

Practical guidance for mediators to protect children in situations of armed conflict



Office of the Special Representative of the Secretary-General for
CHILDREN AND ARMED CONFLICT





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Foreword by António Guterres Secretary-General of the United Nations

Children should never have to experience the horrific impact of conflict, but they continue to be killed, maimed, forced from their homes and subjected to horrific abuses in war zones.

Graça Machel's landmark 1996 report, "Impact of Armed Conflict on Children", described the disproportionate impact of armed conflict on children, and demonstrated the importance of this issue to advancing international peace, development and human rights.

The protection of children in armed conflict is central to the United Nations' peace and security agenda and is at the core of our prevention efforts.

These new guidelines are an important part of my Special Representative's work to support Member States in putting children at the centre of initiatives aimed at preventing and ending conflicts.

Child protection issues can be an effective starting point to generate political will to resolve or mitigate conflict. Putting the protection of children at the heart of mediation efforts, for example, can help to build engagement with the parties to conflict, improving the chances of sustainable peace.

By identifying best practices for the integration of child protection issues into peace processes, this practical guidance will support prevention and mediation efforts by the United Nations, and by regional, sub-regional, national and local actors.

I encourage all to make full use of these guidelines, and circulate them widely, so that they have the greatest possible impact.



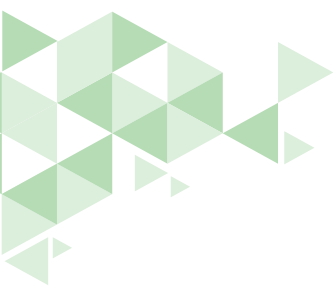

Message by Virginia Gamba Special Representative of the Secretary-General for Children and Armed Conflict

Grave violations against children continue to be perpetrated on an unabated scale by parties to conflict in most countries affected by war. Protracted conflicts have had, and are still having, major negative consequences on children, their families and their communities.

The mandate on children and armed conflict was established in 1996 and, over the years, the protection of children in situations of armed conflict has been increasingly integrated into peace negotiations and peace agreements. In 1999, through its resolution 1261, the Security Council for the first time urged “parties to armed conflicts to ensure that the protection, welfare and rights of children are taken into account during peace negotiations and throughout the process of consolidating peace in the aftermath of conflict”. Most recently, in 2018, in its resolution 2427, the Council stressed “the importance of giving due consideration to child protection issues from the early stages of all peace processes, in particular the integration of child protection provisions, as well as of peace agreements that put strong emphasis on the best interest of the child, the treatment of children separated from armed groups as victims and focus on family and community-based reintegration.”

There are certainly numerous challenges linked to the integration, and possible prioritization, in peace agreements of specific provisions for the protection of children. For example, instances of rape and other forms of sexual violence against children often go





unreported, as a result of cultural and social taboos or fear of reprisals. In addition, the prospect of being prosecuted and charged with a war crime for the recruitment of children under 15 years of age, the exclusion of serious international crimes from any blanket amnesty, and the possibility of prosecution under international justice mechanisms could have strong leverage with some, albeit not all, parties. As parties to conflict are increasingly aware that they might be prosecuted for the recruitment and use of children, this might lead them to resist the release of children because each released child under the age of 15 could serve as proof that they had committed a war crime. It is therefore important to think creatively about ways to include the most appropriate and relevant protection and prevention language in peace agreements while ensuring that children receive specialized support of the sort required for their full reintegration into their communities, and that parties are held accountable for the violations committed. Addressing grave violations against children in situations of armed conflict is a very sensitive topic that needs to be approached with the use of the right expertise.

I hope that this guidance will be considered as a first step towards a much more extensive exchange between the child protection and mediation communities for the benefit of children, peace, and security.



Acronyms

BINUB	United Nations Integrated Office in Burundi
DDR	Disarmament, Demobilization and Reintegration
FARC-EP	Fuerzas Armadas Revolucionarias de Colombia—Ejército del Pueblo (Revolutionary Armed Forces of Colombia—People’s Army)
FNL	Forces Nationales de Libération (National Liberation Forces)
ICRC	International Committee of the Red Cross
IGAD	Intergovernmental Authority on Development
MILF	Moro Islamic Liberation Front
MNLF	Moro National Liberation Front
MINUSCA	Multidimensional Integrated Stabilization Mission in the Central African Republic
MRM	Monitoring and Reporting Mechanism
NDFP	National Democratic Front of the Philippines
SPLA	Sudan People’s Liberation Army
SPLA-IO	Sudan People’s Liberation Army in Opposition
SPLM	Sudan People’s Liberation Movement
SPLM/A	Sudan People’s Liberation Movement/Sudan People’s Liberation Army
UCPN-M	Unified Communist Party of Nepal (Maoist)
UNICEF	United Nations Children’s Fund



Definitions

Child: every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier.¹

Child protection: the prevention of and response to abuse, neglect, exploitation and violence against children.²

Children associated with an armed force or armed group: refers to any person below 18 years of age who is or who has been recruited or used by an armed force or armed group in any capacity, including but not limited to children, boys and girls, used as fighters, cooks, porters, messengers, spies or for sexual purposes.³

Grave violations against children in armed conflict: refers to the six grave violations identified and condemned by the Security Council in its resolution 1261 (1999), and further elaborated in subsequent resolutions 1314 (2000), 1379 (2001), 1460 (2003), 1539 (2004), 1612 (2005), 1882 (2009), 1998 (2011), 2068 (2012), 2143 (2014) 2225 (2015) and 2427 (2018), namely, the recruitment and use of children by parties to armed conflict, their killing and maiming, rape and other forms of sexual violence, abductions of children, attacks on schools and hospitals and denial of humanitarian access for children.

Monitoring and reporting mechanism: established by the Security Council in its resolution 1612 (2005) to provide for the systematic gathering of accurate, timely, objective and reliable information on the six grave violations committed against children in situations of armed conflict.

Mediation: a process whereby a third party assists two or more parties, with their consent, to prevent, manage or resolve a conflict by helping them to develop mutually acceptable agreements.⁴

¹ See Convention on the Rights of the Child (1990), article 1.

² Alliance for Child Protection in Humanitarian Action, *Minimum Standards for Child Protection in Humanitarian Action*, 2019 Edition.

³ See Principles and Guidelines on Children Associated with Armed Forces or Armed Groups (Paris Principles), Definitions, p. 7.

⁴ See A/66/811, annex, para. 8.



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Introduction

Children in situations of armed conflict are extremely vulnerable and suffer disproportionately the consequences of wars which they have not chosen to start. Grave violations against children continue unabated in most conflict situations. If left unaddressed, these violations can have lasting negative consequences for children, and also for sustainable peace, feeding grievances and frustrations that can lead to protracted violence and injustice.



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Since 1999, the systematic engagement of the Security Council firmly established the situation of children and armed conflict as an issue affecting peace and security, recognizing the excessively negative impact of war on children. The Security Council has also repeatedly highlighted the need to maximize opportunities to advance the protection of children during peace processes.

For example, in paragraph 2 (d) of its resolution 1612 (2005), the Security Council stresses that “any dialogue established under the framework of the monitoring and reporting mechanism by United Nations entities with non-State armed groups in order to ensure protection for and access to children must be conducted in the context of peace processes where they exist and the cooperation framework between the United Nations and the concerned Government.” In paragraph 14 of that resolution, it also calls upon all parties concerned “to ensure that the protection, rights and well-being of children affected by armed conflict are specifically integrated into all peace processes, peace agreements and post-conflict recovery and reconstruction planning and programmes”.

In the statement by the President of the Security Council of 31 October 2017 (S/PRST/2017/21), the Security Council encouraged the Special Representative of the Secretary-General for Children and Armed Conflict, together with relevant child protection actors, to carry out lessons learned initiatives in order to compile

comprehensive best practices on the children and armed conflict mandate, including practical guidance on the integration of child protection issues in peace processes.

The Office of the Special Representative of the Secretary-General for Children and Armed Conflict accordingly commenced a consultative process with relevant child protection and mediation actors, including the Department of Political and Peacebuilding Affairs, the Department of Peace Operations and the United Nations Children's Fund (UNICEF). This initiative was duly noted by the Security Council in paragraph 22 of its resolution 2427 (2018), in which it "welcomes the launch of a process to compile practical guidance on the integration of child protection issues in peace processes and underlines the importance of engaging armed forces and armed groups on child protection concerns during peace processes and in the peacebuilding process".

The 18-month consultative process to develop this guidance included a survey that was sent by code cable to all the United Nations peacekeeping operations and special political missions, together with bilateral interviews with senior experts in the fields of mediation and child protection, case study analyses, and a desk review of specific child protection language included in peace agreements.

In addition, in November 2018, an initial consultation was held in Geneva, generously supported by the Government of Sweden, in which 10 child protection and mediation experts met to identify and discuss the preliminary elements to be included in the guidance. In October 2019, a second, high-level consultation took place in Brussels in partnership with the European Institute for Peace and the Government of Belgium, bringing together 20 senior experts in the fields of mediation and child protection, including former Special Representatives of the Secretary-General and heads of peacekeeping missions and senior diplomats.

The consultative process concluded that, in peace negotiations, child protection issues were mostly addressed in an ad hoc manner. Although it is widely acknowledged that the protection of children's rights is essential to community stability and development, the consideration of child protection in peacemaking needs greater attention. Children's rights, needs and concerns are hardly addressed in peace processes. One reason for this is that mediators are seldom provided with specific and effective tools designed to identify child protection and child rights issues and to channel their possible added value in peace negotiations.



The present guidance is aimed at addressing this gap in a non-prescriptive manner by providing mediators and other stakeholders supporting mediation efforts with specific measures for consideration in peace talks and peace agreements. By doing so, it seeks to assist them in the identification of entry points and possible confidence-building measures to engage parties on this issue. The guidance was drafted by the Office of the Special Representative of the Secretary-General for Children and Armed Conflict in collaboration with the Department of Political and Peacebuilding Affairs, the Department of Peace Operations and UNICEF through four rounds of reviews, which took place in August, September, November and December 2019. It is built on evidence that the viability and sustainability of peace are enhanced by the protection of children and the fulfilment of their rights, and also by the prevention of grave violations against them.



Photo credit: UNICEF Philippines/2019/Shehzad Noorani



Message to mediators and guiding principles for their consideration

Over the years, the importance of integrating child protection issues in peace processes has been highlighted by the Security Council in 10 resolutions on children and armed conflict.⁵ The protection afforded to children under international, regional, and national law is important in ensuring the commitment of the negotiating parties to respect their obligations under these legal instruments, including the Convention on the Rights of the Child and its Optional Protocol on the involvement of children in armed conflict, the four Geneva Conventions and their Additional Protocols, international customary human rights and humanitarian law, and also other relevant instruments that have been included in this guidance.

Boys and girls below the age of 18 have special needs and rights before, during and after conflicts. These should be taken into consideration at the early stages of the peace processes.⁶ Violence against children, including in armed conflict, has lifelong impacts on their health and wellbeing, and also on their families, communities and nations. Prolonged frustrations resulting from abuses and injustice can exacerbate these impacts and permanently affect children throughout their developmental stages and on into adulthood. The thought patterns and behaviour of adults are highly influenced by their experiences as children, in particular when grievances and profound

⁵ Security Council resolutions 1261 (1999), 1314 (2000), 1379 (2001), 1460 (2003), 1612 (2005), 1882 (2009), 1998 (2011), 2143 (2014) 2225 (2015), and 2427 (2018). Resolutions 1539 (2004) and 2068 (2012) do not make reference to the inclusion of child protection issues in peace processes.

⁶ See Security Council resolution 2427 (2018), para. 12.

stress are not dealt with adequately. Highly distressing events, such as witnessing the killing of family members, deprivation of liberty, forced displacement, sexual violence and direct involvement in hostilities, can have significant long-term effects and negative implications for the wellbeing of children and communities, and for peace and security.⁷

In most conflict-affected contexts, children below the age of 18 constitute more than 50 per cent of the total population and are also among the most vulnerable groups. Mediation strategies that systematically tackle and try to prevent grave violations against children and other children's rights and protection concerns can contribute to long-lasting and more sustainable peace. Failure to address the protection of children and, specifically, grave violations against children committed by parties to conflict will contribute to generating additional tensions in communities and lead to protracted insecurity, while constraining peacebuilding efforts.

The children of today are the adults of tomorrow and are often key sources of resilience. They will be instrumental for reconstruction and economic development in post-conflict countries. It may sometimes be easier to reach an agreement to end and prevent the recruitment and use of children and their killing and maiming than to find agreement on other issues. Accordingly, by engaging on issues related to children in armed conflict it may be possible to open doors to address other priorities. The release

⁷ See A/51/306; *Machel Study 10-Year Strategic Review: Children and Conflict in a Changing World* (United Nations publication, Sales No. E.09.XX.20); Michael Wessells, *Child Soldiers: From Violence to Protection* (Harvard University Press, 2006); Theresa Betancourt and others, "Research review: psychosocial adjustment and mental health in former child soldiers – a systematic review of the literature and recommendations for future research", *Journal of Child Psychology and Psychiatry*, vol. 54, No. 1 (January 2013), pp. 17–36.



of children, or the willingness to enter into other positive commitments relating to children, such as the conduct of awareness programmes on ways of identifying and preventing grave violations against them, could also boost the credibility of negotiating parties within local communities.

The following are a set of guiding principles to assist mediators in their consideration of child protection issues:

- ▶ All children are equally entitled to all of the rights enshrined in the Convention on the Rights of the Child, at all times, in accordance with its article 2. **No child should be discriminated against** on the basis of the child's, or her or his parent's or legal guardian's gender, age, ethnicity, race, religion, physical abilities or any other status.
- ▶ In accordance with article 3 of the Convention, it is important to consider **the best interests of children** during peace negotiations in all decisions that will – directly or indirectly – affect them.
- ▶ All actions undertaken and decisions made for the protection of children should respect the principle of “**do no harm**”. Efforts should be made to minimize possible negative effects and maximize benefits for children, to ensure that their needs are met and that, in accordance with their age and maturity, their views are heard, in a manner consistent with article 12 of the Convention. The inclusion of the viewpoints of children may be achieved by different means, including through community-based initiatives led by civil society or other stakeholders involved in the peace process.
- ▶ **Consistency should be ensured with the content and nature of the Convention on the Rights of the Child, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, Security Council resolutions on children and armed conflict**, and relevant resolutions for the specific country concerned as applicable during the mediation effort, while recalling that **the United Nations does not support amnesty for serious crimes under international law** and that perpetrators of grave violations against children cannot be exempted from accountability.

To this end, relevant elements and provisions set out in the following guidance and policy notes should be considered as applicable: the guidance on gender and inclusive mediation strategies, prepared by the Department of Political Affairs in 2017; the policy on child protection in United Nations peace operations, prepared by the Department of Peacekeeping Operations in 2017; the United Nations guidance for effective mediation, issued in 2012 as an annex to the report of the Secretary-General on strengthening the role of mediation in the peaceful settlement of disputes, conflict prevention and resolution (A/66/811); the guidance note of the Secretary-General on the United Nations approach to transitional justice, issued in 2010; the guidance note of the Secretary-General on the United Nations approach to justice for children, issued in 2008; and the guidelines on justice in matters involving child victims and witnesses of crime, set out in the annex to Economic and Social Council resolution 2005/20 of 22 July 2005.

While this guidance gives an overview of the main child protection issues in situations of armed conflict, mediators should avail themselves of child protection expertise when mediating the technical concepts related to the protection of children in armed conflict.



I. Identifying child protection issues in situations of armed conflict

A. Overview



Child protection is the prevention of and response to abuse, neglect, exploitation and violence against children. The notion of child protection in situations of armed conflict covers a very wide spectrum of issues, which may vary depending upon the specific context. It can cover situations of forced displacement, including internal and cross-border displacement, refugee movements, unaccompanied and separated children, family reunification and child justice. Child protection issues may serve as a means of engaging parties at an early stage in a peace process, including the pre-negotiation stage, but also have relevance throughout the negotiation and implementation of a peace agreement.

The Convention on the Rights of the Child enshrines the most comprehensive articulation of the rights of every child and sets out the non-derogable rights to which every child is entitled, in times of peace and also during armed conflict. Under the Optional Protocol on the involvement of children in armed conflict, States must ensure that persons who have not attained the age of 18 years are not compulsorily recruited into their armed forces, while armed groups that are distinct from the armed forces of a State should not, under any circumstances, recruit persons under the age of 18 years. The Optional Protocol aimed to raise the minimum age for the recruitment of children which had initially been set under the Convention at 15 years old.

International humanitarian law includes a specific focus on children, evidenced by the prohibition of the recruitment of children in Additional Protocols I and II of the Geneva Convention and also in the African Charter on the Rights and Welfare of the Child and the Convention on the Worst Forms of Child Labour. Under the Statute of the International Criminal Court, conscripting or enlisting children into armed forces or groups constitutes a war crime in both international and non-international armed conflicts. This war crime is also included in the Statute of the Special Court for Sierra Leone. In his report on the establishment of the Special Court (S/2000/915), the Secretary-General stated that the provisions of article 4 of Additional Protocol II have long been regarded as part of customary international

law.⁸ As in the Convention on the Rights of the Child, Additional Protocols I and II of the Geneva Convention and the statutes of the International Criminal Court and the Special Court for Sierra Leone all set 15 years as the minimum age for recruitment in armed forces or armed groups.

National legislation can also include important elements for the protection of children that may be invoked for the purpose of enhancing the acceptance, ownership and observance of the law by the negotiating parties. National legislation can also include gaps that parties may agree to address in the framework of legal reforms foreseen by the peace agreement. It is therefore important to follow an inclusive approach involving community leaders, with a view to raising their awareness of national and international law and ensuring a common understanding among all parties involved with regard to child protection and its relevance to the given context.

Relevant International laws, standards and principles on the protection of children in armed conflict

International humanitarian law

- ▶ Four Geneva Conventions relating to the protection of victims of international armed conflicts (1949)
- ▶ Additional Protocols to the Geneva Conventions (1977)
- ▶ Customary international humanitarian law

International human rights law

- ▶ Convention on the Rights of the Child (1989) and its Optional Protocol on the involvement of children in armed conflict (2000)
- ▶ Universal Declaration of Human Rights (1948)
- ▶ Convention relating to the Status of Refugees (1951)
- ▶ International Covenant on Civil and Political Rights (1966)
- ▶ International Covenant on Economic, Social and Cultural Rights (1966)
- ▶ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)

⁸ See International Committee of the Red Cross, "Rule 136. Recruitment of child soldiers", IHL Database, available at https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule136.



- ▶ Regional human rights instruments, including the African Charter on the Rights and Welfare of the Child (1990)
- ▶ Rome Statute of the International Criminal Court (1998)
- ▶ Worst Forms of Child Labour Convention (No. 182), of the International Labour Organization (1999)
- ▶ Customary international human rights law

International jurisprudence

- ▶ Case law of the International Tribunal for the former Yugoslavia, the International Criminal Tribunal for Rwanda and the Special Court for Sierra Leone
- ▶ Case law of the International Criminal Court
- ▶ Case law of the International Court of Justice

Security Council resolutions on children and armed conflict

- ▶ 1261 (1999), 1314 (2000), 1379 (2001), 1460 (2003), 1539 (2004), 1612 (2005), 1882 (2009), 1998 (2011), 2068 (2012), 2143 (2014), 2225 (2015) and 2427 (2018).

Principles and standards

- ▶ Paris Principles and Guidelines on Children Associated with Armed Forces or Armed Groups (2007)
- ▶ Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict (2014)
- ▶ Safe Schools Declaration (2015)
- ▶ Vancouver Principles on Peacekeeping and the Prevention of the Recruitment and Use of Child Soldiers (2017)

Reference to law, principles and standards can help mediators and negotiators to raise child protection issues when organizations or communities recognize a violation of rights (see box 1).

Box 1

Case study: Colombia

In Colombia, it was very important to refer to provisions of the Colombian Constitution and decisions of the Constitutional Court that guaranteed the prevailing status of children's rights, in addition to the Convention on the Rights of the Child, its additional protocols and Security Council resolutions, as reference to these instruments enhanced the perception of the explicit obligations of both negotiating parties. This also gave non-State armed actors an opportunity to demonstrate their good faith commitments to stop violence and promote peace. Reports were received about the informal separation of children both before and after the formal demobilization process. Informal demobilization of this kind means that children are not offered formal reparation and, in many cases, also lack access to health and education, a common situation in rural areas of Colombia.

Religion can also play an important role in some contexts (see box 2).

Box 2

Case study: Philippines

In the Philippines, the rules of war invoked by the Moro National Liberation Front and the Moro Islamic Liberation Front were those derived from Islamic teachings, rather than the secular discourse of international humanitarian law. In his injunction to his fighters, Nur Misuari, Chair of the Moro National Liberation Front, cautioned them "not to go beyond the limit prescribed for mujahidin in the Holy Qur'an, the Hadiths, or the sacred traditions. Do not hit innocent civilians, especially children, women, old people, the infirm. Do not destroy the properties of the civilians". Similarly, the 2005 Code of Conduct of the Moro Islamic Liberation Front draws its precepts from Islamic teaching, and each precept coincides with a principle or provision of international humanitarian law.

B. Six grave violations against children in armed conflict and other issues of concern

In order to equip mediators with the means to encourage parties to a conflict to include the most relevant child protection issues in peace processes, this practical guidance has been developed with a specific focus on the six grave violations against children in situations of armed conflict,⁹ and also on the detention of children for actual or alleged association with parties to conflict and on the military use of schools and hospitals. These violations¹⁰ were identified by the Security Council in the light of their egregious nature and the severity of their impact on children's lives:¹¹

1. Six grave violations

(a) Recruitment and use of children by armed forces and armed groups

Recruitment refers to the compulsory, forced or voluntary conscription or enlistment of children into any kind of armed force or armed group under the age stipulated in the applicable international treaties.

Use of children refers to the use of children by armed forces or armed groups in any capacity, including as fighters, cooks, porters, messengers, spies and collaborators. It does not only refer to children who are taking or have taken a direct part in hostilities.



(b) Killing and maiming of children

Killing: Any action in the context of an armed conflict that results in the death of a child.

Maiming: Any action that causes a serious, permanent, disabling injury, scarring or mutilation to a child.



⁹ See Security Council resolution 1261 (1999).

¹⁰ As defined in the Field Manual: The Monitoring and Reporting Mechanism on Grave Violations against Children in situations of Armed Conflict prepared by the Office of the Special Representative of the Secretary-General for Children and Armed Conflict, the United Nations Children's Fund and the United Nations Department of Peacekeeping Operations in 2014. Available at https://childrenandarmedconflict.un.org/wp-content/uploads/2016/04/MRM_Field_5_June_2014.pdf.

¹¹ See "The six grave violations against children during armed conflict: the legal foundation", Working Paper No. 1, prepared by the Office of the Special Representative of the Secretary-General for Children and Armed Conflict in 2009, updated 2013. Available at https://childrenandarmedconflict.un.org/publications/WorkingPaper-1_SixGraveViolationsLegalFoundation.pdf.

The violation refers to the killing and maiming of children as a result of direct targeting or indirect actions, including crossfire, landmines, cluster munitions, improvised explosive devices or other indiscriminate explosive devices. Killing or maiming can take place in the context of military operations, house demolitions, search-and-arrest campaigns, or suicide attacks. Torture may also fall under this category.

(c) Sexual violence against children



This violation refers to an act of a sexual nature perpetrated on a child and encompasses rape, other sexual violence, sexual slavery, enforced prostitution, forced marriage, pregnancy, and abortion, or enforced sterilization.

Rape: This is an act of non-consensual sexual intercourse, which may include the invasion of any part of the body with a sexual organ or the invasion of the genital or anal opening with any object or body part. Any such penetration is considered to be rape. Efforts to rape someone that do not result in penetration are considered to be attempted rape.

Sexual violence: This refers to any sexual act, attempt to obtain a sexual act, or the trafficking of children for sexual purposes. Sexual violence takes many forms, including rape, sexual slavery and trafficking, forced pregnancy, sexual harassment, sexual exploitation and abuse, and forced abortion.

(d) Attacks against schools or hospitals



Such attacks include the targeting of schools or medical facilities that cause the total or partial destruction of such facilities, along with other encroachments on the normal operation of the facilities, such as their occupation, shelling or targeting for propaganda purposes, or other acts designed to cause harm to schools or medical facilities or their personnel.

School: This denotes a recognizable educational facility or learning site. Educational facilities and learning sites must be recognized and known by the community as learning spaces and marked by visible boundaries.

Hospital: These refer to medical facilities where the sick and the wounded are accommodated and provided with health-care services.



(e) Abduction of children

The unlawful removal, seizure, capture, apprehension, taking or enforced disappearance of a child either temporarily or permanently for the purpose of any form of exploitation of the child. This includes, but is not limited to, recruitment in armed forces or groups, participation in hostilities, sexual exploitation or abuse, forced labour, hostage-taking and indoctrination.

(f) Denial of humanitarian access for children

This violation consists in the intentional deprivation of or impediment to the passage of humanitarian assistance indispensable to children's survival, by the parties to the conflict, including the wilful impeding of relief supplies as provided for under the Geneva Conventions, and significant impediments to the ability of humanitarian or other relevant entities to have access to and to assist affected children, in situations of armed conflict. The denial of access should be assessed in terms of the access of children to assistance, together with the ability of humanitarian agencies to gain access to vulnerable populations, including children.



2. Other issues of concern

(a) Deprivation of liberty or detention of children for their actual or alleged association with parties to conflict

Deprivation of liberty: This is defined in article 11 of the 1990 United Nations Rules for the Protection of Juveniles Deprived of their Liberty as: “any form of detention or imprisonment or the placement of a person in a public or private custodial setting, from which this person is not permitted to leave at will, by order of any judicial, administrative or other public authority”.



Photo credit: © UNICEF/UN150697/Asselin

Detention: This refers to acts that in principle fall within the lawful functions of a public servant. Accordingly, the term “detention” should be used when referring to the holding of a child by a State authority as part of its legitimate law enforcement functions. Detention is not illegal per se and must conform to both nationally and internationally binding legal instruments. In the case of children, however, detention should always be a measure of last resort and imposed for the shortest possible period, as stipulated in article 37 (b) of the Convention on the Rights of the Child.

(b) Military use of schools and hospitals



Photo credit: © 2007 Getty Images

This refers to activities that armed forces and armed groups carry out in and around schools and other education facilities, and also hospitals and other medical facilities, in support of their military efforts. In resolution 1998 (2011), the Security Council requested the Secretary-General to list in the annexes of his annual report on children and armed conflict the perpetrators of attacks against hospitals and schools.

In the same resolution, the Security Council also urged parties to armed conflict “to refrain from actions that impede children’s access to education and to health services” and requested “the Secretary-General to continue to monitor and report, inter alia, on the military use of schools and hospitals, in contravention of international humanitarian law, as well as on attacks against, and/or kidnapping of teachers and medical personnel”.



II. Conflict analysis focused on child protection and the preparation of mediators for the consideration of child protection issues

Mediators need to familiarize themselves in full with the comparative advantage of addressing child protection issues in a given conflict situation, with a possible view to encouraging the inclusion of relevant elements in the different agreements that will be negotiated. In some situations, parties' advisors operating on the periphery of the negotiations may be in a position to shape the process by bringing in external expertise and preparing the parties to understand why it would be in their interest to include child protection elements in the negotiations.

It is also important to explore the possible incentives for the parties to include child protection issues in the negotiations and to look at these incentives in a strategic manner so as to convince the parties of the importance of prioritizing the protection of children.

The child protection phraseology used in peace agreements varies greatly, depending on the context and priorities identified. Annex I of the present guidance includes samples of text used in past and current agreements, providing specific examples that can be used as guidance by mediators.

The recruitment and use of children, and also their release, are generally the main child protection priorities reflected in peace agreements. Nevertheless, it is also important to identify and address all other grave violations against children, including in the form of preventive measures to be taken by parties to armed conflict.

A. Conflict analysis focused on the protection of children


A child protection-focused and rights-based conflict analysis can help mediators and negotiating parties to determine the most relevant child protection elements that need to be dealt with throughout peace negotiations and to identify the stage of the process at which they could be safely introduced. Through such analysis it may be possible to identify the causes, dynamics and



characteristics of grave violations and other child protection issues in the given context, including the roles and responsibilities of all the parties involved.

By providing the support necessary to perform this analysis, child protection issues can be brought squarely on to the radar of mediators. The analysis could inform a mediation process that is responsive to child protection needs and which, by providing strategic information related to child protection, can make it easier for the mediator to engage with the negotiating parties. Tools such as the Monitoring and Reporting Mechanism (MRM) established by Security Council resolution 1612 (2005), on grave violations against children in armed conflict, together with information drawn from other United Nations and external sources, have been effective in raising the profile of child protection concerns and foregrounding the role of the Special Representative of the Secretary-General for Children and Armed Conflict in facilitating dialogue with the parties involved. Information on trends in grave violations against children can be made available to the mediator by the Special Representative of the Secretary-General for Children and Armed Conflict and by the co-chairs of the Country Task Force on Monitoring and Reporting in the country concerned for the purpose of identifying patterns of grave violations against children and devising targeted protective and preventive measures to be included in the peace agreements.

B. Preparing the parties to engage on child protection issues



Efforts to remedy the asymmetry of knowledge on child protection by parties to the conflict through tailored interventions and by supporting their preparedness to enter into meaningful discussions are essential to ensure the informed participation of all stakeholders throughout the negotiations.

Where possible, in their discussions with the parties, mediators should explore whether there are any measures addressing child protection that parties can agree upon at the early stage of the peace process as a confidence-building measure. To facilitate this process, it is essential that the mediators should be aware of the child protection dynamics in the context in which they are operating and should explore ways in which to include them in the dialogue, in consultation with the relevant child protection experts and with the support of the Country Task Force on Monitoring and Reporting or the Office of the Special Special Representative for Children and Armed Conflict, or both .



One element that must be borne in mind is whether children released by the parties to a conflict consider themselves to be children and victims; some may prefer to be dealt with through adult disarmament, demobilization and reintegration programmes, known as DDR programmes, rather than child-focused DDR programmes. In this regard, it is again essential to rely on child protection experts, who should be able to give sound advice on the way forward on a case-by-case basis.

Mediators should strive for transparency and inclusiveness on child protection issues. This is necessary because, should some parties to a conflict be excluded from the negotiations, they might take action to discredit a possible agreement that includes child protection elements and may even engage in efforts to demonstrate that the agreement might not be enforceable or effective. This could have the effect of exposing children to further risk.

C. Human resources and expertise



In order to conduct a thorough child protection-focused and rights-based analysis, it is essential for a mediation team to have access to relevant expertise with a sound understanding of child protection. Depending on the situational context, mediators should consider embedding a resource person within their team or drawing on expertise from an outside entity, such as the Office of the Special Representative of the Secretary-General for Children and Armed Conflict, UNICEF, or a child protection adviser in

situations where United Nations peace operations are being carried out. The child protection expert must possess significant experience in managing complex child protection issues and a sound understanding of how to translate into practice the principles of “do no harm” and “the best interests of the child”. In addition, the child protection expert must have experience in supporting the navigation of political processes and a solid understanding of the situation in the country concerned in order to be able to advise the mediator on the possible risks and benefits associated with the integration of specific child protection issues and the most appropriate ways to negotiate an agreement between the parties involved.

Similarly, child protection experts can provide guidance to ensure that the mediator’s intervention will adhere to the “do no harm” principle and to prevent actions designed for the protection of children from having a negative impact on

them in general, as well as on specific groups of children. For example, it could be very harmful to children to release them from the ranks of parties to the conflict without the provision of tailored reintegration programmes. It is essential to engage with donors to ensure that there are sufficient financial resources and capacity to implement the child protection components of peace agreements.

D. Coordination




Coordination of the different entities involved in a peace process will ensure that child protection interventions are more effective and tailored to specific contexts. A multi-level and coordinated engagement is necessary. Advocacy efforts carried out by entities operating on the margins of peace negotiations to convince parties of the relevance of child protection as a vital contribution to sustainable peace can be of great value to the mediator. In Colombia, for example, discussions took place with the Peace

Commissions of the Colombian Congress at the national level and were also carried out by Norway, one of two third-party facilitators of the peace talks at the international level. Although a formal peace process offers an exceptional opportunity to engage the parties, alternative or parallel tracks can also be explored to achieve the same objective.

The experience of peace negotiations in such countries as the Central African Republic, the Democratic Republic of the Congo and the Sudan has shown that, while peace negotiations provided a context for the advocacy of child protection commitments – sometimes in the form of Security Council-mandated action plans carried out with the United Nations – formal negotiations were held separately to ensure that the child protection dialogue would continue, even in cases where there were breakdowns in the political dialogue. Action plans are written, signed commitments between the United Nations and those parties who are listed as having committed grave violations against children in the Secretary-General's annual report on children and armed conflict. Each action plan is designed to address a specific party's situation, and outlines specific, time-bound steps that lead to compliance with international law, delisting and a more protected future for children.



E. Right of children to be heard



Article 12, paragraph 1, of the Convention on the Rights of the Child establishes that “States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child”, and that the views of the child should be “given due weight in accordance with the age and maturity of the child”.

Exploring avenues to make the views of children heard in peace processes, with due regard for the children’s age and level of maturity, and including those who have played a role in hostilities, can help the mediator and other parties involved in the negotiations to understand their views and needs. This step is essential to ensuring that the current generation of children play a critical role in the promotion of social cohesion and peacebuilding for their future. Such avenues are consistent with Security Council resolution 2427 (2018), by which the Council called upon Member States, United Nations entities, the Peacebuilding Commission, and other parties concerned “to integrate child protection provisions, including those relating to the release and reintegration of children formerly associated with armed forces or armed groups, as well as provisions on the rights and wellbeing of children, into all peace negotiations, ceasefire and peace agreements, and in provisions for ceasefire monitoring, and taking into account children’s views, where possible, in these processes”.¹²

UNICEF, international and local civil society organizations, including community and faith-based organizations with the relevant child protection expertise, could be called upon to bring forward children’s views. This inclusive approach should also be gender-sensitive and allow girls and boys to express their views freely. Caution is needed to ensure that organizations have the credibility to undertake this delicate task. Last, the involvement of young people, women and local communities that can serve as the spokespersons for children, in particular in the context of local peace agreements, can be of further added value. This type of child-inclusive approach can make a significant contribution to the peace negotiations and the resulting peace agreement (see box 3).

¹² Security Council resolution 2427 (2018), para. 22.

Box 3

Child-inclusive approach: Colombia

In the Colombian peace talks between the Government and the Fuerzas Armadas Revolucionarias de Colombia – Ejército del Pueblo (Revolutionary Armed Forces of Colombia – People’s Army) (FARC-EP), understanding the factors leading to the recruitment of children and their lives once they were in the group was a crucial step towards the formulation of adequate measures for the separation and reintegration of children. Restoring links with the communities of origin of these children, and also ensuring the necessary socioeconomic opportunities for them and their families, were identified as essential elements to be included in the peace agreement.

F. Considerations to guide mediators in identifying possible child protection issues in the situation of concern

- ▶ Who is considered as a child in this situation? Is there a difference between boys and girls in this regard?
- ▶ What are the types of violations against children that result directly from the armed conflict in this situation?
- ▶ What is the magnitude of grave violations in this situation?
- ▶ How are grave violations against children, such as the recruitment and use of children, potentially contributing to the parties’ achievement of military objectives or political goals in the conflict?
- ▶ Are boys and girls specifically targeted? If so, why?
- ▶ How do violations against children contribute to this armed conflict?
- ▶ Are violations against children perpetrated by a specific party, by various parties or by all parties with no distinction?
- ▶ Have any of the parties made previous commitments to end or prevent grave violations against children? If so, what are these commitments and how have the parties implemented them? Has there been any progress in this regard?
- ▶ What are the national, regional and international obligations on child protection in the country or countries and for each of the parties concerned?
- ▶ Are there any specific geographical areas in which grave violations have primarily taken place and by a specific party to the conflict?
- ▶ Do the children who are victims of grave violations belong to a particular ethnic or religious group?



- ▶ Are girls and boys affected in different ways by the impact of these violations?
- ▶ At the time of the peace process, have some of the survivors of grave violations reached the age of 18?

In order to expand the scope of this assessment, it is essential to look at violation-specific questions that could help the mediator to assess the scope of each violation in the situation of concern (see annex II).





Photo credit: Fabienne Vinet, OSRSG-CAAC



III. Key child protection elements to be considered under each substantive issue of the mediation processes

It is important to identify ways in which child protection can be integrated within the substantive issues that are brought to the negotiating table, including discussions on ceasefire and cessation of hostilities, security arrangements, governance and transitional justice systems.

Measures to ensure the protection of children in the context of a peace process have in some situations been seized upon as an opportunity and possible starting point for a broader child protection and prevention dialogue with parties to a conflict, rather than as a potential area of discord (see box 4).

Box 4

Case study: Sierra Leone

Child protection was highlighted in the 1999 Lomé Peace Accord in Sierra Leone, which addressed the special needs of children in the demobilization, disarmament and reintegration process. The Accord also established a truth and reconciliation commission and a national commission for war-affected children.

The following topics are often central to a mediation process and may be considered channels through which child protection issues can be brought to the attention of, and prioritized by, the negotiating parties.

A. Confidence-building measures, including under the priority area of ceasefire negotiations

Parties should:

- ▶ Undertake to adhere to international standards that define a child as any person below the age of 18 and observe the prohibition on the recruitment and use of children below 18 in line with the Optional Protocol on the involvement of children in armed conflict (2000);



- ▶ Release all children under the age of 18 from the ranks of the parties to the conflict;
- ▶ Establish a functioning birth registration system in the country or countries concerned to uphold the exercise of children's rights, including access to services, and the identification and release of children from the parties to the conflict;
- ▶ Consider the six grave violations, the detention of children and the military use of schools and hospitals as violations of the ceasefire and frame them as prohibited acts, with the aim of ending such violations or preventing their occurrence;
- ▶ Ensure that monitoring arrangements include the protection of children and children's specific needs, such as, among others, the inclusion of a child protection representative or focal point in the committee or entity responsible for monitoring the implementation of the ceasefire or cessation of hostilities;
- ▶ Refrain from any act or activity that jeopardizes the functioning of health-care and educational entities;
- ▶ Refrain from any act or activity that may impede the delivery of humanitarian assistance to children;
- ▶ Prioritize children among detainees to be released as one of the confidence-building measures, with the inclusion of tailored and long-term reintegration programmes available for children once released;
- ▶ Seek agreement with parties to the conflict to vacate hospitals and schools used for military purposes;
- ▶ Design and implement child-specific DDR procedures that ensure the full and successful identification, separation and reintegration of children associated with parties to the conflict. It is important that DDR procedures for children be actively carried out at all times;¹³
- ▶ Ensure that parties to the conflict have a common understanding of a child-sensitive DDR process, including tools relevant to that process.

¹³ Draft revised version of Integrated Disarmament, Demobilization and Reintegration Standards, Module 5.20, Children and DDR (2019): "Peace processes offer an opportunity to highlight the needs of children affected by armed conflict, and their rights should be identified as paramount in peacemaking, peacebuilding and conflict resolution processes. The commitment to stop the recruitment of children and to release children from armed forces and groups, should be explicit within peace agreements. However, the timeframe for release of children should not be tied to the finalization of a peace process".



B. Wider areas of security arrangements including security sector reform

Parties should:


- 
- ▶ End and prevent grave violations against children, including their detention and the military use of schools and hospitals by the parties to the conflict;
 - ▶ Ensure the immediate and unconditional release of all children under 18 within the ranks of the parties to the conflict and their handover to civilian child protection authorities or specialized United Nations agencies such as UNICEF;
 - ▶ Include the establishment of age-verification mechanisms and child-friendly screening procedures within armed forces and armed groups to prevent the recruitment of children below the age of 18;
 - ▶ Provide child protection training for the military, including commanders and rank and file soldiers, and also for the police;
 - ▶ Undertake the development of standard operating procedures, command orders and rules of engagement with a specific focus on the protection of children, such as a protocol for the handover of children associated with armed forces and groups to civilian child protection authorities or specialized United Nations agencies such as UNICEF;
 - ▶ Ensure that child DDR structures and mechanisms are insulated against setbacks in security sector reform, including a lack of funding, so that the process of child DDR continues despite possible slow progress in adult DDR;
 - ▶ Ensure that children are not included in the count of members of any armed force or group at the time of security sector reform and of DDR.



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The DDR process for children should be independent from national reconstruction efforts and separate from any adult DDR efforts, if already established. The process should not be contingent upon the conclusion of broader security sector reform or power sharing negotiations. The release and reintegration of

children associated with armed forces and armed groups should not be tied to nor dependent to the finalization of a peace process. As there is no standardized formula for the process that can be applied in all circumstances, it is important for the mediator to rely on child protection technical expertise to ensure that the specific needs of girls and boys are fully taken into account at all stages of gender and age-sensitive DDR processes.

C. Wider issues of governance

The following conditions should be ensured:

- ▶ All children separated from armed forces and groups shall be treated primarily as victims of the conflict and in accordance with international standards of child justice and fully supported for their recovery and reintegration;
- ▶ Where relevant, a functional civil registry and systematic birth registration mechanism should be established at national and local levels;
- ▶ Children who committed crimes during their association with parties to conflict should be treated in accordance with international standards for child justice;
- ▶ Reconciliation and accountability mechanisms should be set in place to deal with grave violations against children before relevant jurisdictions, while ensuring that the rights, dignity and safety of child victims and witnesses are protected;



- ▶ Children should be given the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.¹⁴

D. Transitional justice systems¹⁵

The transitional justice mechanisms established over the years have explicitly addressed child-related issues. Truth commissions in Guatemala, Peru, Sierra Leone, South Africa and Timor Leste, and mixed tribunals such as the Special Court for Sierra Leone, covered crimes against children and involved children as victims and witnesses. Accountability for crimes against children is also a key component of the work of the International Criminal Court, where Thomas Lubanga was prosecuted and convicted for enlisting and conscripting children under the age of 15.

The Special Court for Sierra Leone was the first international or hybrid court to prosecute and convict persons for the crime of recruiting and using children in armed conflict. It also set an important precedent by criminalizing the recruitment of children, on the basis of customary international law, before the International Criminal Court brought such cases based on the Rome Statute.¹⁶ Children have been used and continue to be used by parties to conflicts for the commission of atrocities. In most instances, children may be influenced by economic and political pressures of different kinds. Despite having jurisdiction over children above the age of 15, the Special Court for Sierra Leone did not try any child. Nevertheless, children above 15 were called as witnesses before the court.

Over the years, traditional justice mechanisms have increasingly involved the participation of children for accountability and reconciliation purposes.¹⁷ Non-

¹⁴ Committee on the Rights of the Child, general comment No. 12 (2009) on the right of the child to be heard (CRC/C/GC/12).

¹⁵ For further details on children and transitional justice, see: Cécile Aptel and Virginie Ladisch, "Through a new lens: a child-sensitive approach to transitional justice" (New York, International Center for Transitional Justice, 2011); "Children and truth commissions" (Florence, Italy, UNICEF Innocenti Research Centre, 2010); Saudamini Siegrist and others, eds., *Children and Transitional Justice: Truth-telling, Accountability and Reconciliation* (Human Rights Program, Harvard Law School, Cambridge, Massachusetts, 2010); Expert Paper Series on Children and Transitional Justice, launched in 2007 by the UNICEF Innocenti Research Centre.

¹⁶ Special Court for Sierra Leone, Prosecutor v. Sam Hinga Norman, Case No.SCSL-2004-14-AR 72(E), Decision of the Appeals Chamber, 31 May 2004.

¹⁷ United Nations Entity for Gender Equality and the Empowerment of Women, United Nations Children's Fund, United Nations Development Programme, *Informal Justice Systems: Charting a Course for Human Rights-based Engagement* (New York, 2010).

judicial processes such as truth and reconciliation commissions are generally considered better adapted to children, because of their less intimidating and more flexible nature, than criminal prosecutions in courts. Truth and reconciliation commissions are also closer to the community and have better conditions for the fully-fledged participation of children, which is also linked with the participation of communities in general. The detention of children should be used as a measure of last resort, and preference should instead be given to alternatives that would contribute to the children's rehabilitation.

The participation of children in transitional justice is vital to breaking the intergenerational cycles of violence and prevent future violations. Not only is the participation of children a right, it also helps to build their capacity for active citizenship.



Photo credit: Fabienne Vinet OSRSG CAAC

To ensure the meaningful participation of children, it is important to consider the “do no harm” principle. The process must be guided by the best interests of the child, and any participation must be voluntary and based on informed consent. In addition, specific guarantees for the safety and security of the child must be in place, including the principle of confidentiality. The child's age and developmental stage need

to be taken into consideration, and only trained staff that are fully familiar with child-friendly and gender-sensitive procedures should directly interact with the child, including in the context of criminal proceedings. Children should have access to psychosocial support services where necessary, to support them throughout the process.



IV. Conclusions, including considerations on child protection issues in the implementation of peace agreements

The successful inclusion of child protection issues in peace processes can lower the impact of transition for children victims of armed conflict and, at the same time, inform the development of prevention and accountability systems in the post-conflict period. A mediator needs to pay close attention to the precision of the agreements under negotiation, including on child protection, as this is critical both to limiting points of contention during implementation and to avoiding the reopening of the agreement.

Mediators should explore the possibility of including specific references to child protection in mechanisms for the implementation of peace agreements. Peace agreements can incorporate arrangements for the monitoring and verification of implementation of these commitments (including by third parties) and can also include links to accountability mechanisms. It is important to have clear agreements on how commitments to protect children will be implemented and to have access to the required resources throughout the implementation phase.

The involvement of United Nations entities with child protection expertise has proved to be very useful in monitoring the implementation of agreements in the form of joint monitoring mechanisms.

For example, the Joint Verification and Monitoring Mission in Burundi, which comprised the Special Representative of the Secretary-General for the United Nations Integrated Office in Burundi (BINUB), the African Union, the Ministry of Defence and the leader of the Forces nationales de libération (National Liberation Forces) (FNL), was established in October 2006 to review the ceasefire agreement between the Government of Burundi and FNL. The Country Task Force on Monitoring and Reporting, which was co-chaired by UNICEF and BINUB, was not a formal member of the Joint Verification and Monitoring Mechanism, but was invited to brief it on the Security Council-mandated Monitoring and Reporting Mechanism and to provide updates on grave violations against children that were being documented, but could not be verified by the Country Task Force because

of lack of access. In this forum, the Country Task Force advocated the release of children associated with parties to the conflict and highlighted challenges faced in this regard, in particular by FNL.

Through these advocacy efforts, the protection of children in armed conflict started to be included in the agenda of the Joint Verification and Monitoring Mechanism and the Country Task Force was also able to establish a cooperative relationship with FNL, resulting in the subsequent release of children from its ranks. Following further negotiations, agreement was reached in December 2008 on a declaration stipulating the immediate and unconditional release of children (see S/2009/450).

Another example is the Ceasefire and Transitional Security Arrangements Monitoring Mechanism established by the Intergovernmental Authority on Development (IGAD) following the signature of the Agreement on the Resolution of the Conflict in the Republic of South Sudan in 2015, in which grave violations against children were considered violations of the ceasefire agreement. In 2012, the Government of South Sudan had signed an action plan with the United Nations to end and prevent the recruitment and use of children by the Sudan People's Liberation Army (SPLA). The Government restated its commitment to the action plan in 2014, with the additional undertaking to end all grave violations against children. The Sudan People's Liberation Army in Opposition (SPLA-iO) also signed an action plan in December 2015. The Country Task Force on Monitoring and Reporting played a key role in this endeavour, as the monitoring of the implementation of these action plans was conducted in parallel with, and contributed to, the monitoring of the implementation of the peace agreement.

In conclusion, implementation mechanisms that effectively track child protection issues should guarantee unimpeded, regular and secure access to United Nations staff and other relevant entities to monitor and verify compliance. Such mechanisms should also ensure that no retaliatory action is taken against monitors, victims, witnesses or any other third party in connection with activities undertaken pursuant to the implementation of agreed commitments.



Annex I

Examples of commitments made during peace processes

There are many ways to integrate child protection issues in peace processes. Some situations make it possible for specific issues, such as the release and reintegration of children formerly associated with parties to a conflict, to be formally included and clearly spelled out in peace agreements, while in other contexts the mediator might consider the same issues too sensitive to be included directly in the peace talks. The best approach to the inclusion of child protection issues and the form which they should take should be determined by the mediator on a case-by-case basis. This assessment would greatly benefit from having a child protection expert as a member of the mediation team.

The following are some examples of situations that allowed child protection issues to be included in the text of peace agreements and ceasefire agreements (listed in alphabetical order of the countries concerned):

Central African Republic

In November 2018, at the request of the Government of the Central African Republic, the Office of the Special Representative of the Secretary-General for Children and Armed Conflict, working in collaboration with the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA) and UNICEF, drafted an aide mémoire on the protection of children affected by armed conflict for the Government's consideration and possible inclusion in the peace agreement. The Political Agreement for Peace and Reconciliation in the Central African Republic, signed in Bangui on 6 February 2019 between the Government and 14 armed groups, addresses all six grave violations against children and established a fully-fledged monitoring system for the implementation of the Agreement.

MINUSCA, as one of the facilitators of the peace agreement, has an important role to play in support of the implementation of the Political Agreement for Peace and Reconciliation in the Central African Republic. Article 35 of the Agreement affirms the authority of guarantors and facilitators to impose punitive measures on signatory parties violating the agreement. It also indicates that perpetrators are likely to be exposed to international sanctions. The possibility of applying sanctions to enforce the agreement gives additional leverage to the international community to press for its implementation.



Central African Republic

Political Agreement for Peace and Reconciliation in the Central African Republic, 6 February 2019
(emphasis added)

Recognizing that the majority of the population of the Central African Republic is made up of children and women who have been deeply affected by the armed conflict, and that the full protection of their rights and the cessation of abuses and hostilities are objectives common to all Parties” ...



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III. Commitments of the armed groups

...

- (c) To refrain from engaging in any act of destruction or illegal occupation of public buildings and sites, such as hospitals, schools and places of worship, and sites for internally displaced persons, as **well as all acts of pillage or violations committed against civilians, including sexual and gender-based violence, in particular against women and girls.**

...

- (h) To put an immediate end to all forms of recruitment into armed groups, including the recruitment of children and foreigners ...

Implementation of the cessation of hostilities and temporary security arrangements

...

- (c) Any act that would violate the rights of children, including the recruitment and use of children under 18 years of age in any direct or indirect capacity within an armed unit.
- (d) Any act of violence against women and girls, or of sexual or gender-based violence. ...
- (g) Any act **disrupting or preventing the delivery of humanitarian or development assistance;**

Colombia

In September 2012, the Government of Colombia announced the start of formal peace talks with FARC-EP, one of the main armed groups in the Colombian conflict listed since 2003 in the annexes of the Secretary-General's annual report as being responsible for the recruitment and use of children. This process was characterized by the fact that there was no mediator: the parties had chosen to engage in direct talks with third-party support.¹

The engagement of the Special Representative of the Secretary-General for Children and Armed Conflict took place in a context marked by the Government's reservations regarding the United Nations Monitoring and Reporting Mechanism on grave violations against children in situations of armed conflict. The Special Representative engaged with the Government and FARC-EP during the negotiations, calling for the prohibition of the recruitment and use of all children under 18 years old and the exclusion of war crimes from any amnesty. The political intervention by the Special Representative, who was invited by the parties to travel to Havana in 2015 to advise them on the child protection measures to be taken and was perceived as an impartial and neutral outsider with high-level access, not subject to any national interference, was instrumental in complementing rights-based advocacy efforts carried out by other entities at the national level. As a result, the recruitment and use of children by FARC-EP was framed as a confidence-building measure that created momentum and helped move the peace process forward.

On 15 May 2016, the parties reached an agreement on the separation of children under 15 years old from the FARC-EP camps and a commitment to develop a road map for the separation of all other minors and a special reintegration programme.

¹ Cuba and Norway, as guarantors, played a facilitating role in the discussions, while Venezuela and Chile, as "accompanying" countries, provided regional support.

Colombia

**Joint Communiqué No. 70
of 15 May 2016** (emphasis
added)

3. Commitments:

The FARC-EP bind
themselves to fully and
effectively implement the
following measures:

- a. **Continue to comply with their decision to end the recruitment of minors under 18 years old.**
- b. Deliver the information available regarding minors under 15 years old who will be leaving the camps shortly, within the framework of the trust-building measures.
- c. **Proceed with the release of the minors under 15 years old from the camps of the FARC-EP** as soon as the protocol and the transitory placement plan are agreed, pursuant to the provisions set forth in this agreement.
- d. **Adopt the measures within their reach to guarantee the progressive release of all the minors currently in the camps of the FARC-EP**, purpose for which the Government and the FARC-EP will work on a road map.
- e. Contribute to the identification of all minors in the camps of the FARC-EP, in order for them to receive the necessary support and accompaniment in the release process, and to take part in the special program for the guarantee of their rights to be agreed for them.
- f. Inform the guerrilla units about these measures.



Photo credit: © UNICEF/UN013360/LeMoyne

Myanmar

The ending and prevention of grave violations against children formed an integral part of the peace process in Myanmar. Provisions on the prevention of grave violations against children were included in the nationwide ceasefire agreement signed in October 2015. The critical importance of this step was further recognized by the Union Peace Conference, at its third session in July 2018, through its specific commitment to “set up and conduct programmes to ensure children’s rights, abide by the United Nations Convention on the Rights of the Child for all-round development of children and eliminate the six grave violations against children”. The United Nations liaised with regional entities and member States directly involved in the negotiations by providing specific phrasing that was relevant and applicable to the situations in Myanmar at the time.

The presence of these child protection provisions in the nationwide ceasefire agreement enabled the Country Task Force on Monitoring and Reporting, in its interactions with parties listed in the annexes of the annual report of the Secretary-General on children and armed conflict to place the issue of grave violations against children in situations of armed conflict squarely within the country’s domestic legal and normative framework. For instance, its written communications to the national armed forces requesting action or expressing concern about incidents of grave violations make systematic reference to the provisions of the nationwide ceasefire agreement, before citing the international legal and regulatory framework.



Myanmar

Nationwide Ceasefire Agreement between the Government of the Republic of the Union of Myanmar and the Ethnic Armed Organizations, 15 October 2015 (emphasis added)



Photo credit: © UNICEF/UNI28428/Noorani

5. The Tatmadaw and the Ethnic Armed Organizations agree to abide by the following troop-related terms and conditions:
 - ...
 - d. Avoid using any religious buildings, schools, hospitals, clinics and their premises as well as culturally important places and public spaces as military outposts or encampments.
 - ...
 9. The Tatmadaw and the Ethnic Armed Organizations shall abide by the following provisions regarding the protection of civilians:
 - ...
 - h. **Avoid restrictions on the right to education in accordance with the law; destruction of schools and educational buildings, including educational tools; and the disturbance and hindrance of students and teachers;**
 - ...
 - k. **Avoid the destruction or actions that would lead to the destruction of schools, hospitals, clinics, religious buildings and their premises and the use of such places as military bases or outposts”**
 - ...
 - n. **Avoid killing or maiming, forced conscription, rape or other forms of sexual assault or violence, or abduction of children.**

Nepal

The Comprehensive Peace Accord signed in November 2006 put an end to ten years of conflict in Nepal between the Government and the Unified Communist Party of Nepal (Maoist) (UCPN-M). Thousands of children had been forcibly recruited by UCPN-M, while others had joined voluntarily to fight against the Government and spent years in the ranks of UCPN-M. While grave violations of children in Nepal have decreased significantly since the signing of the Comprehensive Peace Accord, children had been recruited by the Maoist army just before the signing of the agreement and no progress was achieved in securing the formal discharge of these children, although large numbers had been informally released.

On 16 December 2009, the Government of Nepal and UCPN-M signed an action plan with the United Nations² outlining specific time-bound activities for the immediate and unconditional release of the disqualified UCPN-M personnel verified as children who remained in the cantonments. The release process started in January 2010 and was completed in one month. Some two thousand children were officially released at that time, while more than one thousand children had either fled earlier or were fearful of returning to the cantonments and did not take part in the release exercise.

The United Nations played a key role in monitoring the situation of released children and in providing DDR programmes to ensure their full reintegration into society and prevent their re-recruitment.

² As recommended in the report of the Secretary-General on children and armed conflict in Nepal (S/2008/259) and the conclusions of the Working Group on Children and Armed Conflict (S/AC.51/2008/12).

Nepal

Comprehensive Peace Accord, 22 November 2006 (emphasis added)

7.6.1. Both parties

[Nepalese
Government and

the Communist
Party of Nepal] fully
agree to provide

special protection to
the rights of women
and children, to

immediately stop all types of violence against women and children,
including child labor, as well as sexual exploitation and abuse, and **not
to include or use children who are 18 years old and below in the
armed force.** Children thus affected would be immediately rescued
and necessary and appropriate assistance will be provided for their
rehabilitation.



Photo credit: © UNICEF/UNI44218/Van Houtryve

Agreement on Monitoring of the Management of Arms and Armies, 8 December 2006 (emphasis added)

4.1.3 Registration of Maoist Army combatants at cantonment sites

All Maoist army combatants will be registered at the main cantonment sites. This registration will include the provision of age, name, rank, responsibilities within unit/formation, date of entry into service and will provide the basis for a complete list of personnel. ...

**Upon registration Maoist army combatants, if found to be born after 25
May 1988,** will be honourably and automatically discharged

Philippines

The Comprehensive Agreement on Human Rights and International Humanitarian Law signed in 1998 was the product of 11 months of negotiations between the Government of the Philippines and the National Democratic Front of the Philippines (NDFP), mediated by the Norwegian Government. The United Nations was not directly involved in the negotiations between the Government and the Moro Islamic Liberation Front (MILF), but UNICEF engaged separately with MILF leading to the issuance in 2007 of a joint communiqué between MILF and UNICEF upholding children's rights and protection in armed conflict.

The openness of the Philippine Government to the engagement of UNICEF accelerated the drafting of an action plan in 2009, under which MILF made a commitment to end the recruitment and use of children in the armed conflict. Subsequently, the action plan shifted its focus to raising awareness on preventing recruitment and establishing a workable complaints mechanism in the event that recruitment was resumed. MILF concluded the action plan within a period of three years and, in line with its framework, more than 1,800 children associated with its army were identified and released.

UNICEF was the first United Nations agency in the country to undertake the establishment of a field office in Cotabato, Southern Philippines. This undertaking was instrumental in shaping the text of the Agreement on the Civilian Protection Component of the International Monitoring Team, ensuring its alignment with the provisions of the Optional Protocol on the involvement of children in armed conflict.



Philippines

Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law, 1998 (emphasis added)

Part IV

Respect for International Humanitarian Law

...

Article 10

The Parties shall provide special attention to women and children to ensure their physical and moral integrity. **Children shall not be allowed to take part in hostilities.**

Photo credit: © UNICEF/UN0236644/Maitem



Agreement on the Civilian Protection Component of the International Monitoring Team (IMT), 2009 (emphasis added)

Article 1

Basic Undertakings

...

- b) **Refrain from targeting or intentionally attacking civilian properties or facilities such as schools, hospitals,** religious premises, health and food distribution centres, or relief operations, or objects or facilities indispensable to the survival of the civilian population and of a civilian nature;

South Sudan

The 2015 Agreement on the Resolution of the Conflict in the Republic of South Sudan paved the way for the establishment of the Transitional Government of National Unity. The inclusion in the peace agreement of specific references to grave violations against children and, in particular, the categorization of such acts as violations of the permanent ceasefire, marked an important step in efforts to ensure the protection of children affected by the conflict. The United Nations played an important role in advocating the inclusion of child protection provisions in the text of the agreement, which was in line with the content of the action plans that had either already been signed or were under negotiation with the parties to the conflict at the time the peace agreement was signed.

Despite the commitments made at the time of the 2015 agreement, the recruitment and use of children remained the most widely reported violation against children and the United Nations verified the presence of thousands of children in the ranks of SPLA, SPLA-iO and other armed groups.³

In 2016, IGAD launched the High-level Revitalization Forum with the aim of resuscitating the diminished prospects of the 2015 Agreement. The signature of the Revitalized Agreement on 12 September 2018 marked the commencement of the pre-transition period, which remains in progress.

³ See the report of the Secretary-General on children and armed conflict in South Sudan (S/2018/865), September 2018; and the annual report of the Secretary-G



South Sudan

Agreement on the Resolution of the Conflict in the Republic of South Sudan, 17 August 2015
(emphasis added)

Chapter II: Permanent Ceasefire and Transitional Security Arrangements

1. Permanent Ceasefire

...

- 1.7. The warring parties shall refrain from prohibited actions outlined in the Cessation of Hostilities Agreement of 23rd January 2014, which inter-alia include but are not limited to:
 - 1.7.1. **Actions that may impede or delay the provision of humanitarian assistance**, or protection to civilians, and restrict free movement of people;
 - 1.7.2 **Acts and forms of sexual and gender-based violence, including sexual exploitation and harassment;**
 - 1.7.3 **Recruitment and/or use of child soldiers by armed forces or militias** in contravention of international conventions;

...

- 1.10 The warring parties shall undertake to ensure the **immediate and unconditional release of all Prisoners of War (POWs), all those detained in connection with the conflict, and child soldiers who are under their command or influence upon the signing of this Agreement through the International Committee of Red Cross (ICRC) and UNICEF.**



Photo credit: Fabienne Vinet OSRSG-CAAC

Sudan

The Comprehensive Peace Agreement signed on 9 January 2005 between the Government of the Sudan and the Sudan People's Liberation Movement/Sudan People's Liberation Army (SPLM/A) set out very clear and specific provisions on child protection. Through these provisions, it aimed to address in particular the critical issue of children recruited and used by the parties to the conflict, a practice widely accepted to be a feature of the conflict. Specific child protection provisions were included in various components of the Comprehensive Peace Agreement. The chapter on security arrangements, for example, identified the recruitment and use of children as one violation of the ceasefire agreement and included operational modalities to identify, separate and demobilize children associated with parties to the conflict.

These provisions meant that child protection became a standing item on the agendas of all structures and bodies relating to the implementation of security arrangements. This, in turn, systematized dialogue and engagement between the United Nations Mission in the Sudan – which was mandated to support the implementation of the Comprehensive Peace Agreement – SPLM and the Sudan Armed Forces regarding the protection, release and demobilization of thousands of children. It also ensured the systematic conduct of monitoring and reporting on the recruitment and use of children, including through ceasefire verification mechanisms.

Sudan

Comprehensive Peace Agreement between the Government of the Republic of the Sudan and the Sudan People's Liberation Movement/Sudan People's Liberation Army, 9 January 2005
(emphasis added)



Photo credit: Fabienne Vinet, OSRSG-CAAC



Annexure I

Permanent Ceasefire and Security Arrangements Implementation Modality and Appendices

Part I: The Ceasefire Arrangements

10. Violations

10.1. The following acts shall constitute violations to this Agreement:

...

10.1.9 Recruitment of child soldiers

...

19. Optimal Size of the Armed Forces

After the Completion of SAF redeployment to the North the parties shall begin the negotiations on proportionate downsizing. Nonetheless, **the parties shall allow voluntary demobilization, demobilization of non-essentials (child soldiers and elderly, disabled) during the first year of Interim Period.**

...

Part III: Demobilization, Disarmament, Re-Integration and Reconciliation

24. Guiding Principles

...

24.9. **The demobilization of all child soldiers within six months** of the signature of the Comprehensive Peace Agreement.

24.10. **The identification and registration within six months from the signature of the Comprehensive Peace Agreement of all children separated from their families for family tracing and ultimate reunification;**

24.11. UNICEF, ICRC and other international organizations are called upon to assist in the child component of the DDR in the Sudan;



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Annex II

Questions for the conduct of a child protection-focused conflict analysis

1. Six grave violations against children in armed conflict:

Recruitment and use of children by armed forces and armed groups

- ▶ What is the magnitude of recruitment and use of children in this context?
- ▶ How many boys and girls were recruited and used by each party to the conflict? What are their roles (for example, serving as fighters, providing support functions, or others)?
- ▶ What seems to be the general opinion of the parties' use of children? What are the ages of the children recruited and used by the parties to the conflict?
- ▶ Why are parties recruiting and using children?
- ▶ Do all parties consider anyone below the age of 18 or younger to be children?
- ▶ Were the children encouraged by their families to join a specific party to the conflict? If so, for what purpose or purposes?
- ▶ Are the command and control bodies of the armed group and of the armed forces directly involved in the recruitment and use of children (pursuant to tactics and policy or through individual acts)?
- ▶ How significant is the contribution of children to the capacity of each party? Would their release significantly weaken the party's position?
- ▶ Are the children who have been recruited and used by parties potentially contributing to their attainment of their military objectives and political goals in the conflict?
- ▶ If the involvement with a party to the conflict was said to be "voluntary", what prompted children to join a specific party to the conflict? Did children join for fear of persecution by other parties, lack of livelihood opportunities, or other reasons?
- ▶ Were the children recruited as part of a massive recruitment or abduction campaign?
- ▶ Have any of the parties released, or made any commitment to release, children?
- ▶ What type of reintegration support is currently offered to children formerly associated with parties to the conflict? Is it community-based?



Killing and maiming of children



- ▶ How many children were killed and maimed in the context of concern? Was the killing and maiming specifically attributed to any of the parties involved?
- ▶ What is the scale and nature of killing and maiming of children in this context?
- ▶ What are the motives behind the killing and maiming of children (for example, ethnic, religious, political, ideological)?
- ▶ Are the command and control bodies of the armed group or armed forces directly involved in killing and maiming of children (pursuant to tactics and policy or through individual acts)?
- ▶ Have the parties already taken mitigating measures to end and prevent the killing and maiming of children? If so, did any of these measures result in a decrease in child casualties?

Rape and other forms of sexual violence



- ▶ What are the magnitude and recent trends of conflict-related rape and other forms of sexual violence against children by parties to the conflict in this context?
- ▶ What is the ratio of boys to girls subjected to this violation by parties to the conflict?
- ▶ Is sexual violence difficult to monitor or to tackle in this geographical context and possibly underreported owing to the stigma associated with this violation?
- ▶ What are the consequences, including social implications, for boys and girls, respectively, who survived sexual violence? What are the barriers and challenges to reporting instances of sexual violence against children (such as widespread impunity, stigmatization)?
- ▶ What are the motives of perpetrators of sexual violence against children (for example, ethnic, religious, political, ideological)?
- ▶ Are the command and control bodies of the armed group or armed forces directly involved in sexual violence against children (pursuant to tactics and policy or through individual acts)?
- ▶ Is sexual violence perpetrated against boys and girls as a tactic of war?
- ▶ Have the command and control bodies of the armed group or armed forces specifically condemned and addressed the behaviour of their rank and file members?



- ▶ Have the parties already taken any protective or preventive measures to address this violation?
- ▶ To what types of assistance and reintegration services do child survivors of sexual violence have access? Are there referral systems in place and are they accessible to children? Are services community-based and adapted to children?

Abduction

- ▶ Have any of the parties been involved in the abduction of children, including for the purpose of recruitment and use, sexual violence or other conflict-related exploitative purposes?
- ▶ What are the motives behind the abduction of children (for example, ethnic, religious, political, ideological)?
- ▶ Have any of the parties released children who were previously abducted? If so, on what grounds (such as humanitarian or political)?
- ▶ What type of reintegration support is currently offered to children who were abducted? Is it community based?



Attacks on schools and hospitals

- ▶ Have any of the parties been involved in attacks on hospitals and schools? Were they targeted attacks?
- ▶ Are there any geographical areas where damage to or destruction of schools or hospitals is prevalent?
- ▶ What are the apparent motives behind the targeting of schools and hospitals?
- ▶ Have any of the parties already taken preventive or mitigating measures? If so, did these measures result in a decrease of attacks on schools and hospitals?
- ▶ Are children prevented from going to school because the schools have been damaged or destroyed and educational personnel targeted? If so, what is the scale of the educational disruption? Are girls and boys affected differently?
- ▶ Are children prevented from receiving medical assistance because hospitals have been damaged or destroyed and medical personnel targeted?



Denial of humanitarian access for children



- ▶ Are any of the parties to the conflict denying humanitarian access for children? For what purpose?
- ▶ What type of denial of humanitarian access is taking place (physical barriers, attacks, bureaucratic obstacles, others)?
- ▶ Are there specific geographical areas in which humanitarian access to children is denied?
- ▶ What are the motives behind the denial of humanitarian access for children (for example, ethnic, religious, political)?
- ▶ Have any of the parties already taken preventive or mitigating measures? If so, did these measures result in a decrease in denial of humanitarian access?

2. Other issues of concern:

Deprivation of liberty of children for their actual or alleged association with parties to conflict

- ▶ Are there children who have been deprived of their liberty because of their actual or alleged association with parties to conflict?
- ▶ What is the ratio of girls to boys? Are boys and girls treated differently?
- ▶ For how long have they been deprived of liberty and was there a due process?
- ▶ What is the ethnic or religious background of the children deprived of their liberty by each party?
- ▶ Are children detained with adults?
- ▶ Are children deprived of their liberty because of their family's association with a particular party?

Military use of schools and hospitals

- ▶ Are any of the parties using schools and hospitals for military purposes?
- ▶ Are the hospitals and schools used in particular geographical locations?
- ▶ Are children prevented from going to school because of the military use of education facilities?
- ▶ Are children prevented from receiving health services because of the military use of hospitals or clinics?

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