

STRENGTHENING RESPONSES ON CHILD PROTECTION: THE CAAC FRAMEWORK

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Strengthening Responses on Child Protection: The CAAC Framework

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Executive Summary and Key Policy Recommendations

The protection of children affected by armed conflicts, international and non-international, has been a matter of perennial concern. A significant number of legal instruments, binding and non-binding, have been gradually adopted with the intent to improve the architecture of protection for children in situations of armed conflict. Some crucial steps taken by countries to protect children from grave violations include the signing and implementation of action plans which invoke a range of measures including the screening of troops for underage recruits, development of age assessment guidelines and standard operating procedures and procedures to release and reintegrate and support children formerly associated with armed groups and forces.

Despite strong laws, implementation remains weak, and violations of children's rights are rife. In 2017, humanitarian access to children was denied in every country on the agenda of the Special Representative of the UN Secretary-General of the UN. In Yemen, Myanmar and the Syrian Arab Republic reports emerged of children trapped in besieged areas, deprived of access to food, water, and critical medical assistance. The growing discourse on 'radicalisation' and 'extremist violence' is eroding standards of minimum protection around the appropriate treatment of children, and large numbers of children are routinely arrested and detained for their alleged association with parties to the conflict.

A multi-faceted approach is needed, involving more stakeholders so that measures to protect children can be multiplied. There is a need for regional and sub-regional organizations to apply politically or legally binding instruments to strengthen the prevention of violations against children in situations of armed conflict and facilitate programmatic responses when violations do occur. NATO sits in a unique position to advance the agenda of protection of civilians in general and children in particular, specifically in its operations in Afghanistan and Iraq, due to its high-level engagement with those in government who can end and prevent violations. There is no doubt that capacity, resources, and coordination between different actors needs to increase, and child protection expertise maintained and strengthened within NATO, including by being provided with necessary resources to fulfil their mandate.

Afghanistan and Iraq offer two country situations where NATO could play a unique role in delivering training and building the capacity of state forces to end and prevent child rights violations. NATO can provide valuable assistance in strengthening the capacity of and professionalizing armed forces in Iraq by supporting the provision of procedures, development of policies and good practice to ensure that post-conflict Iraq delivers a peace dividend for its children. NATO can play a crucial role in unpacking the narratives around violent extremism and radicalisation in disseminating child protection training

to operational partners. There is a need to understand the fact that children's association with armed groups, including those which practice extreme violence, is dictated by a range of intersectional and context-specific, structural and social factors.

A comprehensive child protection strategy requires addressing and engaging with all parties to the conflict. Despite the political challenges, there is a need for NATO to explore options to engage with the governments in Afghanistan and Iraq to permit access to armed groups by the UN, regional organisations and independent humanitarian actors to enter into dialogue on child protection and to seek the release of children associated with them. Another core principle of NATO's policy on children and armed conflict has to take into consideration how arms flows have the potential to hinder the peacekeeping and peace-building processes, contribute to violations of international humanitarian and human rights law, and obstruct humanitarian action.

For child protection to be meaningful, a comprehensive, transformative approach is required which facilitates genuine community involvement which adheres to international standards while being responsive to local needs. If NATO is genuinely interested in the well-being and protection of children in the theatres in which it operates, it will invest in improving knowledge on interventions and advocate to strengthen support to children, families, and communities.

Key Recommendations *(detailed recommendations below)*

- Integrate child protection at the core of planning and conducting of operations and missions, training, education, and exercises, lessons learned, as well as defence and security-related capacity building activities.
- Ensure protection of children receives the attention, expertise, and resources it deserves by increasing child protection capacity in HQ and all field operations.
- Work closely with the Office of the Special Representative of the Secretary-General on children and armed conflict to develop and systematize learning and good practice on children and armed conflict, particularly on harm mitigation, as well as on compliance to International Humanitarian Law and international human rights law.
- Advocate and engage with governments in Afghanistan and Iraq against the detention of children on national security-related charges, as well as the use of detained children for information-gathering purposes. Call on these governments to guarantee due process for all children arrested for association with armed groups advocating that children should be treated primarily as victims and that in all actions concerning children the best interest of the child shall be a primary consideration.

Methodology and Structure

This paper builds on the author's decade-long direct work experience on issues relating to the association of children with armed groups and forces, primarily in Asia and on the intersectional issue of sexual violence and sexual exploitation and abuse of children in situations of armed conflict and displacement. The methodology involves a desk review of secondary sources, focusing mainly on the global practitioner and advocacy literature on children and armed conflict and broader academic writing on law, psychology and child rights. The author consulted with United Nations field personnel and NGO colleagues working in child protection and children and armed conflict and Gender Based Violence experts working in Africa and the Middle East. Requests by crucial informants to remain anonymous has been respected.

The paper is structured as follows: In the first section, the author assesses the incremental strengthening of the normative framework around child protection and the significant number of instruments adopted to ensure that the children and armed conflict agenda covered the depth and breadth of issues involved in providing comprehensive protection of children in situations of armed conflict. The section demonstrates that this bolstering of the framework has not necessarily led to the improved protection of children in conflict situations as shown by ongoing grave rights violations of children.

The second section of the paper examines the potential to improve child protection by engaging additional actors in strengthening protection of children's rights and enhancing collaboration with actors where partnerships are already in place. Specific areas of work are identified to bolster child protection within the structures and operations of the North Atlantic Treaty Organization (NATO). Key among these are: the imperative to ensure and strengthen dedicated child protection expertise in all its theatres of work; the integration of specific training to NATO troops and operational partners on preventing violations against children including punitive detention of children on the grounds of association with armed groups; and instruction and guidance on avoiding and mitigating damage to attacks on schools through school sensitive deployment and in ensuring respect for IHL. The author also calls upon NATO member states to critically evaluate arms transfers given the well-documented and multi-faceted impact of such transfers on human rights and urges that the issue of engagement with armed actors be provided greater consideration. The author calls for context-specific and rigorously evaluated interventions and evaluations which consider the multi-faceted needs of children. The paper ends with specific recommendations to NATO.

Overview of the Agenda: Challenges in Implementing the Normative Framework

“Children are both our reason to eliminate the worst aspects of armed conflict and our best hope of succeeding in that charge. In a disparate world, children are a unifying force capable of bringing us all together in support of a common ethic.” --- Graca Machel, 1996¹

Children comprise approximately half of the population of most war-torn countries and half of the world’s refugee population.² The glaring reality of protracted, complicated and proliferating conflicts today demonstrates that International Humanitarian Law (IHL) and International Human Rights Law (IHRL) is customarily flouted and violations and abuses against children take place with shocking frequency and brutality. Children suffer enormous psychological, physical, emotional and mental harms as their social environments are placed under stress, and they lose access to necessities and support systems.³

In the past seven decades, there has been a significant strengthening of the legal framework on children and armed conflict (CAAC) which covers three broad areas: international humanitarian law (IHL), international criminal law (ICL), and international human rights law (IHRL).⁴ This incremental growth in the normative framework around child protection, the significant number of legal instruments, binding and non-binding, adopted to improve the architecture of protection of children, and the increasing commitment by UN member states to unite in prioritizing this issue bears testimony to the international communities collective acknowledgement of the need to protect children.

The development of the normative framework around the CAAC agenda can be traced back to a 1993 recommendation by the UN Committee of the Rights of the Child⁵ which led the UN General Assembly to express concern “about the grievous deterioration in the situation of children in many parts of the world as a result of armed conflicts.”⁶ The creation of the Office of the Special Representative of the Secretary-General on Children and Armed Conflict (CAAC) following the first debate on the issue at the UN Security Council in 1996 triggered action and advocacy to end and prevent grave violations

¹ United Nations General Assembly, *Impact of Armed Conflict on Children, United Nations: Report of the expert of the Secretary-General, A/51/306/Add.1* (26 August 1996).

² United Nations High Commissioner for Refugees, *World at War: Global trends forced displacement in 2014*, (2015).

³ See for instance Michael G. Wessells, “Children and Armed Conflict: Introduction and Overview, Peace and Conflict,” *Journal of Peace Psychology* 22, no. 3 (2016): 198–207.

⁴ A comprehensive list of treaties that protect children in armed conflict can be found in International Bureau for Children’s Rights, *Guide on Children in Armed Conflict: A guide to international humanitarian and human rights law* (2010), available from <http://www.essex.ac.uk/armedcon/story_id/000911.pdf

⁵ United Nations Committee on the Rights of the Child, *Report of the Committee on the Rights of the Child on its Third Session, 4/CRC/C/16*, (11 - 29 January 1993), Geneva.

⁶ United Nations General Assembly resolution, *Protection of children affected by armed conflict, A/RES/48/157* (20 December 1993).

against children.⁷ Since then there has been increasing recognition by the Security Council that children and armed conflict is a peace and security issue under its purview and it needs to drive this agenda deploying all tools at its disposal, using and growing the political weight behind it. The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OPAC) which entered into force in 2002 is the most focused instrument on this topic and binds States Parties and, to some degree, non-state armed groups.⁸

In 2004, Resolution 1539 called upon parties to prepare concrete, time-bound action plans to halt recruitment and use of children in armed conflict.⁹ A year later, the UN Security Council Resolution 1612 was passed unanimously establishing a monitoring and reporting mechanism to gather accurate, timely and objective information on the six grave violations committed against children in armed conflict.¹⁰ Parties to conflict listed in the Secretary-General's annual report on children and armed conflict are requested by the Security Council to develop action plans to address grave violations against children, which is a written, signed commitment between the UN and those parties who are listed as having committed grave violations against children in the annual report.

These developments have resulted in concrete results, and the architecture of protection of children's rights is stronger than ever before. Collectively, these mechanisms ensure those child rights violations in conflict, post-conflict countries and other situations of concern are monitored, documented and reported to the UN Security Council. So far, twenty-nine action plans have been signed by 28 parties which include 11 governments and 17 non-state armed groups. Of these, eleven parties have fully complied with their action plans and have been delisted. While the majority of action plans signed are to end the recruitment and use of children, Afghanistan and Mali have references to an annex on ending sexual violence against children. There is one action plan for killing and maiming signed by the Transitional Federal Government of Somalia. So far, there have been no action plans on attacks on schools and hospitals, or on abductions.¹¹

Strong Framework, Weak Implementation

There are severe barriers to protecting children from egregious violations which result from conflict. Two decades back, the Special Representative for Children and Armed Conflict, recognised that 'the

⁷ United Nations General Assembly resolution, *The rights of the child*, A/RES/51/77 (20 February 1997).

⁸ The full text of the *Optional Protocol on the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict* (adopted 25 May 2000, entered into force 12 February 2002) is available from <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPACCRC.aspx>

⁹ United Nations Security Council resolution 1539 (2004), S/RES/1539 (22 April 2004).

¹⁰ United Nations Security Council resolution 1612 (2005) on *Children and armed conflict*, S/RES/1612 (25 July 2005).

¹¹ See United Nations Secretary-General's Annual Reports on Children and Armed Conflict; Security Council Report, *Children and Armed Conflict Sustaining the Agenda*, (27 October 2017), available from <http://www.securitycouncilreport.org/research-reports/children-and-armed-conflict-sustaining-the-agenda.php>

most important single challenge in addressing the plight of children in armed conflict' remains 'how to translate international instruments and local values into practice on the ground.'¹²

In the UN Secretary General's 2017 Annual Report, which covered the period January to December 2016, 65 parties were listed: nine government forces and 55 non-state armed groups. The UN registered a staggering number of child casualties, 3,512, the highest number ever recorded in the country in Afghanistan showing an increase of 24 per cent compared with 2015; almost 1 in 3 civilian casualties was a child casualty. The number of children recruited and used multiplied as compared to 2015 in Somalia owing to the doubling of cases attributed to Al Shabab.¹³

In 2017, denial of humanitarian access to children was documented in almost every country on the agenda of the Special Representative of the UN Secretary-General on Children and Armed Conflict. In many countries, children were trapped in besieged areas, deprived of access to food, water, and critical medical assistance. Also manifest in Myanmar's Rakhine state, in Yemen, and in Syria, where the escalation of violence and besiegement of eastern Ghouta and rural Damascus left children with no access to food, healthcare, and other essential commodities.¹⁴ In Afghanistan, attacks on health facilities and personnel and denial of humanitarian access have served to compound challenges to children's health and access to services which has already been impaired by prolonged conflict.

In theatres of conflict, particularly in an environment where children's involvement in conflict is explained as radicalisation, monitoring and oversight and counter-terror legislation by protection actors resulted in an increase in the punitive treatment of children with alleged connections to armed groups. Countless children held in arbitrary detention by suspicion, with insubstantial evidence and on flimsy charges, are sometimes only detained because of suspected activities of family members. Many children have been denied access to lawyers and family members, held with adults in deplorable conditions, and subjected to torture and coercive interrogations.¹⁵ In fact, in recent years, minimum protections around the appropriate treatment of children allegedly associated or involved with armed groups have been eroded and there are numerous cases of children held in pre-trial detention under military jurisdiction on charges relating to terrorism or national security, following their alleged association with armed groups in Lebanon and the Syrian Arab Republic.¹⁶

¹² United Nations Office of the Special Representative of the Secretary-General on Children and Armed Conflict, *Translating international instruments into practice key in addressing the plight of children in armed conflict, the third committee told*, GA/SHC/3479 (20 October 1998), available from <<https://childrenandarmedconflict.un.org/20oct98/>>.

¹³ United Nations Secretary-General, *Children, and armed conflict: report of the Secretary-General*, A/72/361-S/2017/821 (24 August 2017).

¹⁴ United Nations Human Rights Council, *Annual report of the Special Representative of the Secretary-General for Children and Armed Conflict*, A/HRC/37/47 (8 January 2018).

¹⁵ Human Rights Watch, *Extreme Measures Abuses against Children Detained as National Security Threats*, 28 July 2016, available from <https://www.hrw.org/sites/default/files/report_pdf/crd_detained0716web_1.pdf>

¹⁶ UNSG, *Children and armed conflict: report of the Secretary-General*, A/72/361-S/2017/821.

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The gap in compliance with IHL, IHRL and refugee law is vast, and progress around protecting children from the horrors of war has been patchy. “The general opinion is that violations of international humanitarian law are not due to the inadequacy of its rules, but rather to a lack of willingness to respect them, to a lack of means to enforce them and to uncertainty as to their application in some circumstances, but also to ignorance of the rules on the part of political leaders, commanders, combatants and the general public.”¹⁷

Despite the bleak picture, the UN, NGOs, and some governments are making significant strides with the operationalisation of action plans and the strengthening of the overall child protection architecture. Concrete advances have included the criminalization of the recruitment and use of children, the issuance of military command orders, the systematic screening of troops, the adoption of age-assessment guidelines, the development of handover protocols and the release and reintegration of children formerly associated with armed forces.¹⁸

Equally noteworthy are steps being taken by the UN Security Council, UN General Assembly, UN treaty bodies, and humanitarian organisations to protect education from attack during the conflict. With the governments of Germany, Mali, and the United Kingdom of Great Britain and Northern Ireland endorsing the Safe Schools Declaration, a total of 75 states so far have committed to protect schools, teachers, students, and universities from attack. The Declaration is an intergovernmental political commitment to protect education during armed conflict, and its general endorsement has been accompanied by changes in domestic legislation, military or education policies.¹⁹

Prevention of violations against children in situations of conflict requires a multi-faceted approach that includes many stakeholders, and there is an inevitable need to coordinate and prioritise actions. What remains indisputable is the need to strengthen institutional protection and ensure responses are activated to end and prevent all grave violations against children. There is also a need for regional and sub-regional organizations to apply politically or legally binding instruments to strengthen the prevention of crimes against children in situations of armed conflict and implement programmatic responses when violations do occur. Most importantly, there is an urgency to build adherence, including by ensuring that domestic law, military manuals, and practice meet international standards.

¹⁷ Jean-Marie Henckaerts and Louise Doswald-Beck ed., *Customary International Humanitarian Law: Volume 1: Rules* (Cambridge: Cambridge University Press, 2009).

¹⁸ UN HRC, *Annual report of the SRSF for Children and Armed Conflict*, A/HRC/37/47.

¹⁹ Global Coalition to Protect Education from Attack, *Education Under Attack 2018*, available from <http://www.protectingeducation.org/sites/default/files/documents/eua_2018_full.pdf>

Expanding protection: Deepening engagement with NATO

It was a decade after the entry into force of the Optional Protocol on Children and Armed Conflict that Heads of State and Government addressed the issue of protection of children in armed conflict in NATO-led operations and missions. It was at the 2012 Chicago Summit when NATO first decided to develop practical, field-oriented measures to address violations against children during armed conflict.²⁰ In Wales, the Heads of State recalled “NATO’s firm commitment to the implementation of UNSCR 1612 and related resolutions on the protection of children affected by armed conflict...” pledging to properly integrate the issue into the planning and conduct of its operations and missions, as well as its training, monitoring, and reporting.²¹

NATO sits in a unique position to advance the agenda of protection of civilians in general and children in particular, within its operations in Afghanistan and Iraq, due to its high-level engagement with those in the government who can end and prevent violations.

The Need for Dedicated Child Protection Capacity across NATO Operations

The focus on and visibility of the CAAC agenda has undoubtedly to some degree resulted from UN missions having a distinct child protection section and mandate. Practically, this has provided child protection sections with direct access to senior mission leadership to advocate for child protection issues. Others believe that delinking child protection from human rights issues which are often perceived as politically sensitive has allowed for better engagement with governments and armed groups alike. However, in the absence of evaluations and assessments of the impact of current child protection capacities, it is impossible to ascertain what structures are best placed to respond to child protection concerns. Nonetheless, there is a need to increase size, resources, and coordination between different actors, and ensure that child protection expertise is maintained and strengthened within NATO, including by being provided with necessary resources to fulfil their mandate.

A simple case in point concerns reinforcing child protection messages, training and procedures in NATO’s engagement with state forces in Afghanistan and Iraq. Two country situations where children continue to suffer grave violations and where NATO is in a unique position to institute some measures to protect children.

²⁰ North Atlantic Treaty Organisation, *Protection of Civilians*, 17 October 2016, available from https://www.nato.int/cps/su/natohq/topics_135998.htm.

²¹ North Atlantic Treaty Organisation, *Wales Summit Declaration Issued by the Heads of State and Government participating in the meeting of the North Atlantic Council in Wales*, 5 September 2014, available from https://www.nato.int/cps/ic/natohq/official_texts_112964.htm.

In Afghanistan, NATO's Resolute Support (RS) functions to "train, advise, and assist" the Afghan National Security Forces (ANSF)²² NATO has exceptional leverage with ANSF which could be applied to ensure a genuine commitment to civilian safety and is particularly relevant for the protection of children and to end grave violations of children's rights. The position of a senior advisor on CAAC within Resolute Support Headquarters provides a crucial point of expertise and advocacy from where both the command group can be kept informed and good practices disseminated within ANSF. One critical area is regarding ANSF's use of schools for military purposes. Although verified cases of attacks on schools and education personnel by ANSF decreased in Afghanistan in 2016²³, as compared to the previous year, a failure to bolster protection of schools could pose severe risks to the country's fragile gains in education.

Similarly, intensification of conflict in Iraq has had a significant impact on children. Iraqi security forces have detained children on suspicion of armed activity, including association with the Islamic State in Iraq and the Levant (ISIL).²⁴ According to the UN, at least 463 children, including 172 in the Kurdistan region of Iraq, remained in detention on national security-related charges, including on grounds of association with armed groups. There have also been allegations of detention and ill-treatment of children by security forces during the screening of civilians from areas formerly held by ISIL.²⁵ In addition, the recruitment and use of children by the popular mobilisation forces, which came under the purview of the Government at the end of 2016, begs for the establishment of core prevention measures such as appropriate age verification mechanisms, separation of children currently in the ranks, and to strengthen accountability for all violations of children's rights.²⁶

In this context, NATO can provide valuable assistance in building the capacity of and professionalizing armed forces in Iraq by supporting the provision of procedures, development of policies and good practice to ensure that post-conflict Iraq delivers a peace dividend for its children. Dedicated child protection capacity within NATO operations in Iraq could be deployed to support UN advocacy with the government and reinforcing messaging that depriving children of their liberty "can lead to the creation of community grievances."²⁷

The reasons why those under eighteen years of age need special protection when they come into conflict with the law apply in all situations, whether they are perceived or considered members of

²² North Atlantic Treaty Organisation, *Resolute Support Afghanistan: Mission*, available from <https://rs.nato.int/about-us/mission.aspx>.

²³ UNSG, *Children and armed conflict: report of the Secretary-General*, A/72/361-S/2017/821, para 28.

²⁴ HRW, *Extreme Measures Abuses against Children Detained as National Security Threats*.

²⁵ UN HRC, *Annual report of the SRSG for Children and Armed Conflict*, A/72/361-S/2017/821, para 77.

²⁶ UN HRC, *Annual report of the SRSG for Children and Armed Conflict*, A/72/361-S/2017/821, para 84.

²⁷ United Nations Secretary-General, *Children, and armed conflict: report of the Secretary-General*, S/2016/360, (20 April 2016), para 16.

armed groups or in cases where extraordinary security measures are in force.²⁸ The Paris Principles state that children with past associations with armed groups should not be prosecuted or punished (or threatened with such) solely for their membership of an armed force or group.²⁹ The treatment of any child accused of crimes must fall under international standards for juvenile justice, and there must be appropriate support for those systems that promote true justice and accountability processes.

NATO can play a crucial role in unpacking the narratives around violent extremism and radicalisation in disseminating child protection training to operational partners. There is a wider need to build understanding on the fact that children's association with armed groups, including those which practice extreme violence, is dictated by a range of context-specific, structural and social factors. There is, therefore, a pressing need to focus on the rights and needs of children affected by violence. Specifically, there is a need to ensure that all actions taken to prevent and respond to the involvement of children with armed forces and armed groups fall firmly within the ambit of international humanitarian and human rights law and the Paris Principles.

Rules of Engagement: Working with Non-State Armed Groups

The recruitment and use of children by non-state armed groups has been a persistent problem for decades. However, little analysis has been conducted on what approaches and methodologies work in changing the behaviour of armed groups. There is a consensus that the process of engaging armed groups is a slow, deliberated one which requires trust-building, coordination, resources, and expertise. It needs political muscle and a genuine desire to engage. The normative framework within the UN with regards to engagement with armed groups supports that “donor States and intergovernmental bodies should avoid promulgating policies that inhibit engagement with non-State armed groups, including those designated as terrorist, which controlled territory or access to the civilian population.”

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Dialogue with parties to conflict towards their preparation of concrete, time-bound Action Plans on recruitment and use of children in armed forces and groups, rape and other forms of sexual violence, the killing or maiming of children, and attacks on schools and hospitals is a critical element of the

²⁸ Rachel Brett, “Juvenile justice, counter-terrorism and children” in *Protecting Children in Armed Conflict*, eds. United Nations Institute for Disarmament Research, 2002, available from <<http://www.unidir.org/files/publications/pdfs/children-and-security-en-581.pdf>>.

²⁹ United Nations Children’s Fund, *The Paris Principles. Principles and Guidelines on Children Associated with Armed Forces or Armed Groups*, February 2007, para 8.6.

³⁰ United Nations Security Council, *Report on the protection of civilians in armed conflict*, S/2013/689 (22 November 2013), para 40.

Security Council's monitoring and compliance agenda.³¹ The fact that several governments continue to oppose or limit UN or other engagement with armed groups, generally because involvement would lend international legitimacy to groups and challenge government, in some contexts has severely impeded efforts to engage armed groups. Therefore, however, politically challenging it appears, there is a need for NATO to explore options to engage with the governments in Afghanistan and Iraq to permit access to armed groups by the UN, regional organisations and independent humanitarian actors for the purposes of entering into dialogue on child protection and seeking the release of children associated with them.

Commitment to Regulating Arms Trade

There is a link between child recruitment and the transfer of small arms and light weapons. First underscored in the Machel study³², the linkage between the proliferation of inexpensive, lightweight weapons and unlawful child recruitment has now been consistently highlighted.³³ The Committee on the Rights of the Child has been mainly focused on the potential impact of arms transfers on children's rights and has consistently held that states should prohibit the sale of arms when the final destination is a country where children are either at risk of unlawful recruitment and use in hostilities.

Countries have taken steps to regulate arms transfers through a variety of binding and non-binding instruments at the international and regional levels. These instruments ensure that human rights are the primary consideration for states when assessing the lawfulness of a potential arms transfer.³⁴ The Arms Trade Treaty (ATT), adopted by the United Nations General Assembly ("UNGA") on April 2, 2013, by a vote of 154-3-23, opened for signature on June 3, 2013,³⁵ and "is the first international, legally binding instrument to govern specifically the transfer of conventional arms, their key parts and components and ammunition/munitions, and to incorporate human rights as a standard to restrict such transfers, with the express purpose of reducing human suffering."³⁶ In the preamble of the Treaty, the signatories acknowledged "the security, social, economic and humanitarian consequences of the illicit and unregulated trade in conventional arms" and recalled that "civilians, particularly

³¹ United Nations Security Council resolution 1539 (2004) on *children in armed conflict*, S/RES/1539 (22 April 2004), para 14; Security Council resolution 1612 (2005) on *children in armed conflict*, S/RES/1612 (26 July 2005), para 19; and Security Council resolution 1882 (2009) on *children in armed conflict*, S/RES/1882 (4 August 2009), para 10.

³² United Nations General Assembly, *Impact of armed conflict on children: note / by the Secretary-General*, A/51/306 (26 August 1996).

³³ See for instance: *Children and armed conflict: report of the Secretary-General* 2000, 2003, 2005, 2006, 2007 and 2009. See also *Small arms: report of the Secretary-General*, S/2008/258 (17 April 2008) and *Second Small arms: report of the Secretary-General*, S/2011/255 (5 April 2011). See also Summary of UN Security Council, *annual meeting on children and armed conflict*, S/PV.4684 (14 January 2003).

³⁴ United Nations Human rights Council, *Impact of arms transfers on the enjoyment of human rights: Annual report of the United Nations High Commissioner for Human Rights*, A/HRC/35/8 (3 May 2017).

³⁵ United Nations General Assembly resolution 68/31, *The Arms Trade Treaty*, A/RES/68/31 (5 December 2013), para. 1.

³⁶ UN HRC, *Impact of arms transfers on the enjoyment of human rights*, A/HRC/35/8.

women and children, account for the vast majority of those affected by armed conflict and armed violence.”

A fundamental principle of NATO's policy on children and armed conflict, therefore, must take into consideration how arms flows hinder the peacekeeping and peace-building process, contribute to violations of international humanitarian and human rights law, and obstruct humanitarian action.³⁷

There is a well-documented direct impact on the protection of children from illicit arms flows. Some key steps for NATO member states to take into consideration, as per guidance issued by the Committee on the Rights of the Child, could include:

- Consistent reporting and the availability of public information on the end-users of arms exports;
- Enacting legislation to prohibit the sale of smuggling, export or transit of arms to countries where children are known to be or may potentially be recruited or used in hostilities;
- Include measures that ensure those responsible for controlling the sale, export or transit of arms are aware of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution, and child pornography, and are guided, during the relevant decision-making processes, by its provisions;
- Consideration of the ratification or expedition of the Arms Trade Treaty.”³⁸

A Need to Learn, Evaluate and Respond

A great deal of attention has been focused on preventing physical harm against children, but in most situations of conflict, the psychological damage caused to children remains unattended as children are drawn into cycles of abuse and links between these harms and violence prevention and mitigation remain unexplored. An absence of a nuanced understanding of the needs of children and an attempt towards a ‘one size fits all’ approach can cause more harm. War-affected children differ significantly in gender, developmental stage, ability, culture, and a host of other factors.³⁹

³⁷ See generally UN HRC, *Impact of arms transfers on the enjoyment of human rights*, A/HRC/35/8.

³⁸ See CRC/C/SWE/CO/5, para 54; CRC/C/OPAC/NLD/CO/1, para 24; CRC/C/OPAC/BRA/CO/1, para 34; CRC/C/OPAC/TKM/CO/1, para 24; CRC/C/DEU/CO/3-4, para 77; CRC/C/OPAC/CHN/CO/1, para 34; CRC/C/OPAC/UKR/CO/1, para 26; CRC/C/OPAC/MNE/CO/1, para 25; CRC/C/OPAC/MDA/CO/1, para 15; CRC/C/OPAC/TUN/CO/1, para 18; CRC/C/OPAC/GBR/CO/1, para 33; and CRC/C/OPAC/USA/CO/1, para 34. See also CRC/C/OPAC/BEL/CO/1, para 21, in which the Committee on the Rights of the Child recommended that the State party review its domestic law on small arms trade with a view to abolishing any trade in war materiel with countries, where persons under 18 years of age take a direct part in hostilities, either as members of the national armed forces or as members of non-State armed groups.

³⁹ Wessells, “Children and Armed Conflict: Introduction and Overview, Peace and Conflict,” 198–207.

A comprehensive and transformative approach is required. It should facilitate genuine community involvement in adherence with international standards while being responsive to local needs. However, an absence of a community of practice, assessments and evaluations of what works and what does not in child protection and prevention strategies means that tired policies are rolled out leaving no space for innovative approaches.

Current discourses indicate that there has been a minimal interrogation of the inter-linkages between prevention, education provision and psychosocial support and how effective programming may identify and work with these connections.⁴⁰ Reintegration programming is often not able to break the cycle of re-recruitment mainly as human rights, humanitarian and security actors fail to knit a comprehensive protection framework which takes into account specific vulnerabilities and contextual realities. If interventions are to be successful and genuinely improve protection of children, interventions need to be monitored and evaluated and learning cross-fertilised across international, regional and local contexts.⁴¹

If NATO is genuinely interested in the well-being and protection of children in its theatres of operation, it will invest in improving knowledge on interventions and advocate to strengthen support to children, families, and communities. While the imperative is humanitarian there is also a legal obligation under OPAC for states and armed groups to ensure that children in their forces are demobilised and provided with appropriate assistance for their physical and psychological recovery, and social reintegration.

Recommendations to NATO member states to improve protection of children in situations of armed conflict:

Recommendation 1: Develop a coherent, consistent and integrated approach to children and armed conflict within NATO, NATO-led operations, missions, and other Council-mandated activities by undertaking the following steps:

- The integration of child protection at the core of planning and conducting of operations and missions, training, education, and exercises, lessons learned, as well as defence and security-related capacity building activities;

⁴⁰ Overseas Development Institute, "Innovations and challenges in protecting children in armed conflict: New approaches to psychosocial support and education," February 2018, available from <<https://www.odi.org/sites/odi.org.uk/files/resource-documents/12060.pdf>>.

⁴¹ ODI, "Innovations and challenges in protecting children in armed conflict."

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- The strengthening and updating of existing child protection policies within NATO, which streamline positions, responses, protocols and guidelines to ensure consistency with international standards;
- Ensuring that the protection of children receives the attention, expertise, and resources it deserves by increasing child protection capacity in HQ and all field operations;
- Cessation of the sale or transfer of weapons to governments where there is a risk that these weapons might be used to violate IHL and IHRL, including attacks on hospitals under Security Council Resolution 1998;
- Abolition and criminalization of arms transfers to state and non-state actors that have records of recruiting and using children in armed conflict;

Recommendation 2: Close collaboration with the Office of the Special Representative of the Secretary-General on children and armed conflict to develop and systematize learning and good practice on children and armed conflict, particularly on harm mitigation, as well as on the implementation of International Humanitarian Law and International Human Rights Law, as applicable.

- Development of specific training packages and modules on the protection of children in strategic- and operational-level curricula that considers gender-specific vulnerabilities of civilians, including children;
- Training, support, and strengthening policies of local security forces to protect children during and in post-conflict situations; Engagement with local authorities, populations, and civil society to develop and adopt policies which are relevant, applicable and appropriate for the local context. Ensuring that these measures are incorporated in the NATO Command Structure and within NATO Force Structure Processes.
- Developing appropriate Standard Operating Procedures to avoid, minimise and mitigate harm to humanitarian actors. Ensuring that actions do not directly or indirectly imperil civilian populations or lead to the denial of humanitarian access
- to civilian populations, including children; Establishing safeguards to protect children from violations, including by placing an increased focus on the principles of distinction and proportionality under the international humanitarian law.

Recommendation 3: Advocate and engage with governments in Afghanistan and Iraq against the detention of children on national security-related charges, as well as the use of detained children for information-gathering purposes, to include:

- Calling on these same governments to guarantee due process for all children detained for association with armed groups, noting that children should be treated primarily as victims and that in all actions concerning children the best interest of the child shall be a primary consideration.
- Urging the governments to comply with their obligations under the Convention on the Rights of the Child, specifically that the deprivation of liberty for children should be used only as a measure of last resort and for the shortest appropriate period.
- Consistently advocating that the governments of Afghanistan and Iraq treat children allegedly associated with non-state armed groups primarily as victims and swiftly adopt protocols for their handover to civilian child protection actors to prioritize their reintegration.

Recommendation 4: Urge the government of Afghanistan to take immediate steps to curtail the military use of schools in line with the Safe Schools Declaration and the related Guidelines on Protecting Schools and Universities from Military Use During Armed Conflict which include steps to incorporate the guidelines into military orders, doctrine, training, and other means of dissemination to ensure appropriate practice throughout the chain of command.

Recommendation 5: Advocate that all parties to the armed conflict be allowed to facilitate a full, safe and unhindered humanitarian access to children consistent with the United Nations guiding principles of humanitarian assistance and respect the exclusively humanitarian nature and impartiality of humanitarian aid and respect the work of all United Nations humanitarian agencies and their humanitarian partners, without distinction.

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