promotion of children rights.<sup>180</sup> In the Declaration, the participating Heads of States and Governments and Representatives of UN Member States reaffirmed their obligation to take action to promote and protect the rights of each child – being every person younger than 18 years. They stressed their commitment to create a world that is fit for children and in which sustainable human development, taking into account the best interest of the child, is founded on principles of democracy, equality, non-discrimination, peace and social justice and the universality and interrelatedness of all human rights.

The participants ensured, for example, that the rights and protection of children will be fully reflected in the agendas of peacemaking processes and in peace agreements. Child rights will also be incorporated into UN peacekeeping operations and peace-building programs and where possible, children will be involved in these processes.<sup>181</sup> The recruitment and use of children in armed conflict must end and children ought to be included in demobilization, disarmament, rehabilitation and reintegration processes.<sup>182</sup> Specific strategies have to be developed to protect and provide for the special needs and particular vulnerabilities of girls affected by armed conflict.<sup>183</sup> There can be no impunity or amnesty for crimes against children and persons responsible for genocide, crimes against humanity and war crimes must be prosecuted. Post-conflict truth and justice seeking mechanisms must address serious abuses involving children and provide appropriate child sensitive procedures.<sup>184</sup> Civilians, military- and police-personnel involved in peacekeeping should receive appropriate training and education on children rights, child protection and international humanitarian law.<sup>185</sup> The participants also declared<sup>186</sup> that the illicit flow of small arms and light weapons must be curbed.<sup>187</sup>

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<sup>178</sup> A/CONF.192/15, Paragraph 16.

<sup>179</sup> <http://disarmament2.un.org/cab/poa.html>

<sup>180</sup> A/RES/S-27/2 (2002).

<sup>181</sup> A/RES/S-27/2 (2002), Paragraph 21.

<sup>182</sup> A/RES/S-27/2 (2002), Paragraph 22.

<sup>183</sup> A/RES/S-27/2 (2002), Paragraph 32.

<sup>184</sup> A/RES/S-27/2 (2002), Paragraph 23.

<sup>185</sup> A/RES/S-27/2 (2002), Paragraph 25.

<sup>186</sup> A/RES/S-27/2 (2002), Paragraph 26.

<sup>187</sup> [www.unicef.org/specialsession](http://www.unicef.org/specialsession)

## 12.5. European Union

The European Union (EU) Development Policy Statement of 2000, which outlines the objectives of development cooperation, defines children rights as a cross-cutting issue that should be mainstreamed in the EU's external policy. Consequently, a special budget line (210212) for the "integration of children's rights into development cooperation" was created. Unfortunately this has not been effectively used and has no funds allocated since 2002.<sup>188</sup>

The European Parliament adopted in July 2003 a resolution on trafficking in children and child soldiers<sup>189</sup>, in which they urge the EU to combat trafficking in children and their enrolment in armed forces<sup>190</sup>. They also call upon the European Commission to appoint a High Level Representative for Children Rights with the task to ensure overall coordination, monitoring and a stronger child dimension in EU policy.<sup>191</sup> The European Parliament also emphasized the need to draft a common strategy on children in armed conflict<sup>192</sup> and condemned governments and armed groups that recruit child soldiers or provide weapons and military aid to groups that are doing so.<sup>193 194</sup>

The Political and Security Committee (PSC) of the Council of the European Union adopted in December 2003 the 'EU Guidelines on Children and Armed Conflict'.<sup>195</sup> The Guidelines are prepared by the Council Working Party on Human Rights (COHOM) and recommended by the Committee on Civilian Aspects of Crisis Management and the Military Committee. They cover the short- and long-term needs of children affected by armed conflict, including family tracing and reunification; demilitarization, demobilization and social reintegration of child soldiers; psycho-social rehabilitation; and youth participation in transitional justice frameworks and processes. The COHOM is in charge of the implementation of the guidelines, and reports annually to the PSC and after two years to the Council. The EU Council calls upon the COHOM to consider establishing a focal point, for example a group of experts or a Special Representative, to ensure the implementation of the Guidelines.

The Guidelines aim to ensure that the EU takes effective measures to protect children affected by armed conflict and influence third parties and non-state actors to implement international human rights standards, humanitarian law, and regional human rights instruments, including those concerning the recruitment and use of children for military purposes. Where relevant, the EU Heads of Missions, EU Military Commanders and EU Special Representatives are requested to include in their reports an analysis of the effects of conflict on children. This can be a wide range of violations and abuses against children, like the recruitment and deployment of children, killing and maiming, attacks on schools and hospitals, obstruction of humanitarian access, sexual and gender-based violence, and abduction. Where relevant, the rights and well being of the child during

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<sup>188</sup> Reisen, Mirjam van, and Stefanovic, Ana. *Children's Rights in European Foreign Policy*. Position Paper for the Closing Conference "The Netherlands in Europe, Europe in the World". p. 4-5.

<sup>189</sup> B5-0320/2003.

<sup>190</sup> B5-0320/2003, Paragraph 11.

<sup>191</sup> B5-0320/2003, Paragraph 13.

<sup>192</sup> B5-0320/2003, Paragraph 21.

<sup>193</sup> B5-0320/2003, Paragraph 22.

<sup>194</sup> [www.europarl.eu.int](http://www.europarl.eu.int)

<sup>195</sup> 15634/03 DG E IV.

pre-conflict, conflict and post-conflict situations will be addressed in the political dialogue of the EU with third parties and regional organizations. Where necessary, public statements will be made calling for an end to the use of children in armies and armed groups and to end impunity for crimes against children.

In countries where the EU is engaged in crisis management, the specific needs of children should be taken into account in operational planning. The needs of children, especially the vulnerability of the girl child, should also be addressed in early-warning and preventive approaches, peace negotiations, peace agreements, reconstruction, DDR programs and long-term development projects. EU Member States are requested to include the priorities set in the Guidelines in their bi-lateral co-operation projects.<sup>196</sup>

In the period 2000-2003 the European Humanitarian Aid Office (ECHO) has provided over EUR 40 million to finance a range of projects to combat the effects of armed conflict on children, including the reintegration of child soldiers. In the ECHO Aid Strategy 2004, children are one of the three identified priorities, although children affected by armed conflict are not specifically mentioned. Other projects have been financed under the European Initiative for democracy and Human Rights (EIDHR) and the Rapid Reaction Mechanism.<sup>197</sup>

The European Constitutional Treaty, which was adopted by the EU Council in June 2004 and awaits ratification by the member States, states that in its external relation the EU shall promote the protection of human rights, in particular the rights of the child, and the strict observance and development of international law.<sup>198</sup>

## 12.6. Human Security Network

The Human Security Network (HSN) was formally launched in 1999 and is composed of Austria, Canada, Chile, Greece, Ireland, Jordan, Mali, the Netherlands, Norway, Switzerland, Slovenia, Thailand and South Africa as an observer, all represented at a Foreign Minister's level. The Network's vision is a world where people live in security and dignity, free from fear and want and with equal opportunities to develop their human potential. Thus, human security and human development are interlinked and mutually reinforcing. The HSN aims to mainstream a people-oriented human security perspective into national and international social and security policy. Issues of concern are, among others, the protection of the children in armed conflict; the control of small arms and light weapons; anti-personnel mines; the ICC; respect for international humanitarian and human rights and the rule of law; conflict prevention and peaceful conflict resolution.<sup>199</sup> Appendix 2 presents an overview of HSN Members that have signed and ratified the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict.

When Austria held the chair in 2002/2003, human rights education and children affected by armed conflict were identified as priorities. At a symposium on children and armed

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<sup>196</sup> [http://europa.eu.int/comm/external\\_relations/human\\_rights/child/index.htm](http://europa.eu.int/comm/external_relations/human_rights/child/index.htm)

<sup>197</sup> Children's Rights in European Foreign Policy. p. 7-8. [www.europa.eu.int/scadplus/leg/en/lvb/r10113.htm](http://www.europa.eu.int/scadplus/leg/en/lvb/r10113.htm)

<sup>198</sup> Children's Rights in European Foreign Policy. p. 1, 4.

<sup>199</sup> [www.humansecuritynetwork.org](http://www.humansecuritynetwork.org)

conflict that took place in November 2002 at the UNICEF Head Quarters in New York, Austria's Permanent Representative to the UN, H.E. Dr. Gerhard Pfanzelter, announced that the HSN plans to "bridge the gap between human rights standards and implementation; information and action; as well as programmatic concepts and systematic response on the ground" and develop a Support Strategy for Children Affected by Armed Conflict. This will entail: support for child-focused monitoring and reporting; training; an alarm function for children with special needs, i.e. girls in armed conflict; promoting and supporting the participation of children in peace processes; ending impunity for war crimes against children; child-sensitive investigation and detention of juvenile offenders; child protection training for field personnel; and the formation of a pool of child focused monitors and experts.

The Foreign Minister of Austria took the initiative to develop a 'Curriculum for Child Right/Child Protection Training for Field Personnel', which was presented at the 5<sup>th</sup> Ministerial Meeting in Austria in May 2003. The Curriculum provides a general framework on child rights standards and concepts as well as familiarization with major problems of children affected by armed conflict, including child soldiers. The primary target-group is field personnel in relation to the situation of children affected by armed conflict and post-conflict reconstruction. This includes military personnel, civilian police, human rights officers, humanitarian staff and other professionals working directly in conflict areas.<sup>200</sup>

At the meeting the Member States also pledged their commitment to strengthen the monitoring and reporting of human rights standards and the mainstreaming of children and war related issues into the work of relevant institutions, organs and governing bodies. They further assumed responsibility for networking, the assessment of information in their respective regions and the inclusion of child soldier's issues in local programs. The Member States all agreed to use their political weight at national, regional and international level to address reported child rights violations. Possible actions are quiet diplomacy, demarches, statements and resolutions in relevant international gatherings. They re-confirmed that there is no impunity for child rights violations and crimes against children, including child recruitment, and that child rights should be taken into account in peace processes and addressed in international and national justice and truth-seeking mechanisms. Criminal proceedings involving children must be held in full respect of all guarantees and safeguards regarding juvenile justice. Finally, they call for priority attention for children with special needs, including child soldiers, who should be part of DDR and post-conflict reconstructions programs.<sup>201</sup>

## **12.7. International Coalition to Stop the Use of Children as Soldiers**

The Coalition to Stop the Use of Child Soldiers (CSC) was founded in 1998 to advocate for the adoption of and adherence to national, regional and international legal standards prohibiting the military recruitment and use of children in hostilities by national armies and armed groups. The CSC maintains a "straight 18" position, meaning that they do not accept provisions that allow voluntary military recruitment of children at the age of 16 or

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<sup>200</sup> Human Security Network. Child Rights Training Curriculum. 2003. *Child Protection, Monitoring and Rehabilitation*. p. 2-10, [www.humansecuritynetwork.org/docs/childcurriculum-e.pdf](http://www.humansecuritynetwork.org/docs/childcurriculum-e.pdf)

<sup>201</sup> [www.humansecuritynetwork.org](http://www.humansecuritynetwork.org)

17. Over the years, the CSC has built a global network of local NGOs and community organisations that are campaigning for the ratification and implementation of internal legal standards and monitoring of on-the-ground practices and government policies. Local groups and regional networks also advocate for improved policies on demilitarization and demobilization and the reintegration of former child soldiers into their communities. In November 2004, the CSC published the second 'Child Soldiers Global Report 2004', providing a comprehensive overview of child recruitment legislation, policy, and practices in 196 countries in Africa; the Americas and Caribbean; Asia/Pacific; Europe and Eurasia; and the Middle East.<sup>202</sup> The CSC website and office is a valuable source of information on legal standards, discussions, developments, actions and updates regarding child soldiers.

### 13. Conclusion

Since the publication in 1996 of the 'Machel Study' on the impact of war on children, the issue has featured on the international peace and security agenda. The United Nations took action through the Security Council, the General Assembly, the Secretary-General, his Special Representative and several UN institutions. Regional political networks and institutions followed and the ongoing advocacy efforts of the International Coalition of Stop the Use of Children as Soldiers and numerous other organisations contributed to the international debate and developments.

Milestones in the legal protection of children against the recruitment and use of children for military purposes are the Rome Statute of the International Criminal Court - ICC (1998), International Labour Organisation Convention 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999) and the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (2000). Recruitment and deployment of children younger than 15 years of age is classified as a war crime for the ICC. Compulsory recruitment or conscription by States of persons younger than 18 years old is forbidden and the minimum age for voluntary recruitment is lifted from 15 to 16 years, with the condition that no person under 18 years shall be deployed in hostilities. Forced recruitment is forbidden by all parties and under all circumstances. Warring parties that are recruiting and using child soldiers have been publicly listed by the UN General-Secretary and are held accountable by the international community. A global agreement emerged to end the impunity of those committing crimes against children and to include serious violations of children rights in truth seeking processes.

Monitoring and reporting mechanisms of violations of the rights of children affected by armed conflict have been developed and child rights and protection has been included in peacekeeping mandates, training of peacekeepers, military staff, police and humanitarian personnel. Child Protection Officers are deployed in peacekeeping operations, working closely with UN agencies, national governments, NGO's and the diplomatic and donor community. Children's issues have also been incorporated in peace negotiations and peace accords. Special programs for demilitarization, demobilization and reintegration programs for former child soldiers are designed and implemented, with focused attention

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<sup>202</sup> International Coalition to Stop the Use of Child Soldiers. *Global Report 2004*. ISBN 0-9541624-2-0.

for girls and other children with special needs. Children, as well as their family and community, are increasingly involved in issues concerning them and receive higher priority than before in post-conflict policies and programs, including truth and reconciliation processes and peace building. The protection of juveniles in trouble with the law has been strengthened, with increased attention for alternative non-judicial community based procedures. There is also a growing interest in the relationship between the phenomena of child soldiers and the trade and proliferation of small arms and light weapons and the illicit trade in precious natural resources. Other points of study and debate are the relation with poverty, political instability and HIV/AIDS.

Despite all these positive development, scores of children are still recruited and used for military purposes, and perpetrators are not hold accountable. There is clearly a need to move from lawmaking, program development, and training, to law enforcement, implementation, monitoring and reporting. In the words of the UN Secretary-General: to move to an 'era of application'. Powerful tools to bridge the gap between theory and practice are implementation of international legal measures, economic and military sanctions, freezing of assets and arms supplies of perpetrators, public condemnation and diplomatic pressure.

### **13.1. Recommendations for Action**

Governments, who have not done so yet, should be urged to sign and respect all relevant international legal instruments, i.e. the Optional Protocol (OP). States Parties to the OP should be urged to declare 18 years as the minimum age for voluntary recruitment and participation in hostilities. Non-state actors must be held accountable to the same standards as state actors and parties violating international human rights and humanitarian law, using child soldiers should be publicly listed as such and held accountable for their deeds.

Specialized focal points should be established, with qualified staff ensuring reliable data on the situation of children, including child soldiers. Their reports should be shared among relevant agencies, networks and institutions and used for joint planning and implementation of child focused short- and long-term interventions.

The concerns of children affected by armed conflict, including child soldiers, should be mainstreamed in humanitarian interventions and diplomatic activities from UN entities and regional and national bodies.

Child protection training, monitoring and reporting in peacekeeping and peace-building operations has to be increased.

The views of the victims, including children, should be taken into account when developing programs and strategies that should include the involvement of the community concerned.

Implementation of action plans requires long term allocation of funds and human resources.

By providing long-term support, donor countries and agencies contribute to the reconstruction of countries, poverty alleviation and social justice, thus reducing the risk of strife and conflict and the use of children for military purposes.

Prevention of the recruitment and use of child soldiers should be part of humanitarian programs and interventions and include awareness raising, access to education and vocational training opportunities, and assistance with job-placement, small scale investments and community support. The issuing of birth registration and discharge documents is crucial to prevent recruitment.

Children and the wider community should be included in conflict prevention, peace building, reconciliation and reconstruction and alternative forms of conflict resolution and restorative justice approaches deserve to be promoted and supported by the international community.

Demilitarization, demobilization, rehabilitation and reintegration of former child soldiers should involve the family and community of the child. For the rehabilitation and reintegration it is important that, in the view of the community, the former child soldiers are not stigmatized or, on the contrary, positively rewarded for their actions.

Gender sensitive rehabilitation and reintegration initiatives for girls affected by sexual exploitation and violence, should be developed and implemented by well trained staff.

The protection of former child soldiers in trouble with the law is a point of great concern that needs follow-up and allocation of sufficient financial and human resources. Those recruiting and using and abusing child soldiers should be held accountable for their action, brought to court and excluded from amnesty provisions.

Increased and coordinated actions against the illicit trade, proliferation and misuse of small arms and light weapons, addressing both control of the supply side and reduction of the demand side, will enhance the protection of children from military recruitment and deployment.

The illicit extraction of, and trade in, precious natural resources and metals should be curbed through an international coordinated effort, since it contributes to armed conflicts and the use of children as soldiers.

Perpetrators of crimes against children should be held accountable and brought to national or international courts. National laws should be brought in line with international humanitarian law, human rights law and customary law.

Targeted economic sanctions aimed at perpetrators of crimes against children should be imposed by states or the international community, provided that they will not harm the children concerned.

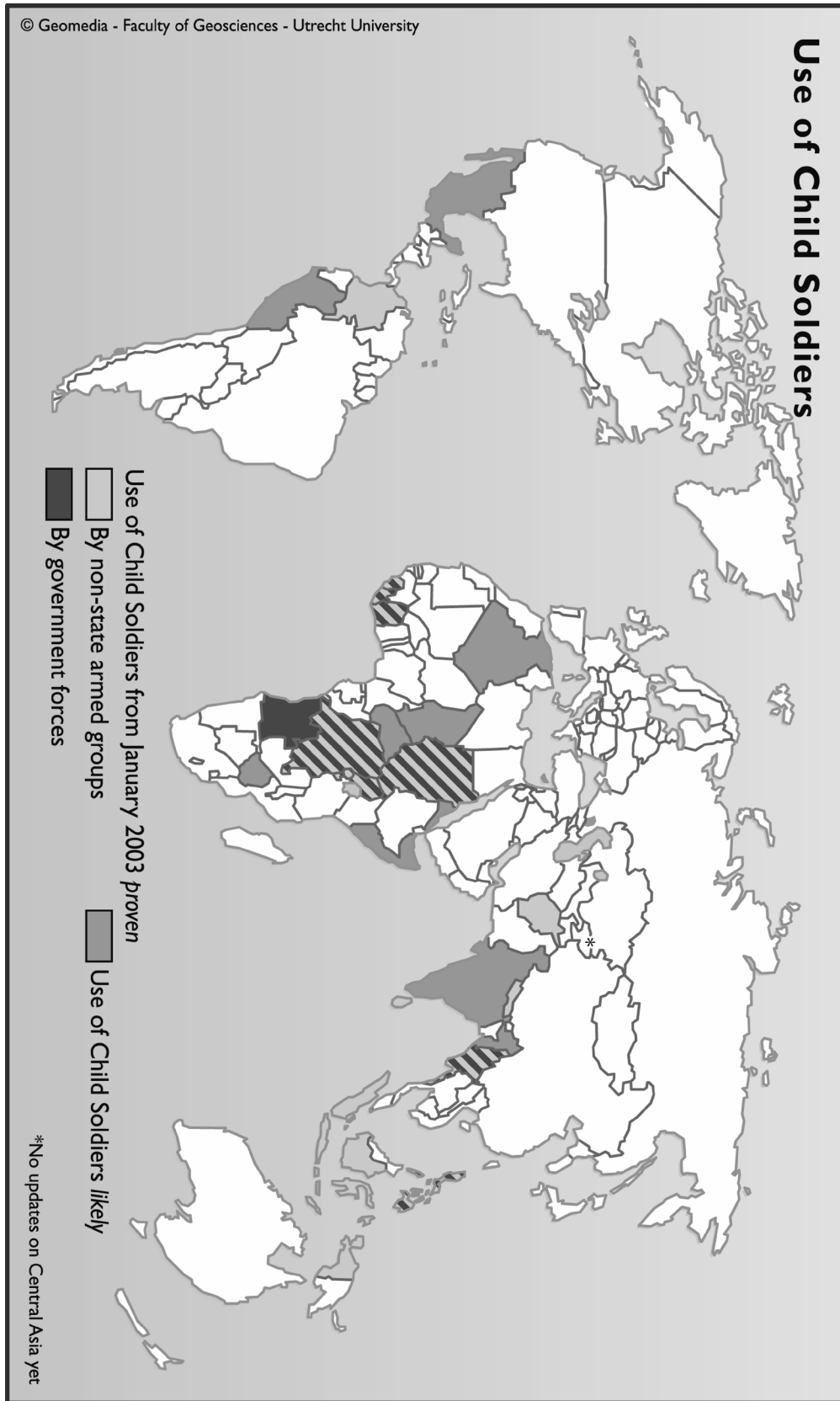
Military supply and technical assistance to parties, who are known to be violating children rights, must be halted. Instead, states should exercise diplomatic pressure on the concerned parties aimed at changing their behaviour and practices.

Local, national and regional initiatives to enhance child protection deserve encouragement and financial support. Traditional practices and community norms and values should be respected and used, provided that they are not harmful to the child.



# Annex 1: World Map of the Use of Child Soldiers

Source: Pax Christi - Netherlands. 2004. Map of the Use of Child Soldiers.



**Annex 2: The Status of Signatures and Ratification of Human Security Network Members** (as of 17 November 2004)

<u>Country</u>	<u>Signature</u>	<u>Ratification</u>
Austria	6 Sep 2000	1 Feb 2002
Canada	5 June 2000	7 July 2000
Chile	15 Nov 2001	31 July 2003
Greece	7 Sep 2000	22 Oct 2003
Ireland	7 Sep 2000	18 Nov 2002
Jordan	6 Sep 2000	
Mali	8 Sep 2000	16 May 2002
Netherlands	7 Sep 2000	
Norway	13 June 2000	23 Sep 2003
Slovenia	8 Sep 2000	23 Sep 2004
South Africa	8 Feb 2002	

Source: International Coalition to Stop the Use of Child Soldiers

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Women's Commission for Refugee Women and Children, Untapped Potential: Adolescents affected by armed conflict - A review of programs and policies, New York 2000 (with extensive commented reading list).

## Useful Websites

Action for the Rights of Children (ARC) - [www.unhcr.ch](http://www.unhcr.ch)

African Network for the Prevention and Protection Against Child Abuse and Neglect (ANPPCAN) - [www.anppcan.org](http://www.anppcan.org)

Brookings Institution/SAIS Project on Internal Displacement - [www.brookings.edu/fp/projects/idp/idp.htm](http://www.brookings.edu/fp/projects/idp/idp.htm)

Children and Armed Conflict Unit Web resources/The Children's Legal Centre (University of Essex) - [www.essex.ac.uk/armedcon/links](http://www.essex.ac.uk/armedcon/links)

Child Rights Information Network (CRIN) - [www.crin.org](http://www.crin.org)

Childwatch International Research Network - [www.childwatch.uio.no](http://www.childwatch.uio.no)

Child rights monitoring country reports - [www.watchlist.org/reports/](http://www.watchlist.org/reports/)

Coalition for the International Criminal Court (CICC) - [www.iccnw.org](http://www.iccnw.org)

Coalition to Stop the Use of Child Soldiers - [www.child-soldiers.org](http://www.child-soldiers.org)

Defence for Children International - [www.defence-for-children.org](http://www.defence-for-children.org)

European Centre for Social Welfare Policy and Research - [www.euro.centre.org](http://www.euro.centre.org)

Focal Point against Sexual Exploitation of Children - [www.focalpointngo.org](http://www.focalpointngo.org)

Forced Migration Online/Psychosocial Working Group Inventory of Key Resources - <http://earlybird.qeh.ox.ac.uk/psychosocial>

Human Rights Watch Children's Rights Division - [www.hrw.org/children](http://www.hrw.org/children)

Human Security Network - [www.humansecuritynetwork.org](http://www.humansecuritynetwork.org)

Instituto Interamericano Del Niño (IIN; Inter-American Children's Institute) - [www.iin.oea.org/default\\_ingles.htm](http://www.iin.oea.org/default_ingles.htm)

International Campaign to Ban Landmines - [www.icbl.org](http://www.icbl.org)

International Conference on War-affected Children, Winnipeg 2000 (web site includes extensive link collection on war-affected children issues) - [www.waraffectedchildren.gc.ca](http://www.waraffectedchildren.gc.ca)

International Rescue Committee/Refugee and Relief Related Resources - [www.theirc.org/resources](http://www.theirc.org/resources)

International Action Network on Small Arms (IANSA) - [www.iansa.org](http://www.iansa.org)

NGO Group for the CRC - [www.crin.org/NGOGroupforCRC](http://www.crin.org/NGOGroupforCRC)

Quaker UN Office - [www.geneva.quono.info](http://www.geneva.quono.info)

Reliefweb - [www.reliefweb.int](http://www.reliefweb.int)

Rome Statute of the International Criminal Court - [www.un.org/law/icc](http://www.un.org/law/icc)

Save the Children UK - [www.savethechildren.org.uk](http://www.savethechildren.org.uk)

Save the Children Sweden - Child War Database - [www.rb.se/childwardatabase](http://www.rb.se/childwardatabase)

Special Representative for the UN Secretary-General on the impact of armed conflict on children - [www.un.org/special-rep/children-armed-conflict](http://www.un.org/special-rep/children-armed-conflict)

UN Committee on the Rights of the Child (UNHCHR web site) - [www.unhchr.ch/html/menu2/6/crc](http://www.unhchr.ch/html/menu2/6/crc)

UN General Assembly Special Session on Children 2002 - [www.unicef.org/specialsession](http://www.unicef.org/specialsession)

United Nations documentation centre - [www.un.org/documents](http://www.un.org/documents)

UNICEF - Child Protection focus areas - [www.unicef.org/programme/cprotection/focus/intro.html](http://www.unicef.org/programme/cprotection/focus/intro.html)

UNICEF - Children in War - [www.unicef.org/children-in-war](http://www.unicef.org/children-in-war)

UNICEF Innocenti Research Centre - [www.unicef-icdc.org](http://www.unicef-icdc.org)

United High Commissioner for Human Rights - [www.ohchr.org](http://www.ohchr.org)

United Nations Integrated Regional Information Networks (IRIN) - [www.irinnews.org](http://www.irinnews.org)















### **Geneva Centre for the Democratic Control of Armed Forces**

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