

# Protecting Children During Armed Conflict

International Legal Foundations of the  
**Six Grave Violations Against  
Children During Armed Conflict**



October 2009

The UN Security Council identified the Six Grave Violations against children during armed conflict due to their especially egregious nature and severe impact on a child's wellbeing.

- 1. Killing or maiming**
- 2. Recruitment or use of child soldiers**
- 3. Rape and other forms of sexual violence**
- 4. Abduction**
- 5. Attacks against schools or hospitals**
- 6. Denial of humanitarian access**

In accordance with UNSC Res. 1612 (2005) and 1882 (2009), the UN system is committed to monitoring and reporting to the Security Council on compliance of parties to conflict.

Impunity for crimes against children must end.



**Each of the Six Grave Violations against children during armed conflict may constitute:**

- A grave breach of the Geneva Conventions and the laws of war
- A violation of customary norms of international law
- A contravention of the Convention on the Rights of the Child and other international and regional human rights treaties
- A war-crime and crime against humanity under the Rome Statute

**Perpetrators, commanders and political leaders – of States and non-State armed groups - have been and will continue to be held accountable:**

- Under national laws and military codes of justice
- By the International Criminal Court

### *Grave Violation 1*

## **Killing or seriously injuring a child**



- Every child has an inherent right to life and States must ensure, to the maximum extent possible, the survival and development of the child. (CRC)
- Prohibition on violence to life and person of civilians during armed conflict, in particular murder of all kinds, mutilation, cruel treatment and torture is a norm of international law – with universal applicability. (Geneva)
- Parties to conflict must distinguish between military and civilian targets at all times, and civilians must be protected from military action. (Custom, Geneva)
- Disproportionate military attacks resulting in excessive “collateral damage” are prohibited. (Custom, Geneva)

*‘Persons taking no active part in the hostilities... shall in all circumstances be treated humanely.*

*Common Article 3, Geneva Conventions*

## Grave Violation 2

### Recruiting or using children as soldiers



- Recruiting or using children under age of 15 as soldiers or allowing them to participate in hostilities is absolutely prohibited. (Geneva, CRC)
- Human rights law declares that even children under the age of 18 should not be conscripted or participate in hostilities. (Optional Protocol, CRC)
- Former child-soldiers should be rehabilitated. Special attention should be paid during the disarmament, demobilization and reintegration process. (Optional Protocol, CRC)
- Heads of State, army commanders and militia leaders have been prosecuted for this crime.

*'The Parties to the conflict shall take all feasible measures in order that children who have not attained the age of fifteen years do not take a direct part in hostilities and, in particular, they shall refrain from recruiting them into their armed forces.'*

Article 77, Additional Protocol I, Geneva Convention

## Grave Violation 3

### Raping or sexually abusing a child



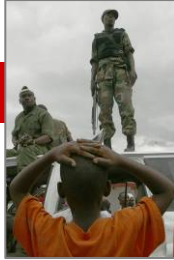
- Common article 3 of the Geneva Conventions demands humane treatment for all civilians, which proscribes rape and sexual violence.
- Rape, sexual abuse and exploitation of children are prohibited under a host of international and regional treaties. (Geneva, CRC)
- Rape has been recognised as torture and is therefore absolutely prohibited. (ICTY, ICTR)
- Commanders have been found guilty and imprisoned on charges of sexual violence against women and girls. (ICTY, ICTR, SCSL)

*'Children shall be the object of special respect and shall be protected against any form of indecent assault.'*

Article 77, Additional Protocol I, Geneva Conventions

#### Grave Violation 4

### Abducting a child



- Abducting, or arbitrarily depriving children of their liberty, is prohibited. (Geneva, CRC)
- Hostage-taking, enforced disappearance and forcible displacement of children are prohibited. (Geneva)
- Heinous acts that often follow the abduction of a child compound the magnitude of the violation: eg. sexual slavery, forced recruitment.
- Children must only be detained for legitimate military purposes. If a child is detained s/he must be at all times treated humanely – including being free from torture or cruel treatment. They must be kept separate from adults (except parents) and be given extra food and the opportunity to play and learn. (Geneva)

*'State parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.'*

*Article 35, Convention on the Rights of the Child*

#### Grave Violation 5

### Attacking a school or hospital



- Schools and hospitals are civilian institutions that often provide shelter & tend to the needs of children.
- Deliberate targeting of schools/hospitals is a grave breach of Geneva Conventions, provided they are not being used for military purposes by hostile forces.
- If in doubt: presumption is always that school/hospital remains a civilian object, protected from attack.
- One of the earliest laws of war: Medical personnel and facilities are to be protected. (Hague, Geneva)
- Children have a right to an education and a right to the highest attainable standard of physical and mental health. (CRC, ICESCR)

*'...the Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives.'*

*Article 48, Additional Protocol I, Geneva Conventions*

## Grave Violation 6

### Denying humanitarian access to children



- One of the oldest maxims of the laws of war: Protect humanitarian relief personnel and equipment. (Custom, Geneva)
- Parties to a conflict must allow and facilitate aid to any civilian population in need. UN and relief agencies must not be refused access on arbitrary grounds. (Custom, Geneva)
- Humanitarian relief personnel should enjoy total freedom of movement, subject to military necessity. (Custom, Geneva)
- In relief operations, children are entitled to special attention and must be provided the aid and care they require. (Geneva)

*'The child shall in all circumstances be among the first to receive protection and relief.'*

*Principle 8, Universal Declaration on the Rights of the Child*

## Major Legal Sources

### of the Six Grave Violations Against Children During Armed Conflict

- ❖ 4<sup>th</sup> Geneva Convention (1949) & its Additional Protocols (1977)
- ❖ Convention on the Rights of Child (1989) & its Optional Protocols on armed conflict & sex trafficking (2002)
- ❖ Rome Statute of the International Criminal Court (1998) & statutes and case-law of other international criminal tribunals
- ❖ Customary International Humanitarian Law
- ❖ Universal Declaration of Human Rights (1948) and International Covenants on Economic, Social & Cultural Rights and Civil and Political Rights (1976)
- ❖ Resolutions of the UN Security Council on children and armed conflict including: UNSC Res. 1261, 1314, 1379, 1460, 1539, 1612, 1882

**Mission Statement of the Office of the  
Special Representative of the Secretary-  
General for Children and Armed Conflict:**

*"To promote and protect the rights  
of all children affected by armed conflict"*

**The UN and Children & Armed Conflict**

Since 1997, the Special Representative has served as a moral voice and independent advocate for the protection and well-being of children affected by armed conflict.

The Special Representative gives prominence to the rights and protection of children during armed conflict.

The Special Representative undertakes humanitarian and diplomatic initiatives to facilitate the work of operational actors on the ground with regard to children and armed conflict.



*"It is unforgivable that children are assaulted, violated, murdered and yet our conscience is not revolted nor our sense of dignity challenged. This represents a fundamental crisis of our civilization."*

- Graca Machel (1996) -



Office of the Special Representative  
of the Secretary-General for

**CHILDREN AND  
ARMED CONFLICT**

[WWW.UN.ORG/CHILDREN/CONFLICT](http://WWW.UN.ORG/CHILDREN/CONFLICT)

Comprehensive working paper available on the website