



# IN THEIR WORDS

PERSPECTIVES OF ARMED NON-STATE ACTORS ON THE PROTECTION  
OF CHILDREN FROM THE EFFECTS OF ARMED CONFLICT



## GENEVA CALL

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# **In Their Words** **Perspectives of Armed non-State Actors on the Protection of Children from the Effects of Armed Conflict**



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# LIST of ACRONYMS

## The participating non-State actors:

APRD	Armée populaire pour la restauration de la République et la démocratie   People's Army for the Restoration of Democracy
JEM	Justice and Equality Movement
MILF/BIAF	Moro Islamic Liberation Front   Bangsamoro Islamic Armed Forces
KNU/KNLA	Karen National Union   Karen National Liberation Army
CNF/CNA	Chin National Front   Chin National Army
PDKI	Democratic Party of Iranian Kurdistan

## Other acronyms:

ARC	Action for the Rights of the Child
CAT	Civilian Auxiliary Training
CIS	Commonwealth of Independent States
CRC	Convention on the Rights of the Child
ICRC	International Committee of the Red Cross
KWO	Karen Women Organization
KYO	Karen Youth Organization
MoU	Memorandum of Understanding
MRM	Monitoring and Reporting Mechanism
(I)NGO	(International) Non-Governmental Organization
NPA/CPP	New People's Army   Communist Party of the Philippines
NSA	Non-State Actor
OCHA	Office for the Coordination of Humanitarian Affairs
OPAC	Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict
ROTC	Reserve Officers Training Cadet
(UN) SC	(United Nations) Security Council
SC Alliance	Save the Children Alliance
SC UK	Save the Children United Kingdom
SG	Secretary-General
SPDC	State Peace and Development Council
UN	United Nations
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund

# FOREWORD

Both States and armed non-State actors (NSAs) often fail to respect and protect civilians in armed conflict situations. Yet for civilian populations, it doesn't matter who is violating their rights. It matters how their rights can be protected.

Situations are rarely black and white, as was hammered home in my experience as Force Commander of the United Nations Assistance Mission for Rwanda. Yet each party to a conflict, State or non-State, has international obligations to ensure the protection of children. It is therefore crucial that strategies targeting armed actors on child protection are not contingent on the status of these actors, but rather on their sincerity. If we fail to engage armed non-State actors, we do so at the peril of affected children.

I welcome this collection of NSA perspectives on children and armed conflict as it allows us to view the issues from an important but overlooked angle. Let us not prejudge the sincerity of the contributing NSAs based on horrific, yet stereotypical, media images of child soldiers. Let us instead consider this as an opportunity to learn from them, and to hold them accountable to their words. The intelligence and capacity of armed non-State actors should not be underestimated. In many cases they outwit the international community. In other instances we lose opportunities to protect civilians when their overtures are not given due consideration. That said, no matter how noble the cause of any belligerent, it can never justify the use of children in hostilities or other violations against them.

My overriding experience is that the international community has developed only very short term instruments for dealing with the issue of children in war. Our shortcomings in the Disarmament, Demobilization and Reintegration (DDR) process, for example, have created scenarios where children were willing to return to non-State armed forces, as conditions there were more familiar and better responded to children's needs.

One way forward for the international community is to be better at creating an environment of cooperation rather than confrontation. As is pointed out in the introduction to this publication, contributing NSAs consider themselves to have a protective role towards children. The sincerity of these claims should be put to the test, but with a sense of humility, recognizing that our own efforts to protect children from the effects of hostilities also often fall short. Such an approach is not contradictory with a tough stance *vis-à-vis* violations. In fact, I believe that in this manner humanitarian common ground can be expanded to the benefit of affected children.

The protection of children from the effects of armed conflict can be a rallying issue for all stakeholders, including NSAs themselves. We can usually all agree that the welfare of children should be respected. Hence, negotiations on their protection can be a key aspect of overall humanitarian action and confidence building towards and within peace processes; if we had put the issue of child protection, and particularly child soldiers, on the table during the negotiations in Rwanda, maybe there is a chance that the outcome could have been mitigated.

A team from the Child Soldiers Initiative, a project which I lead, recently returned from a short field mission in the Democratic Republic of Congo. There, they saw first hand the importance of engaging with non-State armed actors if we hope to one day eradicate the use of child soldiers. Therefore, I applaud the work being done by Geneva Call. Their new *Deed of Commitment* brings us all one step closer to protecting children in vulnerable situations. Geneva Call continues to work where so few others are willing, and in doing so, they are paving the way for more positive interactions with all parties linked to this issue.

Lieutenant-General the Honourable Roméo A. Dallaire, (Ret'd)  
[www.childsoldiersinitiative.org](http://www.childsoldiersinitiative.org)

November 2010, Ottawa, Canada

# INTRODUCTION

Albert Camus, the French philosopher who was no stranger to insurgencies and resistance movements, warned that “good intentions may do as much harm as malevolence if they lack understanding”. The motivation behind *In Their Words: Perspectives of Armed non-State Actors on the Protection of Children from the Effects of Armed Conflict* is to help ensure that international efforts to protect children from the effects of armed conflict, and particularly the impact of armed non-State actors (NSAs), do not fall victim to such a prophecy.

Much has been accomplished since the release of the landmark Machel Report<sup>1</sup> in 1996. While there is still a lot more to be done, one can no longer say that the issue lacks international attention. Notably, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OPAC) was adopted in 2000, and a series of United Nations Security Council (UNSC) resolutions on children and armed conflict (e.g., Res. 1612) has brought a thematic issue onto the agenda of the UNSC for the first time. Both of these advancements include mechanisms wherein States are able to voice their opinions on the issues. Moreover, a growing body of research has provided first-hand accounts from the perspectives of children, including why they become members of NSAs and participate in hostilities.<sup>2</sup>

Yet there remains a fundamental gap in our knowledge. We know little about what NSAs themselves think about the protection of children in armed conflict. How do they see their role? What challenges do they face? How do they perceive and react to international mechanisms? This publication not only takes an initial step towards answering these questions, but it also provides examples of good practices that can help other NSAs better protect children and thereby meet their international obligations<sup>3</sup>. It is clear that NSAs are part of the problem. The focus here is on how they may be part of the solution.

Contributions come from NSAs which operate in Africa, Asia, and the Middle East. Four of the contributing NSAs are listed as violators in the annexes to the 2010 Report of the Secretary-General on Children and Armed Conflict (Armée populaire pour la restauration de la République et la démocratie (APRD), Justice and Equality Movement (JEM), Karen National Union /Karen National Liberation Army (KNU/KNLA), and Moro Islamic Liberation Front/Bangsamoro Islamic Armed Forces (MILF/BIAF). One has entered into an Action Plan with the relevant UN Country Team (MILF/BIAF).

The publication includes contributions from the non-recognized State of Somaliland and the partially recognized State of Abkhazia, and the independence movement Polisario Front of Western Sahara.<sup>4</sup> The rationale for their inclusion is that these entities are also without an international forum to make known their perspectives. They are not members of the United Nations and lack the capacity to become party to the relevant international treaties (although the Sahrawi Arab Democratic Republic has signed the African Charter on the Rights and Welfare of the Child). As all of these entities have experienced armed conflict in recent years, it is important for the protection of children living therein that they do not fall off the radar screen. While their experiences may differ from other contributors, there is much to learn from their perspectives.

NSAs are not monolithic; they have different motivations, structures, and competencies, and therefore generalizations should be avoided. This publication does not pretend to be comprehensive in terms of the range of NSAs that appear. In fact almost all of the contributing NSAs have prior relationships with Geneva Call, primarily in connection with its work on the anti-personnel landmine ban. It is unlikely that such a publication could have been compiled at all if it were not built upon the relationship of trust that Geneva Call has established with NSAs over its 10 years of existence. This inherent limitation means that NSAs from regions which do not necessarily have landmines issues, but where recruitment and use of children has been an acute problem, are under-represented. Moreover, some NSAs approached by Geneva Call decided not to contribute to this volume for various reasons.

Contributions are based on a framework questionnaire prepared by Geneva Call (see Annex ). It should be clear that the responses are the perspectives of the NSAs themselves, to which they alone should

<sup>4</sup> For the sake of brevity, this publication uses the acronym NSA to refer to all contributors.

<sup>1</sup> *The Impact of Armed Conflict on Children*, (A/51/306), available at [http://www.unicef.org/graca/a51-306\\_en.pdf](http://www.unicef.org/graca/a51-306_en.pdf).

<sup>2</sup> See for example, Brett, R. and Specht, I., *Young soldiers: why they choose to fight*, International Labour Office, Geneva, 2004.

<sup>3</sup> Besides the prohibition on the recruitment of children and their use in hostilities, IHL requires all parties to a conflict, State or non-State, to afford children special respect and protection. See Henckaerts, J.M., Doswald-Beck, L. *Customary International Humanitarian Law*, Cambridge University Press, Cambridge, 2005, rules 135-137.

be held accountable. Contributions have not been verified or fact-checked, and have only been edited for purposes of language and efficiency. Nothing should be read as an endorsement of any particular position, statement, recommendation or action. That said, Geneva Call would like to commend the contributing NSAs for limiting their submissions to the humanitarian realm, and resisting any temptation to use this forum to stray into non-contextual political and ideological statements.

While many NSAs report positively on their relationship with the international community, not all of the publication will be comfortable reading. It is hoped that the criticisms contained within will be considered in the constructive spirit in which they have been made.

A recurring criticism is that concerned States often prevent humanitarian assistance and training on humanitarian norms, and also obstruct interaction with UN processes necessary for de-listing under the Monitoring and Reporting Mechanism (MRM). With respect to the former, NSAs call upon international actors to be more active. With respect to the latter, they request the UN to be more responsive to their calls to enter into Action Plans.

Contributing NSAs consider themselves to have a child protection role that goes well beyond the prohibition on the recruitment of children and their use in hostilities. They report on measures to shelter children from attacks from opposing forces, such as by evacuating them to safe areas. Many report that they have reconstructed and established schools in areas where they operate, often in situations where children are displaced and resources are scarce. Parents or even combatants act as teachers. At times these schools come under attack by opposing forces. The KNU claims it has had to move school locations more than 3 times in a year. NSAs report on measures to provide children with health care and social services, including maternity care. Some NSAs have established departments dealing with these issues. Sometimes they receive assistance from external sources, sometimes not. For example, Somaliland commends UNICEF and Save the Children Alliance for ongoing assistance on the protection of children's rights. On the other hand, JEM reports that in 2004, its current humanitarian coordinator took 80 children from military camps of another NSA (with which he was then associated) to a refugee camp in a neighbouring State, but none of the protection agencies he spoke to were able to take responsibility for the children. JEM reports that it now finances schools in the area, but has been unable to secure assistance for education initiatives from international actors.

The NSA perspectives shed a great deal of light on the recruitment of children and their use in hostilities. First, none of the contributing NSA's policies allow for compulsory recruitment under 18, and only one allows for voluntary recruitment between 15 and

18—in this case, Abkhazia signifies a willingness to come into compliance with the OPAC. The Chin National Front (CNF) reports that historical and cultural practices of the Chin people require maturity in a soldier, but there has traditionally been no age definition. After internal discussion, the CNF adopted the 18-year standard to conform to both international standards and its own traditions. The compatibility of Islam with the 18-year standard is also addressed. The MILF refers to its challenge of confronting a reluctant membership which considers the principles of Islam as setting adulthood at the age of puberty. The Polisario Front, on the other hand, reports that Muslim culture and international practice both lead to 18 as the proper age limit. JEM notes that while it does not see conflict between its own rules and international law, in the case of discrepancy, its rules provide that international law will take precedence. Finally, the MILF also mentions that some of its membership are suspicious that the 18-year standard may be an anti-insurgency measure.

Beyond the age issue, the contributions reveal important nuances in terms of the scope of the prohibition. Some NSAs make clear that children may take part in political activities. The PDKI trains children in self-defense and how to assist victims in conflict, while others prohibit military training of children. The APRD considers it permissible for children to be used as lookouts, but not to carry arms or be trained in combat. Many of the contributions highlight that children often come to NSAs looking for protection, care, excitement or the chance for revenge. Sometimes they desert from opposing forces. Others point out that children live in supportive communities and camps where fighters are present. There is a broad consensus that the prohibition should cover situations where children are used in hostilities or military roles, but not where they perform non-military auxiliary tasks under the protection and care of NSAs. This does not mean that these NSAs are opposed to release and reintegration opportunities for children performing auxiliary roles—in fact they seem to welcome such opportunities—but they feel that any such discussions with the UN and other protection agencies should not be in the context of violations.

Acceptance of humanitarian standards does not necessarily mean that they will be respected. Besides the requisite good faith, dissemination and discipline must also be effective. Contributing NSAs share how they enforce their policies, from military orders and directives to fighters, to educating parents and communities, to means to determine the age of children, to disciplinary measures such as prison sentences and expulsion from the NSA. In its contribution, the MILF includes its internal order which directs its forces on how to implement its UN Action Plan. The JEM includes its internal order establishing a committee to implement its Memorandum of Understanding (MoU) with UNICEF.

Contributions from NSAs which are listed as violators by the Secretary-General shed some compelling



light on the MRM process. On the positive side, the MILF recognizes the important roles of the UN and international community, noting that there remains room for improvement. They report that cooperation with UNICEF has so far been productive, but caution that it is too early to reach any conclusions on its effectiveness, as they await word on what concrete steps will follow the registration process. The experience of others is less positive. There is a clear message that listed NSAs feel that the MRM process is inaccessible to them and that it does not grant non-State actors a fair process to refute the allegations leading to their listing. The KNU/KNLA reports that its letters to UNICEF expressing a desire to enter into an Action Plan have remained unanswered, even after having signed a UNICEF “Deed of Commitment”<sup>5</sup>. The APRD asks Geneva Call for assistance in contacting the UN. The KNU and the JEM both call upon the UN to be less deferential to concerned States on issues of access and dialogue.

The credibility of the MRM process could come into question if the parties which it addresses, especially one particular type of party, i.e. NSAs, are not permitted to access the mechanism. Under such circumstances, the door is open to allegations of

<sup>5</sup> This should not be confused with the *Deed of Commitment* under Geneva Call for the Protection of Children from the Effects of Armed Conflict, launched in November 2010.

partiality. If this is not addressed, it may become a pathway for excuses for inaction on all sides.

Geneva Call hopes that this publication will help to break down stereotypes while promoting accountability and appropriate responses to the protection of children in areas where NSAs operate. There is no denying the challenges. The international community does not have a magic wand to wave.

But if this publication creates a better understanding of how the issues are perceived by at least some NSAs, then it has helped to ensure that the good intentions of the international community are translated into improved conditions for children suffering the effects of armed conflict.

#### Further constructive suggestions made by contributing NSAs

- The **APRD** recommends a campaign directed at adults over the radio and via television explaining the possible legal consequences of using children in conflicts, and suggests that former combat leaders may be useful in these campaigns
- The **Polisario Front** calls for more diversity in UN programmes
- **Somaliland** asks for assistance in implementation of its juvenile justice law
- The **CNF** calls for external help in implementation of child protection standards even if not listed in S-G Report annexes
- The **KNU/KNLA** outlines specific assistance needs such as clothes and bedding, educational materials and leisure activities for children
- The **MILF** calls for an educational campaign to promote the benefits of the UN Action Plan beyond its membership to the community as a whole
- **Abkhazia** plans to create a role of humanitarian coordinator

# ACKNOWLEDGMENTS

It is not an easy task to put together such a publication. Sensitivities and logistical challenges abound. Geneva Call would like to take this opportunity to thank those who made it possible.

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# NSA CONTRIBUTIONS

Contributions are the perspectives of the NSAs themselves, to which they alone should be held accountable. These contributions have not been verified or fact-checked and have only been edited for efficiency and language. The following contributions were translated from the original language: Abkhazia (Russian), the APRD (French), the Polisario Front (Arabic)



Credit Photo: Philippines - Geneva Call

# 1 Abkhazia

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The Republic of Abkhazia is a partially-recognized State<sup>6</sup>. Abkhazia is a young, rather small State with a long and complex history. Because of its convenient geographical position, mild climate and rich natural beauty, Abkhazia has always attracted special attention and been subject to attempts to be conquered. The Georgian-Abkhazian War of 1992-1993 and the economic blockade which followed, interrupted the development of Abkhazia for many years and threatened the security, health, well-being and development of the population, and especially, the most vulnerable, the children. According to the statistics<sup>7</sup>, on 01.01.2009, the population of Abkhazia counted 215,567 inhabitants, of whom 53,460 were children between the ages of 0 and 19 years<sup>8</sup>.

Thanks to the assistance of some international organizations, the Commonwealth of Independent States (CIS) countries and especially of the Russian Federation, peace and security were re-established in Abkhazia. But the country still suffers from the consequences of the events of 1992-1993, during which not only State infrastructure was destroyed and the economy undermined, but also irreparable moral and psychological damage was inflicted upon the population. Unfortunately, no comprehensive programmes on psychological rehabilitation of children and their families - survivors of war, have been implemented in Abkhazia.

## Provisions

According to Article 5 of the Republic of Abkhazia's law "About social associations, political parties and movements in the Republic"<sup>9</sup>, only adult persons (at least 18 years old) may join associations and movements. Children from the age of 15 can take part in social youth associations under the auspices of political parties. The age of participants of some other social associations and children's associations is defined by their charter. The Government of the Republic of Abkhazia is familiar with the norms of international humanitarian law related to armed conflicts, and considers it necessary to adhere to them; this is reflected in the Handbook on International Humanitarian Law for the Armed Forces of RA<sup>10</sup>.

Some extracts from the Handbook:

1. Tasks of moral and psychological education according to international humanitarian law include the following:

- to convince the Armed Forces of the necessity to observe the principles and norms of international law;
- to educate the Armed Forces in the spirit of traditional humane treatment of the victims of armed conflicts and the civilian population (par. 149, page 80).

2. While organising the moral and psychological support for combat operations, the troops should be provided with printed publications and audiovisual materials on international humanitarian law (par. 150, page 80).

Children in the Republic of Abkhazia do not learn self-defense and do not receive training on defense. To date, in accordance with paragraph 81 of the Handbook of International Humanitarian Law for the Armed Forces of Abkhazia<sup>11</sup>, and with the laws "On Defense" and "On general conscription and military service"<sup>12</sup>,

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6 The Russian Federation recognized Abkhazia 26 August 2008; Nicaragua on 5 September 2008; Venezuela on 10 September 2009; the Republic of Nauru on 15 December 2009; in addition to South Ossetia and a number of non-recognized States which have recognized the independence of this Republic.

7 Here and below all the data was provided by an annual statistics report for the end of 2008 "Abkhazia in Figures", issued by the State Statistics Department of Abkhazia. Sukhum, 2009.

8 Citizens of the Republic of Abkhazia are considered children below the age of 18, the age of majority. Age 19 years is used only in statistics.

9 Collection of Legislative Acts of the Republic of Abkhazia. Sukhum, 2003.

10 The Handbook of International Humanitarian Law for the Armed Forces of Abkhazia. Approved order № 222 of the Defense Minister of Abkhazia, on 17 October 2007. Ministry of Defense, Abkhazia 2007.

11 *Ibid.*

12 Collection of Legislative Acts of the Republic of Abkhazia. Sukhum, 2003.

the minimum age for voluntary enrolment in the armed forces and groups, as well as voluntary participation in active fighting, is 15 years<sup>13</sup>; the minimum age for compulsory conscription into the armed forces is 18 years.

## Concrete steps undertaken to protect children

At present, the international community is concerned with providing security to children, and Abkhazia does not differ in that respect. The work is carried out together with international organizations to mitigate the consequences of the domestic war of 1992-1993, as well as the effects of the economic blockade. The Republic has rebuilt kindergartens (there are 24 kindergartens for 2,072 children), there are programmes on increasing literacy and education among the population: the country rebuilds schools and creates new ones (there are 171 public secondary schools with 26,220 pupils, and two private schools with a total of 445 pupils); colleges and universities/institutes (13 colleges with 1,733 students; 2 universities/institutes with 3,778 students). Much has been done to improve medical services and health for the population as a whole and especially for children (there are 615 doctors in Abkhazia (i.e. 153 more than in 1995), 52 of whom are pediatricians; hospital wards contain 120 beds for children, and 19 health facilities).

The Government has various programmes for improving the demographic setting in the country (not so long ago the Government of the Republic completed the reconstruction of the Sukhumi maternity hospital, with 265 beds for pregnant women and women in delivery (50 more than in 1995); the number of live infants born reached 1,990, there were 1,553 deaths in the population, hence a net population increase of 437.

Great attention is paid to questions of cultural development, entertainment and recreation (there are 33 libraries (i.e. 13 more than in 1995), there are 18 clubs, three museums, three theatres, 12 schools of choreography for children, nine children's sport schools, with 2,838 children enrolled). Thanks to a traditionally respectful and kind attitude towards children and the elderly in the Republic of Abkhazia, there are neither boarding schools nor orphanages in the country. Throughout the country, boys and girls enjoy equal rights of access to education, medical services and cultural development.

According to the 2008 annual report on the activities of international humanitarian organizations in Abkhazia<sup>14</sup> prepared by the International Department of the Ministry of Foreign Affairs, there are 13 international organizations in Abkhazia, each in one way or another concerned with the problem of child security. Each organization implements humanitarian projects and programmes on the questions of security, improving living standards and guaranteeing education and normal development for children. Among the international organizations active in the Republic, there are the International Committee of the Red Cross (ICRC), UNICEF and others. Unfortunately, following the events of August 2008, the humanitarian non-governmental organization "Save the Children" stopped activities in Abkhazia on 1 September 2008.

Additionally, there are some 20 local organizations in the country whose areas of work include security, improvement of living conditions and educational opportunities for children, the psychological rehabilitation of families and increased recreational opportunities. Among them are: the association "Free Step" of disabled children's parents, the charitable organization Ochamchira's House of Youth "Gleam of Hope", the Mother's Movement for Peace and Social Justice, and many others.

The Ministry of Foreign Affairs, which is the main agency coordinating the activities of the international organizations on the Republic's territory, provides assistance in conducting meetings between representatives of international organizations and the leadership of the country, and different ministries and departments. It also provides technical and advisory support.

After the recognition of the independence of Abkhazia by the Russian Federation, the relationship of the Republic with international organizations began to change. Currently, meetings are held by the Abkhazia leadership with representatives of donor countries and international organizations in order to determine a new form of relationship.

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<sup>13</sup> Resulting from the small population in the Republic, the age was set at 15 years.

<sup>14</sup> The report was made by the International Department of the Ministry of Foreign Affairs of the Republic of Abkhazia basing itself on international organizations' annual reports about their working activity on the territory of Abkhazia. Sukhum 2009.

## Challenges

In order to strengthen cooperation between the international organizations and the Government of the Republic of Abkhazia, and increase efficiencies in overcoming the consequences of the domestic war 1992-1993, as well as of the economic blockade that followed, it would be advisable to<sup>15</sup>:

- establish closer and more open relationships between the authorities of the Republic and representatives of international organizations;
- improve the technical, advisory and mediatory cooperation between the sides;
- establish a timely and comprehensive information exchange between the state structures and the international organizations;
- involve all state authorities, local authorities and other bodies responsible for the specific areas of programmes implemented by the organizations in the framework of humanitarian projects on the protection of children;
- appoint, under the direction of the Government, a person responsible for the coordination of humanitarian activities and establish a coordinating body in the Republic, which would give recommendations to the international organizations about those aspects of everyday life, health and security of children that are to be paid the greatest attention (resulting from the reports of the Centre for Strategic Research). This coordination centre should monitor the work of international organizations within the territory of the Republic of Abkhazia and, based on their reports, it should print publications about what was done and achieved, as well as information on forthcoming projects. The centre should involve the local population in the work with the international humanitarian projects, which would increase confidence in the international organizations and make humanitarian activity more efficient;
- involve more countries and organizations, particularly humanitarian organizations from Russia and CIS countries, in order to improve the security and living conditions of children,

The Government of the Republic of Abkhazia facilitates the activities of humanitarian missions on its territory. Representatives of the humanitarian missions are authorized to visit any region of Abkhazia.

The Republic of Abkhazia is not mentioned in the Secretary-General's list of lawbreakers. It has never been accused of cruel treatment of children.

The Government of the Republic of Abkhazia has examined the contents of the "Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict" and finds very effective its position in ensuring the safety of children during armed conflicts and after them. In this regard, we ask you to assist in considering the possibility of Abkhazia's accession to the Protocol. In the case of accession to the Additional Protocol, Abkhazia would raise to 18 years the minimum age for voluntary enrolment of persons in the national forces.

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<sup>15</sup> All the recommendations are based on the section of "Conclusions and Recommendations for the work of international humanitarian organizations active on the territory of Abkhazia" of the mentioned Report.

## 2 Armée populaire pour la restauration de la République et la démocratie (APRD)

Central African Republic

### Protective measures

The first measure undertaken by the APRD at a general level was to prohibit the direct participation of children in combat. For us a child is someone who is completely dependent on his parents to be fed, to be cared for, to be dressed and housed, and has not yet reached the age of 18. Since children follow their parents, there is no question of determining the age of the children; their parents know how old they are. Participating in warfare is an activity restricted to adults. Children do not participate in preparatory meetings nor in any activity directly linked to combat. They are however sometimes used as lookouts, but since they do not participate in combat, they are neither trained nor do they carry arms.

The APRD bases are not like other bases of movements in rebellion. The combatants live with their families, so the children are with their parents.

There are no written rules that prohibit the participation of children in combat. The particularity of the struggle which the APRD is leading consists in protecting a territory. It is not a struggle to conquer power or territory. There is no offensive which would lead us to use children.

On the other hand, makeshift schools were rapidly set up in the bush and the children have been able to go to school sometimes with combatants as teachers. These makeshift schools exist wherever there are internally displaced people in the areas controlled by the APRD. There may be about 50 of these schools. Children of both sexes (girls and boys) aged 6 to 12 years go to primary schools, and children aged 12 to 20 are organized in different levels for the middle and high schools. The teachers are often parents. They are remunerated by the APRD and sometimes directly through contributions in kind by the parents, such as bags of manioc, of rice, etc. UNICEF, United Nations High Commissioner for Refugees (UNHCR) and Office for the Coordination of Humanitarian Affairs (OCHA) support the schools.

### Challenges

Children are often very curious creatures. They get together in order to take part in combat without even the knowledge of the chiefs. They want to distinguish themselves during clashes in order to prove their usefulness and to justify their presence. They have no fear and do not realize they can be affected. They can be very happy during combat, but then afterwards will be very sad when they realize that they have lost friends or when they have to confront wounded comrades. The children become very perturbed and no longer react like children. Their faces are often sad. They spend their time reliving the different events in their heads. Protecting these children is often very difficult. They must be kept away from every kind of narcotic, and even alcohol and cigarettes. We have never had experiences of this kind.

In order to avoid this, the planning of combat is done in absolute secrecy. Even the women are often kept in the dark and the children even more. Those who manage to participate do so with their parents' complicity, and we then take measures against the parents. But it has become difficult; as you know, the APRD is made up of families which are mostly autonomous and only unite in case of danger. The rest of the time, the combatants stay at home.

### International rules and processes

In our tradition protecting children is the obligation of every adult. APRD's leadership, especially its president, is very conversant with the international rules and processes concerning children in armed conflict. There are no regular training sessions. But each time the APRD leadership visits a base and sees combatants under the age of 18, they are made to leave the ranks and their parents are visited and informed of the dangers of using child soldiers.

When we have the opportunity to meet combatants, we inform them of the consequences of accepting children in their ranks for the leaders individually and for the movement as a whole. This is why you will no longer find any child soldiers among the APRD's ranks.

The comprehensive knowledge of the APRD's leadership of international humanitarian law has eased relations with different international organizations and non-governmental organizations (NGOs), especially UNICEF, to set up a special programme aimed at demobilizing child soldiers in the APRD. And yet the demobilization and the reinsertion of such children are not sufficient. A programme should be put into place with the following points:

A general information campaign to be repeated at regular intervals in the areas affected by the conflict and in the larger towns, in schools and in other places where children gather. This campaign should be supported by videos which show the detrimental consequences of children participating in conflicts.

Another campaign should be directed at adults over the radio and via television explaining the possible legal consequences of using children in conflicts. Former combat leaders may be useful in these campaigns. And finally there should be a plan for psychological follow-up and reinsertion of all children who participated directly in the conflict. They should be seen at least once or twice a year to monitor their integration into society. One of the goals of this plan should be to check whether demobilized children maintain contact with their former comrades and their chiefs and to break those contacts.

## Cooperation

The APRD cooperates well with a number of NGOs and principally with UNICEF on the subject of the demobilization of child soldiers. Our movement is about to cease its activities in a few months and we are at the stage of disarmament and demobilization. UNICEF has chosen a specialized NGO with whom we have been working for several months. They built a camp and collected all the children there. They have been giving them training and give them a kit before they are sent back to join their families. To our knowledge there is no mechanism in place that measures the children's reinsertion.

## The UN List

It was while we were reading the reports of the Secretary-General of the UN that we realized that we no longer had children in our ranks. We don't have an action plan and neither have we signed a convention with UNICEF to be withdrawn from the list of movements that use child soldiers. We were disagreeably surprised to learn that the APRD was on the list, because the APRD has never recruited children. On the contrary, we took measures to protect these children who are our own children. It is because the war was brought to us that the children suffered the consequences. Unfortunately, we have not yet written to UNICEF and we do not know to whom we should address this correspondence. Can you help us to sign this action plan?<sup>16</sup>

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<sup>16</sup> As per this request, Geneva Call forwarded the contact details of the SRSG-CAAC to Jean-Jacques Demafouth, President of the APRD.



In situations of armed conflict, children are especially vulnerable and are most often the first victims of forced recruitment. Regardless of how they are recruited, child soldiers are victims whose participation in conflict has serious implications for their physical and emotional well-being. In Burma, the majority of people, including children, live in villages and most of them are uneducated, deprived of access to health care, leisure opportunities and mental and physical development. Children continue to be victims of random as well as premeditated violence perpetrated by the individuals who employ them, both the State and non-State armed actors. In order to prevent such atrocities and abuses against children, and let them freely enjoy their right to basic human rights and fundamental freedoms, the CNF has developed its Deed of Commitment on Protection of Child Soldiers in Armed Conflict in March, 2009.

### Deed of Commitment

We, representatives of the Chin National Front/Army:

**Condemn** the use and the recruitment of child soldiers;

**Affirm** that the term child, consistent with the UN Convention on the Rights of the Child, is defined as a person below 18 years of age;

**Agree** that a “child soldier” is defined as: “any person under 18 who is part of any kind of regular or irregular armed force/group in any capacity, carrying or not carrying arms; including but not limited to cooks, porters, messengers, and those accompanying such groups, other than purely as a family member; it includes girls recruited for sexual purposes and forced marriages”.

**Recognize** the importance of cooperation among, and the active participation of, various stakeholders in the community, including families, children and youth, in improving the lives and well-being of children in Burma and in its border areas;

**Concerned** by the harmful and widespread impact of armed conflict on children and on its long-term consequences on the development and security of communities and families we work with;

**Affirm** and uphold the following human rights instruments for the protection of children associated with armed groups and forces: the Optional Protocol (to the Convention on the Rights of the Child) on the involvement of children in armed conflict which states that armed groups should not, under any circumstances, recruit or use in hostilities persons under the age of 18 years; International Labour Organization Convention No. 182 on the Prohibition and Immediate Action for the Elimination of the Worst Form of Child Labour which prohibits forced or compulsory recruitment of children for use in armed conflict; and the Rome Statute of the International Criminal Court, which categorizes the conscription, enlistment or use in hostilities of children under the age of 15 as war crimes in both international and non-international armed conflict;

**Recognize** the adoption of Security Council Resolution 1612 (2005) and previous Security Council resolutions on children and armed conflict and the need to comply with the international norms contained therein;

We hereby declare our commitment and adherence to the principles of the Optional Protocol to the Convention on Rights of Child on the involvement of children in armed conflict and shall take the necessary and immediate actions, as follows:

1. *We will not recruit or use in any circumstances, "voluntarily" or by force, any person under the age of 18 years;*
2. *We will undertake all feasible measures, including the adoption and strict enforcement of rules and codes of conduct of our members, to prevent the recruitment, involvement or use of children as soldiers within CNF/CNA;*
3. *We will permit the monitoring, by independent third parties agreed upon, of our commitment and adherence to the principles of the Optional Protocol and compliance with the provisions thereof and will seriously address their findings and recommendations;*
4. *We will undertake to make the principles and provisions of the Optional Protocol widely known and promoted by appropriate means, within our own organizations and communities we work with;*
5. *We will undertake all feasible measures to ensure that children within our jurisdiction/protection recruited or used in hostilities are demobilized or released from service as stated in the United Nations Security Council Resolution 1612;*
6. *We will also facilitate the provision of appropriate assistance by United Nations agencies, international development organizations and NGOs, for the physical and psychological well-being and social reintegration of demobilized or released children within CNA;*
7. *We will cooperate and regularly consult with other international and non-governmental organizations in the implementation of the principles of the Optional Protocol and other aforementioned human rights instruments, including in the prevention of any activity that leads to the recruitment and use of children in armed conflict;*
8. *We will develop a time-bound plan of action together with various stakeholders to specify the objectives and specific measures to implement the Deed of Commitment.*

In fact, the above Deed of Commitment is not a new standard for CNF/CNA, it is rather consolidated from various laws and norms enacted by CNF/CNA before the Deed of Commitment was developed in 2009.

When it comes to the definition of the age of the child, the CNF had long debated as well as taken into account Chin culture and customs. In the Chin people's concept, soldiering is defined as hard work and only those who are mature are recruited. Before the British annexed Chinland, there was tribal war among the Chin people and when they went to war, soldiers were only mature men, and women never joined in the war. They stayed behind to provide rations and other items or to look after domestic work including farming.

Children were not allowed to join in the tribal war. In accordance with the Chin people's custom, there was no explicit definition of age of who could join the tribal war, but the CNF itself defines 18 years and above as mature to join in the war. This definition has been adopted before the Convention on the Rights of the Child was declared officially.

When the aforesaid Deed of Commitment was developed by the CNF, the following instruments were taken into account and incorporated as much as possible:

- Optional Protocol of Convention on the Rights of the Child on involvement of children in armed conflict which states that armed groups should not, under any circumstances, recruit or use in hostilities persons under the age of 18 years;
- International Labour Organization Convention No. 182 on the Prohibition and Immediate Action for Elimination of the Worst Forms of Child Labour which prohibits forced or compulsory recruitment of children for use in armed conflict;
- The Rome Statute of the International Criminal Court, which categorizes the conscription, enlistment or use in hostilities of children under the age of 15 as war crimes in both international and non-international armed conflicts;
- Security Council Resolution 1612 (2005) and Previous Security Council resolutions on children and armed conflict;
- CNF's military "Code of Conduct" which was developed in 1995 based on the Geneva Conventions and their Protocols.

## Challenges

In order to implement the Deed of Commitment, there are three perspectives. The first one is how to implement this commitment within the organization. The CNF needs to educate its members, particularly members of the Chin National Army (CNA), on the basic concept of the commitment and ensure that each and every member strictly follows it. Secondly, it also needs to let the Chin people know about the commitment as well as related international instruments in order to stop recruitment of child soldiers by any armed groups including the State. This awareness shall also help to stop their children who are under 18 years to voluntarily enlist in any armed groups including the State. In this regard, the CNF has already issued an order not to recruit children (under 18 years old) as soldiers and disseminated it among the commanders. Issuing an order is not enough, but it still needs to explain systematically why the order is issued (rationale), how to check their age, how to systematically deny someone under 18 years old who would like to join or release him, etc.

Thirdly, the Burmese Army has also made a commitment not to recruit child soldiers but in practice, it doesn't follow its commitment. The CNF, who commits to stopping the use of child soldiers in armed conflict or hostilities, requests and suggests to international organizations including NGOs to provide technical and financial resources for full implementation of the Deed of Commitment.

As mentioned in the Deed of Commitment, the CNF commits and welcomes the cooperation of international organizations including UN agencies and NGOs for implementation. So far no UN agencies or NGOs have made contact with the CNF in this regard. For monitoring of the implementation of the Deed of Commitment, no party has yet expressed interest or contacted the CNF either. Therefore, the time-bound plan of action and the implementation are not developed yet, since we need expert advice on this. So far, there is no one who is under 18 years in the CNA, therefore there is no problem. However, if someone under 18 year old joins the CNA, it is easy to fulfill the demobilization but when it comes to the physical and psychological well-being and social reintegration of demobilized or released children, we do need external assistance. This is also the case if someone is either released by the Burmese army, or when he/she surrenders to, or is captured by, the CNA. If these children don't want to go back to their village, and stay within our jurisdiction, we also need external help in reintegration.

# 4 Justice and Equality Movement (JEM)

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Sudan

## Summary

The Sudan Justice and Equality Movement (JEM) shares your commitment to full protection of children in armed conflicts and is ready to continue cooperation and ratification of all relevant international conventions.

## Response to questions posed by Geneva Call

### Policies

- JEM has taken numerous measures to protect children in its areas and in line with international laws and treaties. For example, JEM provides training to all its commanders regarding protection of children who happen to pass through its camps. JEM has initiated its own policy regarding protection of children and has publicised that among its commanders and soldiers.
- JEM does not keep any children under its care. According to its policies, volunteers under 18 are not allowed to enlist as JEM fighters. JEM medical doctors are commissioned to determine that a volunteer is over 18 before he or she is recruited. Moreover, all JEM fighters are volunteers, irrespective of whether they are 18 or older. JEM always takes measures to hand over children who happen to call on its camps to their relatives, refugee camps or village sheikhs who can reunite them with their families.
- A briefing is now given as part of military training to all new recruits. Soldiers and commanders found in breach of relevant rules are disciplined and punished in proportion to their offences. They could even be expelled from JEM.
- JEM does not see conflicts between its rules and relevant international laws on children. However, if there is any discrepancy, international laws apply. JEM is ready for further engagement with NGOs, the UN and other international institutions with regard to protection of children who happen to fall under its care.

### Challenges

A few children appear in JEM camps for different reasons – fleeing away following attacks on their villages; looking for food and shelter; wanting to connect with relatives in the army or simply for curiosity and fun. JEM always takes care of these children and sends them back to their families or refugee camps.

Children and young adults appearing at JEM camps have no birth certificate and do not know their ages. When in doubt, JEM doctors can be called upon to verify claimed ages. NGOs are unable to cooperate with JEM regarding protection of children, as they require government permission to do so. In 2004, Suleiman Jamous, the current Humanitarian Officer of JEM, took 80 under-aged children to safety at the Chadian border. For a whole month, there was no NGO willing to help him. JEM is now financing some schools in the area to cater for such children.

In the field of education, JEM is at the moment paying for school teachers for the education of children in more than one locality. Efforts to get some help from international NGOs to assist JEM in its education initiatives have so far failed.

JEM has approached several international bodies for further training as was done with the Sudan Liberation Movement (SLM) but has received no response. International organizations working in this field are reluctant to work with JEM as that will jeopardize their dealings with the Government of Sudan.

International experts working with and reporting on JEM's treatment of children are unable or unwilling to visit JEM-held areas. Instead, they base their reports on information provided by government centres or elsewhere on material delivered in less risky areas.

## Major problems

- Absence of NGOs or other bodies who can take care of these children when necessary; JEM has invited numerous organizations to visit its areas to discuss adherence to child protection codes. The invitation is still open and JEM is ready to facilitate that at any time.

- Insistence of relevant organizations to work with sovereign states to the exclusion of rebels.

- Inability and unwillingness of these organizations to visit JEM areas and discuss and evaluate with them ways of implementing these conventions on the ground and assess the degree of conformity of JEM and others to these rules and;

- Elaboration of conclusions based on secondary information about adherence to conventions on children in armed conflicts.

## International cooperation

JEM has been cooperating with relevant international institutions working in areas of combat, protection of children and humanitarian work. JEM has already signed a memorandum of understanding with UNICEF and OCHA and has continued to engage ICRC in this regard.

Knowledge of how to deal with children in conflict zones is now widespread among JEM soldiers. Commanders are familiar with international codes regarding treatment of children and they act accordingly when it is necessary to do so.

JEM is familiar with international conventions regarding children in armed conflicts but is willing to learn more. The “18 years rule” is an international convention known to JEM as indeed to many across the world.

JEM knew about the UN report from the media and was aware that the report was compiled without visiting JEM-held areas<sup>17</sup>. JEM contested the report and invited those concerned to visit their troops at any time to verify their claims. Also, JEM engaged some of the relevant institutions with regard to cooperation in this matter. As a result, progress was made and some agreements have been signed.

<sup>17</sup> Subsequent discussions with JEM humanitarian coordinator Suleiman Jamous clarified that the UN Report in question is the Report of the Panel of Experts established pursuant to Resolution 1591 (2005) concerning the Sudan (Issued 29 October 2009) available at: <http://www.reliefweb.int/rw/rwb.nsf/db900SID/EGUA-7XNSQP?OpenDocument>. The JEM rebuttal to the UN panel of experts report can be found at: <http://www.sudanjem.com/2009/archives/21279/en/>.

It has already signed some charters and has committed itself in writing to others in the same field.

## Further notes

- JEM is committed to the protection of children and is ready to cooperate with relevant international organizations to that effect.
- JEM is currently working with UNICEF to sign on further commitments and take its approach as a model for other similar agreements.
- JEM regrets the failure of UNICEF and others to obtain permission from the Government to visit JEM-held areas and appeals to all to facilitate the free movement of all organizations working for the protection of children in conflict zones.
- JEM gives unconditional support for the protection of children in armed conflicts and is willing to debate, learn more, sign and implement any international charter that leads to that ideal.

# Annex to JEM's submission: Establishment of a JEM Committee for Human Rights

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## JEM Presidential Decree No 71, 2010 Establishment of a JEM Committee for Human Rights

Decree is termed: Decree, No 71 (2010): Establishment of a JEM Committee for Human Rights (JCHRs). The Committee is effective as of signing of the Decree.

In accordance with Article 15 of JEM Constitution, the following are appointed to serve as members of JEM Committee for Human Rights:

**Lawyer Elhadi Burma Saleh**  
**Dafalla Bakheit Yagoub**  
**Amir Ellika Kuku**  
**Lawyer Eltahir Idris Eed**  
**Representative of Humanitarian Affairs, JEM**  
**Lawyer Abdel Muttalab Ahmed**

Mandates of JCHRs consist of the following:

- I. Immediate and periodic reviews of JEM directives relating to observation of Human Rights and Rights of Children and their harmonization with relevant international Conventions and ethos.
- II. Monitoring and supervision of full compliance with Human Rights directive in Movement
- III. Spreading and strengthening of a culture of Human Rights among JEM soldiers and citizens in JEM liberated territories.
- IV. Periodic reporting on compliance with Human Rights directives and supportive activities in the liberated zones.

Issued under my seal and signature  
Dr. Khalil Ibrahim Mohamed  
President of JEM and Supreme Commander of JEM Forces  
30/9/ 2010

# 5 Karen National Union (KNU)

Burma | Myanmar

The KNU is an organization that works for the equal rights and dignity of the Karen people, to free them from all oppression and particularly from the oppression of dictatorship. The KNU is structured as a government, and has passed laws and acts for civilians, the organization and the military to follow. If somebody breaks the law he will be sent to court. There is a civilian court and a military court. There is a strict law regarding sexual abuse or harassment against children, and the KNU categorizes this act as a crime. If anyone commits this crime he will be taken to court to be punished.

The KNU is organized as a civil structure with 14 departments that focus on education, health, forestry, mining, defense, etc. The KNU has its own rules for the protection of children. The departments of Health, Education and Social Welfare focus on child protection as it works directly for the children. The Burmese army is the violator who repeatedly has committed violations against children while the KNU tries in many ways to protect children in the armed conflict areas.

We signed a Deed of Commitment regarding child soldiers with UNICEF in 2007. The signing of the Deed of Commitment on child soldiers by the KNU does not mean that KNU focuses only on child soldiers' issues. The KNU/KNLA is committed to the protection of children in many other areas. The KNU has an internal policy and rules for the protection of children and the KNU Karen National Liberation Army (KNLA) is committed to avoid crimes related to children, such as killing, using children during the war for carrying things or ammunitions, placing land mines, forcing children to join the army or to work for the military or for the community. The KNU/KNLA has physically reconstructed schools on repeated occasions after they were destroyed by the Burmese army.

## Education

The KNU Education Department has clear policy that every child should receive primary education, so that children are at least able to read and write in their native language and perform basic arithmetic. To make sure that every child in each village has the opportunity to receive primary education, the administration of the KNU at the township level appointed a headman in each village. He is responsible for organizing an education committee to take responsibility for the children's education in the village, by arranging for teachers, buildings and school materials and by encouraging the children to enroll in the primary school.

If parents cannot afford the school because they are poor, then the Karen Youth Organization (KYO) and Karen Women Organization (KWO) have to take responsibility to support the children with food or money. If there are no teachers in the village, the education committees from KWO, KYO and the village have to negotiate and find a teacher for the village. If they cannot find any teacher they can volunteer themselves until they find one. Sometimes the parents who are educated have worked for the village as teachers. The people value education and they find ensuring education for children very important, which is demonstrated by this policy.

While primary schools are mostly set up in every village or community, middle schools and high schools cannot be set up in every place. Often the villagers live in mountainous regions and transportation is very difficult and it will take a whole day or more to go to where the school is. Therefore, many children end up with only a primary education.

The KNU has a good education policy and system, but the problem is that the schools in the villages in armed conflict areas are repeatedly attacked by the Burmese soldiers. The schools have to close when the Burmese soldiers attack the villages and they have to move from one place to another. Some schools have had to move more than 3 times in a year. Even in this critical situation the community leaders and parents try their best for their children's education. Wherever the people stay even temporarily, they start a school, which sometimes becomes a mobile school. Even if there are only 3 or 4 families in a place they set up a class for the children.

## Health

Health is a main issue and important for KNU in the areas it controls. The Health Department is responsible for civilian health care and children's health is considered a priority. The problem, as mentioned above, is that the

civilians are repeatedly attacked; this has an impact on the health of the children. As a consequence of the attacks, parents move around and cannot stay in one place permanently. They cannot provide proper food and it becomes a big problem that children do not regularly receive nutrition or supplementary food.

The KNU encourages the community-based organizations and the Health Department to set up special programmes for the children in schools and dormitories, to provide supplementary food and nutrition centers for the children who are facing malnutrition. The KNU does not have enough clinics, or health workers, particularly in remote areas in conflict.

The KNU encourages the Health Department and community-based organizations to take responsibility for looking after babies if their mother has died, by providing assistance to the father or relatives. The KNU has rules and a law regarding adoption. The Karen people have tight family bonds so the relatives will ask for support but prefer not to give away the baby to other people. If the child is going to be adopted, future parents have to go through the legal system properly with the district leader or court and have a signed agreement on paper. If the KNU did not have a policy of taking care of children, many orphans and poor children would lose their lives and would not have access to education.

## Child use and recruitment

The KNU practices Kaw Thoolie law (Karen People's law) which has separate articles for children. Within the Karen community it is recognized that children are those under the age of 16. The marriage law states that a person under 16 is a child and is not allowed to marry. If anyone is forced to marry or when sexual abuse is committed, the person will be punished. If someone has sex with girls or boys under 16, the person will be punished. If he really loves the girl, they have to wait until she turns 16 and get a legal marriage.

The previous army law on recruiting stated that the army could recruit someone at the age of 16 if he is not studying and if he has more than one brother as well as both parents. These young men could not be recruited if they had a single parent, were studying, or were the only son or child in the family.

In 2000, at its 12th Congress, the KNU discussed the age of recruitment issue, but no decision was made. It was raised again in 2002 at the second annual meeting of the KNU Central Standing Committee and at the same time at the second military annual meeting after the 12th Congress. At that time it was approved that recruitment and acceptance of KNLA soldiers would be set at 18 and above. The order and announcement was distributed on 28 January 2003

to all the military headquarters at the brigade level and then from there to the districts and township level of the KNU/KNLA.

The discussion which eventually resulted in the change of policy was launched following reports published by the UN and other NGOs which reported the KNU/KNLA as using and recruiting child soldiers. The KNU was informed of these accusations through the radio news as well as from allies and community members who met with the UN. This is how the KNU became aware that the use and recruitment of child soldiers (anyone under 18) was prohibited under international law.

In 2007, the KNU met with representatives of UNICEF to discuss the issue, and a Deed of Commitment was signed with them on the issue of child soldiers that same year.

The KNU introduced changes immediately for recruiting soldiers. There are no more soldiers under 18. The limitation of the age of children is better known within the community, as nowadays more human rights groups talk about international law and more and more people are familiar with human rights, children's rights, women's rights and the link between international law and humanitarian law such as war crimes, crimes against humanity. These laws are more popular and familiar to our military men and officers.

After amending the military law concerning the recruitment of soldiers over 18, we did not have any problems, since we informed the offices on each level to follow the rules. If they do not follow them, action will be taken. To date, there have been no cases of violations.

## Training

The newly recruited soldiers cannot join the combat immediately. They have to work in other field areas in the military camps for at least 2 years, depending on the situation and the needs. If the attacks of the Burmese army become too strong, and there is not enough army personnel, then they can join the operation. If not, they stay behind and work for the camps' security, as runners, in food supplies and preparation, or other tasks.

The soldiers are trained in military skills after they join or are recruited. Every new soldier receives training, including on how to help civilians. We do not have particular training for children and civilians but we educate the civilians on how to protect themselves and the children when Burmese soldiers attack the areas and when they are hiding. We instruct them on which way they should escape and on radio communications. Most of the civilians have their own knowledge, as they have experienced an attack many times and they are now passing this information and instructions on to new generations. For example,



they teach how not make the fire smoke during daytime, and not to take dogs and roosters with them when fleeing. The KNU/KNLA encourages and supports the community-based organizations and Karen NGOs to provide these services and activities.

Education in children's rights is introduced to the second line leaders and to teachers as well as the parents. First we sent our representative to attend the training and workshop on children's rights organized by the Human Rights Education Institutes of Burma. We are working with them to provide the training on child soldiers and child protection for our military officers to be more familiar with the UN conventions on the protection of children.

KNU/KNLA has included the topic of education on child soldiers and the protection of civilians in every basic military training and military officer's trainings.

## Gender

There are no different rules of policy for boys and girls, but in line with traditional belief, boys can work outside and girls stay at home for work. Boys are the right hand of the father and girls the right hand of the mother. Often it is believed that boys can study more and they can work outside home, doing hard work in other places or even far away from home, while girls should be at home to work with their mother. This includes cooking, cleaning, raising siblings and managing the household. They are not supposed to work in any other place. Girls do not need higher education, like boys do, because after they are married they have to stay at home and take care of the family and housework. Men can work after marriage and thus can apply their education. This is the stereotype which still continues in the Karen society, particularly for those who live in remote areas.

## Challenges

Even though we practice, or try to make sure the civilian and military men practice and protect the rights of children, we cannot fulfill them all because the living conditions of the people are similar to those of internally displaced persons. The challenge we are facing with respect to the protection of children in the areas affected by armed conflicts under the KNU control, is that the civilians are often attacked by the Burmese army. The most vulnerable are women and children who are living a life in constant fear and insecurity. Parents cannot provide proper and sufficient food for them so they are facing health problems such as malnutrition, diarrhea, skin disease, chronic cold (because they do not have enough clothes) and many of them become slow in learning. Children are physically protected by the KNLA while escaping from attacks. The KNLA is responsible for

guiding them to a safe place, to guard their property, as well as carrying the children if required. We have a social study regarding how to be a good citizen and within this we have rules on how to protect children and the elderly during their travel and afterwards.

## International Cooperation

As stated above the KNU welcomes the cooperation and coordination in working with INGOs and UN agencies but the problem is that the State Peace and Development Council (SPDC) does not allow them to work with us.

The KNU/KNLA started meeting with the International Committee of the Red Cross (ICRC) in 1999 to allow for the ICRC to travel safely in KNU/KNLA-controlled areas. In 2000, the ICRC met with the KNU/KNLA leaders to discuss how to cooperate in the training of members in international law of armed conflict. In 2001, a more detailed schedule was developed and on 10 October of the same year, a KNLA military officer's workshop was organized by the ICRC. From 2002 onwards, more trainings were planned. However, due to border security issues and the ICRC not being able to go inside to KNU/KNLA areas, these have not taken place. This is the biggest problem for us in working with the INGOs.

Since 2002, we have had more contacts with the ICRC, as they are the only organization that contacted us directly and helped us with training on war crimes and other international humanitarian law to the military offices. This information has been passed down to each level of the KNU and KNLA so that on the district levels they are more familiar with international law. So we feel closer links to the international community.

The KNU is always aware of international or UN reports, and if the report includes a mention of the KNU/KNLA regarding child soldiers, the KNU first releases a statement clarifying its policy on recruiting soldiers and calls for the UN agencies or any organization to come and visit the KNLA areas. Moreover, the KNU looks closely at the cases mentioned in the report and follows up with a thorough investigation, in order to determine whether the allegations are true or not. If true, action has to be taken. In the one case of an incident reported in the UN Secretary General's report, the KNU investigated and found that in fact no recruitment had taken place. If an allegation is not true we send a clarifying report to the organization concerned.

The KNU has signed a Deed of Commitment with UNICEF. We have had no further discussions for an action plan. We usually release statements from time to time to make sure the international community is aware of our policy and hope the KNU/KNLA will be de-listed. We sent a letter of invitation to the UN

Special Representative of the Secretary-General for Children and Armed Conflict to visit us, but there has not been a response. Now that the KNU/KNLA has a clear policy on child soldiers and recruiting soldiers, we are disappointed that it continues to be listed as a violator.

The KNU/KNLA wants its name to be de-listed so we welcome the UN agencies or the team concerned to come and visit KNU/KNLA areas to make sure that the KNU/KNLA has a clear policy and does not recruit child soldiers.

The KNU calls on the UN to pressure the SPDC to allow UN agencies and INGOs to visit KNU/KNLA areas where KNU can meet freely with them and have an opportunity to further discuss cooperation on an action plan. The KNU would like to cooperate and work with the UN and INGOs on the issue of the protection of children, to promote better and secure lives for the children and civilians living under the rule of dictatorship. KNU urges any NGO, organization, individual, or team working in the field of child protection or the protection of civilians to make contact with us.

The KNU is calling for the cooperation of the UN or INGOs and NGOs to support our work in promoting the better lives of children in armed conflicts. There are many needs for the protection of children; support is directly needed. Educational materials, food supplies, supplementary food, clothing, bedding and organizing children camps of events and all these things will much improve and secure the lives of children.



Credit Photo : Somalia - Lemoyne ©

## Measures undertaken

A number of measures have already been in place and observed within the Moro Islamic Liberation Front/Bangsamoro Islamic Armed Forces (MILF/BIAF) hierarchy, including the following:

- A** Article 36, paragraph 4 of the General Order No. 2, otherwise known as the Code of Conduct of the BIAF, provides for the General Staff (GS) to take feasible measures aimed at ensuring the protection of the rights and welfare of children affected by the armed conflict in Mindanao. For example, the MILF Central Committee approved a GS plan for a continuing educational programme directed at the entire BIAF command structure which focuses on the issue of care and protection of children.
- B** The same Code of Conduct lays the ground rules on the issue of recruitment of members into the BIAF. It states that in respect of recruitment for regular membership in the BIAF preference shall be given to those who possess Islamic values and morality, good morale, physical and mental fitness, and maturity for those above 18 years of age at the time of induction. The same applies to training for military activities.
- C** The Code of Conduct likewise prohibits the admission of children into the BIAF.

## Policies on military and other training

All other activities designed or intended for adults, and not physically or mentally appropriate for children, which might violate their rights as children, are basically disallowed and prohibited<sup>18</sup>. Also, activities of a more delicate nature are likewise not permissible for children. An example of these activities is fasting during the month of Ramadan, where children who have not attained the age of puberty (estimated to commence at age 14 or 15) are not required to fast, although this is an obligation for all Muslim men and women. Even mature individuals are not obliged to fast, if they are not in a position to do so.

The time bound Action Plan, an agreement between the MILF/BIAF and UNICEF signed on August 30, 2008, is a concrete manifestation of the MILF/BIAF desire to further strengthen the protection and care of children affected by the conflict in Mindanao. This Action Plan works with NGOs acceptable to both parties. The programme was launched with the Institute of Bangsamoro Studies (IBS). As a result of the extension of the programme, Plan International (PI) also became involved with an initial four-month contract with UNICEF with the agreement of the MILF/BIAF leadership.

The Rapid Registration programme attempts to register all children below the age of 18 in the MILF community (Base Headquarters), whether they are associated or not with the armed conflict. Prior to registration, training workshops for the enumerators had to be organized and are now nearing completion. Each of the 21 base commands is required to nominate at least 10 enumerators. Three base commands have yet to provide the required training for their enumerators, but we anticipate that the programme will be completed after the fasting month of Ramadan, God willing.

Enumerators have already compiled lists of several hundred children and provided them to UNICEF, which will undertake the evaluation of the data and submit a work plan. As provided for in the Action Plan, the children should eventually be reintegrated into the community, hopefully for a new and better life. For us, the community is where the families of our commanders and men live and where they exercise and practice their own way of life. In some cases they are the sons and daughters of our commanders on the ground. This is true for almost all MILF camps and communities: our definition of what a camp is all about is totally

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<sup>18</sup> There appear to be slight differences in political or civilian affairs and other support activities wherein children, even at a tender age, are already trained in schools or madrassas to prepare them as future leaders, explaining to them the important role they play as youth, acknowledged as the hope of the nation. English or madrassa (Arabic school) children, even in elementary grades, have been trained in activities associated with a military background, such as the boy scouts or cub scouts. At the secondary school level they are also required to undergo military training called Civilian Auxiliary Training (CAT); and in college they are likewise required to undergo training as Reserve Officers Training Cadets (ROTC). Although in the past this was optional, recently there has been a move to activate ROTC in college.

different from that of the Philippine military. This is, indeed, a unique situation applied only in the case of the Bangsamoro people in Mindanao.

## Challenges

There are problems in the determination of the age of children not only in the field of recruitment but throughout the whole system. This is because we have to admit the reality: births or deaths are not normally registered in our community.

Admittedly, there are many challenges faced by our group in pursuit of these particular issues and concerns, among which we note that:

- *Some people continue to perceive that the Rapid Registration Programme runs counter to the basic principles of Islam, particularly on the issue of the definition of a child. In Islam an individual becomes adult upon reaching the age of puberty. Puberty normally comes between the ages of 13-15. In some cases, a female may attain puberty earlier than a male.*
- *Some members continue to speculate that the Programme is but part of the so-called anti-insurgency campaign. Admittedly, the Programme is a novelty for a large number of our constituents, and as such we can always expect mixed or even negative reactions from them. It is normal in an organization, whether small or big, for people within the organization to express their opposition on matters that they feel are new to them. You cannot expect oneness or unity of opinion and understanding. Admittedly, there are hardliners in every organization and the MILF/BIAF is not an exception. Thus those identified as hardliners within the organization normally do not just bow their heads and express their appreciation for things which are new to them without first scrutinizing every aspect of the issue or concern.*
- *As a revolutionary organization we do admit to a lot of difficulties in carrying out programmes and activities aimed at realizing the mandate provided for by the Code of Conduct. An essential requirement is resources. As part of our continuing education of our men on the ground, the MILF/BIAF issued an order imposing financial penalties and prison on those found guilty of violating the commitment provided for under the Action Plan. Other concrete measures have had to be postponed due to a lack of the required resources. To be fair, the Armed Forces of the Philippines (AFP)/Philippine National Constabulary apparatus is actually not a hindrance to the implementation of such a programme.*

We do believe that all of the above are some of the many steps that had already been undertaken by the MILF/BIAF leadership in its honest-to-goodness concerns and commitment aimed at protecting children from the effects of armed conflict. What remains to be seen, however, is the manner by which these measures can be translated into meaningful and fruitful action.

These objectives are part of our overall struggle for a long-term and enduring programme to address this particular concern, but the search for just, fair and meaningful peace and development in Mindanao remains elusive. That goal would allow us to more easily sustain measures and programmes of this kind. But we have not lost hope, and remain confident that sooner or later a formula shall be found towards a final and peaceful political solution to the problems of the Bangsamoro people in Mindanao.

## International standards and reporting

We are aware of the standards set by the international community, such as the UN's stipulation that sets the age of recruitment for military service. Our commitment to these standards is demonstrated by the MILF/BIAF leadership decision to sign a time bound Action Plan with UNICEF.

The office of the UN Secretary-General reported sometime in 2008 regarding alleged violations on child soldiers in the Philippines that of the more than one hundred violations committed against children, 50 percent were committed by the AFP. Another 15 percent were committed by the New People's Army/Communist Party of The Philippines (NPA/CPP), while the rest were committed by the Abu Sayyaf Group and other groups. Only one percent of the violations were attributed to the MILF/BIAF, the report concluded. A visit in 2007 (by Mrs Coomaraswamy, the Special Representative of the UN SG) led to the formation of a UNICEF and MILF panel leading to the signing of the UN-MILF Action Plan on July 30, 2008. Notwithstanding the insignificant number of violations attributed to us, the MILF/BIAF formed its own five-man panel to negotiate with UNICEF in

order to clarify the issue. This resulted in the agreement with UNICEF, a clear manifestation of our willingness to cooperate and work within the standards set by the UN.

## International cooperation

The MILF/BIAF believes that it is still too early to conclude whether or not the Action Plan will attain its objectives, which depend on correct and accurate implementation, and flexibility in terms of the needs of children affected by armed conflict. Nonetheless we feel that the character and abilities of the people involved in the implementation of the programme are expected to make a big difference towards its success.

The Action Plan contains a number of unimplemented programmes, but MILF/BIAF maintains its sincere and honest commitment towards their full implementation, in close coordination with UNICEF and mutually-agreed partner organizations.

**Suggestion:** Continuing information and educational campaign focusing on the substance, benefit and importance of the program, not only to BIAF-MILF members, but to the community as a whole.



Credit Photo : Burma/Myanmar - Geneva Call

## 7 Democratic Party of Iranian Kurdistan (PDKI)

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Iran

I would like to begin by saying that my party, the Democratic Party of Iranian Kurdistan (PDKI), had no choice but to defend its people by means of armed resistance, following the *fatwa* issued in 1980 by the late Ayatollah Khomeini. This went on for almost 10 years, and then PDKI suspended the armed struggle and decided to continue its struggle to establish democracy, human rights and the national rights of the Kurds in Iran by political means.

For the 10 years during which we defended ourselves militarily, we never once attacked Iranian forces inside cities or populated areas to avoid civilian casualties. The party and the *peshmerga* forces' command have always insisted that the armed resistance was to defend our people. We believe that the Kurdish question does not have a military solution. Unfortunately, the Iranian forces have always violated the norms and laws of war by attacking and brutally bombing villages and civilians, and as a result many people lost their lives.

Also during those times of armed conflict in which many civilians were injured by Iranian bombardments, injured people were receiving aid from Aid Medicine International, which sent people from France to assist our defenceless people. They are witnesses to how much our party respected human rights and the norms and the laws of war.

I should mention that our party programme and the armed wing of our party do not admit anyone under the age of 18. We trained them how to defend themselves and how to assist people during the war. We are continuously educating them in the values of human rights. In the education centres of our military camps, core subjects are the study of human rights and the rights of prisoners of war according to international norms. We educate the young people in human rights values, in the Kurdish language, which they cannot study in government schools, and how to respect and preserve nature and the environment.

It is necessary to point out that one of the most important articles of our party's charter is that covering equal rights between genders; all the cadres, members, followers, sympathizers and *peshmergas* are familiarized with it.

Human rights, women's rights, children's and the rights of prisoners of war are integrated into our party programme. It is our belief that this is why our party has never been criticized by Human Rights Watch or other human rights organizations.

## 8 Polisario Front

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Western Sahara

The reader of the Constitution of the Sahrawi Arab Democratic Republic and the internal laws of the Polisario Front would be informed of various principles, some of them being:

- *Priority given to human rights*
- *Guarantees of freedom of expression and freedom of movement*
- *Equality between the sexes*
- *Political participation by everyone on an equal basis*

All these principles also apply to the protection of children and to preserving their dignity; this will

become evident in the answers to your questions, as follows:

### Steps made

During the years of conflict, the Polisario Front worked to give protection from the repercussions of war to special groups: children, women, the elderly and handicapped people. This was achieved by providing them with all possible means, such as education, medical care and a proper living environment far from the destructive conflict zone.

During the war, the civilians, children included, were in locations separate from the combatants.

## Challenges

- *The psychological effects of war. In several cases, these were aggravated by the loss or disappearance of a father during the war.*
- *The general situation of being in a refugee camp, which is not a natural environment to live in.*
- *The lack of resources to meet needs.*
- *The lack of means of communication and media, such as television and internet, which caused severe isolation, especially during the war.*
- *The absence of entertainment possibilities, and the ability to practice hobbies.*

## Protection measures

Since its independence in March 1976, the Sahrawi Government has tried to provide for the protection of children, taking measures that guarantee this right to all children, without discrimination.

Our ambition is to improve the protection of children in Sahrawi refugee camps. A problem in this regard is to find the financial means for projects that benefit children. This is especially true for the funding of educational programmes according to children's needs and which would serve children psychologically and socially and correspond to children's natural growth. Access to higher education is very difficult.

Sahrawi children do not live like refugees but have had contact with others through exchange programmes. These programmes are arranged by supporting NGOs, and are called "Vacations in Peace", and provide for children to spend their summers in different European countries, mainly Spain and Italy. Furthermore, we interact with the different UN agencies like UNHCR and UNICEF. This cooperation is mainly on education and health, and is done via the relevant Ministries. Additionally, there are some NGOs which provide medical assistance, like Medico International and Médecins du Monde.

The Sahrawi Government has enacted a group of laws which aims at child protection, which is clear in the Constitution, in addition to Polisario laws and internal regulations.

There is also a national plan of action which addresses the rights of the child. Furthermore, the

Sahrawi Government wrote the Minors Code, which is based on the Constitution and Polisario internal laws and was drafted by the Ministry of Justice. It was adopted by the parliament. In addition it has signed all the relevant African Union treaties, such as the African Charter on the Rights and Welfare of the Child, establishing the age of a child as below 18 years.

In accordance with international laws, the Sahrawi Government does not recruit children into the army and no child has participated in combat operations. Under the Sahrawi Government all children enjoy medical care through maternity and child programmes. Furthermore, they have the right to elementary education with an open opportunity to continue secondary education, University and even higher education paid by the Sahrawi Government, which is available for free to everyone. The schools are located in the refugee camp, although some get a scholarship, mostly for University level, to have the chance to study abroad (mainly in Algeria, Libya, Spain and Cuba). In addition to all that, social and recreational activities are organized. Children do not receive military training. Any other educational training is the responsibility of the family and of society as a whole.

Following our traditions, there is no discrimination in our society between sexes. All women live in dignity.

Adopting the age of 18 for recruitment into the army is accepted. By taking this standard, we follow the norms of the world, and of Muslim culture, which regards this as the right age for children to take their responsibility.

No report by any international organization at any level has ever mentioned mistreatment of Sahrawi children in any context. Furthermore, the periodical "Report of the Secretary-General on the situation concerning Western Sahara" of the UN, in which human rights are addressed as well, has never mentioned the Sahrawi child.

The absence of the UN and of various institutions at the beginning of the war and the subsequent invasion saddens us. No international organization came at that time. Even now, their presence is still limited, and the programmes directed towards children are poor with no diversity. For example, there is need for support for kindergartens, specialised centres for handicapped people, sport activities and infrastructure, cultural/leisure activities and places.

# 9 Somaliland

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## Background

In Somaliland, the devastating civil conflict has had detrimental consequences on children. The breakdown of social services, of government institutions and in law and order has seriously affected the political and social structures of much of Somaliland. However, over the past decade Somaliland has been undergoing a consistent reconstruction process through the establishment of its administrative structures. As a result, there have been significant improvements towards peace and stability within the law in Somaliland. The international community, particularly UNICEF and the Save the Children Alliance, is providing assistance on an ongoing basis to various social organizations working on protecting children's rights. Significant achievements include highly technical situational analyses on children's rights. Local NGOs have built up the capacity to develop voluntary child protection. A law concerning children has been developed but not implemented for lack of funding from abroad.

We have three different systems of justice in Somaliland: Islamic (Sharia) law, traditional (tribal) law, and legacy laws from the former State of Somalia. When the laws contradict each other, priority is given to Islamic law.

All three different juridical systems incorporate the principles of children's rights, such as the right to survival, to development, to protection, and are in the best interests of the child, without discrimination. There are differences according to geography. For example, in the courts we practice the former State law or apply the new juvenile code; in rural areas we use the traditional law, which is harmful to children in some areas.

## Somaliland

In the last decade Somaliland has undertaken two studies on child protection supported by the international community, both in 2003. One was called «The Child Rights Situational Analyses» and was led by Save the Children UK; the other was called «The Perception to Reality» and was done by UNICEF. The outcome of these two studies has shown us the need to upgrade the knowledge base on the protection of children in our communities; so we initiated different child protection training for the community and stakeholders.

The Ministry of Justice has established a Children's Rights Unit, which coordinates all child rights' activities in the country in order to avoid duplication. Additionally, the Ministry of Justice strives to facilitate knowledge of the law, including human rights law, to create awareness of the laws and to implement them by means of legal mechanisms, with a special focus on restorative justice for children. The approach of the Children's Right Unit is four-pronged: drafting a national strategic action plan; establishing and running a documentation system on child protection, with a special focus on children in armed conflict; developing policies with protective, preventive and reintegration provisions; and ensuring action over the long term through ongoing advocacy and capacity building.

At this moment we have distributed a Somali version of the UN Convention on the Rights of the Child (CRC) to the Government of Somaliland (a non-recognized State) in order to approve and submit it to the elected parliament. We are just preparing to have a Child Rights Act consistent with the CRC.

Now we have only one chapter on the juvenile code, drafted and consistent with the CRC norms, which the President signed in 2008. Since then, we have been seeking funding from foreign organizations to implement the law.

A child between 15 and 18 is juvenile, and the juvenile code gives them special respect. Although children do have the capacity for criminal acts, it gives them special consideration, since poverty for example leads many children to be in child labour problems.



## Recruitment into the Armed Forces

Children may join the Armed Forces at 18 and they have the right to vote at 15 years of age. Traditionally, children under 18 are forbidden to participate in armed conflict, heavy armed military tasks are forbidden to children under 18 years.

We still haven't sorted out what is eligible for children under 18 or what isn't, but not to recruit them into the Armed Forces is the common concept of our laws. Children are not trained in self-defense.

Activities such as education, recreation and health care are mainly organized by local governments, and international organizations are involved to support this through different activities. Children have the same right to protection, development, education, health and basic principles of their rights whether they are a boy or a girl.

## Challenges

The challenges met with respect to the protection of children are a lack of proper policy (formulation of policies and laws) and case documentation support, as well as the establishment of district committees in charge of child protection.

One of the core tasks to be undertaken by local partners is the review of the three systems of justice in Somaliland. Therefore the only way to protect children from the effect of armed conflict and other abuses, violence and exploitation against their rights is capacity building and trainings directed at law-enforcement officials, the judiciary, NGOs, prominent religious sheiks, and traditional elders.

## International standards and cooperation

We cooperate with UNICEF, UNDP, ICRC, Save the Children Alliance, and World Vision, which support us to enhance children's protection.

A suggestion to improve the cooperation with UNICEF: first we need them to meet the children who need their support, such as children who end up in prison, children living with disabilities, and children in difficult circumstances. Secondly, they should encourage our legislature to draft the Child Right Act in Somaliland. And to conclude, we need to have a special policy and regulations towards the victims of mines. Many adults were injured during their childhood, in aftermath to the conflict between Somalia and Ethiopia. Many children are now victims of mines. In addition I suggest that the UNDP/RoLS (Rule of Law and Security) programme "Justice for Children" work with the implementation action plan of the Somaliland Juvenile Justice Law, as mentioned above.

We are familiar with ARC's (Action for the Rights of the Child) international material, including that on the protection of children from the effects of armed conflict. We trained members of Parliament on the ARC concepts including the rights of children in situations of armed conflict. We are familiar with those international standards; our opinion of them is that we have to respect the best interests of the child. We respect and develop the international human right legal instruments.

No allegations have been reported against our authority, and we plan the adoption of the CRC as soon as possible.

# ABOUT GENEVA CALL

Geneva Call is a neutral and impartial humanitarian non-governmental organization dedicated to engaging armed NSAs in dialogue towards compliance with the norms of international humanitarian law (IHL) and international human rights law (IHRL). The organization focuses on NSAs that operate outside effective State control and that are primarily motivated by political goals, which include armed movements, de facto authorities, and internationally non-recognized or partially recognized States.

Geneva Call began in the year 2000 in response to the realization that the landmine problem would not be eradicated unless NSAs also renounced AP mines. To address this challenge, Geneva Call developed a *Deed of Commitment for Adherence to a Total Ban on Anti-Personnel Mines and for Cooperation in Mine Action*. This innovative mechanism allows NSAs, who are not eligible to enter into the AP Mine Ban Convention, to undertake to observe its norms. The Government of the Republic and Canton of Geneva is the custodian of the Deeds.

Geneva Call hence focused its initial efforts on the ban on AP mines with the objective to expand to other pressing issues if successful. Employing an inclusive approach to promote the ownership of norms, Geneva Call encourages NSAs to be active participants in processes towards increased protection of civilians.

The progress made on the AP mine ban and the trust built with NSAs throughout the world have encouraged Geneva Call to expand its activities to also promote:

- NSA respect for children in armed conflict, notably the ban on recruitment and use of children in hostilities. Geneva Call similarly has developed the *Deed of Commitment for the Protection of Children from the Effects of Armed Conflict*.
- NSA respect for the prohibition of gender based violence in armed conflict and in particular for the protection of women and girls.

Moreover, Geneva Call is increasingly responding to NSA demand to help build their capacities generally in IHL and IHRL, especially through customized trainings.



# ANNEX

## Geneva Call Perspectives Publication Guidelines for Participants

As part of its efforts to provide the international community with a better understanding of the reality faced by armed-non State Actors (NSAs) on the challenges of protecting children in armed conflict, Geneva Call will compile and publish a study of NSA perspectives on the subject. The aim is to release the publication at a special event in New York in 2010.

Geneva Call has identified a lack of international community understanding of perspectives of NSAs as a barrier on the road to improving the global protection of children in armed conflict. The study will provide you with the opportunity to have your voice heard on children and armed conflict issues by participating in a first ever collection of NSA perspectives on the issue. It will be disseminated to key local and international community actors working towards the protection of children in armed conflict, such as members of the UN Security Council, UNICEF, the Special Representative of the UN Secretary-General on Children and Armed Conflict, the Coalition to Stop the Use of Child Soldiers, the International Committee of the Red Cross, other non-governmental organizations, academics, etc. Geneva Call expects the study will promote a more constructive basis for dialogue between NSAs and the international community on this issue. It will also allow NSAs to share their experiences with each other and their constituencies, and work towards the development of best practices on protecting children in armed conflict.

Your participation is voluntary, and upon request, can be made anonymously.

### Guidance

If you are interested in participating, Geneva Call requests that you provide a response which addresses the three general questions attached (1, 2 and 3). They may be addressed separately or in combination. You will also find a series of further questions which are meant to help to stimulate thoughts and frame your submission. These further questions should be considered as a guide. The structure and content is up to you—Geneva Call does not want to restrict the scope of your answer. However, it is suggested that responses are as constructive as possible, meaning that they are not limited to criticism, but provide concrete suggestions for improvement in ways NSAs can contribute to improved protection of children under their influence, or ways in which international standards and processes (such as that under UN Security Council Resolution 1612 ) can be improved towards better protection for children.

There is no minimum length of submissions, but please keep responses to a maximum of 5 pages. If you feel this is too limiting, please consult with your point of contact in Geneva Call. Geneva Call may revert to you on points of clarification, and reserves the right to restrict any content that would be considered inappropriate or offensive. Where possible, allowing for language constraints, Geneva Call will seek your approval of the final English and/or French language version of your submission before including it in the publication.

An appendix of relevant legal and policy standards is included at the end of this document. Please consult your Geneva Call contact person with any questions.

## General questions

1. What steps do you undertake to protect children from the effects of armed conflict?
2. What are the challenges you face with respect to protecting children (physical protection and ensuring their proper development) from the effects of armed conflict in areas under your control/ where you operate?
3. To what extent are you familiar with international standards and processes on children and armed conflict, and if you are familiar with them, to what extent do you consider them effective and appropriate? What improvements can you suggest?

To answer these general questions, you may want to make reference to the following:

1. Do you cooperate (or have you cooperated) with any local or international agencies (UN, ICRC, other NGOs) to help protect children? How can cooperation between your NSA and international/local agencies be improved towards enhanced child protection?
2. Do you have any internal or formal policy on children, specifically,
  - age in which children can join your armed forces/group and/or participate in military operations? Is this the same age when they may be trained for military operations? What about political, community or supporting activities?
  - what types of military or conflict related support tasks are not permissible for children?
  - are children trained to defend themselves? their community? How?
  - are children under your control able to receive an education and how do you support the provision of education? Healthcare? Recreation and cultural activities?
  - is the policy the same for boys and girls on all the above?
3. Are there problems in determining the age of potential recruits?
4. If you are familiar with international standards with regards to the use and recruitment of children? What is your opinion of these standards? Do you consider yourselves to be bound by these standards? Why or why not?
5. Are you aware of the UN or other (eg. Human Rights Watch, Amnesty International) reports making allegations against your treatment of children (if relevant)? How do you respond?
6. How do you assess the role of the UN and other international actors in dealing with children and armed conflict issues? If you are listed as a violator in any of the Secretary-General annexes, have you entered into an action plan with UNICEF with a view to being de-listed? How do you assess the implementation of the action plan? If you are listed on the Secretary-General Annex, but have not entered into an action plan, are there specific reasons for not doing so?

## APPENDIX

### CHILD AND ARMED CONFLICT SELECTED LEGAL TEXTS AND POLICY INSTRUMENTS \*

\*Please feel free to consult Geneva Call with any questions or comments on these standards

#### 1. STATE AND NSA RESPONSIBILITY

##### ADDITIONAL PROTOCOL II TO THE 1949 GENEVA CONVENTIONS (APPLICABLE IN NON-INTERNATIONAL ARMED CONFLICT)

Article 4(3): Children shall be provided with the care and aid they require, and in particular:

*(a) they shall receive an education, including religious and moral education, in keeping with the wishes of their parents, or in the absence of parents, of those responsible for their care;*

*(b) all appropriate steps shall be taken to facilitate the reunion of families temporarily separated;*

*(c) children who have not attained the age of fifteen years shall neither be recruited in the armed forces or groups nor allowed to take part in hostilities;*

*(d) the special protection provided by this Article to children who have not attained the age of fifteen years shall remain applicable to them if they take a direct part in hostilities despite the provisions of subparagraph (c) and are captured;*

*(e) measures shall be taken, if necessary, and whenever possible with the consent of their parents or persons who by law or custom are primarily responsible for their care, to remove children temporarily from the area in which hostilities are taking place to a safer area within the country and ensure that they are accompanied by persons responsible for their safety and well-being.*

##### OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON INVOLVEMENT OF CHILDREN IN ARMED CONFLICTS

**Article 1:** State Parties shall take 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.

**Article 2:** State Parties shall ensure that persons who have not attained the age of 18 years are not compulsorily recruited into their armed forces.

**Article 3:**

- *States Parties shall raise the minimum age in years for the voluntary recruitment of persons into their national armed forces from that set out in article 38.3 of the Convention on the Rights of the Child (15 years old), taking account of the principles contained in that article and recognizing that under the Convention persons under 18 are entitled to special protection.*
- *Each State Party shall deposit a binding declaration upon ratification of or accession to this Protocol which sets forth the minimum age at which it will permit voluntary recruitment into its national armed forces and a description of the safeguards that it has adopted to ensure that such recruitment is not forced or coerced.*

- *States Parties which permit voluntary recruitment into their national armed forces under the age of 18 shall maintain safeguards to ensure, as a minimum, that:*

Such recruitment is genuinely voluntary;

Such recruitment is done with the informed consent of the person's parents or legal guardians;

Such persons are fully informed of the duties involved in such military service, and

Such persons provide reliable proof of age prior to acceptance into national military service.

- Each State Party may strengthen its declaration at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall inform all States Parties. Such notification shall take effect on the date on which it is received by the Secretary-General.
- The requirement to raise the age in paragraph 1 does not apply to schools operated by or under the control of the armed forces of the States Parties, in keeping with articles 28 and 29 of the Convention on the Rights of the Child.

#### **Article 4:**

1. Armed groups, distinct from the armed forces of a State, should not, under any circumstances, recruit or use in hostilities persons under the age of 18 years.
2. States Parties shall take all feasible measures to prevent such recruitment and use, including the adoption of legal measures necessary to prohibit and criminalize such practices.
3. The application of the present article under this Protocol shall not affect the legal status of any party to an armed conflict.

## **2. ICRC STUDY ON CUSTOMARY INTERNATIONAL LAW**

Rule 135: Children affected by armed conflict are entitled to special respect and protection

Rule 136: Children must not be recruited into armed forces or armed groups

Rule 137: Children must not be allowed to take part in hostilities

## **3. INDIVIDUAL CRIMINAL RESPONSIBILITY**

ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT

Article 8(2)(e)(vii): War crimes in armed conflicts not of an international character:

Conscripting or enlisting children under the age of fifteen years into armed forces or groups or using them to participate actively in hostilities.

## **4. UNITED NATIONS SECURITY COUNCIL**

The Security Council has mandated the Secretary-General to report on parties to conflict which are responsible for the following 6 acts in violation of international law :

- Killing or maiming of children;
- Recruitment or use of children as soldiers;
- Attacks against schools or hospitals;
- Denial of humanitarian access for children;
- Abduction of children;
- Rape and other grave sexual abuse of children;

Armed forces and groups which are determined by the UN to recruit and use children in violation of international law, kill and maim children, and commit grave sexual violations against children are listed in the annual Report of the Secretary-General on Children and Armed Conflict.



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