

PART ONE:

A framework for action

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The responsibilities of states, the international community and non-state armed actors

Words on paper do not protect the rights and security of children. Concrete actions in specific situations are urgently needed.¹

SUMMARY

States, non-state armed actors and the international community all have a responsibility to stop the recruitment and use of children in fighting forces.

This chapter urges states and parties to the conflict to fulfil their obligations under international humanitarian and human rights law, and highlights the need for better monitoring and reporting of violations. It argues that those responsible for violating children's rights should be held to account and that the UN Security Council should always include the protection of children in its deliberations.

Furthermore, efforts to secure children's release should be made at every opportunity, with children given priority in the demobilisation process. The international community should co-operate with agencies in persuading non-state armed actors to stop recruiting children, and should also demonstrate a clear commitment to children in armed conflict by providing adequate resources for disarmament, demobilisation and reintegration (DDR). Peacekeepers, members of armed forces and police should also be trained in the protection of children.

International and national agencies become involved in the protection of children when the rights of boys and girls are abused by belligerents during conflict, and when states and the international community fall short in their duty to protect children and their communities.

While the priority is to meet immediate humanitarian needs, a crucial task of these agencies is to lobby the parties to the conflict to assume their responsibilities under international humanitarian and human rights law. Drawing on the collective experience of NGOs and UN agencies,² this chapter outlines the key issues on which agencies may need to advocate. Cross-references throughout the chapter highlight where in the Guidelines these issues are explored in greater depth.

‘States’ here refers to those directly and indirectly involved in a conflict, and other states in the wider international community.

IA. The universal adoption of norms and standards

States should fulfil their obligations under international humanitarian and human rights law to protect children in armed conflict. In particular, states should:

- **Fully implement the UN Convention on the Rights of the Child (UNCRC) and use it as a framework for protecting children.**
- **Ratify and enforce the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict.**

Non-state armed actors should:

- **Respect fully the provisions of Protocol II Additional to the Geneva Conventions that prohibit the recruitment of children and their use in hostilities (see section 1F below).**

The Optional Protocol is an uncompromising expression of international determination to stop the use of children as soldiers. The success of efforts by agencies to impose a global ban on child soldiers will depend upon the ratification of this Protocol by all member states without reservations, and upon whether the minimum age for all forms of military recruitment can be raised to at least 18.³

It is not only the countries engaged in armed conflict which should enforce these standards. Governments in the industrialised countries should also sign, ratify and implement the Optional Protocol on the Involvement of Children in Armed Conflict and the Rome Statute of the International Criminal Court (ICC).

Governments must ensure that these standards apply not only to state armed forces, but also to paramilitaries and other forces for which they have overall responsibility.

See also Chapter 4.

I.B. Improved monitoring and reporting of violations

In co-operation with UN bodies, the International Committee of the Red Cross (ICRC), NGOs and civil society organisations, states should set up an effective system for monitoring and reporting the violation of children's rights.

The Committee on the Rights of the Child is important for reviewing the compliance of member states with the Convention, but its current reporting requirement – once every five years – is inadequate for situations where the very survival of children is threatened. A complaints process should be developed for the Convention and its Optional Protocols, similar to that of other international human rights instruments.

Monitoring and reporting violations of children's rights should be included

explicitly in the mandate of all UN field and peacekeeping operations. Child rights and child protection advisers should be deployed before, during and after conflicts. Where necessary, inter-agency task forces should be set up to carry out child-focused analysis and develop effective strategies.⁴ If there is no UN field or peacekeeping operation, NGOs and other agencies have a key role to play in monitoring and reporting abuses.

Commitments already made by states and non-state armed groups (for example, as a result of agreements with the UN Special Representative for Children in Armed Conflict) need to be followed up (see, for example, Chapter 6 section G and section 1F below).

See also Chapter 14.

Ic. End impunity and increase accountability

States should universally ratify, incorporate into domestic law and enforce the Rome Statute for the ICC, and should prosecute in their national courts those responsible for war crimes against children, including the conscription or enlistment of children under 15.

Ending impunity is essential if children's rights are to be protected. Governments and agencies should work to develop local, regional, national and international systems to enable those responsible for violations against children to be held to account. States should move quickly to ratify the Rome Statute of the ICC so that it may begin prosecuting crimes against children.⁵

In most countries experiencing conflict, national institutions have either collapsed or are functioning under very difficult circumstances. Therefore, states cannot be expected to prosecute the perpetrators of violations against children unless their investigative and judicial authorities are strengthened. Technical and financial assistance to rebuild capacity in these areas is extremely important.

Peace agreements should not give amnesty to those who violate children's rights. In Sierra Leone, children continued to be recruited after the Lomé peace

agreement was signed in July 1999. Amnesty International and others pointed out that the agreement was severely compromised because it failed to end impunity for gross human rights abuses.

See also Chapters 4 and 8.

1D. Commitment to child protection by the UN Security Council

Child protection, and specifically the use of children in fighting forces, should be included in all deliberations of the UN Security Council.

In 1999 and 2000, the UN Security Council endorsed a range of practical measures to protect children during armed conflict. It should now institutionalise these recommendations, by ensuring that information, analysis and recommendations on child protection are included in all its reports, deliberations, missions and resolutions, including those that are country-specific; and that states and non-state armed actors (and their supporters) who target or abuse children should face appropriate sanction and censure. Progress in implementing this agenda should be reviewed annually.⁶

1E. The humanitarian basis of children's release or demobilisation

The release or demobilisation of children should be based on humanitarian, not political, considerations. Their release from fighting forces should not have to wait until there is a peace agreement, but should take place at any time during the conflict. Children should be given priority during demobilisation and reintegration.

The 1999 Lomé agreement for Sierra Leone was the first peace agreement to require special attention to be given to children involved in fighting forces. At the same time, campaigning by agencies in 1999 and 2000 led to recognition by the UN Security Council (in Resolutions 1261 and 1314) of the need to ensure provision for children's disarmament, demobilisation and reintegration.

However, child protection agencies are keen to ensure that efforts to secure the release of children from fighting forces should not have to wait until there is a formal agreement, but should take place at all times during the conflict. In practice, agencies often take the initiative by making direct contact with the warring parties who recruit children and, increasingly, by lobbying states to use their influence to secure the release of children. The wider international community should exert more pressure on the belligerents and provide adequate financial support for child protection organisations.

The release of children must be kept first and foremost a humanitarian and human rights issue, not a political matter. As belligerents become more aware of the political advantages of being seen to respect children's rights, they are more likely to use the demobilisation of children as a bargaining counter in political negotiations.

Furthermore, those seeking the release of children need to be vigilant to ensure that the warring parties do not attempt to use the absence of a formal agreement as an excuse for holding on to children in their ranks.

See also Chapter 6.

I F. Engagement with non-state armed actors

In co-operation with agencies, the international community should provide leadership in persuading non-state armed actors to stop recruiting children.

The 190, or more, armed opposition groups currently active throughout the world carry a major burden of responsibility for abuses against children, including under-age military recruitment.

When there is extreme violence and disregard for life, implementation of

international law may seem impossible. But, although engaging with non-state armed actors (such as armed opposition groups and militias) can be difficult, it is essential if children are to be better protected.

Experience shows that many non-state armed actors are prepared to discuss the protection of children and civilians (see Chapter 4, section C8 and Chapter 6, section C). However, the armed groups more likely to engage on humanitarian issues are those guided by political or ideological – as opposed to economic – objectives, and who have a clear command structure.

Although agencies often establish contact with non-state armed actors at local or national level, governments in the region where the conflict is taking place and the wider international community must take greater responsibility for persuading these groups to stop recruiting children.

How pressure is applied depends on the situation. Non-state armed actors ultimately seek political recognition, but agencies should base dialogue on humanitarian rather than political considerations, and set clear objectives. In many situations, quiet diplomacy is preferable to public condemnation of child recruitment or threats of prosecution, both of which are likely to be counter-productive. Other forms of pressure can also be applied (see Chapter 6, section I).

The international community has a crucial role in making formal agreements with non-state actors, who can be asked to give written undertakings to stop recruiting children, to release the children in their ranks, or to support the Optional Protocol or the ICC. A past weakness has been that agreements made between non-state armed actors and the Special Representative for the Secretary General for Children in Armed Conflict – such as in Colombia – were not followed up. Return visits should be made and non-state actors should be asked to submit reports on their compliance.

Any engagement with armed groups should be co-ordinated with the relevant agencies working with children, since these often have a good knowledge of local conditions and may be involved in caring for children once they have been released.

See also Chapters 4 and 6.

Ig. Commitment to child protection by the international community

The international community must show its commitment to children in armed conflict by providing the leadership and the financial, technical and human resources needed to ensure that:

- **Children who wish to avoid military recruitment or re-recruitment, or who are being demobilised, are given adequate protection by national forces or peacekeeping forces.**
- **The demobilisation and reunification of children takes place efficiently and effectively.**
- **Assistance to demobilised children is given within a framework of assistance for other children affected by the conflict and wider national, social and economic reconstruction.**
- **Long-term technical and financial support is provided for initiatives that address the root causes of the conflict and child recruitment, and that promote peace and reconciliation.**

Disarmament and demobilisation are the first steps towards ending conflict and establishing peace. But without political will and adequate financial resources, the process will fail. Insecurity and uncertainty will discourage children from demobilising of their own accord and their commanders from releasing them. The international community must provide leadership by brokering peace agreements and putting pressure on the belligerents to honour their commitments.

The consequences of inadequate political and financial commitment were seen in the Democratic Republic of Congo (DRC) and Sierra Leone:

Failure of leadership in the DRC

In the DRC, absence of international leadership was blamed for the failure of the Lusaka peace agreement. According to the International Crisis Group, “The [Lusaka] accord largely froze the armies in their positions but did not

stop the fighting'. The international community pressured the belligerents to sign the agreement and then abandoned them to search for a workable solution to the conflict.

No funding was provided to support formal moves to demobilise children. The two official demobilisation commissions set up in 2000 were 'ill-equipped for the task, with few, largely inexperienced staff, no logistic capacity, no presence outside the one or two major centres, and ... little or no capacity to develop policy'. The commission assumed that international donor funds would be made available for demobilisation, but by the end of 2000 they had received no practical support.^{7, 8}

Lack of funding

Funding is a decisive expression of political commitment by the international community. In Sierra Leone, nine months after the signing of the Lomé agreement, child protection agencies in Sierra Leone warned that if a 'significant increase in both political and financial support to the Sierra Leone peace process [was] not forthcoming ... the peace [itself] could be in jeopardy'.

Following the Lomé agreement, DDR in Sierra Leone was slow to get started and was beset by logistical and security problems, lack of funding and the slow deployment of United Nations Mission in Sierra Leone (UNAMSIL) troops. US\$50 million had been requested for DDR, yet by March 2000 only US\$4.3 million had been received by the World Bank Multi-Donor Trust Fund. Long-term support also failed to materialise: of the promised US\$71 million, only US\$2.5 million had been received by February 2000. This, said the agencies, was 'a shocking demonstration of the international community's apparent complacency towards Sierra Leone as compared to other post-conflict situations such as Kosovo'.

These failures, combined with a lack of political will to demobilise children, meant that many children remained under the control of military commanders. By March 2000, fewer than half of the 45,000 combatants had been demobilised, and only five out of the twelve planned DDR camps had opened. About half of those who had not disarmed were children.⁹

In her review in 2000 of progress made and obstacles encountered in increasing protection for war-affected children, Graça Machel gave an example of the different levels of assistance provided between countries:

Disparities

In 1998 overseas development assistance for Bosnia and Herzegovina reached US\$237 per person. Poor countries with ongoing conflicts received much less. Burundi got US\$12, Afghanistan US\$7 and the Democratic Republic of Congo US\$3.¹⁰

These disparities in funding between countries and regions, and between relief and reconstruction, must be addressed if the rights of children in war-affected countries are to be protected. Machel has stated the need to, ‘establish criteria and guidelines to reduce disparities in resource mobilisation for war-affected children and women across conflict situations and to reduce the institutional, budgetary and functional barriers between relief assistance, reconstruction and development co-operation’.¹¹

See also Chapter 7.

I H. Training armed forces and police to protect the rights of children

Members of the armed forces – including those deployed as peacekeepers – and the police, should be given training in how to protect children’s rights.

If standards to prevent child recruitment are to be enforced, states must train their own armed forces in the protection of children’s rights during armed conflict. This will give military personnel an understanding of how to treat combatant children if they capture them. National forces may also be used as peacekeepers, and here too they need to understand the importance of disarmament and demobilisation of children, and their own role in bringing it about.

The wider issue of how to reform peacekeeping operations is outside the scope of these Guidelines, but the UN Security Council has formally recognised that such operations have a key role in protecting children. There is now broad agreement that:

- Every peacekeeping mission should include child protection advisers, with a brief to work with child-focused organisations on the spot to discover what is happening in a particular situation and to make their findings available to other agencies within the UN system. The brief should also include monitoring and investigating violations by members of the peacekeeping force.¹²

Child protection adviser in Sierra Leone

In Sierra Leone, the Child Protection Adviser with UNAMSIL is working with her colleagues in the military and human rights components of the mission and UNICEF to ensure that the training sessions for incoming peacekeeping troops include the child-relevant aspects of human rights and humanitarian law, the special needs of child soldiers within the disarmament, demobilisation and reintegration process, and the practical issues involved in assisting and protecting child soldiers while conducting field operations. The Child Protection Adviser has received manuals from Save the Children Sweden and is preparing a complete set of training materials while also trying to ensure that key materials are available in the first languages of some of the troops.¹³

- Peacekeeping personnel should be trained on the provisions of the UNCRC and given guidance on appropriate modes of response when confronted by child soldiers, the protections due to detained child combatants and child civilians, and recommended procedures for responding to sexual abuse.¹⁴

Among others, Save the Children Sweden and its partners are providing training to forces in a number of countries in Africa.¹⁵

Training armed forces in Africa

Soldiers in the Ugandan People's Defence Forces (UPDF) serving in Gulu province regularly come into conflict with child soldiers in the rebel Lord's Resistance Army.

When, in 1998, UPDF commanding officers attended a Save the Children Sweden training session on children's rights and protection, they had some difficulty in accepting the concept of the 'good soldier' who is willing to understand the situation of these children and to help them.

Following practical advice and discussion about children's rights and needs during armed conflict, the UPDF agreed that if it failed to address child rights, it would suffer repercussions in the future. Since the training, the UPDF has set up child protection units within military barracks, so that children who return after being abducted can be treated properly. The subject of children's rights is expected to be included on the curriculum of military training schools.

Non-state armed groups have also been given training in child rights and protection: in Sudan, Save the Children Sweden has trained relief wings of the Sudan People's Liberation Army (SPLA). In the past, such training has led to collaboration with the community on providing services to children and to the occasional release of children by the SPLA. More recently, the Congolese Rally for Democracy (RCD) movement in eastern Congo has approached Save the Children UK for training on the same issues.

In West Africa, Save the Children Sweden and Economic Community of West African States (ECOWAS) have developed a set of regional training materials for national and peacekeeping forces that can be adapted for use by the different ECOWAS countries. The materials form part of a wider programme in ten of the fifteen ECOWAS countries, where a local NGO works with the Ministry of Defence of each country to ensure that child rights and child protection are put on all national military training curricula. In Sierra Leone, the implementing partner, Caritas, has worked with UNICEF and other organisations to train not only recruits to the new national army, but also every British soldier arriving in Sierra Leone and the 13,000-strong UN peacekeeping force. In Senegal, each of the 600 soldiers who joined the

UN Mission in the Democratic Republic of the Congo (MONUC) force in the DRC received child rights and child protection training before their departure.

The project is now being considered for replication by South African Development Community (SADC) countries.