

# Child trafficking and armed conflict



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

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## Preface

Child trafficking is prevalent in armed conflict, yet remains invisible in prevention, protection, and accountability measures. Despite increased risks of child trafficking when conflict breaks out, prevention and protection efforts remain ineffective, with harmful consequences for children, resulting in the destruction of the lives of many children.

Child trafficking in armed conflict takes many forms, for many purposes of exploitation, including sexual exploitation and sexual slavery, child marriage, recruitment and use in combat and support roles. Too often, in armed conflict children are punished, stigmatised or neglected, rather than being recognised as victims, with rights to protection, recovery and reintegration.

Child trafficking is a strategy used by parties to armed conflicts to control and terrorise communities, and to support and sustain conflict. The risk of child trafficking in transitional periods is particularly serious. Child trafficking risks destabilising peacebuilding and destroying progress towards a sustainable peace.

The risks of child trafficking are deeply gendered. Girls are most often targeted for sexual exploitation and child marriage. Boys are more likely to be targeted for recruitment use in hostilities. Child trafficking of boys for sexual exploitation is also under-reported and often invisible. The Study points to the violations of international human rights and refugee law, international humanitarian law, and international criminal law, that are linked to child trafficking, and the weaknesses of child protection systems in armed conflict.

This Study, the first of its kind, analyses the links between child trafficking and the six grave violations against children in armed conflict. It is a call to urgent action, to address a serious failing in protection through strengthening of monitoring and reporting processes, and documenting the links between child trafficking and the six grave violations against children in armed conflict. The goal is prevention, and accountability for this serious violation of international law.

The Study presents concrete, targeted, and timely recommendations to states, to parties to conflicts, and to UN entities. If implemented, they will strengthen measures to prevent child trafficking in armed conflict and to ensure accountability. By raising the visibility of protection gaps currently arising, and highlighting failings to identify, assist or protect child victims of trafficking, the Study aims to change practice, and ultimately to hold the perpetrators of child trafficking accountable.



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# 1. Background and introduction

Pursuant to United Nations (UN) Security Council resolution 1612 (2005),<sup>1</sup> the UN collects and verifies data on six grave violations against children in armed conflict (CAAC), namely recruitment and use, killing and maiming, rape and other forms of sexual violence, attacks on schools and hospitals, abduction, and the denial of humanitarian access, within the framework of its CAAC agenda. The UN additionally reports on the deprivation of liberty and military use of schools as part of this framework. Alongside these efforts, a global anti-child trafficking agenda also strengthens measures to document, prevent, investigate, and criminalize conflict-related child trafficking, as well as to assist and protect child trafficking victims in ways that center their rights as children.

Violations against children documented through the CAAC framework convey a dire picture of the situation of children before, during, and after conflict, as well as the interconnected and multi-layered nature of these grave violations. For example, an abducted child often becomes subject to other grave violations, such as sexual exploitation, and attacks on schools and hospitals along with the denial of humanitarian access can make children vulnerable to various forms of exploitation, including recruitment and use by armed forces and groups. So too does the global anti-child trafficking agenda emphasize addressing the multiple forms of exploitation against children during armed conflict that meet the international definition of child trafficking. Pursuant to this definition, child trafficking occurs when there is an “act” (such as “recruitment” or “transfer” or “harbouring”) with a purpose to exploit a person under the age of 18 for purposes ranging from “sexual exploitation” to “forced labour” to forced marriage to recruitment and use and to criminality.<sup>2</sup>

However, in practice, the relationship between conflict-related child trafficking and the six grave violations against children is often not examined and the legal and policy responses to both areas remain siloed. These six grave violations against children are often closely linked to child trafficking—for example the violations may occur before, during, and in the aftermath of child trafficking—and sometimes will even themselves comprise child trafficking as defined under international law. Yet, failure to address these interlinkages contributes to protection and accountability gaps<sup>3</sup> whereby “child victims of trafficking in conflict situations rarely receive the assistance, protection, and rehabilitative care that is their right.”<sup>4</sup>

Through primary research conducted with UN Country Task Forces on Monitoring and Reporting (CTFMRs) on the six grave violations as well as other experts from the UN and non-governmental organizations,<sup>5</sup> and secondary research, this study details how conflict-

1 S.C. Res. 1612, UN Doc. S/RES/1612 (2005) (July 26, 2005).

2 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, art. 3, Nov. 15, 2000, 2237 UNT.S. 319 [hereinafter UN Trafficking Protocol].

3 Siobhán Mullally (Special Rapporteur on Trafficking in Persons, Especially Women and Children), *Strengthening accountability for trafficking in persons in conflict situations*, UN Doc. A/78/172, 1 (July 13, 2023).

4 *Trafficking in persons in conflict situations: the world must strengthen prevention and accountability* (July 29, 2022), <https://www.ohchr.org/en/statements/2022/07/trafficking-persons-conflict-situations-world-must-strengthen-prevention-and>.

5 Fourteen interviews (including some with multiple interviewees and/or agencies present) were conducted and are drawn upon both generally and through specific citation for this study.



related child trafficking and the six grave violations interconnect and how to address these interlinkages by:

- identifying what comprises child trafficking in armed conflict and its interlinkages with the six grave violations against children in armed conflict;
- detailing how child trafficking is prohibited by international law—including particularly anti-trafficking, human rights, humanitarian, criminal, and refugee law—and the types of measures States are legally required to take to prevent, investigate, and prosecute child trafficking, as well as to protect and assist child victims; and
- outlining challenges and opportunities in practice in addressing the connections between child trafficking and the grave violations, with a focus on how applying anti-trafficking legal and policy frameworks improves prevention, protection, and accountability measures.

This study also offers recommendations in three areas:

- monitoring, documentation, verification and reporting on child trafficking and its linkages with grave violations;
- addressing legal and policy gaps, including accountability, for child trafficking and its linkages with grave violations; and
- developing protection and human rights-based responses to child trafficking as linked to the grave violations.

These recommendations emphasize the roles of UN system-wide contributions (e.g., through UN agencies); parties to the armed conflict; and/or of Member States (including through the UN Security Council) in addressing child trafficking and its linkages with grave violations. This cross-regional study focuses on seven countries or geographic areas: Colombia, Lake Chad basin, Libya, Myanmar, South Sudan, the Syrian Arab Republic [hereinafter Syria], and Ukraine.



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## 2. Defining child trafficking in armed conflict

The internationally accepted definition of child trafficking is contained in the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children [hereinafter UN Trafficking Protocol]. Article 3(a) of the UN Trafficking Protocol provides that trafficking in persons:

shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.<sup>6</sup>

Article 3(c) states that: “The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered trafficking in persons even if this does not involve any of the means set forth in subparagraph (a).”<sup>7</sup> And Article 3(d) of the UN Trafficking Protocol defines a “child” as “any person under eighteen years of age.”<sup>8</sup>

As such, the definition of child trafficking will be met if a person under the age of 18 has been subject to an “act” (such as recruitment, transportation, or transfer) for the “purpose of exploitation” (the UN Trafficking Protocol’s list of exploitation purposes is open-ended and includes “sexual exploitation” and “forced labour”). Unlike with adult trafficking victims, there is no requirement to show the “means” (e.g., force or deception) by which this occurred because under this definition a child can never legally consent to their own exploitation. In identifying a child trafficking victim, it is their age at the time of the alleged trafficking and not the age when trafficking is assessed that is relevant.<sup>9</sup> The definition always applies—during situations of both peace and armed conflict—and is used for both internal and cross-border child trafficking.

6 UN Trafficking Protocol, *supra* note 2, art. 3(a).

7 *Id.* art. 3(c).

8 *Id.* art. 3(d).

9 *Id.*

10 Siobhán Mullally (Special Rapporteur on Trafficking in Persons, Especially Women and Children), Report on Trafficking in Persons, Especially Women and Children, UN Doc. A/76/263 36 (Aug. 31, 2021). See also ORG. FOR SEC. & COOP. IN EUR., TRAFFICKING IN HUMAN BEINGS AND TERRORISM: HOW AND WHY THEY INTERSECT 33 (2021).

11 HUMAN RIGHTS WATCH, “WE CAN DIE TOO”: RECRUITMENT AND USE OF CHILD SOLDIERS IN SOUTH SUDAN 2 (2015), <https://www.hrw.org/report/2015/12/15/we-can-die-too/recruitment-and-use-child-soldiers-south-sudan>.

12 UN Comm. on the Rights of the Child et al., Joint statement on illegal intercountry adoptions, UN OFF. HIGH COMM’R HUM. RTS. (OHCHR), 2 (Sept. 29, 2022), [https://www.ohchr.org/sites/default/files/documents/hrbodies/ced/2022-09-29/JointstatementICA\\_HR\\_28September2022.pdf](https://www.ohchr.org/sites/default/files/documents/hrbodies/ced/2022-09-29/JointstatementICA_HR_28September2022.pdf).

Child trafficking can occur at multiple stages in armed conflict and its aftermath as the “act” requirement “can be part of the initial trafficking process, the end point, or the maintenance of exploitation.”<sup>10</sup> This means, for example, that in cases when children recruited to armed forces or groups are subsequently also “unable to leave if they wanted to,”<sup>11</sup> both the child’s initial recruitment and their later ongoing control indicate the existence of trafficking. Definitionally, child trafficking in armed conflict can be committed by a wide range of perpetrators (e.g., government armed forces, militias, armed groups including those designated as terrorist groups by the UN, families, and corporations) and for a variety of exploitative purposes, including illegal inter-country adoption;<sup>12</sup> forced labor; active combat and support roles; criminality (e.g., begging); sexual exploitation; and child marriage and pregnancy. Trafficking in persons online and/or “facilitated by new technologies” is also of relevance for pre-conflict, conflict, and post-conflict situations, including when persons are fleeing conflict settings.<sup>13</sup>

As such, often countries in armed conflict or post-conflict settings will have multiple forms of child trafficking present concurrently, involving different victims, perpetrators, locations, and exploitative purposes. For example, in Colombia, the UN Special Rapporteur on trafficking in persons, especially women and children [hereinafter UNSRTIP], has noted “the need to ensure the application of the definition of trafficking” to a range of practices, including “[r]ecruitment and use of children under the age of 18 (and not limited to children under 15 years);” forced recruitment by armed groups; forced labor; forced criminality; exploitation in begging; child and forced marriage; and sexual exploitation.<sup>14</sup>

Often too there can be both internal and cross-border dimensions to child trafficking in armed conflict. In relation to Syria, for example, the following multiple forms and locations of child trafficking have been observed since the beginning of the conflict:

- Abduction and transfer of Yazidi girls from Iraq to Syria for purposes of sexual slavery and some for forced marriage.<sup>15</sup>
- Abduction and transfer of Shi’a Turkmen girls to an orphanage where “ISIL [Islamic State in Iraq and the Levant] members in charge of the orphanage in Mosul set up an arrangement for the systematic forced marriage of Shi’a Turkmen girls to ISIL fighters.”<sup>16</sup>

13 OSCE GRETA (Group of Experts on Action against Trafficking in Human Beings), Guidance Note on addressing the risks of trafficking in human beings related to the war in Ukraine and the ensuing humanitarian crisis 5 (2022), <https://rm.coe.int/guidance-note-on-addressing-the-risks-of-trafficking-in-human-beings-r/1680a663e2>.

14 Siobhán Mullally (Special Rapporteur on Trafficking in Persons, Especially Women and Children), End of mission statement of the Special Rapporteur on trafficking in persons, especially women and children, Siobhán Mullally, on her visit to Colombia from 21 to 30 May 2023 5 (May 30, 2023), <https://www.ohchr.org/en/press-releases/2023/05/colombia-un-expert-calls-effective-protection-victims-trafficking>.

15 UN Investigative Team to Promote Accountability for Crimes Committed by Da’esh/ISIL (UNITAD), Report on sexual violence against women and girls committed by ISIL in Iraq 14–19 (2023); Report of the UN Secretary-General, Children and armed conflict in the Syrian Arab Republic, UN Doc. S/2021/398 25 (Apr. 23, 2021).

16 Report on sexual violence against women and girls committed by ISIL in Iraq, supra note 15, 60.

- Families (e.g., local Sunni Syrian families) agreeing, in some cases under threat, for Syrian girls to marry members of ISIS.<sup>17</sup>
- Syrian boys being forced to join ISIS by a male relative (e.g., father).<sup>18</sup>
- Forced return by ISIS members of girls to *madafas* [women’s guesthouses] for purposes of re-marriage after their husband was killed.<sup>19</sup>
- Abduction and transfer of Yazidi and Shi’a Turkmen boys from Iraq to Syria for roles in ISIS.
- Recruitment of foreign national girls and boys under the age of 18 to be affiliated with ISIS, including for the purposes of forced marriage (e.g., through *madafas*) or for combat.<sup>20</sup>
- Children of enslaved Yazidi women who were under the age of puberty and kept with their mother when she was enslaved but were later themselves at actual or potential risk of trafficking for labor, illegal adoption, or as sexual slaves.<sup>21</sup>
- Trafficking of children perpetrated by their parents to situations of conflict (e.g., foreign nationals traveling with children to ISIS in Syria and where there is an intent to exploit the children e.g., to join armed groups or for marriage).
- Trafficking in and from camps in Northeast Syria, because “[a]ll these children [are] at extreme risk of sexual and gender-based violence, trafficking, and enslavement,”<sup>22</sup> including the risks that result from lack of humanitarian access.<sup>23</sup>
- Treatment of persons in places of detention in Northeast Syria—including children—including “practices of trafficking and sexual exploitation” and “mass forced transfer and abduction of boy children.”<sup>24</sup>

17 Interview with Amnesty International, December 1, 2023. Throughout this study the terms “ISIS” and “Da’esh” are used interchangeably dependent on the preference of the source for the information.

18 Interview with Amnesty International, December 1, 2023.

19 Interview with Amnesty International, December 1, 2023.

20 See generally TRAFFICKING IN HUMAN BEINGS AND TERRORISM: HOW AND WHY THEY INTERSECT supra note 9; Interview with Amnesty International, December 1, 2023.

21 Report on sexual violence against women and girls committed by ISIL in Iraq, supra note 15, 28 (“Some children may later have been taken away and adopted by ISIL families or used as domestic servants. Younger girls who were kept with their mothers or relatives eventually became *sabayas* upon reaching puberty.”).

22 Children in Northeast Syria must be urgently repatriated: UN experts (Mar. 31, 2023), <https://www.ohchr.org/en/statements/2023/03/children-northeast-syria-must-be-urgently-repatriated-un-experts>.

23 Interview with Amnesty International, December 1, 2023.

24 Fionnuala Ní Aoláin (UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism), UN Doc. A/78/520, 51 (Oct. 10, 2023) (internal citations omitted).



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### 3. Linking child trafficking, grave violations, and armed conflict

Identifying the linkages between the six grave violations and child trafficking leads to a fuller account of prevention measures, child protection needs, and legal accountability strategies to address children who are trafficked in armed conflict. In some instances, the grave violations may themselves also constitute a form of child trafficking, such as with recruitment and use of children. In addition, the grave violations may comprise one of the two elements that defines child trafficking, such as the purpose to exploit a child through rape and other forms of sexual violence against children. Even when the grave violations do not fully or in part meet the definition of child trafficking, they nonetheless are inextricably linked because the violations—and responses to the violations—can also put children at potential or actual risk for trafficking or even re-trafficking before, during, and in post-conflict settings. Often too the grave violations themselves are part of the lead-up to, process of, or aftermath of child trafficking, such as killing and maiming of children, or rape and other forms of sexual violence. These linkages are explored more comprehensively below.

## Recruitment and use of children

Under the definition of child trafficking, any “act” such as recruitment or transfer aimed at the purpose of having a child be linked to hostilities or a group in armed conflict is child trafficking. Indeed, “[a]lthough the use of children as combatants is not specifically listed as a form of exploitation in the definition of trafficking, it is clear that the recruitment of children (an act) into armed and/or terrorist groups (a purpose of exploitation) is a form of trafficking in persons . . . .”<sup>25</sup> As noted by the UNSRTIP in relation to South Sudan, “recruitment and use of children by armed forces and armed groups is a form of trafficking in children and must be recognized as such if accountability for such trafficking is to be ensured and assistance, protection and reparations are to be provided to survivors.”<sup>26</sup> Similarly, in relation to Colombia, the UN Special Rapporteur has noted “recruitment and use of children by non-state armed groups is a form of trafficking in persons and a grave violation of international law.”<sup>27</sup>

Recruitment and use of children comprises child trafficking whether the child is recruited and used as a combatant or for non-combatant roles (e.g., child marriage, criminality, or labor) by armed forces or groups.<sup>28</sup> In practice, children recruited into armed forces or groups have a

25 See UN OFF. ON DRUGS AND CRIME, COUNTERING TRAFFICKING IN PERSONS IN CONFLICT SITUATIONS 16 (2018), [https://www.unodc.org/documents/human-trafficking/2018/17-08776\\_ebook-Countering\\_Trafficking\\_in\\_Persons\\_in\\_Conflict\\_Situations.pdf](https://www.unodc.org/documents/human-trafficking/2018/17-08776_ebook-Countering_Trafficking_in_Persons_in_Conflict_Situations.pdf). See also UN University, Fighting human trafficking in armed conflict, 10 ideas for Action by the United Nations Security Council 8 (2016), [https://collections.unu.edu/eserv/UNU:5780/UNUReport\\_Pages.pdf](https://collections.unu.edu/eserv/UNU:5780/UNUReport_Pages.pdf) (“Recruitment, fraudulently or forcefully undertaken and leading to prohibited exploitation, meets the recognized definition of trafficking in persons. On that basis, child recruitment by armed groups can constitute human trafficking in conflict.”).

26 Siobhán Mullally (Special Rapporteur on Trafficking in Persons, Especially Women and Children), Visit to South Sudan, UN Doc. A/HRC/53/28/Add.2 16 (May 16, 2023).

27 End of mission statement of the Special Rapporteur on trafficking in persons, especially women and children, Siobhán Mullally, on her visit to Colombia from 21 to 30 May 2023, *supra* note 14, 8.

28 See, e.g., The Paris Principles, Principles and Guidelines on Children Associated with Armed Forces or Armed Groups 2.1 (Feb. 2007) (“A child 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. It does not only refer to a child who is taking or has taken a direct part in hostilities.”).

number of roles, including as “fighters, cooks, porters, messengers, spies,”<sup>29</sup> human shields, bodyguards, involvement in military parades, or “performing security duties,”<sup>30</sup> that are also differentiated by gender. For example, in Myanmar, it has been noted that recruitment and use “predominantly affected boys and occurred mostly in Rakhine State where children were used for ad hoc non-combat use for period [sic] of time ranging from hours to two weeks.”<sup>31</sup> Children are also often targeted for recruitment and use by multiple actors in armed conflict. For example, in Chad, “Boko Haram and the Islamic State West Africa Province (ISIS-WA) forcibly abducted children to serve as child soldiers, suicide bombers, child brides, and forced laborers. Community-based armed groups tasked with defending people and property in rural areas likely recruit and use children in armed conflict.”<sup>32</sup>

While child recruitment and use are often understood as involving explicit physical force or coercion (including through the grave violation of abduction), in practice, interviews for this study emphasized that there are a wide range of other factors that also compel children to join armed groups, including with their family’s involvement, such as poverty and climate insecurity. In South Sudan, for example, the lack of access to education,<sup>33</sup> “family coercion,”<sup>34</sup> and “poverty and hunger”<sup>35</sup> are drivers of child recruitment and use.<sup>36</sup> And grave violations, such as attacks on schools and hospitals and the denial of humanitarian access may lead to worsening circumstances for children and drive recruitment and use. Foreign national girls under the age of 18 can be recruited by ISIS for the purposes of sexual exploitation through promises of marriage, including through social media.<sup>37</sup> Furthermore, in general terms, “the negative impact of climate change on farmers, herders, and fishers, and tensions between pastoralists and farmers have been increasingly instrumentalized by armed groups and traffickers that have exploited this situation to their advantage, targeting children.”<sup>38</sup> While the definition of child trafficking requires only an “act” for the “purpose of exploitation” and not proving the “means” by which trafficking occurs, understanding that recruitment and use is not always physically coercive helps to ensure that all children who are recruited and used by armed forces or groups are recognized as trafficked irrespective of the means used.

The child trafficking of recruitment and use can also follow, involve, or lead to other grave violations, including killing and maiming, abduction, rape and other forms of sexual violence,

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29 Id.

30 Report of the UN Secretary-General, Children and armed conflict in South Sudan UN Doc. S/2023/99, 33 (Feb. 10, 2023).

31 Report of the UN Secretary-General, Children and armed conflict in Myanmar, UN Doc. S/2020/1243, 26 (Dec. 17, 2020).

32 U.S. DEPARTMENT OF STATE, TRAFFICKING IN PERSONS REPORT 168 (2022), <https://www.state.gov/reports/2022-trafficking-in-persons-report/>.

33 WORLD VISION, SOUTH SUDAN’S HUNGER CRISIS: THE IMPACT ON CHILDREN IN ARMED CONFLICT 6 (2022), <https://www.wvi.org/publications/case-study/emergencies/south-sudans-hunger-crisis-impact-children-armed-conflict>.

34 Id. at 5.

35 Id.

36 Interview with CTFMR in South Sudan, November 29, 2023.

37 Maria Grazia Giammarinaro (Special Rapporteur on trafficking in persons, especially women and children), Report of the Special Rapporteur on trafficking in persons, especially women and children, UN Doc. A/71/303 51 (Aug. 5, 2016); Maria Grazia Giammarinaro (Special Rapporteur on trafficking in persons, especially women and children), Report of the Special Rapporteur on trafficking in persons, especially women and children, UN Doc. A/HRC/32/41 28-29 (May 3, 2016).

38 OFFICE OF THE SPECIAL REPRESENTATIVE OF THE SECRETARY-GENERAL FOR CHILDREN AND ARMED CONFLICT, CLIMATE INSECURITY IMPACTS ON CHILDREN AND ARMED CONFLICT 16 (2023).



and even re-recruitment. For example, in Colombia “the recruitment and use of children has often led to other violations and abuses, including killing and maiming, sexual violence and abduction.”<sup>39</sup> And in Nigeria, “recruitment and use of children often led to or followed other grave violations. Most children . . . were verified to have been recruited through abduction, including . . . girls who were sexually abused during their association.”<sup>40</sup> The responses taken to child recruitment and use can also generate risks of re-trafficking. For example, the UNSRTIP has noted in relation to Colombia, that there is “limited assistance and protection given to children who escape from armed groups or criminal organisation [sic], who are victims of trafficking and at high risk of reprisals, including killings, violence and re-trafficking.”<sup>41</sup> These fears of being “re-recruited” after having been separated or escaped from armed groups have also been documented in South Sudan.<sup>42</sup>

## Rape and other forms of sexual violence



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In armed conflict, children are often targeted for the purpose of “sexual exploitation” through rape and other forms of sexual violence, including as part of the recruitment and use of children. Girls are disproportionately impacted by conflict-related sexual violence<sup>43</sup> (which includes “trafficking in persons for the purpose of sexual violence and/or exploitation, when committed in situations of conflict”<sup>44</sup>) and trafficking for sexual exploitation in armed conflict. For example, in South Sudan, the UNSRTIP has noted that “forms of trafficking experienced and prevalent in South Sudan are deeply gendered. Women and girls are primarily targeted for purposes of sexual exploitation, sexual slavery, child and

forced marriage and domestic servitude. Men and boys are primarily trafficked for purposes of forced labour, forced criminality and recruitment and use by armed forces and armed groups.”<sup>45</sup> In Bangladesh, the UNSRTIP has also documented “trafficking of Rohingya refugees [from Myanmar] especially of women and children, from the camps for purposes of child and forced marriage and sexual exploitation, and of men and boys for purposes of forced labour and forced criminality.”<sup>46</sup>

39 UN Security Council Working Group on Children and Armed Conflict, Conclusions on children and armed conflict in Colombia, UN Doc. S/AC.51/2022/2 4(i) (June 15, 2022).

40 Report of the UN Secretary-General, Children and armed conflict in Nigeria, UN Doc. S/2022/596 21 (Aug. 4, 2022).

41 End of mission statement of the Special Rapporteur on trafficking in persons, especially women and children, Siobhán Mullally, on her visit to Colombia from 21 to 30 May 2023, *supra* note 14, 9.

42 SOUTH SUDAN'S HUNGER CRISIS: THE IMPACT ON CHILDREN IN ARMED CONFLICT, *supra* note 33, at 8.

43 Report of the UN Secretary-General, Children and armed conflict UN Doc. A/77/895-S/2023/363 11 (June 5, 2023).

44 Report of the UN Secretary-General, Conflict-related sexual violence, UN Doc. S/2023/413 3 (June 22, 2023).

45 UN Doc. A/HRC/53/28/Add.2, *supra* note 26, 22.

46 Siobhán Mullally (Special Rapporteur on trafficking in persons, especially women and children), Visit to Bangladesh, UN Doc. A/HRC/53/28/Add.1 68 (Apr. 28, 2023).

The targeting of girls for the purpose of “sexual exploitation” will meet the definition of child trafficking if there is also an “act” such as recruitment, or transfer of a child. For example, Boko Haram has abducted girls and forced parents to hand over girls for marriage and then subsequently “commit[ed] widespread rape and other sexual violence as well as sexual slavery” within these forced marriages.<sup>47</sup> Such abduction or transfer of girls by families for marriage is a form of child trafficking within which sexual exploitation continues, including through rape and other forms of sexual violence. For example, in Colombia it has also been reported that

“[s]tructural gender inequality, a lack of education and poverty rendered girls vulnerable to recruitment, sexual exploitation and forced marriage. In three cases recorded in 2022, the forced recruitment of girls resulted in forced pregnancies.”<sup>48</sup>

Indeed, as noted above, while girls can often be violently coerced into marriage and other forms of sexual exploitation, they do not need to be compelled by physical force to come within the definition of child trafficking, including because there is no “means” requirement for the definition of child trafficking. For example, in Syria, girls who “were forcibly married to ISIL fighters, sometimes multiple times over a brief period; consecutively with several, sometimes foreign, fighters; and under coercion and threats to their families, but sometimes also motivated by financial incentives, status in the community, access to health services and perceived protection”<sup>49</sup> are child trafficking victims.

Child trafficking for the purposes of “sexual exploitation,” can also involve or lead to other grave violations, such as abduction of children, killing and maiming of children, attacks on schools and hospitals, and the denial of humanitarian access to children. For example, in South Sudan, women and girls have in the past been abducted by government forces and allied militias and subjected to rape, sustaining serious injuries, and in some cases killed when resisting rape.<sup>50</sup> At times, the sale or transfer of girls by families for marriage is linked to other grave violations, including because the negative impacts on livelihood and opportunities that follow attacks on schools and/or hospitals as well as denial of humanitarian access for children create financial pressures on families. For example, “Syrian girls, including girls with disabilities, can be at risk of child marriage due to poverty, as families often see marrying off their daughters as a way to alleviate financial pressures.”<sup>51</sup> There can also be risks of re-trafficking of girls who become pregnant because of sexual violence in conflict and of trafficking of their children born of sexual violence in conflict.<sup>52</sup>

47 AMNESTY INTERNATIONAL, “WE DRIED OUR TEARS”: ADDRESSING THE TOLL ON CHILDREN OF NORTHEAST NIGERIA’S CONFLICT 7 (2020), <https://www.amnesty.org/en/documents/afr44/2322/2020/en/>.

48 UN Doc. S/2023/413, *supra* note 44, 28.

49 UN Doc. S/2021/398, *supra* note 15, 25.

50 AMNESTY INTERNATIONAL, “ANYTHING THAT WAS BREATHING WAS KILLED” – WAR CRIMES IN LEER AND MAYENDIT, SOUTH SUDAN 14 (2018), <https://www.amnesty.org/en/documents/afr65/8801/2018/en/>.

51 HUMAN RIGHTS WATCH, “IT WAS REALLY HARD TO PROTECT MYSELF”: IMPACT OF THE ARMED CONFLICT IN SYRIA ON CHILDREN WITH DISABILITIES (2022), <https://www.hrw.org/report/2022/09/08/it-was-really-hard-protect-myself/impact-armed-conflict-syria-children>.

52 Report of the UN Secretary-General, Women and girls who become pregnant as a result of sexual violence in conflict and children born of sexual violence in conflict, UN Doc. S/2022/77 2 (Jan. 31, 2022).

## Killing and maiming of children

Child trafficking in armed conflict can sometimes lead to children being maimed or killed in the course of being trafficked, after being trafficked, and/or in seeking to leave exploitative situations. A recent study addressing the relationship between “slavery-related abuse” and internal displacement in Nigeria, South Sudan, and the Democratic Republic of the Congo found that the “use and threat of physical violence were the most common methods of forcing internally displaced persons (IDPs) into situations of slavery-related abuse and of preventing them from leaving exploitative situations.”<sup>53</sup> With regard to children specifically, the same study found that in South Sudan, physical violence was used to force IDPs in 44 per cent of child recruitment cases.<sup>54</sup> Boys who are trafficked to armed forces and groups can be killed or injured in the course of combat, but also for other reasons, including in training camps or as corporal punishment.

Killing and maiming also occurs in the cases of child sex trafficking (e.g., in child marriages or other sexual exploitation in armed groups), including injuries sustained from rape and other forms of sexual violence against children. In Syria, ISIL members subjected abducted Yazidi women and girls to sexual violence in detention or holding sites after being sold and while in the *sabaya* [sexual slavery] system.<sup>55</sup> Children of those women trafficked by armed groups can also be exposed to violence (e.g., as noted earlier, children of Yazidi women who witnessed beatings of their mother by their captor, as well as suffered beatings themselves). Killing and maiming may also take place in the context of abductions.<sup>56</sup>

## Attacks on schools and hospitals

Attacks on schools can also lead to the recruitment and use of children by armed groups. This can occur directly, as with the abduction of schoolgirls by Boko Haram in Nigeria for sexual exploitation, marriage, “forced participation in military operations,” and forced labor.<sup>57</sup> It can also occur indirectly by decreasing access to services, weakening the protective mechanisms available to children, and decreasing livelihood opportunities for children that could otherwise buttress their vulnerability to recruitment.<sup>58</sup> In Colombia, for example, it has been noted that

53 INT’L LABOUR ORG. (ILO), INT’L ORG. FOR MIGRATION (IOM) AND WALK FREE, NO ESCAPE: ASSESSING THE RELATIONSHIP BETWEEN SLAVERY-RELATED ABUSE AND INTERNAL DISPLACEMENT IN NIGERIA, SOUTH SUDAN, AND THE DEMOCRATIC REPUBLIC OF THE CONGO vii (2022).

54 Id. at vii.

55 Report on sexual violence against women and girls committed by ISIL in Iraq, *supra* note 15, 26 (“In addition to forced domestic labor, women and girls kept as *sabayas* were subjected to indescribable amounts sexual violence which included repeated and often brutal rapes”).

56 Interview with CTFMR in South Sudan, November 29, 2023.

57 HUMAN RIGHTS WATCH, “THOSE TERRIBLE WEEKS IN THEIR CAMP” BOKO HARAM VIOLENCE AGAINST WOMEN AND GIRLS IN NORTHEAST NIGERIA 2 (2014), <https://www.hrw.org/report/2014/10/27/those-terrible-weeks-their-camp/boko-haram-violence-against-women-and-girls>.

58 UN COUNTER-TERRORISM EXECUTIVE DIRECTORATE (CTED), IDENTIFYING AND EXPLORING THE NEXUS BETWEEN HUMAN TRAFFICKING, TERRORISM, AND TERRORISM FINANCING 55 (2019) (“For example, attacks on schools and hospitals can be used to abduct children, but those violations can also make children more vulnerable to additional abuses and violations. Destroying schools and hospitals and denying education opportunities leave children more vulnerable to trafficking and sale, as they will be forced to seek education, or even employment, elsewhere.”).

attacks on schools, as well as the use of schools for military purposes “placed students at risk and interfered with their education and protection support.”<sup>59</sup> Attacks on schools in Syria have been documented as having long-term effects, many of which are directly linked to child trafficking including “increased rates of early marriage, poor mental health and psychosocial wellbeing, physical injury and disabilities, increased levels of poverty, child labour and begging, . . . increased delinquency in the community including theft and exploitation . . .”<sup>60</sup> These effects are gendered as girls “are usually the first to drop out of school and the last to return following an attack.”<sup>61</sup>



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Attacks against hospitals can also hinder the provision of specialized services and assistance to trafficked children, including those who are subject to rape or sexual violence, or maiming. For example, in Ukraine, it has been noted that “[a]ttacks on hospitals and health clinics hindered the provision of medication, including emergency contraceptives, and constrained access to services related to the clinical management of rape.”<sup>62</sup>

## Abduction of children

Abductions<sup>63</sup> are closely linked to child trafficking as where abduction is used it will almost always be coincident with the “act” requirement of child trafficking, such as recruitment, transfer, transport, receipt, or harboring of persons. The UN Security Council has noted the “link between abductions, recruitment, sexual violence and trafficking and that children in situations of armed conflict can be especially vulnerable to trafficking in persons in armed conflict and to these forms of exploitation.”<sup>64</sup> Often then, the relevant child trafficking inquiry will turn on whether the purpose of the abduction is exploitative. In practice, however, identifying whether child abductions in armed conflict are a form of child trafficking can be frustrated by the difficulties in determining the purposes of abduction.<sup>65</sup> Additionally, a lack of

59 UN Doc. S/AC.51/2022/2, supra note 39, 4(m).

60 SAVE THE CHILDREN INT’L, “I USED TO LOVE SCHOOL”: THE GENDERED IMPACTS OF ATTACKS ON EDUCATION IN SYRIA 20 (2022), <https://resourcecentre.savethechildren.net/document/i-used-to-love-school-the-gendered-impacts-of-attacks-on-education-in-syria/>.

61 Id. at 4.

62 UN Doc. S/2023/413, supra note 44, 70.

63 In the UN Trafficking Protocol, “abduction” is listed as one of the means by which adult trafficking can occur. UN Trafficking Protocol, supra note 2, art. 3(a). See also UN Office of the Special Representative of the Secretary-General for Children and Armed Conflict, Guidance Note on Abduction (2022).

64 UN Security Council Resolution 2427, UN Doc. S/RES/2427 39 (2018) (July 9, 2018).

65 UN Doc. S/2020/1243, supra note 31, 54 (noting that abductions “targeted both girls and boys,” but that “[t]he country task force could not ascertain the motive behind most abductions, although they were reportedly mainly for the purpose of recruitment or intelligence gathering.”); UN Doc. S/2023/99, supra note 30, 70 (“Children were abducted from sites for internally displaced persons, from their homes and along roads. Some were abducted for the purpose of recruitment and use or for sexual violence, while others were also abducted to advance military agendas and demonstrate prowess or for defying orders. However, abduction purposes were not known in most of the cases.”) (emphasis added).

knowledge or understanding of the different forms of child trafficking (e.g., among protection staff or authorities in IDP camps) can hinder the process of identifying the full range of purposes of exploitation for which abduction is undertaken.

In the countries reviewed for this study, abduction was linked to a range of exploitative purposes such as recruitment and use, as well as for the purposes of forced marriage and/or sexual exploitation. In Syria, it has been documented that abduction occurs “for the purposes of recruitment and use, forced marriage or ransom.”<sup>66</sup> For example, from 1 July, 2018 to June 30, 2020, six verified cases “involved cross-border abduction, which constitutes transnational child recruitment and child trafficking: three Yazidi girls were trafficked from Iraq to the Syrian Arab Republic after their abduction by ISIL” and three boys from Syria were verified to have been “recruited by Syrian armed opposition groups” and “trafficked to Libya to participate in hostilities.”<sup>67</sup> In South Sudan, there is a “continued prevalence of conflict-related trafficking of children, including abductions for purposes of sexual violence, sexual exploitation and recruitment and use . . . Other purposes of abduction may include child marriage, domestic servitude or child labour.”<sup>68</sup> In Libya, of the child abductions verified as grave violations, “[m]ost children were abducted for recruitment and use and/or sexual violence purposes.”<sup>69</sup>

## Denial of humanitarian access

Denial of humanitarian access for children has several consequences that create vulnerability to trafficking and/or a rise in conflict-related child trafficking, as well as “failures to identify, assist and protect child victims of trafficking.”<sup>70</sup> According to a recent study, these consequences include disruption of education (85 percent), recruitment and use of children (85 percent), increase in incidents of sexual violence (67 percent), separation of children from parents/guardians (46 percent), and rise in trafficking of children (33 percent).<sup>71</sup> Humanitarian access is also essential to ensuring that “assistance and protection can be provided to victims of trafficking.”<sup>72</sup>

In interviews for this study, the lack of humanitarian assistance was cited as a root cause that contributes to increased poverty that in turn makes children more vulnerable to exploitation and trafficking, including by their families. In child trafficking patterns generally, families and friends “play an important role in the recruitment of children in countries where either widespread or localized extreme poverty is common.”<sup>73</sup> Interviews for this study confirmed that this also can occur in armed conflict settings, as families give boys to armed forces or

66 UN Doc. S/2021/398, supra note 15, 37.

67 Id.

68 UN Doc. A/HRC/53/28/Add.2, supra note 26, 20.

69 UN Doc. A/77/895-S/2023/363, supra note 43, 117.

70 Trafficking in persons in conflict situations: the world must strengthen prevention and accountability, supra note 4.

71 WATCHLIST, DENIAL OF HUMANITARIAN ACCESS FOR CHILDREN: LEGAL, POLICY, AND OPERATIONAL CHALLENGES 16-17 (2022), <https://watchlist.org/publications/denial-of-humanitarian-access-for-children-legal-policy-and-operational-challenges/>.

72 Trafficking in persons in conflict situations: the world must strengthen prevention and accountability, supra note 4.

73 IOM, FROM EVIDENCE TO ACTION: TWENTY YEARS OF IOM CHILD TRAFFICKING DATA TO INFORM POLICY AND PROGRAMMING x (2023), <https://publications.iom.int/books/evidence-action-twenty-years-iom-child-trafficking-data-inform-policy-and-programming>.

groups in exchange for food or a small salary or girls for marriage to armed forces or groups or to non-parties to the conflict, such as with reports of Kachin women and girls displaced by conflict and subsequently trafficked (including from IDP camps) to China for forced marriage.<sup>74</sup> Families also have a range of strategies for resisting recruitment of their children by armed forces and groups, including hiding of boys at home or taking steps to suggest that a boy is too sick to join an armed group.<sup>75</sup> Yet, in practice, characterizing all families' roles as negative coping or survival strategies can render invisible these forms of child trafficking, as well as these resistance strategies deployed by families.



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74 HUMAN RIGHTS WATCH, "GIVE US A BABY AND WE'LL LET YOU GO" TRAFFICKING OF KACHIN "BRIDES" FROM MYANMAR TO CHINA 4 (2019), <https://www.hrw.org/report/2019/03/21/give-us-baby-and-well-let-you-go/trafficking-kachin-brides-myanmar-china>.

75 Interview with Amnesty International, December 1, 2023.



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## 4. International law on child trafficking in armed conflict

International anti-trafficking, human rights, humanitarian, criminal, and refugee law can all apply concurrently and cumulatively to address conflict-related child trafficking. In practice, the precise set of obligations on States (and, in some instances, non-State actors) to address child trafficking in armed conflict will depend on a variety of factors set out below:

- Threshold requirements for the application of a specific international law regime. Some of these laws always apply in both peace and in conflict (such as anti-trafficking, human rights, and refugee laws) which make them relevant to not just the armed conflict period, but also to preventing and remedying child trafficking as linked to the grave violations before and after the armed conflict. Others require that certain threshold conditions be met before they are relevant (e.g., the requirement of an international or non-international armed conflict for international humanitarian law to apply). International conventions addressing terrorism may also be relevant if the armed conflict also involves proscribed groups or activities that create a child trafficking-terrorism nexus.<sup>76</sup>
- Whether and how the State(s) is bound by the relevant international law instruments that comprise each regime. For example, in practice most States will have signed and/or ratified the UN Trafficking Protocol obligating them to *inter alia* apply the internationally-recognized definition it contains.<sup>77</sup> States will also be bound as a matter of treaty or customary law by some combination of the nine core international human rights treaties on racial discrimination; civil and political rights; economic, social, and cultural rights; discrimination against women; torture; children; migrant workers and their families; disabilities; and enforced disappearances.<sup>78</sup> Some of these nine core human rights treaties are also supplemented by optional protocols dealing with specific concerns that are relevant to child trafficking in armed conflict, including in particular the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict<sup>79</sup> and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.<sup>80</sup>

76 See generally UN Doc. A/76/263, supra note 10, 17–20, 36–39; TRAFFICKING IN HUMAN BEINGS AND TERRORISM: HOW AND WHY THEY INTERSECT, supra note 10, at 32–51, 53.

77 UN Treaty Collection, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XVIII-12-a&chapter=18&clang=\\_en](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18&clang=_en).

78 International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), Mar. 7, 1966; International Covenant on Civil and Political Rights (ICCPR), Dec. 16, 1966; International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966; Convention on the Elimination of All Forms of Discrimination against Women, Dec. 18, 1979; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), Dec. 10, 1984; Convention on the Rights of the Child, Nov. 20, 1989; International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Dec. 18, 1990; Convention on the Rights of Persons with Disabilities, Dec. 12, 2006; International Convention for the Protection of All Persons from Enforced Disappearance, Dec. 23, 2010.

79 Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, May 25, 2000.

80 Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, May 25, 2000.



- Which State(s) have jurisdiction over the potential or actual child trafficking victims. There can be multiple countries that have obligations to trafficked children in armed conflict, including because of territorial obligations (e.g., the country where the conflict occurs or neighboring countries to which children are displaced and are targeted in refugee camps or in destination countries for refugee or asylum-seeking children) and the extraterritorial application of human rights obligations (which includes prevention of trafficking and re-trafficking, as well as the application of the non-punishment principle<sup>81</sup>) for children under a State's power or effective control.<sup>82</sup>
- Whether conflict-related trafficking is perpetrated by State or non-State actors. International law, including particularly human rights law, binds States to not only prevent, investigate and punish child trafficking by government authorities, but also to exercise due diligence<sup>83</sup> to prevent, investigate, and punish child trafficking by non-State groups, including armed groups, private individuals, and those corporations that can be complicit in forced labor in armed conflict.<sup>84</sup> These obligations require States to also investigate collusion between State and non-State actors on conflict-related trafficking, such as has been documented in Libya.<sup>85</sup> In addition to the responsibilities of States, under international law, non-State groups (including armed groups) will themselves also often have obligations toward trafficked children. For example, international criminal law enables prosecution of crimes committed by States and armed groups; international humanitarian law contains rules of conduct for States and



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81 See Siobhán Mullally (Special Rapporteur on Trafficking in Persons, Especially Women and Children), Report on Implementation of the Non-punishment Principle, UN Doc. A/HRC/47/34, 44 (May 17, 2021) ("It is important to note that the obligation of non-punishment applies extraterritorially to identified or presumed victims of trafficking.")

82 See, e.g., Hum. Rts. Comm., General Comment No. 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, UN Doc. CCPR/C/21/Rev.1/Add.13, 10 (May 26, 2004).

83 See generally Maria Grazia Giammarinaro (Special Rapporteur on Trafficking in Persons, Especially Women and Children), Report on Trafficking in Persons, Especially Women and Children, UN Doc A/70/260 (Aug. 3, 2015). See also OFF. OF THE HIGH COMM'R FOR HUM. RTS., RECOMMENDED PRINCIPLES AND GUIDELINES ON HUMAN RIGHTS AND HUMAN TRAFFICKING: COMMENTARY 75 (2010) (Principle 2) ("States have a responsibility under international law to act with due diligence to prevent trafficking, to investigate and prosecute traffickers and to assist and protect trafficked persons."); id. at 117 (Principle 6) ("States shall exercise due diligence in identifying and eradicating public-sector involvement or complicity in trafficking. All public officials suspected of being implicated in trafficking shall be investigated, tried and, if convicted, appropriately punished.")

84 UN Human Rights Special Procedures, Joint Statement: World Day Against Trafficking in Persons, UN OFF. HIGH COMM'R HUM. RTS. (OHCHR) (July 29, 2022), <https://www.ohchr.org/sites/default/files/documents/issues/trafficking/statements/2022-07-29/2022-7-29-2022-World-day-against-trafficking-final-joint-statement.pdf>.

85 Independent Fact-Finding Mission on Libya, Report of the Independent Fact-Finding Mission on Libya, UN Doc. A/HRC/52/83, 41, 44 (Mar. 3, 2023). See also UN Support Mission in Libya and UN Off. High Comm'r Hum. Rts. (OHCHR), Desperate and Dangerous: Report on the human rights situation of migrants and refugees in Libya 27 (2018).

non-State armed groups;<sup>86</sup> and in some circumstances, human rights law also imposes direct obligations on private actors.<sup>87</sup>

- How child trafficking in armed conflict is criminalized. Within each international law regime, there is also some variance on whether child trafficking is implicitly (e.g., international humanitarian and criminal laws) or explicitly (e.g., anti-trafficking) criminalized and how child trafficking is defined and proscribed. The latter is exemplified by how different areas of international law define and prohibit the recruitment and use of children.

### Recruitment and use of children under international law

- Under international human rights law, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict prohibits States' compulsory recruitment of children under 18 and requires "all feasible measures to ensure that members of their armed forces who have not attained the age of 18 years do not take a direct part in hostilities."<sup>88</sup> The Optional Protocol also prohibits armed groups from recruiting and using children under 18.<sup>89</sup>
- Anti-trafficking law prohibits recruitment and use of children under the age of 18 by State forces and armed groups.<sup>90</sup>
- Recruitment into armed forces and direct participation in hostilities of children under the age of 15 in hostilities is prohibited under international humanitarian law.<sup>91</sup>
- Under international criminal law, it is a war crime to conscript or enlist children under the age of 15 years or use them to participate actively in hostilities in both international and non-international armed conflicts.<sup>92</sup>
- The ILO Worst Forms of Child Labour Convention, 1999 (No. 182) defines forced or compulsory recruitment of children for use in armed conflict as a "worst form[s] of child labor"<sup>93</sup> and defines a child as a person under the age of 18.<sup>94</sup>

86 See, e.g., Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Aug. 12, 1949, 75 UNT.S. 31 [hereinafter First Geneva Convention], Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, Aug. 12, 1949, 75 UNT.S. 85 [hereinafter Second Geneva Convention], Geneva Convention Relative to the Treatment of Prisoners of War, Aug. 12, 1949, 75 UNT.S. 135 [hereinafter Third Geneva Convention], Geneva Convention Relative to the Protection of Civilian Persons in Times of War, Aug. 12, 1949, 75 UNT.S. 287 [hereinafter Fourth Geneva Convention], common art. 3.

87 See, e.g., UN Comm. on the Elimination of Discrimination Against Women, General Recommendation No. 30 on Women in Conflict Prevention, Conflict and Post-conflict Situations, UN Doc. CEDAW/C/GC/30 (Nov. 1, 2013).

88 Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, *supra* note 79, arts. 1-2.  
89 *Id.* art. 4.

90 U.N Trafficking Protocol, *supra* note 2, art. 3.

91 Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), art. 77(2), June 8, 1977, 1125 UNT.S. 3 [hereinafter Additional Protocol I]; Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), art. 4(3)(c), June 8, 1977, 1125 UNT.S. 609 [hereinafter Additional Protocol II].

92 Rome Statute of the International Criminal Court 1998, arts. 8(2)(b)(xxvi) and (e) (vii)

93 ILO Worst Forms of Child Labour Convention, 1999 (No. 182), art. 3.

94 *Id.* art. 2.

- The nature and scope of protections sought for child trafficking victims. Additionally, there can be some differences among the regimes in the specificity and comprehensiveness of rights that are guaranteed to child trafficking victims (e.g., human rights law including on non-discrimination, children’s rights, and disabilities applies always and contains the strongest guarantees for protection and assistance to children, including the right to remedy). Human rights and anti-trafficking laws can also provide stronger protection of children subject to recruitment and use given that each proscribe recruitment and use for children under the age of 18, in comparison with the age of 15 as defined under international humanitarian and criminal laws. Each of these international law regimes also often contain some form of grounds for excluding or diminishing criminal responsibility of child trafficking victims (e.g., the defense of duress in international criminal law or the guarantee of non-punishment under international human rights law) that can vary in how much protection they provide in practice to child victims.

The core obligations to address conflict-related child trafficking under each of these different regimes are outlined below:

- International human rights and anti-trafficking laws always apply in peace and conflict, overlap in some instances (e.g., on prevention and criminalization), and are complementary in others (e.g., human rights law is understood to complement the weaker human rights provisions of the UN Trafficking Protocol, including by elaboration of the non-punishment principle). Read together they require States that are bound by them to:
  - prevent conflict-related child trafficking,<sup>95</sup> including through measures that center the “human rights of trafficked persons;”<sup>96</sup>
  - identify trafficked children through “proactive operational measures”<sup>97</sup> using the internationally accepted definition of child trafficking<sup>98</sup> and considering the individual circumstances of children using an age, gender, and diversity approach,<sup>99</sup> including by ensuring the rights of children with disabilities;
  - ensure assistance and protection to child victims<sup>100</sup> including through applying the non-punishment principle for acts committed because of being trafficked<sup>101</sup> to ensure that forced criminality does not undermine the status of children as victims;

95 UN Trafficking Protocol, supra note 2, arts. 2(a), 9(1)(a), 11(1).

96 RECOMMENDED PRINCIPLES AND GUIDELINES ON HUMAN RIGHTS AND HUMAN TRAFFICKING, supra note 83, at 51 (Principle 1).

97 UN. Doc. A/HRC/47/34, supra note 81, 49.

98 UN Trafficking Protocol, supra note 2, art. 3.

99 See UN High Comm’r for Refugees (UNCHR), Age, Gender, and Diversity (AGD), <https://www.unhcr.org/age-gender-diversity/>.

100 UN Trafficking Protocol, supra note 2, arts. 2(b), 6(4). See also UN Doc. A/76/263, supra note 10, 27–35 (addressing children as victims of trafficking by proscribed groups).

101 See generally INTER-AGENCY COORDINATION GROUP AGAINST TRAFFICKING IN PERSONS (ICAT), ISSUE BRIEF 8: NON-PUNISHMENT OF VICTIMS OF TRAFFICKING (2020), [https://www.unodc.org/documents/human-trafficking/ICAT/19-10800\\_ICAT\\_Issue\\_Brief\\_8\\_Ebook.pdf](https://www.unodc.org/documents/human-trafficking/ICAT/19-10800_ICAT_Issue_Brief_8_Ebook.pdf); UN Doc. A/HRC/47/34, supra note 81.

- criminalize, investigate, and prosecute State and non-State perpetrators (including those designated as terrorist groups by the United Nations and armed non-State actors) for child trafficking, including its component acts and related conduct;<sup>102</sup> and
- ensure access to justice and effective remedies for trafficked children.<sup>103</sup>



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For all these requirements, international law—particularly international human rights law—contains cross-cutting obligations of non-discrimination<sup>104</sup> (e.g., on the basis of sex, gender, race, ethnicity, disabilities) as well as other substantive rights’ guarantees (e.g., of rights of children with disabilities). These provisions provide additional protections for groups of children that are particularly vulnerable to trafficking in armed conflict, including those experiencing intersectional discrimination,<sup>105</sup> such as:

- children impacted by “[p]re-existing conditions and vulnerabilities, such as structural gender-based and other forms of discrimination affecting women, children and non-citizens.”<sup>106</sup> Gender stereotyping and discrimination can also result in boys not being identified as trafficking victims of sexual exploitation;<sup>107</sup>
- unaccompanied and separated children, including those displaced by conflict and in IDP or refugee settings or otherwise separated from their parents;<sup>108</sup>
- children in street situations;<sup>109</sup>

102 UN Trafficking Protocol, supra note 2, art. 5; RECOMMENDED PRINCIPLES AND GUIDELINES ON HUMAN RIGHTS AND HUMAN TRAFFICKING, supra note 83, at 185 (Principle 12), 193 (Principle 13), 247–48 (Guideline 4).

103 UN Trafficking Protocol, supra note 2, art. 6(6); International Covenant on Civil and Political Rights, supra note 78, art. 2(3); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, supra note 78, art. 14. International Convention on the Elimination of All Forms of Racial Discrimination, supra note 78, art. 6. See also RECOMMENDED PRINCIPLES AND GUIDELINES ON HUMAN RIGHTS AND HUMAN TRAFFICKING, supra note 83, at 223 (Principle 17); id. at 252–53 (Guideline 9); Joy Ngozi Ezeilo (Special Rapporteur on Trafficking in Persons, Especially Women and Children), Report on Trafficking in Persons, Especially Women and Children, Annex 1 UN Doc. A/69/269 (Aug. 6, 2014); ICAT, PROVIDING EFFECTIVE REMEDIES FOR VICTIMS OF TRAFFICKING IN PERSONS, ISSUE PAPER, UN OFF. DRUGS & CRIME (Jan. 2016), [https://www.unodc.org/documents/human-trafficking/ICAT/ICAT\\_Policy\\_Paper\\_3\\_Providing\\_Effective\\_Remedies\\_for\\_Victims\\_of\\_Trafficking\\_in\\_Persons\\_2016.pdf](https://www.unodc.org/documents/human-trafficking/ICAT/ICAT_Policy_Paper_3_Providing_Effective_Remedies_for_Victims_of_Trafficking_in_Persons_2016.pdf).

104 See, e.g., UN Trafficking Protocol, supra note 2, art. 14(2).

105 UN Doc. A/78/172, supra note 3, 41.

106 UN Doc. A/71/303, supra note 37, 25.

107 Trafficking in persons in conflict situations: the world must strengthen prevention and accountability, supra note 4; UN Doc. A/HRC/53/28/Add.2, supra note 26, 22.

108 End of mission statement of the Special Rapporteur on trafficking in persons, especially women and children, Siobhán Mullally, on her visit to Colombia from 21 to 30 May 2023, supra note 14, 17; UN Doc. S/2023/413, supra note 44, 49; UN Comm. on the Rights of the Child, Concluding observations on the combined fifth and sixth periodic reports of Ukraine UN Doc. CRC/C/UKR/CO/5-6, 36(c) (Oct. 27, 2022).

109 UN Comm. on the Rights of the Child, Concluding observations on the initial report of South Sudan, UN Doc. CRC/C/SSD/CO/1, 58(c) (Sept. 16, 2022); Interview with CTFMR in Myanmar, December 7, 2023.

- children with disabilities;<sup>110</sup>
  - children born as a result of conflict-related sexual violence;
  - migrant, refugee, and asylum-seeking children;<sup>111</sup> and
  - children from minority groups and indigenous peoples. For example, in Libya, “children of minority groups of Libya that lack citizenship and are of undetermined legal status are at risk of becoming involved in fighting.”<sup>112</sup> In Colombia, it has been particularly noted that trafficking in persons “particularly impacts upon Afro-Colombian communities, indigenous peoples, rural communities and Venezuelan migrants.”<sup>113</sup>
- International humanitarian law does not specifically prohibit child trafficking but has numerous relevant provisions in treaty and custom that can also be used to identify and protect trafficked persons, and to prevent and punish trafficking.<sup>114</sup> These include prohibitions on enforced disappearances<sup>115</sup>, recruitment or participation of children in hostilities,<sup>116</sup> slavery and the slave trade in all its forms,<sup>117</sup> and rape and other forms of sexual violence,<sup>118</sup> as well as provisions specifically to protect children,<sup>119</sup> women,<sup>120</sup> and refugees and internally displaced persons (e.g., explicit prohibition of population displacements;<sup>121</sup> treatment of displaced populations;<sup>122</sup> and the guarantee of *non-refoulement*<sup>123</sup>). International humanitarian law also proscribes several acts that are often perpetrated against child victims of trafficking including torture, cruel or inhuman

110 “IT WAS REALLY HARD TO PROTECT MYSELF”: IMPACT OF THE ARMED CONFLICT IN SYRIA ON CHILDREN WITH DISABILITIES, supra note 51. See also UN Doc. A/78/172, supra note 3, 40.

111 UN Doc. A/HRC/52/83, supra note 85, 44.

112 Id. at 87–88.

113 End of mission statement of the Special Rapporteur on trafficking in persons, especially women and children, Siobhán Mullally, on her visit to Colombia from 21 to 30 May 2023, supra note 14, 7.

114 UN Doc. A/78/172, supra note 3, 28–32.

115 See, e.g., Rule 98. Enforced Disappearance, INT’L COMM. RED CROSS: IHL DATABASES, [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule98](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule98).

116 Protocol I, supra note 91, art. 77(2); Protocol II, supra note 91, art. 4(3)(c).

117 Geneva Conventions, supra note 86, common art. 3(1)(c); Additional Protocol I, supra note 91, art. 75(2)(b); Additional Protocol II, supra note 91, art. 4(2)(f); Rule 94. Slavery and Slave Trade, INT’L COMM. RED CROSS: IHL DATABASES, [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule94#Fn\\_A9C0FAD0\\_00003](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule94#Fn_A9C0FAD0_00003).

118 Geneva Conventions, supra note 86, common art. 3; Third Geneva Convention, supra note 86, art. 14; Fourth Geneva Convention, supra note 86, art. 27; Additional Protocol I, supra note 91, arts 76–77; Additional Protocol I, supra note 91, art. 75(2); Additional Protocol II, supra note 91, art. 4(2); Rule 93. Rape and Other forms of Sexual Violence, INT’L COMM. RED CROSS: IHL DATABASES, [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_cha\\_chapter32\\_rule93](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_cha_chapter32_rule93).

119 Fourth Geneva Convention, supra note 86, arts. 14, 17, 23, 24, 38, 50, 76, 82, 89, 94 & 132; Additional Protocol I, supra note 91, arts. 70 and 77-78; Additional Protocol II, supra note 91, art. 4(3); ICRC: Customary International Humanitarian Law, INT’L COMM. RED CROSS, <https://casebook.icrc.org/case-study/icrc-customary-international-humanitarian-law> (rules 135–137).

120 Geneva Conventions I–II, supra note 86, art. 12; Third Geneva Convention, supra note 86, arts. 14, 25, 88, 97 & 108; Fourth Geneva Convention, supra note 86, arts. 14, 16, 21–27, 38, 50, 76, 85, 89, 91, 97, 124, 127 & 132; Additional Protocol I, supra note 91, arts. 70 and 75–76; Additional Protocol II, supra note 91, arts. 5(2) and 6(4); ICRC: Customary International Humanitarian Law, INT’L COMM. RED CROSS, <https://casebook.icrc.org/case-study/icrc-customary-international-humanitarian-law> (rule 134).

121 Additional Protocol II, supra note 91, art. 17; Fourth Geneva Convention, supra note 86, art. 49; Rule 129. The Act of Displacement, INT’L COMM. RED CROSS: IHL DATABASES, [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule129](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule129).

122 Fourth Geneva Convention, supra note 86, art. 49; Additional Protocol II, supra note 91, art. 17(1); Additional Protocol II, supra note 91, art. 4(3)(b); Rule 131. Treatment of Displaced Persons, INT’L COMM. RED CROSS: IHL DATABASES, [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_cha\\_chapter38\\_rule131](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_cha_chapter38_rule131).

123 Fourth Geneva Convention, supra note 86, art. 45(4).

treatment and outrage upon personal dignity;<sup>124</sup> uncompensated or abusive labor;<sup>125</sup> and arbitrary deprivation of liberty.<sup>126</sup>

- International criminal law does not specifically and explicitly criminalize trafficking in persons as a stand-alone offense, but there are nonetheless relevant interactions<sup>127</sup> between international anti-trafficking and human rights law and international criminal law, including with the definition of war crimes (e.g., of sexual slavery)<sup>128</sup> as well as the crimes against humanity<sup>129</sup> of enslavement<sup>130</sup> and sexual slavery (as well as forced pregnancy).<sup>131</sup> On the latter, for example, the UNSRTIP has noted that the crime against humanity of enslavement, “expressly permits and foresees the prosecution of trafficking in persons.”<sup>132</sup> In relation to war crimes, the UN Security Council has recognized the international criminal nature of trafficking, stating that “trafficking in persons entails the violation or abuse of human rights, and underscoring that certain acts or offences associated with trafficking in persons in the context of armed conflict may constitute war crimes.”<sup>133</sup> In addition, several acts referenced throughout the Rome Statute—including “deportation or forcible transfer of population;”<sup>134</sup> “[c]onscripting or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities;”<sup>135</sup> “enforced disappearance of persons;”<sup>136</sup> forcibly transferring children from a specific national, ethnic, racial, or religious group to another group;<sup>137</sup> “[v]iolence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture”<sup>138</sup>—can also overlap with the acts and/or exploitative purpose of child trafficking in armed conflict.

124 Geneva Conventions, supra note 86, common art. 3; First Geneva Convention, supra note 86, art. 12 (“torture”); Second Geneva Convention, supra note 86, art. 12 (“torture”); Third Geneva Convention, supra note 86, art. 17 (“physical or mental torture”), art. 87 (“torture or cruelty”), art. 89 (“inhuman, brutal or dangerous” disciplinary punishment); Fourth Geneva Convention, supra note 86, art. 32 (“torture” and “other measures of brutality”); Additional Protocol I, supra note 91, art. 75(2); Additional Protocol II, supra note 91, art. 4(2); Rule 90. Torture and Cruel, Inhuman, or Degrading Treatment, INT’L COMM. RED CROSS: IHL DATABASES, [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule90](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule90).

125 Third Geneva Convention, supra note 86, arts. 49–57; Fourth Geneva Convention, supra note 86, arts. 40, 51, & 95; Rule 95. Forced Labour, INT’L COMM. RED CROSS: IHL DATABASES, [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule95](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule95).

126 Rule 99. Deprivation of Liberty, INT’L COMM. RED CROSS: IHL DATABASES, [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule99](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule99).

127 UN Doc. A/78/172, supra note 3, 18–24. See generally International Criminal Court, Office of the Prosecutor, Policy on Gender-Based Crimes (2023), <https://www.icc-cpi.int/sites/default/files/2023-12/2023-policy-gender-en-web.pdf>.

128 Rome Statute of the International Criminal Court, supra note 92, art. 8(2)(b) (xxii) (international armed conflict); art. 8(2)(e)(vi) (non-international armed conflict).

129 Id. art. 7(1) (these acts must be “committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack.”).

130 Id. art. 7(1)(c).

131 Id. art. 7(1)(g).

132 Prosecutor v. Ongwen, ICC-02/04-01/15-A-2, Observations on the crimes of sexual slavery, enslavement and trafficking in persons, and on the grounds for excluding criminal responsibility: defences of duress, mental defect or disease and the non-punishment principle from the UN Special Rapporteur on Trafficking in Persons, especially women and children, 3 (Jan. 21, 2022), [https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2022\\_00285.PDF](https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2022_00285.PDF).

133 S.C. Res. 2331, UN Doc. S/RES/2331 (2016), preamble (Dec. 20, 2016).

134 See, e.g., Rome Statute of the International Criminal Court, supra note 92, art. 7(1)(d).

135 See, e.g., id. at arts. 8(2)(b)(xxvi); 8(2)(e)(vii).

136 See, e.g., id. art. 7(1)(i).

137 Convention on the Prevention and Punishment of the Crime of Genocide art. II, Dec. 9, 1948, S. Exec. Doc. O, 81-1 (1949), 78 UNT.S. 277; Rome Statute of the International Criminal Court, supra note 92, art. 6.

138 See, e.g., Rome Statute of the International Criminal Court, supra note 92, art. 8(2)(c)(i).

- International refugee law and other migration-related protections also apply, including rights of children to asylum (including by sufficiently recognizing child-specific forms of persecution in refugee status determination) and other forms of international protection, and protection measures.<sup>139</sup> For example, it has been noted that both “prevention and response to child recruitment is linked to broader refugee protection.”<sup>140</sup>

Across these different international law regimes, there are also some common guarantees that can be key to preventing and criminalizing child trafficking and providing tailored protection and assistance to child victims. For example, international law contains special protections for child trafficking victims, including the international human rights law requirement to emphasize the primacy of the best interests of the child,<sup>141</sup> as well as the child-specific protections under international humanitarian law referenced above. Different areas of international law also contain overlapping obligations regarding specific rights of relevance to conflict-related child trafficking, including prohibitions on enforced disappearances,<sup>142</sup> torture, gender-based violence, and deprivations of liberty. These obligations relating to enforced disappearance are “of relevance for migrants that live, or are in transit, in the territory of a State in which there is an armed conflict,”<sup>143</sup> including because “state forces and armed groups may directly or indirectly support migrants’ trafficking or smuggling networks as a means of financing.”<sup>144</sup> Additionally, these protections against enforced disappearances can be relevant for addressing other practices potentially linked to child trafficking in armed conflict, including illegal intercountry adoptions.<sup>145</sup>

139 See, e.g., Siobhán Mullally (Special Rapporteur on Trafficking in Persons, Especially Women and Children), Refugee Protection, internal displacement and statelessness, UN Doc. A/HRC/53/28, 64–67 (July 3, 2023); UN Comm. on the Rights of the Child, General comment No. 6 (2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin, UN Doc. CRC/GC/2005/6 (Sept. 1, 2005).

140 UN High Comm’r for Refugees, Child Protection Issue Brief: Child recruitment 2 (2013). See further UN High Comm’r for Refugees, Handbook for the Protection of Internally Displaced Persons: Part V: Protection Risks: Prevention, Mitigation and Response. Action Sheet 5 - Children Associated with Armed Forces or Armed Groups (2007).

141 See Convention on the Rights of the Child, *supra* note 78, art. 3(1).

142 End of mission statement of the Special Rapporteur on trafficking in persons, especially women and children, Siobhán Mullally, on her visit to Colombia from 21 to 30 May 2023, *supra* note 14, 34.

143 ICRC, ICRC contribution to the General Comment on enforced disappearances in the context of migration, 1 (June 29, 2022), [https://www.ohchr.org/sites/default/files/documents/hrbodies/ced/cfis/general-comment-1/2022-07-20/ICRC\\_GCMigration\\_English.pdf](https://www.ohchr.org/sites/default/files/documents/hrbodies/ced/cfis/general-comment-1/2022-07-20/ICRC_GCMigration_English.pdf).

144 *Id.* at 3.

145 Joint statement on illegal intercountry adoptions., *supra* note 12, at 2.



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## 5. Obstacles to addressing child trafficking in armed conflict



There are a range of actual and perceived barriers in practice to preventing, monitoring, documenting, and remedying child trafficking in armed conflict, including through the CAAC agenda.

First, the absence of explicit stand-alone reference to child trafficking in organizational mandates and understanding of how it intersects with the grave violations and child protection prevents full reporting on child-trafficking in armed conflict. Reporting and monitoring of the six grave violations against children in armed conflict rarely, if ever, specifically focus on child trafficking because it is not specifically referenced or emphasized in the CAAC agenda and/or relevant organizational mandates. An absence of reporting on, or monitoring of, child trafficking in protection clusters and humanitarian and peacekeeping settings, also results in failures of prevention, protection, and accountability.

A second factor undermining an anti-trafficking approach is the fragmentation, siloing of, and gaps in, the interpretation and application of international law. A trafficking framework is not regularly used in bodies that work with international criminal law (e.g., certain investigative mechanisms) and humanitarian law because trafficking is not explicitly defined as a separate offence under those regimes. Human rights bodies have also rarely addressed conflict-related child trafficking under international human rights law, including potentially because of the perception that trafficking is well-covered by other parts of international law (e.g., humanitarian or criminal law<sup>146</sup> or the UN Trafficking Protocol<sup>147</sup>) and the limited scope of the Optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict that focuses on recruitment and use of children.<sup>148</sup> In practice, there is confusion about how these diverse sources of international law relate to each other, as well as whether it is even necessary to use anti-trafficking and human rights laws when other areas of international law already criminalize the underlying conduct in question (e.g., recruitment and use of children which is illegal under both international humanitarian and criminal law).

Thirdly, there is often confusion about the international definition of child trafficking and how it applies in conflict settings, including to children aged between 15 and 18. In practice, the international definition of child trafficking and protections under anti-trafficking and human rights laws are siloed from international humanitarian and criminal law.<sup>149</sup> It is also often incorrectly understood that the international definition of child trafficking requires commercial exploitation, physical transfer, cross-border movement, and/or proving “means” such that children lose the presumption of being victims and instead risk being wrongly treated as adults in criminal justice and other processes. There can be also a concern about the breadth

146 Interview with UN Treaty Monitoring Body, December 6, 2023.

147 Interview with UN Treaty Monitoring Body, December 4, 2023.

148 Interview with UN Treaty Monitoring Body, December 4, 2023.

149 UN Doc. A/78/172, supra note 3, 4.

of defining child trafficking under the UN Trafficking Protocol. As international humanitarian and criminal law both proscribe recruitment and use under the age of 15—and domestic jurisdictions may also use an age of criminal responsibility under 18—the protections afforded to all children under the age of 18 years by the UN Trafficking Protocol and the Optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict are often overlooked.

An additional barrier to comprehensively utilizing anti-trafficking and human rights frameworks relates to the failure to ensure early identification of child victims of trafficking and referral for assistance and protection. Many factors contribute to inadequate identification including weak age verification procedures as part of screening of children who may have been recruited; low birth registration coverage and issuance of birth certificates which can render children invisible;<sup>150</sup> and absence of other identity documents, including for minority, IDP, migrant and refugee communities.<sup>151</sup> Inadequate screening procedures can also wrongly lead to a reliance on child trafficking victims to self-identify.<sup>152</sup> More generally, there is often a failure to address root causes and connections between peace, conflict, and post-conflict situations that create vulnerabilities of children to trafficking, as well as affect their access to protection and assistance. For example, in Colombia it has been reported that “[s]tructural gender inequality, a lack of education and poverty rendered girls vulnerable to recruitment, sexual exploitation and forced marriage.”<sup>153</sup> In the interviews for this study, the societal acceptance and ubiquity of child or early marriage or early unions was often cited as a barrier to addressing child trafficking in conflict.<sup>154</sup>

Fifth, the punishment of child trafficking victims, including for association with armed groups frustrates the implementation of protections afforded by an anti-trafficking perspective. This includes detention of children for actual or alleged association with armed groups,<sup>155</sup> deportation without prior screening for trafficking indicators, and deprivation of nationality and non-repatriation of child trafficking victims.<sup>156</sup> Criminal justice processes that do not include a gender- and age-sensitive or anti-trafficking perspective can wrongly result in trafficked children being treated as perpetrators and not victims in violation of the non-punishment principle and juvenile justice protections. This can be a particular challenge for children who have aged out, i.e., who were victims of child trafficking but are now being tried as adults without consideration as to whether their alleged criminal acts were a direct result

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150 UN Doc. CRC/C/SSD/CO/1, supra note 109, 30 (noting that in low birth registration coverage and issuance of birth certificates hinders “age verification efforts as a protection measure from risks such as child marriage and recruitment by armed forces and groups and subject[s] children to the criminal justice system while they are below the minimum age of criminal responsibility.”).

151 UN Comm. on the Elimination of Discrimination Against Women, Concluding observations on the ninth periodic report of Ukraine, UN Doc. CEDAW/C/UKR/CO/9, 31(b) (Nov. 1, 2022) (noting that the government has “limited capacity” to protect “girls residing in State-run orphanages and Roma girls without identity documents” from trafficking.).

152 UN Doc. A/76/263, supra note 10, 28.

153 UN Doc. S/2023/413, supra note 44, 28.

154 See, e.g., Interview with CTFMR in Colombia, December 4, 2023.

155 UN Doc. A/77/895-S/2023/363, supra note 43, 4.

156 UN Doc. A/HRC/47/34, supra note 81, 41, 43.

of having been trafficked,<sup>157</sup> but also for adolescent boys associated with armed conflict who are often treated with a presumption of adulthood or maturity rather than as children. Detention also creates new vulnerabilities to exploitation and re-trafficking. It has been noted, for example, that “[i]n Libya and the Syrian Arab Republic, women and children held in captivity due to their perceived affiliation with Da’esh remain in detention or in situations of protracted displacement where they are vulnerable to further sexual and other violence.”<sup>158</sup> In Libya, there are also reports of migrants and asylum seekers (including children) who when “released” or “freed” from situations of trafficking are taken to military camps and/or detention centers where they can then be forcibly recruited.<sup>159</sup>

Additionally, there are general difficulties in monitoring and reporting of grave violations against children in armed conflict that also undermine documentation of conflict-related child trafficking. These include but are not limited to “[i]nsecurity and access challenges to conflict-affected areas”<sup>160</sup> as well as to detention facilities (e.g., in migration centers<sup>161</sup> or prisons or in areas where there is minimal state infrastructure or control) and “stigmatization, fear of reprisals, harmful social norms, the absence or lack of access to services, impunity and safety concerns”<sup>162</sup> for addressing conflict-related sexual violence. Additionally, there are safety concerns when there are few actors reporting on violations against children as information can be readily traced.<sup>163</sup> Sensitivity issues also arise because of the role of families in conflict-related child trafficking.<sup>164</sup> There may also be a concern that in environments characterized by significant grave violations as well as resource constraints, a focus on child trafficking could be burdensome and detract attention from other violations.

Another reported barrier to using an anti-trafficking framework is the concern that anti-trafficking frameworks can be either unknown or potentially harmful. In some contexts, anti-trafficking frameworks can have adverse effects on victims (e.g., resulting in detention of victims as suspected offenders or *de facto* depriving them of liberty to ensure their testimonies as witnesses or not allowing victims to leave the country after reporting a crime), which can disincentivize their use by humanitarian workers, those specializing in gender-based violence, and others. In other contexts, the additional level of protection that follows from understanding a case as conflict-related child trafficking is not known or not available.

Weak accountability for child trafficking in armed conflict, including trafficking that involves recruitment and use of children by militias and armed groups,<sup>165</sup> sexual violence, and/or has

157 Interview with Amnesty International, December 1, 2023.

158 UN Doc. S/2023/413, *supra* note 44, 17.

159 Interview with CTFMR in Libya, December 7, 2023.

160 UN Doc. S/2023/99, *supra* note 30, 2.

161 Interview with CTFMR in Libya, December 7, 2023.

162 UN Doc. A/77/895-S/2023/363, *supra* note 43, at 7.

163 Interview with International Child Rights Organization, December 8, 2023.

164 Interview with International Child Rights Organization, December 8, 2023.

165 See, e.g., UN Doc. A/78/172, *supra* note 3, 4; UN Comm. on Enforced Disappearances, Concluding observations on the additional information submitted by Colombia under article 29 (4) of the Convention, UN Doc. CED/C/COL/OAI/1\* 22 (June 2, 2021) (noting Colombia’s “limited progress in the investigation of disappearances perpetrated by organized illegal armed groups related to . . . the forced recruitment of children, mostly in indigenous communities and in communities of Colombians of African descent . . .”).

a nexus to terrorism, also frustrates addressing these practices in ways that are informed by anti-trafficking frameworks. Prosecuting sexual violence by proscribed groups under counter-terrorism laws can in practice preclude anti-trafficking expertise,<sup>166</sup> which creates accountability gaps for trafficking victims.<sup>167</sup> The nature and scope of other violations in armed conflict (e.g., unlawful killings) can also make the crime of trafficking invisible or seen as less important in investigation, documentation, and accountability efforts. Such impunity creates further risks of “retrafficking and remaining in a cycle of exploitation and violence.”<sup>168</sup>

Finally, conflict and post-conflict contexts are often characterized by weak child protection systems and responses that hamper the prevention of trafficking, identification, protection and assistance for victims, and prosecution of perpetrators. There can be a lack of adequate services at the local level (e.g., in Colombia) to prevent trafficking (e.g., recruitment) and offer protection to survivors.<sup>169</sup> There are also gaps in government statutory services and social protection (e.g., health and education and social welfare,) that would otherwise mitigate the vulnerability of children to exploitation.<sup>170</sup> In practice in many contexts, including the Lake Chad basin, “the protection response is increasingly limited, reflecting decreasing resources and shrinking humanitarian space.”<sup>171</sup>

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166 Interview with UN Team of Experts on the Rule of Law and Sexual Violence in Conflict, January 4, 2024.

167 Lauren Aarons, The Risks of Relying on Counterterrorism Laws to Reduce Wartime Sexual Violence, JUST SECURITY (Dec. 7, 2020), <https://www.justsecurity.org/73651/the-risks-of-relying-on-counterterrorism-laws-to-reduce-wartime-sexual-violence/>.

168 UN Doc. A/HRC/53/28/Add.2, supra note 26, 10.

169 Interview with CTFMR in Colombia, December 4, 2023.

170 Interview with CTFMR in Lake Chad Basin, December 11, 2023.

171 Global Protection Cluster, Protection Messages, Lake Chad Basin Conference Jan. 2023, 1 <https://www.globalprotectioncluster.org/index.php/publications/909/communication-materials/key-messages/protection-messages-lake-chad-basin>.



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**6.** Why use a trafficking framework to address violations against children in armed conflict?

**W**hile States are required to apply relevant international law—including the anti-trafficking and human rights guarantees that govern child trafficking in armed conflict—there are also numerous strategic, legal, and operational benefits for all stakeholders in using a trafficking framework to prevent, categorize, and respond to violations against children in armed conflict, including the six grave violations.

- **Provides a continuum for addressing child protection in pre-conflict, conflict, and post-conflict because anti-trafficking and human rights laws always apply—in peace and in conflict.** Specifically integrating a range of child rights and protection concerns such as child trafficking into anticipatory action or child-centered recovery enhances the ability to prevent, protect, and remedy abuses against children at all stages.<sup>172</sup> This temporal breadth is important as slavery-related abuses that are common among persons displaced by conflict occur before, during, and after displacement,<sup>173</sup> requiring protection strategies that are integrated across these different phases of conflict and are responsive to the unique needs and risks for children at each stage.
- **Enables an enhanced focus on prevention and root causes. The human rights and anti-trafficking legal frameworks are designed to advocate not only for *ex post facto* accountability for child trafficking, but also for its prevention.** This focus on root causes (e.g., on poverty, as well as gender and racial inequality) can be an important complement to the more reactive, justice-seeking mechanisms found in other areas of international law, as well as to the prevention lens that is already used to tackle the six grave violations. And understanding the risk factors that may give rise to child trafficking enables mitigation measures to be implemented through targeted prevention measures and integrated child protection services where and when most needed.
- **Emphasizes and enables early identification of all child trafficking victims under the age of 18.** The international definition of child trafficking proscribes not only recruitment and use, but other forms of child trafficking for persons under 18 (e.g., for “sexual exploitation”) and encompasses a range of perpetrators. This enables the “robust” and “individual” identification of trafficking victims, including by groups designated as terrorist by the United Nations.<sup>174</sup> Because the definition of child trafficking under anti-trafficking law already criminalizes some of the grave violations against children in armed conflict in full (e.g., recruitment and use) or in part (e.g., rape and other forms of sexual violence), such overlaps can minimize perceived resource or institutional burdens of connecting the global anti-trafficking and CAAC agendas.

172 Interview with International Child Rights Organization, December 8, 2023.

173 NO ESCAPE: ASSESSING THE RELATIONSHIP BETWEEN SLAVERY-RELATED ABUSE AND INTERNAL DISPLACEMENT IN NIGERIA, SOUTH SUDAN, AND THE DEMOCRATIC REPUBLIC OF THE CONGO, *supra* note 53, vi.

174 S.C. Res. 2331, *supra* note 133, 2(d), 10, 17.

- **Reinforces the status of children as victims and not perpetrators in armed conflict.** This results because the definition of child trafficking does not have a “means” requirement and applies to anyone under the age of 18,<sup>175</sup> as well as because international human rights law entails the application of the non-punishment principle (see below) which requires that a child’s “criminal activities shall not undermine their status as both a child and a victim, or their related rights to special protection.”<sup>176</sup>
- **Enables full application of the non-punishment principle** not only to reinforce that children should not be detained, but also to address how other forms of non-criminal punishment are proscribed,<sup>177</sup> to emphasize that trafficked children are victims rather than accomplices who should not be stigmatized or punished,<sup>178</sup> and to require early identification of victims.<sup>179</sup>
- **Facilitates a comprehensive approach to child protection and the development of tailored assistance and protection for child victims that is human rights-centered and includes the special protections that children are owed as trafficking victims.** Human rights obligations that require States to focus on children with vulnerabilities means that specific consideration is also given to the gender dimensions of violations and their impact on girls and boys affected by intersectional inequalities. As such, a key advantage of linking trafficking to grave violations “would be to help children who are worst hit.”<sup>180</sup> Additionally, identifying cases of child trafficking can engage a different network of stakeholders to help victims<sup>181</sup> as well as assist with facilitating the inclusion of trafficked children in national systems of protection.
- **Better and more comprehensively maps the ecosystem of vulnerabilities of children in armed conflict, including by more concretely connecting the grave violations to one another.** Children in armed conflict are often victims of multiple violations<sup>182</sup> and the definition of child trafficking provides a structured way of connecting them (e.g., to show how “abductions” in “recruitment and use” or for “rape and other forms of sexual violence” can together comprise the “act” and exploitation requirements of the international definition of child trafficking). From a monitoring perspective, trafficking can be an effective way of capturing the sustained and ongoing nature of some of these violations against children.<sup>183</sup>

175 Interview with Amnesty International, December 1, 2023.

176 UN Children’s Fund (UNICEF), GUIDELINES ON THE PROTECTION OF CHILD VICTIMS OF TRAFFICKING § 2.1 (Sept. 2006), <https://gdc.unicef.org/media/4531/download>.

177 UN. Doc. A/HRC/47/34, supra note 81, 41.

178 S.C. Res. 2331, supra note 133, 2(d), 10; S.C. Res., UN Doc. S/RES/2388 (2017) 17 (Nov. 21, 2017).

179 Maria Grazia Giammarinaro (Special Rapporteur on Trafficking in Persons, Especially Women and Children), The Importance of Implementing the Non-punishment Provision: The Obligation to Protect Victims, 39 (July 30, 2020). See also TRAFFICKING IN HUMAN BEINGS AND TERRORISM: HOW AND WHY THEY INTERSECT supra note 9, at 24; UN. Doc. A/HRC/47/34, supra note 81, 25.

180 Interview with CTFMR in Myanmar, December 7, 2023.

181 Interview with UN Team of Experts on the Rule of Law and Sexual Violence in Conflict, January 4, 2024.

182 UN Doc. A/77/895-S/2023/363, supra note 43, at 311.

183 Interview with UN Team of Experts on the Rule of Law and Sexual Violence in Conflict, January 4, 2024.

- **Requires longer-term analysis of the impacts of the grave violations which can be shared, understood, and applied at the field level to create or strengthen the protection regime.** Interviews for this study emphasized that grave violations such as attacks on schools or hospitals and denial of humanitarian access for children would create economic vulnerabilities that would necessarily make children vulnerable to trafficking. However, for temporal and mandate reasons this link in practice is currently not fully documented because, for example regarding attacks on schools and hospitals, the focus is on the attacks themselves and not really on what then happens afterward to the children who then cannot attend school.<sup>184</sup>
- **Facilitates greater understanding of how actions taken in response to grave violations may themselves inadvertently create new child protection issues and trafficking risks.** For example, the circumstances under which children are released or escape from, armed groups can particularly create vulnerabilities to re-trafficking. Children who are separated or who escape from armed groups without adequate support risk isolation, stigmatization, and return to communities with no economic or other opportunities, which makes them more vulnerable to being re-trafficked.<sup>185</sup> Accordingly, these programs should also be designed and implemented from the perspective of how to prevent re-trafficking once children leave armed forces or groups.
- **Strengthens existing and/or provides additional opportunities for accountability against child traffickers.** Human rights and anti-trafficking frameworks enable the inclusion of additional victims (e.g., child trafficking victims of recruitment and use aged between 15 and 18) and access to more venues for accountability, including domestic, regional, or international human rights mechanisms. It can also enrich and guide the understanding of the nature and scope of violations in other areas of international law—as well as what an adequate right to remedy would entail—when there are definitional overlaps in what is being investigated and prosecuted (e.g., with international criminal law’s prohibition of sexual slavery or international humanitarian law’s requirement of prevention of recruitment or the participation of children in hostilities).

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184 Interview with CTFMR in South Sudan, November 29, 2023.

185 Interview with CTFMR in South Sudan, November 29, 2023.





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## 7. Recommendations

This study offers recommendations in three areas, emphasizing the roles of UN system-wide contributions (e.g., through UN agencies and other UN entities); the roles of parties to the armed conflict; and/or of Member States (including through the UN Security Council) in addressing child trafficking and its linkages with grave violations as follows:

### **Monitoring, documentation, verification and reporting on child trafficking and its linkages with grave violations**

- Consider the development of a technical guidance note on child trafficking and the six grave violations by the Technical Reference Group on the Monitoring and Reporting Mechanism (MRM) to clarify monitoring, documentation, and reporting of child trafficking (*UN*).
- Document the linkages between child trafficking and the six grave violations while undertaking monitoring and reporting on CAAC and identify trafficking as a practice to be reported on alongside the deprivation of liberty or military use of schools taking into account any possible risks from adopting such a modality (*UN; Member States*).
- Promote linkages with human rights mechanisms, including commissions of inquiry, UN Special procedures and treaty-monitoring bodies, and exchanges of information between the MRM/CAAC monitoring and other UN monitoring systems on child trafficking in armed conflict (*UN; Member States*).
- Establish and strengthen mechanisms to investigate conflict-related child trafficking, including through explicit references to child trafficking within the mandates of all investigative and fact-finding bodies established by the UN (*UN; Member States; Parties to armed conflict*).
- Develop and strengthen specialized anti-trafficking and CAAC expertise in monitoring, reporting, and investigation, that uses a gender, age, and diversity and trauma-informed approach and ensures the rights of children with disabilities (*UN; Member States*).
- Strengthen engagement with civil society organizations addressing child trafficking in armed conflict, including local non-governmental organizations to monitor, document, verify, and report child trafficking and its linkages with grave violations (*UN; Member States; Parties to armed conflict*).

### **Addressing legal and policy gaps, including accountability, for child trafficking and its linkages with grave violations**

- Comply with all obligations under international law—including anti-trafficking, human rights, humanitarian, criminal, and refugee law—to prevent, cease, investigate, and remedy conflict-related child trafficking for all purposes of exploitation, including both internal and cross-border child trafficking (*Member States; Parties to armed conflict*).
- Investigate and prosecute all forms of child trafficking in armed conflict, including by armed forces and groups, as well as international personnel and private military and security contractors and mercenaries, to end impunity (*UN; Member States; Parties to armed conflict*).

- Ensure that child trafficking victims under the age of 18 are treated first and foremost as victims in accordance with international law, including the obligations to ensure the best interests of the child, non-discrimination, and the principle of non-punishment (*UN; Member States; Parties to armed conflict*).
- Develop and strengthen child-friendly access to justice procedures and legal aid, including in post-conflict and transitional justice processes, to ensure effective participation and representation of child victims of trafficking (*UN; Member States; Parties to armed conflict*).
- Guarantee that conflict-related child trafficking victims are entitled to and receive effective remedies, including through existing reparative and protection and assistance programs for victims of armed conflict, as well as the establishment of new measures if necessary (*UN; Member States; Parties to armed conflict*).
- Provide effective protection to conflict-related child trafficking victims, witnesses, and members of their families against reprisals, including for accountability processes (*UN; Member States; Parties to armed conflict*).
- Develop strategies and actions to prevent, investigate, and redress child trafficking as linked to the six grave violations, and to ensure comprehensive assistance and protection for child victims, including through National Action Plans on trafficking in persons, and related humanitarian, protection and development programming on child rights and child protection, and peacebuilding (*UN; Member States; Parties to armed conflict*).
- Ratify and/or implement all relevant international law obligations related to child trafficking in armed conflict, including the Optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict and the UN Trafficking Protocol (*Member States*).
- Review and revise if necessary national law to criminalize all forms of conflict-related child trafficking in line with binding international law, including to reflect the UN Trafficking Protocol definition of child trafficking and the legal definition of a child as every human being below the age of eighteen years (*Member States*).
- Ensure effective investigations into technology facilitated conflict-related child trafficking including through strengthened international cooperation and mutual legal assistance (*UN; Member States; Parties to armed conflict*).

#### **Developing protection and human rights-based responses to child trafficking as linked to the grave violations.**

- Strengthen and support existing efforts to ensure the immediate release of children to civilian protection officers and their inclusion in gender-, age-, and diversity-sensitive (including with a focus on rights of children with disabilities) long-term reintegration

programs to prevent re-trafficking, including re-recruitment and use of children (*UN; Member States; Parties to armed conflict*).

- Ensure proactive, early, and individualized identification of conflict-related child trafficking victims and children at risk of trafficking, including through robust screening and referral procedures for children released from armed forces and groups, in co-operation with government, inter-governmental, and non-governmental actors (*UN; Member States; Parties to armed conflict*).
- Provide referral pathways and tailored protection and assistance for conflict-related child trafficking victims, including within co-ordination structures for humanitarian emergencies and by ensuring safe, timely, and unimpeded humanitarian access (*UN; Member States; Parties to armed conflict*).
- Strengthen child protection systems and ensure provision of integrated services to child trafficking victims in armed conflict, that are age, gender, and diversity sensitive, and trauma informed, ensuring the rights of minorities and indigenous peoples, and the rights of children with disabilities (*UN; Member States; Parties to armed conflict*).
- Expand and effectively implement the legal pathways available for child victims of trafficking with international protection needs to be admitted to or resettled in third countries, as well as other pathways to facilitate access to protection, including asylum and rights-based family reunification. (*UN; Member States*).
- Mitigate risks of child trafficking in situations of displacement through comprehensive prevention and protection measures, whether in camps, urban settings, and outside of formal reception arrangements. (*UN; Member States*).
- Ensure the prevention of child trafficking and long-term protection and assistance for child trafficking victims including to prevent re-trafficking, such as by addressing poverty and gender inequality, ensuring universal registration of all children, and eliminating statelessness (*UN; Member States*).
- Ensure that responses to child trafficking, including prevention, protection and accountability are integrated into conflict-related child protection programming, initiatives, and partnerships, including in early warning, conflict analysis, mediation, transitional justice and disarmament, demobilization and reintegration, and peacebuilding (*UN; Member States*).
- Develop and strengthen coordinated responses to child trafficking within and across UN country teams, including by partnering with civil society frontline actors, and national child protection actors (*UN*).

# ANNEX I: LIST OF ACRONYMS

CAAC	Children and Armed Conflict
CTFMR	Country Task Force on Monitoring and Reporting on the six grave violations
IDP	Internally Displaced Person
ISIL	Islamic State in Iraq and the Levant
ISIL-WA	Islamic State West Africa Province
MRM	Monitoring and Reporting Mechanism
UN	United Nations
UNSR TIP	United Nations Special Rapporteur on trafficking in persons, especially women and children



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**CHILDREN AND ARMED CONFLICT**

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