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Advancing Children's Rights in Peace Processes: The Role of the Committee on the Rights of the Child

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ABSTRACT

The cessation of violent conflict offers crucial opportunities to increase the likelihood that children's rights are respected, protected and realized in the post-conflict state. Peace processes—which include peace negotiations, peace agreement(s) and the implementation of peace agreement provisions—can be central to the realization of this objective. This article examines the concluding observations of the Committee on the Rights of the Child through the lens of process-based performance. The objective is to demonstrate contributions that the Committee can make to advancing children's rights at different stages of a peace process, often in combination with other actors and mechanisms seeking to do the same. After identifying some of the challenges associated with translating this potential into practice, suggestions are made to help bridge the chasm between potential and practice.

KEYWORDS: treaty bodies, Committee on the Rights of the Child, peace processes, peace agreements, children's rights

1. INTRODUCTION

More than one in five children worldwide are affected by armed conflict.[1] Although violations of children's rights vary both in form and degree across and within conflict divides,[2] children in conflict-affected contexts invariably face both old and new threats.[3] On one level, they remain 'exposed to the issues that children face around the world, whether it is during peacetime or during situations of armed conflict'. [4] These include 'domestic and sexual violence, gender inequality, poverty, malnutrition, and preventable diseases'.[5] On another, children living in war-affected countries also face important new and severe risks directly associated with conflict.

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1 Save the Children, 'Stop the War on Children: Protecting Children in 21st Century Conflict', 14 February 2019, available at: www. resourcecentre.savethechildren.net/document/stop-war-children-protecting-children-21st-century-conflict/ [last accessed 22 June 2022].

2 See, for example, Kadir et al., 'The Effects of Armed Conflict on Children' (2018) 142 *American Academy of Pediatrics* 1.

3 Aptel, 'The Protection of Children in Armed Conflicts' in Kilkelly and Liefaard (eds), *International Human Rights of Children* (2019) at 516.

4 Ibid. at 516.

5 Ibid.

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They are frequently subjected to physical harm and psychological trauma, displacement and forced conscription into armed groups.[6] The effects of conflict are thus 'both direct and indirect and associated with immediate and long-term harm'.[7]

Yet, the cessation of conflict can present crucial opportunities to reshape, for the better, the lives and futures of children previously plagued by the scourge of war. These opportunities are not limited to ending violence and, with it, the conflict-specific violations of their rights. They also pertain to the possibility of creating more inclusive, equitable societies where children's rights are respected, protected and realized. To this end, there is now a growing body of literature on children and peace processes,[8] with a subsection of this work focusing on junctures in a peace process, such as peace agreements or negotiations that produce negotiated settlements.[9]

This article examines opportunities that exist for the United Nations (UN) Committee on the Rights of the Child (CommCRC)[10]—the body of independent experts that monitor implementation of the International Convention on the Rights of the Child (CRC)[11]—to help advance children's rights throughout a peace process. While there is an abundance of literature on the CommCRC,[12] and to a lesser extent, its role in peacebuilding,[13] there is little conceptual thinking devoted to the potential roles that the committee can play throughout different intervals of a peace process.[14] Instead, discussions on possible correlations between UN mechanisms and peace tend to be more general in nature, omitting a specific focus on children's rights.[15] To address this deficit, this article adopts the lens of process-based performance to interrogate how the Committee's 'concluding observations' have been and could be better utilized to promote children's rights throughout a peace process. The lens of process-based performance, as articulated by Valentina Carraro, focuses on smaller-scale outcomes throughout a process that might accumulate to achieve an end goal.[16] This differs from outcome-focused approaches, which are preoccupied more with reaching an objective and less on the process by which that objective is achieved. A process-based performance lens is useful when thinking about the role of the CommCRC in transitioning societies. Since 1990, most conflicts have been internal in nature; that is, conflicts have occurred primarily within a country's border and many of these have ended as a result of negotiated settlements between a government and non-state armed actors.[17] The stages of peace processes, while rarely linear or clearly demarcated,

6 Ibid.

7 Asokan, 'The United Nations Children and Armed Conflict Agenda: Integrating Child Protection Issues and Children's Voices in Peace Processes' (2021) 1 *Journal of Public and International Affairs* 1.

8 See, for example, Feinstein, Giertsen & O'Kane, 'Children's Participation in Armed Conflict and Post-Conflict Peace Building' in Percy-Smith and Thomas (eds), *A Handbook of Children and Young People's Participation: Perspectives from Theory and Practice* (2009), 53–62.

9 Mukar, 'Child Soldiers and Peace Agreements' (2014) 20 *Annual Survey of International & Comparative Law* 1; Field, 'Law of Peace and Children's Human Rights' (2019) 27 *International Journal of Children's Rights* 425; Asokan, supra n 7; Mikavica, 'Child Participation in Peace Processes: Identifying Gaps Between Language and Action' (2020) 13 *Peace Studies Journal* 9.

10 The Committee also oversees compliance with the optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (A/RES/54/263 of 25 May 2000) and the optional protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (A/RES/54/263 of 25 May 2000).

11 International Convention on the Rights of the Child 1989, 1577 UNTS 3.

12 See, for example, Sahovic, Doek & Zermatten, *The Rights of the Child in International Law* (2013).

13 Cook, Mack & Manrique, 'Protecting Young Children From Violence in Colombia: Linking Caregiver Empathy With Community Child Rights Indicators as a Pathway for Peace in Medellin's Comuna 13' (2017) 23 *Peace and Conflict: Journal of Peace Psychology* 38; Sandberg, 'The Convention on the Rights of the Child and the Vulnerability of Children'(2015) 84 *Nordic Journal of International Law* 221.

14 This article uses CommCRC and 'the Committee' interchangeably.

15 See, for example, Quakers United Nations Office, *Integrating Human Rights and Sustaining Peace Project Report: Exploring the Universal Periodic Review*, April 2018, available at: www.quno.org/sites/default/files/resources/QUNO%20Integrating%20Human%20Rights%20and%20Sustaining%20Peace_FOR%20WEB.pdf [last accessed 20 June 2022].

16 Carraro, 'Promoting Compliance with Human Rights: The Performance of the United Nations' Universal Periodic Review and Treaty Bodies' (2019) 63 *International Studies Quarterly* 1079, at 1085.

17 See Bell, *Peace Agreement and Human Rights* (2000).

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can span from negotiations regarding the content of a peace agreement, the peace agreement(s) itself, subsequent efforts to translate these commitments into practice and monitoring of both implementation and ongoing violations when they continue to occur. Advancing children's rights in peace processes often requires advocating for children's issues at multiple stages of this process and finding ways to promote children's rights as the process unfolds. Process-based performance thus offers a lens through which the Committee's work can be examined to ascertain whether and how the Committee can help to advance children's rights through various stages of a peace process. As will become clear, while evidence demonstrates the capacity of the CommCRC to do so, such contributions are relatively sparse. Moreover, when the Committee addresses children in peace processes, limitations of the treaty body system render uncertain whether and to what extent the CommCRC is able to influence the wider peace processes. Yet, in identifying the potential of the Committee to contribute to advancing children's rights through an examination of existing concluding observations, alongside the practical realities that could impede the fruition of this potential, opportunities emerge for thinking about the types of shifts that might be required to bridge the chasm between potential and reality.

The remainder of this article proceeds as follows. Section 2 introduces the CRC and the CommCRC. The CommCRC employs different methods to support its work. These include hearing individual complaints, issuing General Comments or initiating confidential inquiries. However, this article prioritizes the concluding observations of the Committee and does so for several reasons. Firstly, concluding observations are the output of a process, which includes state reporting, that is an interactive dialogue with the state under review and recommendations. The constituent parts of this process present opportunities for the Committee to advance children's rights at different stages, which is useful when contemplating the role of the CommCRC in peace processes. Secondly, in contrast to individual communications, which permit complaints against a state for specific violations of the CRC, concluding observations can be more expansive and not limited to addressing predefined issues and complaints. This creates the scope for engaging with aspects of a peace process that might be pertinent to the rights of the child. Thirdly, differing from the General Comments, which are by their nature broad and universally applicable, concluding observations are tailored to an individual country, thus broadening the scope for addressing the particular context of conflict and peace in a given setting. After unpacking what is meant by concluding observations and the challenges associated with measuring their impact and effectiveness, the section concludes by outlining a process-based performance approach, which will provide a lens through which to examine the CommCRC's concluding observations.

Section 3 undertakes an examination of the concluding observations of the CRC that relate to peace processes. Being the most widely ratified of the international human rights treaties, there are copious concluding observations addressing a range of states, many of which have had no experience of conflict and thus no need for a peace process. To limit the concluding observations that were examined, the PA-X Database was used to ascertain states that have undertaken or are undergoing a peace process. In its most recent iteration—version 5—this dataset provides an authoritative list of countries, peace processes and peace agreements that have been negotiated since 1990 until now. Importantly, the PA-X database codes for provisions addressing children thus providing a list of countries where children's issues have been raised through the peace process. Using this database and the child search function, a total of 327 peace agreements with provisions on children were identified between 1990 and 2021.[18] Given that some countries have had multiple peace agreements, 78 countries accounted for these peace agreements. The concluding observations for these countries were then examined using

[18] See Bell et al., PA-X Peace Agreements Database and Dataset, version 5, available at: www.peaceagreements.org [last accessed 19 June 2022].

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keywords to help locate provisions that referenced a peace process. These provisions were then grouped together to capture different types of contributions that the Committee might make. These include promoting the inclusion of children's issues in peace agreements, supporting the inclusion of children's views during peace negotiations, championing the implementation of agreements and monitoring both the translation of peace accord provisions into practice and ongoing rights violations. To further contemplate how the CommCRC contributions to advancing children's rights during a peace process might be improved, the wider process of concluding observations—including the production of state reports and civil society involvement—was also considered and the possible roles that the Committee might play within it identified. As an example, if and when states opt to consult with civil society actors as part of their preparation for producing the state report, opportunities emerge for articulating the views of children at an early stage of the process. The purpose of this section is to demonstrate that the CommCRC can, in theory, contribute positively to advancing children's rights at different stages and, when read alongside existing literature and practice, that these contributions are best understood alongside a wider constellation of actors and initiatives involved in peace processes.

Section 4 then considers some of the challenges that might impede the CommCRC from playing more of a proactive role in peace processes in the future. Despite the insights gleaned from an examination of the concluding observations, the involvement of the CommCRC in addressing children's rights in peace processes is still relatively scant. Moreover, drawing on insights on the treaty process more broadly and concluding observations specifically, the fruition of the potential to exert any influence through its recommendations is likely to be hindered by problems associated with the treaty body system more generally, concluding observations more specifically, and the uniqueness of conflict-affected settings. Alongside identifying some of these challenges, this section also offers some suggestions to help bridge the chasm between potential and practice. Section 5 concludes.

2. THE COMMITTEE ON THE RIGHTS OF THE CHILD AND CONCLUDING OBSERVATIONS

A series of international human rights treaties and other instruments adopted since 1945 have conferred legal form on inherent human rights and developed the body of international human rights. The CRC is the most widely ratified of these conventions, comprising some 54 articles that cover all aspects of a child's life. The Convention sets out the civil, political, economic, social and cultural rights that all children everywhere are entitled and outlines four overarching principles which underpin all of the rights and obligations set forth in the Convention. These are namely, non-discrimination, best interests of the child or children, the right to survival and development, and the views of the child.

In becoming parties to international treaties, States assume obligations and duties under international law to respect, to protect and to fulfil human rights. Some assess that doing so leads to improvements in terms of state compliance with human rights.[19] Others contest this view and in highlighting the differences that often exist between policy and practice argue that human rights treaties are ineffectual as drivers of changes to domestic practice.[20] It is the latter and the gap between commitment and compliance that has increased the attention towards

[19] Simmons, *Mobilizing Human Rights: International Law in Domestic Politics* (2009); Hafner-Burton, *Making Human Rights a Reality* (2013); Landman, *Protecting Human Rights: A Comparative Study* (2005); Neumayer, 'Do International Human Rights Treaties Improve Respect for Human Rights?'(2005) 49 *Journal of Conflict Resolution* 925 at 950; Hathaway, 'Do Human Rights Treaties Make a Difference?' (2002) 111 *Yale Law Journal* 1935.

[20] See Hafner-Burton and Tsutsui, 'Human Rights in a Globalizing World: The Paradox of Empty Promises' (2005) 110 *American Journal of Sociology* 1373 at 1373; Keith, 'The United Nations International Covenant on Civil and Political Rights: Does It Make a Difference in Human Rights Behavior?' (1999) 36 *Journal of Peace Research* 95.

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mechanisms responsible for overseeing the adherence to treaty commitments. Second-order compliance, as it is often termed, is associated with authoritative decisions of a third party and their ability to promote compliance, particularly when initial commitments to do so have proved ineffective.[21] UN treaty bodies exist as one such authority in the field of international human rights law. Comprised of independent experts, elected in their individual capacity rather than as representatives of their states, treaty bodies have international legal standing to assess whether state parties are implementing their treaty obligations.[22] Currently, there are nine human rights international treaties, and one optional protocol, from which 10 treaty bodies have been established.

The CommCRC, oversees the CRC.[23] Among other things, it supervises the enforcement of the Convention by assisting states in its implementation, by cooperating with other bodies of the UN and with non-governmental organizations, and by spreading wide information about the rights of the child. Like other treaty bodies, it utilizes various tools to promote compliance with the treaties it oversees. These include hearing individual complaints,[24] which, pursuant to an optional protocol enable individuals or proxies to bring a complaint against a state that is perceived as contravening the CRC.[25] For instance, The CRC expressly addresses armed conflict. Article 38 provides that governments must not allow children under the age of 15 to take part in war or join the armed forces and 'do everything they can to protect and care for children affected by war and armed conflicts'. Thus, for states that have ratified the Optional Protocol on the individual communications, the Committee can act as a source of accountability for conflagrations of children's rights during conflict. The Committee can also issue General Comments,[26] which are a treaty body's interpretation of human rights treaty provisions, thematic issues, or its methods of work. To demonstrate, the CommCRC has addressed, often tangentially, children in situations of war through its General Comments by highlighting the vulnerabilities of children in conflict-affected settings.[27] Alternatively, the Committee is one of the few human rights mechanisms that can initial confidential inquiries.[28] These are investigations into well-founded allegations of 'serious, grave or systematic' human rights violations or in the case of the CommCRC, serious breaches of the CRC. The nature of the human rights treaty bodies, tasked as they are with promoting compliance with existing obligations, are well situated to document violations of children's rights during war.

A. The Process of Concluding Observations

Alongside the aforementioned functions, the primary mandate of all the Committees is to review the reports submitted periodically by state parties in accordance with the treaty provisions, which are submitted as part of a wider process.[29] The monitoring provisions of the CRC are to be found chiefly in Article 44, which established the system of state party reporting. The

21 Fisher, *Improving Compliance with International Law* (1981).

22 See generally Bayefsky, *The UN Human Rights Treaty System* (2001).

23 See n 11, CRC.

24 UN Human Rights Council, optional protocol to the Convention on the Rights of the Child on a Communications Procedure: resolution/adopted by the Human Rights Council, 14 July 2011, A/HRC/RES/17/18. See Smith, 'The Third Optional Protocol to the UN Convention on the Rights of the Child—Challenges Arising Transforming the Rhetoric into Reality' (2013) 21 *International Journal of Children's Rights* 305.

25 Ibid.

26 See McCall-Smith, 'Interpreting International Human Rights Standards: Treaty Body General Comments as a Chisel or Hammer?' in Lagoutte, Gammeltoft Hansen and Cerone (eds), *Tracing the Role of Soft Law in Human Rights* (2016).

27 See CommCRC, General Comment No 7: Implementing Child Rights in Early Education, 20 September 2006, para 36; see also CommCRC, General Comment No. 6: Treatment of Unaccompanied and Separated Children Outside Their Country of Origin, 1 September 2005.

28 See UN Human Rights Council, n 24, Article 13.

29 One exception is the Subcommittee on the Prevention of Torture, which executes the optional protocol to the Convention against Torture. See O'Flaherty, 'The United Nations Human Rights Treaty Bodies as Diplomatic Actors' in O'Flaherty and others (eds), *Human Rights Diplomacy: Contemporary Perspectives* (2011).

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state report is the first stage of a process in which concluding observations are the output and is based on the obligation of state parties to submit, usually every 4 or 5 years, a report on the implementation of each UN human rights treaty and the optional protocol it has ratified.[30] State reports submitted to the Committee are to be compiled in accordance with the CRC Committee's Revised Guidelines for periodic reports.[31] In issuing reports, states are required to comment on both progress made and areas that require further implementation. Alongside the state report, this stage of the processes also comprises other complementary reports. For instance, the CommCRC encourages specialized UN agencies, such as United Nations Children's Fund (UNICEF), the Office of the High Commissioner for Human Rights (OHCR), the International Labour Organization (ILO), the World Health Organization (WHO), and national and international NGOs (for instance, Save The Children and Watchlist), to submit reports on the implementation of the CRC in various countries, usually called alternative or supplementary reports.[32] The Committee also draws on other information available to it, such as reports of Special Rapporteurs, concluding observations of other human rights treaty bodies, and the results of the Universal Periodic Review (UPR) conducted by the Human Rights Council (HRC).

The next stage of the process is a constructive dialogue between the state under review and the Committee. In response to backlogs of state reports—an issue that has plagued the treaty body system more generally—all treaty bodies now formulate a list of issues and questions which is transmitted to the state party ahead of the session at which the treaty body will consider the report. The list of issues provides the framework for the constructive dialogue with the state party's delegation.[33] The Committee also invites NGOs, and UN agencies, who submitted reports to discuss them in so-called pre-sessional meetings which take place about 6 months before the meeting with a delegation of the state party concerned.[34] Importantly and as the sections below address, the CommCRC adopts the novel approach of encouraging children to participate in the reporting process.[35] Treaty bodies complete each state assessment by issuing concluding observations. In this document, the Committee acknowledges the progress made via the various legislative measures, policies, and programmes the state party has undertaken and presents its concerns on the lack of or insufficient implementation of specific articles of the CRC.[36] The concluding observations end with recommendations to enhance the implementation of human rights.[37] The entire reporting process is defined by some as 'an opportunity for the delivery of an authoritative overview of the state of human rights in a country and for the delivery of forms of advice which can stimulate systemic improvements'.[38] As will be developed, the constituent parts of this process present opportunities for the Committee to advance children's rights at different stages of a peace process. However, to identify these smaller contributions and

30 O'Flaherty and Tsai, 'Periodic Reporting: The Backbone of the UN Treaty Body Review Procedures' in Bassiouni and Schabas (eds), *New Challenges for the UN Human Rights Machinery: What Future for the UN Treaty Body System and the Human Rights Council Procedures?* (2011).

31 CommCRC, Treaty-specific guidelines regarding the form and content of periodic reports to be submitted by States Parties under Article 44, paragraph 1 (b), of the Convention on the Rights of the Child. United Nations (3 Mar 2015) (Revised Reporting Guidelines).

32 Steward, 'Independent Human Rights Institutions for Children and the Committee on theRights of the Child Reporting Process', UNICEF (2009) Innocenti Research Centre, Innocenti Working Paper 22, at 17.

33 Egan, *The UN Human Rights Treaty System: Law and Procedures* (2011).

34 Sloth-Nielsen, 'Monitoring and Implementation of Children's Rights' in Kilkelly and Liefaard (eds), *International Human Rights of Children* (2019).

35 Heesterman, 'An Assessment of the Impact of Youth Submissions to the United Nations Committee on the Rights of the Child' (2005) 13 *International Journal of Children's Rights* 351, at 351.

36 Particularly relevant in conflict-affected settings, the Committee also acknowledges the impact of war on realising children's rights. See CommCRC, Concluding observations regarding Bosnia and Herzegovina, 21 September 2005, CRC/C/15/Add.260, at para 5.

37 O'Flaherty, 'The Concluding Observations of United Nations Human Rights Treaty Bodies' (2006) 6 *Human Rights Law Review* 1, at 27.

38 Ibid.

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the Committee's role in them, it is first necessary to shift how we conceptualize and quantify the impact of concluding observations. This requires moving from an outcome-oriented approach to the lens of process-based performance.

B. Effectiveness of Concluding Observations According to Outcomes

The concluding observations and the recommendations that attach to them are, in theory, central facets of second-order compliance; through the reporting process, treaty bodies scrutinize and offer authoritative observations on the state of compliance in a particular country and directions so as to improve this situation. Scholars have thus sought to interrogate their effectiveness. For Krommendijk, 'effectiveness is understood, first and foremost, in terms of the capacity of concluding observations and the treaty bodies to induce States to change their behaviour'.[39] Citing Downs, Rocke and Barsoom, he continues that effectiveness refers to 'the extent to which it requires States to depart from what they would have done in its absence'.[40] It implies that there are 'changes in behaviour that otherwise would not have occurred'.[41] According to this criterion, many hold the view that concluding observations generally are ineffective. For example, based on an empirical study of three States—the Netherlands, New Zealand and Finland—Krommendijk found that almost no measures were taken that would not have come about without treaty body recommendations.[42] Similarly, reviewing the performance of the CommCRC with respect to child protection in Estonia, Luhamaa found that most of the recommendations of the Committee had only limited effects on the child protection system.[43] The perceived limitations of the concluding observations are reflected in the multitude of reasons offered for their ineffectiveness. When examining different treaty bodies, the challenges are also faced by the CommCRC and thus provide useful insights into difficulties faced.

In some cases, these limitations reflect drawbacks associated with the treaty body system more generally. For instance, there are those who identify that the politicization of the treaty body membership may be a limiting factor, particularly in terms of convincing states to implement recommendations.[44] Others scrutinize the actual level of expertise and independence of some Committee members.[45] Scholars also highlight that points of tension between treaty body findings and state parties who disagree with the interpretation of treaty provisions put forward by the Committee concerned can adversely affect the extent to which recommendations are heeded. [46] In some cases, domestic political preferences simply prevail over those of the treaty body.[47] The lack of timely and adequate reporting by states on how they have complied with their treaty obligations is a long-standing, systemic challenge.[48] Moreover, quality reporting requires expertise in and familiarity with the treaty and the reporting process, which Creamer and Simmons identify many states apparently lack.[49] Concerns around duplication of reporting

[39] Krommendijk, 'The (In)effectiveness of UN Human Rights Treaty Body Recommendations' (2015) 33 *Netherlands Quarterly of Human Rights* 194, at 197.

[40] Downs, Rocke & Barsoom, 'Is the Good News about Compliance Good News about Cooperation?' (1996) 50 *International Organization* 379, at 383 cited in Krommendijk, supra n 39, at 197, n 13.

[41] Krommendijk, supra n 39, at 197.

[42] Ibid.

[43] Luhamaa, 'International Human-Rights Supervision Triggering Change in Child-Protection Systems? The Effectiveness of the Recommendations of the CRC Committee in Estonia' (2020) 29 *Juridica International* 108.

[44] Carraro, 'The United Nations Treaty Bodies and Universal Periodic Review: Advancing Human Rights by Preventing Politicization?' (2017) 39 *Human Rights Quarterly* 943.

[45] Carraro, 'Electing the experts: Expertise and Independence in the UN Human Rights Treaty Bodies' (2019) 25 *European Journal of International Relations* 826; Alston & Crawford, *The Future of UN Human Rights Treaty Monitoring* (2000).

[46] Oette, 'The UN Human Rights Treaty Bodies: Impact and Future' in Oberleitne (ed), *International Human Rights. Human Rights Institutions, Tribunals, and Courts- Legacy and Promise* (2018), at 101.

[47] Krommendijk, supra n 39, at 203.

[48] Pillay, 'Strengthening the United Nations Human Rights Treaty Bodies: A Report by the United Nations High Commissioner for Human Rights' (2012) UN Office of the High Commissioner for Human Rights.

[49] Creamer & Simmons, 'The Proof is in the Process: Self-Reporting Under International Human Rights Treaties' (2020) 114 *American Journal of International Law* 1.

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requirements to various treaty bodies are also highlighted,[50] which is often presented as a manifestation and consequence of the growth of the treaty body processes over time.[51] Others are critical of the methods of reporting, noting the need to think about better approaches to data collection, outcome indicators and analysis. [52]

In other cases, criticisms are specific to concluding observations and recommendations. For one, their content has been challenged for the lack of setting clear priorities, specificity and coherence.[53] Mechlem notes, for instance, that 'given the relatively short time that the treaty bodies can dedicate to each country, the concluding observations remain often at a rather general level, and their jurisprudential impact is marginal and exceptional'.[54] Some elaborate that the generality of recommendations renders evaluations of their ability to effect change problematic.[55] Others point to a lack of follow-up after recommendations are issued. That is, while certain treaty bodies, such as the Human Rights Committee, have developed a robust process of assessing implementation of recommendations, such committees as the CRC have not.[56] The picture that emerges of concluding observations then is one that reflects much of the literature on UN Treaty bodies more generally; while well intentioned, as specific tools of second-order compliance they often fail to meet the intended end goal of convincing states to heed the recommendations made. As a result, they fail to improve compliance with international human rights standards.

C. Problems of Proof and Measurement

There are, nonetheless, challenges and limitations associated with measuring the effectiveness according to whether the concluding observations deliver the end goal of improving compliance. Substantiating effectiveness requires drawing clear causal links between intervention and outcome, which is particularly difficult given the overlap of second-order compliance with first-order compliance. This latter refers to adherence to standing, substantive rules often embodied in human rights treaty arrangements.[57] A range of variables, such as the fact that states voluntarily commit to international human rights law, the lack of mechanisms to enforce these commitments and wide divergences in compliance levels among states, have provided the pretext for a marketplace of ideas as to what factors and conditions influence compliance with human rights treaties.[58] From fields such as law, sociology, history and international relations, explanations rooted in neorealism,[59] institutionalism,[60] liberalism,[61] constructivism[62] and acculturation[63]

50 Rodley, 'Duplication and Divergence in the Work of the United Nations Human Rights Treaty Bodies: A Perspective from a Treaty Body Member' (2011) 105 *American Society of International Law Proceedings* 507.

51 Sarkin, 'The 2020 United Nations Human Rights Treaty Body Review Process: Prioritising Resources, Independence and the Domestic State Reporting Process over Rationalising and Streamlining Treaty Bodies' (2021) 25 *The International Journal of Human Rights* 1301.

52 Meier et al., 'Accountability for the Human Right to Health Through Treaty Monitoring: Human Rights Treaty Bodies and the Influence of Concluding Observations' (2018) 13 *Global Public Health* 1558.

53 O'Flaherty, supra n 37; Mechlem, 'Treaty Bodies and the Interpretation of Human Rights' (2009) 42 *Vanderbilt Journal of Transnational Law* 905.

54 Mechlem, ibid., at 922.

55 Sloth-Nielsen, 'Implementation of Children's Rights: A Study of What Is Required in Selected Theme Areas' (2015) Working paper commissioned by the African Child Policy Forum.

56 Sahovic, Doek & Zermatten, *The Rights of the Child in International Law* (2013), at 364.

57 See Simmons, 'Compliance with International Agreements' (1998) 1 *Annual Review of Political Science* 75.

58 Mechlem, supra n 53, at 924.

59 Avdeyeva, 'When Do States Comply with International Treaties? Policies on Violence against Women in Post-Communist Countries' (2007) 51 *International Studies Quarterly* 877, at 879.

60 Krommendijk 'The Domestic Effectiveness of International Human Rights Monitoring in Established Democracies. The Case of the UN Human Rights Treaty Bodies' (2015) 10 *Review of International Organisations* 489, at 493.

61 Moravcsik, 'Liberal Theories of International Law' in Dunoff and Pollack (eds), *Interdisciplinary Perspectives on International Law and International Relations: The State of the Art* (2013).

62 Finnemore, *National Interests in International Society* (1996), at 2.

63 Jinks & Goodman, 'How to Influence States: Socialization and International Human Rights Law' (2004) 54 *Duke Law Journal* 621, at 635.

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have sought to explain how states are incentivized,[64] coerced,[65] shamed[66] and persuaded[67] to comply with international human rights norms. Part of the challenge associated with examining the effectiveness of second-order compliance mechanisms is that determining why a state does or does not opt to implement treaty body recommendations is complicated by a coexisting range of potential influences and drivers that might impact upon any decision taken.[68]

Secondly and building directly on proving effectiveness requires not only establishing correlations but also isolating the contributions of one actor over another to attribute any change to a particular constituent or initiative.[69] In many cases, alongside treaty bodies, multiple players will be attempting to alter a state's approach to human rights. These include UN mechanisms such as Special Rapporteurs and the UPR, the wider public, media, and domestic and international civil society. Yet, to prove effectiveness, one must not only establish causal links but also differentiate the influence of a treaty body over other actors and initiatives. This raises significant challenges, not the least in terms of developing appropriate frameworks of analysis to distinguish between a range of different constituents, which might be exerting some form of influence over the state and evaluate their contributions. Thirdly, any discussions on second-order compliance that seek to correlate mechanisms such as concluding observations with implementation, must necessarily grapple with the underlying reasons that might explain the ability of a second-order compliance mechanism to extract this alteration in state behaviour. In other words, alongside the wider factors, which might influence a state, this particular aspect requires focusing specifically on the actor attributed as being responsible for altering a state's behaviour and explaining why it is or might have been able to do so.

Proving effectiveness as a measurement of performance is, therefore, a particularly arduous task; one must establish causal links, isolate these connections from other potential influencers and then seek to explain the particular conditions that help to differentiate successful implementation from non-implementation in reference to specific actors or mechanisms that are attributed as inducing this change. Moreover, and as developed below, this approach to assessing treaty bodies generally and concluding observations more specifically, is also limited in constricting the influence of treaty bodies to promoting compliance. In doing so, it can overlook opportunities for treaty bodies to make contributions in ways that are beyond their immediate scope.

D. The Lens of Process-Based Performance

Against this backdrop, an alternative approach is that offered by Carraro, namely what she terms 'process-based performance'.[70] This author draws on steps laid down by Gutner and Thompson in 2010 by acknowledging that 'assessing the performance of an international organization such as a treaty body by only looking at its ability to reach its ultimate goal (e.g. improving human rights on the ground) might prove misleading'.[71] Carraro identifies instead that the performance of organizations is best assessed by studying 'process-based performance', namely

64 Hathaway, 'Why Do Countries Commit to Human Rights Treaties?' (2007) 51 *Journal of Conflict Resolution*588; Magesan, 'Human Rights Treaty Ratification of Aid Receiving Countries' (2013) 45 *World Development* 175.

65 Hill Jr, 'Estimating the Effects of Human Rights Treaties on State Behavior' (2010) 72 *The Journal of Politics* 1161, at 1164.

66 Hafner-Burton, 'Sticks and Stones: Naming and Shaming the Human Rights Enforcement Problem' (2008) 62*International Organization* 689, at 690.

67 Finnemore, supra n 62, at 2.

68 Kälin 'Examination of State Reports' in Keller and Ulfstein (eds), *UN Human Rights Treaty Bodies, Law and Legitimacy* (2012), at 64.

69 Carraro, supra n 16.

70 Ibid.

71 Gutner and Alexander, 'The Politics of IO Performance: A Framework' (2010) 5 *The Review of International Organizations* 227.

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the ability of an organization to reach smaller-scale objectives, which might be helpful towards the achievement of the overall goals.[72] She articulates the distinction in the following way:

> Whereas the outcome performance of an organization is identified by its ability to solve a specific problem—in our case, to improve states' human rights record—its process performance relates to its ability to reach what scholars call micro outcomes, namely, its ability to carry out specific tasks. Treaty bodies ... work towards the achievement of their ultimate goal by delivering recommendations, whose implementation by states would arguably lead to an improvement of their human rights performance (outcome performance). To reach the ultimate goal of policy change, other more concrete and measurable results might be achieved by these mechanisms (process-based performance).[73]

The lens of process-based performance acknowledges that treaty bodies can make smaller contributions in pursuance of an overall objective—usually improvement in human rights compliance. To this end, Carraro offers four process-focused outcomes that treaty bodies might reach: generating pressure; triggering learning; providing an accurate overview of states' performance; and delivering practically feasible recommendations.[74] A similar process-oriented approach is that adopted by Creamer and Simmons. Focusing specifically on the act of self-reporting, they have found that states improve their rights practices when they engage in ongoing dialogue with these treaty bodies.[75] They advance four mechanisms that theory and evidence suggest might contribute to human rights improvements: elite socialization, learning and capacity building, domestic mobilization and law development.[76] Thus, under a process-based approach, while the end objective is kept firmly in view, attention is directed towards the smaller contributions that the treaty body might make as smaller components of this overall end goal. As a result of these incremental contributions, overall compliance might well improve over time.

In focusing on process-based rather than outcome-based performance, this approach also implicitly recognizes that evaluating the contributions that concluding observations can make ought also to consider how the CommCRC supports or interacts with other actors and initiatives. As, according to the process-based performance approach, attention is directed away from establishing causal linkages between the implementation of recommendations and compliance, less pressure is placed on the Committee as a stand-alone actor to achieve this aim. Relieved from this burden, space opens for contemplating potential interactions between the Committee generally and concluding observations more specifically, with other actors and initiatives. For instance, while the domestic mobilization aspect of Creamer and Simmons focuses primarily on the involvement of civil society organizations in the reporting process, they acknowledge that 'Committees' concluding recommendations further provide domestic constituencies with information to evaluate their state's treaty compliance, focusing domestic pressure on the government to perform better'.[77] These authors thus identify that concluding observations can help to support the advocacy of other actors that draw on the findings of the CommCRC and in doing so reflect the interrelatedness of initiatives, mechanisms and actors. In short, a process-based approach looks at how treaty bodies, through concluding observations, can contribute to smaller-scale objectives in pursuance of a greater goal and how its specific efforts might support

[72] Carraro, supra n 16.
[73] Ibid., at 1082.
[74] Ibid.
[75] Simmons and Creamer, 'Do Self-Reporting Regimes Matter? Evidence from the Convention Against Torture' (2019) 64 *International Studies Quarterly* 1051; Simmons and Creamer, 'The Dynamic Impact of Periodic Review on Women's Rights' (2018) 81 *Law & Contemporary Problems* 31.
[76] Creamer and Simmons, supra n 49.
[77] Ibid., at 37.

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or interact with other, simultaneously occurring initiatives towards these more incremental steps.

3. THE CONTRIBUTIONS OF THE COMMITTEE ON THE RIGHTS OF THE CHILD TO PEACE PROCESSES

The lens of process-based performance provides a useful tool for thinking about the potential involvement of treaty bodies in peace processes. As previously noted, these transitions are often made up of a series of smaller junctures which, while rarely linear or clearly demarcated, nevertheless exist as smaller components of a larger goal of achieving peace. These stages include negotiations, a peace agreement(s) itself as the formal embodiment of the outcomes of these negotiations and the implementation of an agreement's provisions. There are also frequently periods of 'no war, no peace' where violence re-emerges or continues alongside the formal peace process.[78] Particularly in relation to these periods of flux and peace agreement implementation, there is the need for different modalities of monitoring. If the overall objective of a peace process is achieving peace, we can understand these various junctures as several smaller steps which must be taken in pursuance of this overarching aim. However, within a peace process, there is a range of smaller components that, collectively, accumulate to make up the overall peace package. For instance, power-sharing agreements, the institutionalization of human rights, provisions on gender equality and security sector reform can all be component parts of the overall peace deal. Each issue must often be navigated through the phases of a peace process. In the case of children's rights, while the ultimate objective is to improve the extent to which these rights are protected, realized, and respected in the post-conflict state, they must often be advanced throughout these various stages. Children's issues must, for instance, be promoted during negotiations and included in a peace agreement. Moreover, they must then be implemented, while simultaneously ensuring that children's rights are not further violated if violence continues alongside the formal peace process. A process performance-based approach, as one that looks at smaller junctures, identifies the advancement of children's rights as the primary objective but provides a useful lens through which to consider potential contributions of the CommCRC through its recommendations at incremental stages in pursuance of this overarching goal.

In adopting the lens of process-based performance, attention can also be directed away from treaty bodies as the sole actor responsible for effecting change to instead thinking about the ways in which treaty bodies interact with the efforts of others during these stages. This way of thinking is again useful when conceptualizing potential roles for CommCRC in peace processes. Besides comprising various stages, peace processes can include a vast range of actors. Although differing in terms of who, what and the extent to which they contribute to the process, these actors can range from conflict protagonists to domestic and international civil society actors, the wider public to international institutions such as the UN or regional bodies like the European Union (EU), financial institutions like the World Bank to local, national, and international businesses.[79] In addition, peace processes are often replete with a range of initiatives targeting specific aspects of the process. As an illustration, efforts to promote gender inclusion can comprise UN Security Council (SC) resolutions and international and regional human rights instruments, alongside domestic and international civil society groups. Research has demonstrated how domestic civil society actors collaborate with international NGOs using international human rights law and SC Resolution 1325 as part of their advocacy.[80] In shifting attention away from the recommenda

[78] See Mac Ginty, *No War, No Peace: The Rejuvenation of Stalled Peace Processes and Peace Accords* (2006).

[79] Parver & Wolf, 'Civil Society's Involvement in Post-Conflict Peacebuilding' (2008) 36 *International Journal of Legal Information* 51, at 78–79.

[80] Bell & O'Rourke, 'Peace Agreements or Pieces of Paper? The Impact of UNSC Resolution 1325 On Peace Processes and Their Agreements' (2010) 59 *The International and Comparative Law Quarterly* 941.

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tion–implementation–compliance paradigm, a performance-focused approach thus offers the opportunity to reconceive a role for the CommCRC as one actor amidst a constellation of others, whereby its contributions might play a role in supporting and promoting simultaneous initiatives and actors pursuing similar objectives. The discussion below unpacks both aspects in greater detail examining how concluding observations have helped to promote children's rights during a peace process.

A. Encouraging the Inclusion of Children's Issues in Peace Agreements

Peace agreements are formal, publicly available documents, produced after discussion with conflict protagonists and mutually agreed to by some or all of them, addressing conflict with a view to ending it.[81] Much has been written about peace agreements, including a healthy degree of scepticism regarding their potential to end violence.[82] Nevertheless, an optimistic outlook is one that identifies these agreements as road maps for peacebuilding efforts and the post-conflict state more generally.[83] Given that peace agreements can serve as foundational documents, which provide a framework for what issues will be addressed and how, the inclusion of children's issues in peace agreements is of paramount importance. This is a position that has long been recognized.[84] For instance, the Machel Report—a seminal piece of work on the 'Impact of armed conflict on children'– was explicit about promoting children's rights in peace agreements.[85] Paragraph 49 recommended that '[p]eace agreements and related documents should incorporate provisions for the demobilization of children' noting that 'without this recognition, there can be no effective planning or programming on a national scale'.[86] Machel also drew attention to the importance of placing children at the centre of reconstruction provisions in peace agreements[87] and identified the salience of supporting the implementation of peace agreements.[88] Yet, despite the importance attached to including children in peace agreements, they are often omitted.[89] There are multiple possible reasons for this exclusion. For instance, many identify that the content of peace agreements reflects the priorities of those that negotiated them. Given, as developed below, that children are usually excluded from these processes, this exclusion can manifest itself in ongoing marginalization in an agreement's provisions.[90]

Against this backdrop, the CommCRC is well placed to advocate for the inclusion of children's issues in peace agreements. Addressing Burundi, for instance, the Committee has previously urged that the protection of child rights and the implementation of programmes to address priority child rights concerns be included in peace agreements.[91] Similarly, recommendations addressed to the Democratic Republic of Congo (DRC) have implored the state party to, among other things, 'ensure that the release, recovery and reintegration of children associated with non-State armed forces or armed groups becomes a priority and is addressed in all peace or ceasefire negotiations and agreements with armed groups, in line with UN operational guidelines on addressing children's issues in peace agreements'.[92] Even

[81] See Bell et al., supra n 18. Note, however, that this definition is contested.
[82] Berdal, 'The Afterlife of Peace Agreements' in Weller, Retter & Varga (eds), *International Law and Peace Settlements* (2021); Badran, 'Intrastate Peace Agreements and the Durability of Peace' (2013) 31 *Conflict Management and Peace Science* 193.
[83] See Bell, *On the Law of Peace, Peace Agreements and the Lex Pacificatoria* (2008).
[84] See Bell, supra n 9.
[85] See Machel, *Impact of Armed Conflict on Children*, Report of the expert of the Secretary-General, 26 August 1996, A/51/306
[86] Ibid., at para 49.
[87] Ibid., at para 241.
[88] Ibid., at para 282.
[89] See Field, supra n 9.
[90] Kew and Wanis-St John, 'Civil Society and Peace Negotiations: Confronting Exclusion' (2008) 13 *International Negotiation* 11.
[91] CommCRC, Concluding observations regarding Burundi, 16 October 2000, CRC/C/15/Add.133, at para 11.
[92] CommCRC, Concluding observations on the combined third to fifth periodic reports of the Democratic Republic of Congo, 28 February 2017, CRC/C/COD/CO/3–5, at para 48.

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when children's issues are omitted in a peace agreement, the CommCRC recommendations can both draw attention to this exclusion and seek to encourage that relevant matters are addressed in response. For example, the issue of child soldiers has long been a significant problem in Yemen.[93] Yet, one month before the issuing of these concluding observations, the National Dialogue Conference Outcomes Document was signed on the 25 January 2014.[94] This peace agreement is, relatively speaking, quite comprehensive in its provisions on children. However, despite the breadth of issues addressed, no mention is made of child-soldiers. In response, through its concluding observations, the CommCRC, in February 2014, urged 'the recovery and reintegration of . . . children and the inclusion of the prohibition of the recruitment of children and their use in hostilities in all peace or ceasefire negotiations and agreements with armed groups'.[95]

When understood alongside other initiatives that seek to advance the same purpose, recommendations can add weight to parallel mechanisms that seek to encourage the inclusion of children's issues in peace agreements. As an example, they can help to support the UN SC Children and Armed Conflict Agenda. While the primary focus of this agenda is on protecting children during conflict, SC resolutions have directly encouraged that children's issues are reflected in peace agreements. For instance, SC resolution 2143:

> [U]rges Member States, United Nations entities and other parties concerned to ensure that child protection provisions, including those relating to the release and reintegration of children formerly associated with armed forces or armed groups, are integrated into all peace negotiations and peace agreements.[96]

There are numerous other resolutions to the same effect.[97] The Committee, through its recommendations, can thus help to advance these objectives by increasing the pressure to ensure provisions addressing children are included. Other opportunities emerge for contributing to parallel initiatives. For instance, in the recommendation to the DRC cited above, the Committee urged that the state comply with the 'United Nations operational guidelines on addressing children's issues in peace agreements'.[98] The guidelines referred to were produced by the Office of the Special Representative of the Secretary-General for Children and Armed Conflict (OSRSG CAAC) and developed in partnership with the Department of Political and Peacebuilding Affairs, the Department of Peace Operations, UNICEF, and other stakeholders.[99] Based on concrete examples of situations in which child protection issues were successfully integrated into peace processes or peace agreements, the guidance emphasizes the strategic value of including children's rights and needs in peace negotiations and gives tools to mediators to take these issues into consideration at the earliest stages of the negotiations. By directly referencing this document, the CommCRC can help draw attention to this document and existing guidelines and best practices for integrating children's issues in peace agreements. Thus, the Committee, alongside promoting compliance with the CRC, can also utilize the treaty reporting process as an opportunity to advance the inclusion of children's issues in peace agreements. Particularly when

93 See Euro-Med Human Rights Monitor, 'Militarized Childhood: A report on the Houthis' recruitment of Yemeni Children During War' (2021), available at: https://reliefweb.int/sites/reliefweb.int/files/resources/childrenyemenrepen.pdf [last accessed 18 June 2022].

94 Yemen, National Dialogue Conference Outcomes Document, 25 January 2014.

95 CommCRC, Concluding observations regarding Yemen, 26 February 2014, CRC/C/OPAC/YEM/CO/1, at para 28.

96 SC Res 2143, 7 March 2014, S/RES/2143 (2014).

97 See, as an example, SC Res 1261, 30 August 1999, S/RES/1261 (1999).

98 CommCRC, supra n 92, at para 48.

99 See Office of the Special Representative of the Secretary-General for Children and Armed Conflict and Act to Prevent Children, Practical guidance for mediators to protect children in situations of armed conflict, United Nations February 2020.

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these documents serve as road maps for peacebuilding and the post-conflict state, the inclusion of children's rights can be a pivotal moment in advancing children's rights.

B. Championing and Facilitating Children's Participation

The issue of including children's issues in peace agreements also raises questions regarding the participation of children in peace negotiations.[100] Ensuring that children are afforded the opportunity to participate in decisions that affect their life has been a long-standing objective of international human rights law.[101] This norm is itself reflective of wider shifts in terms of how children are perceived from viewing them as 'objects of concern' to engaging them as 'active participants'.[102] Moreover, ensuring that the views of the child are heard is one of the four underpinning principles of the CRC. Article 12 (1) of the UNCRC provides that:

> States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.[103]

Given that peace agreements are the result of peace negotiations, some have drawn attention to the need to ensure that children can participate in the processes that produce peace accords.[104] Understood from the perspective of advancing children's rights, not only is participation a right but the process of inclusion can also help to ensure that the particular issues facing children are adequately addressed. And yet, as O'Kane et al. note, 'In most contexts children have been excluded from formal peacebuilding processes and child rights have been marginalised in the development and monitoring of peace agreements and peace accords'.[105] There are again multiple reasons for this exclusion. For instance, some identify that a certain stigma surrounds a child, not least that they lack the maturity to participate in peace negotiations. As Mikavica notes, there exists a perception 'that children should not be a part of decisions, or even questioned, reasoning that children need to be in school and not a part of political processes'.[106] In other cases, deficient mechanisms to facilitate participation, alongside the complexity of the negotiation environment have been highlighted.[107]

In response to these challenges, the CommCRC can, in theory, promote the inclusion of children's viewpoints in different ways. As an example, recommendations might be used to encourage parties to a conflict to seek the views of children. In Colombia, as an illustration, the Committee has previously encouraged the state to continue ensuring that children's opinions, interests and needs are considered during the current peace process.[108] In addition, the Committee regularly advocates for ensuring children's participation more generally.[109] This has included encouraging states to 'promote public awareness of the participatory rights of children and to take effective measures to ensure respect for the views of the child within schools, families, social institutions, and the care and judicial systems'.[110] It is possible that increased participation

100 See generally Mikavica, supra n 9.
101 See supra n 11, CRC, Article 12.
102 See O'Kane, 'The Development of Participatory Techniques: Facilitating Children's Views About Decisions Which Affect Them' in Christensen and James (eds), *Research with Children: Perspectives and Practice,* 2nd edn (2008), at 125.
103 Mikavica, supra n 9.
104 Ibid.
105 Ibid.
106 Ibid. at 13.
107 Ibid.
108 CommCRC, Concluding observations regarding Colombia, 6 March 2015, CRC/C/COL/CO/4–5, at para 65.
109 See, for example, CommCRC, Concluding observations regarding Myanmar, 14 March 2012, CRC/C/MMR/CO/3–4, at para 29; CommCRC Concluding observations regarding Sierra Leone, 24 February 2000, CRC/C/15/Add.116.
110 Ibid., Sierra Leone, at para 39.

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in, for instance, political arenas can inadvertently improve the participation of children in peace processes, particularly where political mechanisms are used to implement provisions of a peace agreement. In recognizing the challenges faced when trying to involve children, the Committee can thus lend its support to the realization of the right to participation.

Opportunities also emerge through the wider process of reporting and consultation that precedes concluding observations. In substantiating the meaning of Article 12 CRC, scholars such as Lundy have identified several important components.[111] Participation requires, among other things, that children are given space to express their views; voice such that children are facilitated to express their view; audience, so that children are listened to; and influence, such that views expressed are acted upon.[112] The Committee, through the reporting process, can arguably help facilitate child participation in ways envisioned under the Lundy Model, albeit indirectly. As part of the evaluation stage of the reporting process, scholars such as Heesterman have alluded to the fact that the Committee has in recent times encouraged the participation of children in the prehearing sessions, too. [113] Sloth-Nielsen elaborates on this in some detail.[114] She explains that the Committee has outlined various ways in which children can be involved. These include through children's submissions, either their own or through NGOs, for the adoption of lists of issues and review of state party reports. Participation can also be achieved by means of oral presentations during the meetings of the pre-sessional working groups, via private meetings with the Committee members during the meetings of the pre-sessional working groups, by participating in videoconferencing, and by participation in plenary sessions of the Committee.[115] If the Committee is indeed able to influence various stages of a peace process, these direct and indirect channels open up the space for children to voice their views. In this way, the very process around formulating and subsequently issuing concluding observations and recommendations could provide a useful and accessible forum for children to participate. Moreover, the CommCRC can through its recommendations or inclusion in the process also support parallel initiatives that seek to increase the participation of children in peace negotiation. In 2018, for the first time, SC Resolution 2427—the most recent resolution on CAAC—promoted the need to integrate children's perspectives into peace negotiation. This resolution requires, among other things, that 'the views of children are taken into account in programming activities throughout the conflict cycle'.[116] It also called on relevant parties to ensure 'that the protection, rights, well-being and empowerment of children affected by armed conflict are fully incorporated and prioritized in all postconflict recovery and reconstruction planning, programs and strategies as well as in efforts on peacebuilding and sustaining peace and encourage and facilitate consideration of the views of children in these processes'.[117] The Committee, by increasing opportunities for children to participate in the reporting process, could help to realize the ambitions of SC 2427.

C. Monitoring Peace Agreement Implementation

Despite the relatively poor levels of inclusion of children's issues in peace agreements, there are some examples of good practice. In Uganda, for instance, peace agreements have included

111 See Lundy, '"Voice" is Not Enough: Conceptualising Article 12 of the United Nations Convention on the Rights of the Child' (2007) 33 *British Educational Research Journal* 927.

112 See Lundy, 'In Defence of Tokenism? Implementing Children's Right to Participate in Collective Decision-Making' (2018) 25 *Childhood* 340.

113 Heesterman, supra n 35, at 351.

114 Sloth-Nielsen, supra n 34.

115 Ibid.

116 SC Res 2427, 9 July 2018, S/RES/2427 (2018), at para 23.

117 Ibid.

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provisions addressing children and transitional justice, child soldiers, the reintegration of children and the monitoring of these commitments.[118] Similarly, in Colombia, agreements have addressed such issues as children and socioeconomic development, education, health, and drugs reform.[119] Where peace agreements do include detailed commitments on children, it is imperative that these commitments are translated into action. Indeed, without implementation, prior efforts to promote inclusion of children's issues in both negotiations and the content of a peace agreement will be of little utility. Scholarly analyses of implementation have increased in recent years, examined from both a qualitative[120] and quantitative perspective.[121] These contributions help to illuminate the many challenges associated with putting into effect brokered commitments. For this reason, monitoring peace agreement implementation is often critical. Those monitoring an agreement can, for instance, provide information on areas of successful implementation and identifying lags in the implementation process.[122] They can also knowledge gaps and trust between parties; identify emergent positive and negative patterns; and detect issues of concern and catalysing greater efforts in implementing lagging areas.[123]

It is possible that the Committee, through its concluding observations, can support these efforts in various ways. Under the term 'faming', some scholars suggest that the CommCRC can increase the extent to which a state complies with obligations and responsibilities by drawing attention to positive steps taken.[124] Faming is, in essence, the opposite of shaming and involves highlighting positive measures that the state in question has adopted to promote children's rights. The same logic could apply to welcoming and acknowledging efforts to bring about peace and implementing aspects of an agreement. In actively seeking to endorse efforts made in pursuance both of peace and advancing children's rights, the Committee could help encourage continued developments. In Guatemala, for instance, the CommCRC has used its concluding observations to welcome the steps taken to secure a durable peace within Guatemala, particularly by enhancing the enjoyment of human rights, including for the indigenous peoples. It supported the Agreement on the Identity and Rights of Indigenous Peoples and the Agreement on Socio-Economic Aspects and the Agrarian Situation.[125] The latter agreement, among other things, attempted to deal with issues around land reform and ownership, a central component of the Guatemalan peace process. In a similar vein, in response to the United Kingdom's report, the Committee has previously praised the establishing of the Northern Ireland Human Rights Commission and the police ombudsman for Northern Ireland. [126] Both institutions were critical components of the broader peace process as a result of the human rights underpinnings of conflict and the repressive role played by the then police service in Northern Ireland—the Royal Ulster Constabulary.[127] While these examples show less focus on children, the wider objective of peace is crucial to advancing children's rights. More specific to children, in Sierra Leone, the Committee noted 'with satisfaction the signing on 7 July 1999 of a peace agreement in Lomé and

[118] See, as examples, Uganda, Agreement on Disarmament, Demobilization and Reintegration, Juba, Sudan, 29 February 2008; Uganda, Agreement on a Permanent Ceasefire, 23 February 2008; Uganda, Annexure to the Agreement on Accountability and Reconciliation, 19 February 2008.

[119] See Colombia, Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace, 24 November 2016.

[120] See, for instance, Joshi et al., 'Sequencing the Peace: How the Order of Peace Agreement Implementation Can Reduce the Destabilizing Effects of Post-Accord Elections' (2017) 61 *Journal of Conflict Resolution* 4.

[121] See, Lyons, 'Peace Implementation and Quality Peace' in Joshi and Wallensteen (eds), *Understanding Quality Peace: Peacebuilding after Civil War* (2018), at 29–44.

[122] Ibid.

[123] Ibid., at 3.

[124] Kahn-Nisser, 'For Better or Worse: Shaming, Faming, and Human Rights Abuse' (2021) 58 *Journal of Peace Research* 479.

[125] CommCRC, Concluding observation regarding Guatemala, 7 June 1996, CRC/C/15/Add.58, at, paras 4 and 5.

[126] CommCRC, Concluding observations regarding United Kingdom of Great Britain and Northern Ireland, 9 October 2002, CRC/C/15/Add.188, at para 3(d).

[127] Grech, *Human Rights and the Northern Ireland Conflict: Law, Politics and Conflict, 1921–2014* (2021).

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the end of hostilities within the State party'.[128] It continued that it was 'especially encouraged by the inclusion in the Lomé peace agreement of references to children's rights and to the Convention on the Rights of the Child'.[129] Similarly, with respect to Sri Lanka, the Committee has previously noted its satisfaction 'by the ongoing peace process and the inclusion of human rights issues, including the human rights of children, in the peace talks'.[130]

The Committee can also encourage that parties to an agreement implement its provisions. For instance, the CommCRC has previously called upon the state to '[e]xpedite the enactment of a bill of rights for Northern Ireland, agreed under the Good Friday Agreement'.[131] Similarly, in the Central African Republic, the Committee has:

> [U]rged the State party to: (a) Strengthen its efforts to end armed conflict by ensuring the effective implementation of the peace agreements already signed with armed groups and by signing peace agreements with the remaining armed groups, ensuring that the protection and promotion of children's rights are given due consideration in any peace negotiations.[132]

The most frequent approach to encouraging implementation is one that directly aligns with the Committee's mandate—promoting compliance with international human rights law. Peace agreements will often include commitments to either ratify or adhere with international human rights law.[133] This can be seen in places like Bosnia Herzegovina,[134] Burundi,[135] Central African Republic,[136] DRC,[137] Philippines[138] and Sierra Leone[139] with respect to the CRC. Similarly, agreements can also include promises to abide by or adopt the optional protocol on Children and Armed Conflict.[140] There is a plethora of research on the relationship between human rights and peace, much of which identifies the importance of institutionalizing human rights after conflict.[141] Through concluding observations and recommendations, the Committee can lend its voice to ensuring that these commitments are translated. As an example, in Sierra Leone, the Committee has previously encouraged that 'the State party undertake a review of existing legislation and of customary law practices and, where appropriate, adopt or amend legislation so as to ensure compatibility with the principles and provisions of the Convention'.[142] It has also urged 'the State party to consider introducing legislation which would allow the Convention to be directly applicable in domestic courts'.[143]

Perhaps more importantly, the CommCRC can highlight a lack of implementation and use its recommendations to encourage compliance with commitments made under a peace agreement.

128 CommCRC, supra n 109, Sierra Leone, at para 3.
129 Ibid., at para 3.
130 CommCRC, Concluding observations regarding Sri Lanka, 2 July 2003, CRC/C/15/Add.207, at para 3.
131 CommCRC, Concluding observations regarding United Kingdom of Great Britain and Northern Ireland, 12 July 2016, CRC/C/GBR/CO/5, at para 7.
132 CommCRC, Concluding observations regarding Central African Republic, 8 March 2017, CRC/C/CAF/CO/2.
133 See Molloy, 'Why Do States Ratify Human Rights Treaties in Transitioning Societies?' (2021) 25 *International Journal of Human Rights* 1328.
134 Bosnia and Herzegovina (Dayton Peace Agreement), 21 November 1995.
135 Burundi, Constitution of 18 March 2005, 18 March 2005.
136 Central African Republic, Accord de cessation des hostilités en République Centrafricaine (Brazzaville Agreement on Cessation of Hostilities), 23 July 2014.
137 Democratic Republic of Congo, Intercongolese Negotiations: The Final Act ('The Sun City Agreement'), 2 April 2003.
138 Philippines, Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law between the Government of the Republic of the Philippines and the National Democratic Front of the Philippines, 16 March 1998.
139 Sierra Leone, Peace Agreement between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone (RUF/SL) (Lome Agreement), 7 July 1999.
140 See Central African Republic, supra n 136; Sudan/Darfur, Doha Document for Peace in Darfur (DDPD), 31 May 2011.
141 See Bell, supra n 17.
142 CommCRC, supra n 109, at para 7.
143 Ibid.

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For instance, in the Central African Republic, concluding observations by the Committee implicitly drew attention to the insufficient implementation of agreements signed in July 2014 and May 2015.[144] The first of these agreements—the Accord de cessation des hostilités en République Centrafricaine (Brazzaville Agreement on Cessation of Hostilities)[145]—included promises to 'end and prevent any future violations of children, in particular murder, mutilation, exploitation, rape and other violence' and 'to end the recruitment of child soldiers'.[146] Despite these promises, through its concluding observations, the Committee was able to highlight 'recurrent fighting between armed groups, which continues to result in serious violations of children's rights, including killing and maiming, recruitment, sexual violence and abuse, denial of access to health and educational services and humanitarian assistance'.[147] It also pointed to the continued recruitment of children by armed groups.[148] On this basis, recommendations from the Committee have targeted these issues encouraging that efforts be made to '[c]riminalize the recruitment and use of children in hostilities and promptly investigate and prosecute suspects and bring perpetrators to justice'[149] and 'establish a coordination entity to develop and implement a national strategy for the disarmament, demobilization and reintegration of children associated with armed groups'.[150] Similarly, in Sierra Leone, the Lomé Accord of 1999 included a range of provisions on child soldiers and their disarmament, demobilization and reintegration.[151] Through concluding observations in 2000, the Committee, in noting the continued problem, urged the state party to take every feasible measure to have all child abductees and combatants released and demobilized and to rehabilitate and reintegrate them in society.[152]

In some cases, the Committee can use its recommendations to build on achievements that have been made but nevertheless advocate for further development. In Liberia, as an example, where the conflict was underpinned by a range of human rights violations,[153] setting up a National Human Rights Institution was regarded as an important step towards peace. To this end, the Accra Agreement of 2003 included provisions on the need for the establishment of an Independent National Commission on Human Rights (INCHR).[154] In its concluding observations, the CommCRC welcomed the establishment of this Committee but identified limitations in the scope of competences of the Commission, which did not include children's rights.[155] When peace agreements include commitments on particular issues and the Committee is involved in assessing whether these issues have been subject to state interventions, an important monitoring role is being performed.

While the Committee can play a role in monitoring the implementation of an agreement, the potential impact of the contributions to promoting the translation of a peace agreement into practice is once again best understood alongside other actors and initiatives. One of the additional complications of highly complex and comprehensive agreements is that monitoring implementation is an arduous task. In many cases and in anticipation of the challenges that arise,

144 CommCRC, supra n 132, at para 66.
145 Central African Republic, Accord de cessation des hostilités en République Centrafricaine (Brazzaville Agreement on Cessation of Hostilities), 23 July 2014.
146 Ibid., Article 5.
147 CommCRC, supra n 132, at para 66.
148 Ibid.
149 Ibid., at para 67.
150 Ibid.
151 Sierra Leone, Peace Agreement between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone (RUF/SL) (Lome Agreement), 7 July 1999, at Article XXX.
152 CommCRC, supra n 109, at para 73.
153 See, for example, Republic of Liberia Truth and Reconciliation Commission, Volume II: Consolidated Final Report.
154 Liberia, Peace Agreement between the Government of Liberia, the Liberians United for Reconciliation and Democracy (LURD), the Movement of Democracy in Liberia (MODEL) and the Political Parties (Accra Agreement), 18 August 2003, Article 12 XII.
155 CommCRC, Concluding observations regarding Liberia, 1 July 2004, CRC/C/15/Add.236.

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peace agreements include provisions that define which actors and organizations are responsible for monitoring and verifying implementation.[156] These range from civil society to international actors and conflict protagonists to other states.[157] Often, it is some combination of actors that are preferred.[158] The Committee, through highlighting successful implementation, encouraging future implementation and scrutinizing a lack of follow through on implementation, can support those bodies and mechanisms. Indeed, as Bramble and Paffenholz note, '[i]nternational guarantors and signatories depend on reliable information to ensure that an agreement is being adhered to and to identify obstacles that may derail the peace process'.[159] Thus, the Committee, through the reporting process, can help to accumulate necessary information regarding the implementation of peace agreement provisions, particularly those that directly target children. If, as suggested above, the implementation of these commitments is important for children's rights post-conflict, monitoring can be an important contribution to advancing children's rights.

D. Accountability for Ongoing Rights Violations

Of course, CommCRC has an essential role to play through its primary function of monitoring compliance with human rights. Indeed, while the central focus of this article is on contributions to peace and advancing children's rights in peace processes, there is rarely a linear line between peace and conflict.[160] Rather, transitions to peace are often a process of fits and starts where ongoing human rights violations continue despite and in some cases because of a peace agreement. The oversight function of the Committee ensures that it can play a useful role in monitoring ongoing violations of children's rights in periods of flux. For instance, the CommCRC frequently highlights breaches of international humanitarian law—the body of rules governing periods of conflict—drawing attention to such issues as child abduction, killings and the torture of children, and the involvement of child-soldiers.[161] One of the important contributions of doing so is that documenting ongoing breaches can help to support transitional justice efforts and holding those responsible for violations of children's rights.[162] To this end, the CommCRC can also use concluding observations to promote accountability when these violations occur. With respect to Afghanistan, for instance, the Committee has previously urged the state party to ensure that allegations of violations against children perpetrated by any party to the conflict are investigated in a transparent, timely and independent manner, and ensure that perpetrators of those violations are brought to justice.[163] In other cases, the CommCRC issues recommendations that highlight the need to end particular violations, often by offering detailed recommendations as to how to do so. As an example, in Myanmar, the Committee has encouraged, among other things, that the State 'strengthen its activities aimed at preventing the use of children in armed conflict by the military, releasing and reintegrating existing child soldiers, and extend these activities to non-State ceasefire groups'.[164] It has also called for the State to '[i]dentify all children within the ranks of the Armed Forces, register and demobilize them with full family tracing, reunification and reintegration support from UNICEF

156 Molloy and Bell, How Peace Agreements Provide for Implementation (2019) PA-X Report.
157 Ibid.
158 Ibid.
159 Bramble and Paffenholz, 'Implementing Peace Agreements: From inclusive processes to inclusive outcomes?'(2020) Inclusive Peace and Transition Initiative Report.
160 See Pospisil and Menocal, 'Why Political Settlements Matter: Navigating Inclusion in Processes of Institutional Transformation' (2017) 29 *Journal of International Development* 551.
161 See, for example, CommCRC, Concluding observations regarding Uganda, 21 October 1997, CRC/C/15/Add.80.
162 Bell, *Negotiating Justice? Human Rights and Peace Agreements: Negotiating Justice? Human Rights and Peace Agreements* (2006), at 50.
163 CommCRC, Concluding observations regarding Afghanistan, 8 April 2011, CRC/C/AFG/CO/1, at para 30.
164 CommCRC, supra n 109, Myanmar, at para 82(a).

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and other child protection partners'[165] and to 'take the appropriate measures to systematize, institutionalize and strengthen disciplinary processes and/or action against those responsible for aiding and abetting the recruitment of child soldiers'.[166]

Thus, the CommCRC has an important role to play in monitoring ongoing violations. Yet, it is not to be expected that the Committee is solely responsible for doing so. The CommCRC can instead complement the work of other actors and initiatives that are also tasked with monitoring violations. These include, as examples, the Special Representative of the SG CAAC in 1996; the optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict on 25 May 2000 (came into force on 12 February 2002); the Monitoring and Reporting Mechanism, which exists to report on the six grave violations;[167] and the formation of the SC Working Group on Children and Armed Conflict, both of which were established by Council resolution 1612. The Committee, through its reporting, can support these efforts by providing information on deprivations of human rights. The Committee process also provides an outlet for those engaged in monitoring compliance with the CRC. It is, in other words, 'an additional channel for expressing concerns (sound box) and advocating changes'.[168] As noted, as part of the reporting process, the CommCRC encourages specialized UN agencies, such as UNICEF, the OHCR, the ILO and the WHO, and national and international NGOs to submit reports on the implementation of the CRC in various countries, usually called alternative or supplementary reports. These reports are important sources of information, and the Committee invites NGOs, and UN agencies, who submitted reports to discuss them in so-called presessional meetings which take place about 6 months before the meeting with a delegation of the state party concerned.[169] That the Committee subsequently publishes its concluding observations publicly offers these actors an avenue through which to maximize their recording of ongoing rights violations. Moreover, through its concluding observation and recommendations, the Committee can also support the efforts of civil society to monitor a state's human rights record. This particular contribution is well documented in the literature.[170] As Krommendijk notes, concluding observations 'have had an intensifying or catalyst effect, whereby they supported, strengthened or legitimized the arguments of domestic actors. COs have in this way supported or given extra strength to a certain direction and have pushed or accelerated a certain political process'.[171] This reflects the view of Creamer and Simmons that concluding observations can 'provide domestic constituencies with information to evaluate their state's treaty compliance, focusing domestic pressure on the government to perform better'.[172]

4. CHALLENGES AND FUTURE DIRECTIONS FOR THE COMMITTEE ON THE RIGHTS OF THE CHILD

Drawing on the existing contributions from the CommCRC, the discussion above has sought to outline a number of ways in which the Committee might contribute to advancing children's rights throughout a peace process through its concluding observations and recommendations. These include promoting the inclusion of children's rights in peace agreements, championing and facilitating the inclusion of children in the peace process, promoting implementation and

165 Ibid., at para 82(c).
166 Ibid., at para 82(d).
167 These are namely killing and maiming of children; recruitment or use of children as soldiers; sexual violence against children; abduction of children; attacks against schools or hospitals; and denial of humanitarian access for children.
168 Steward, supra n 32, at 25.
169 See Sloth-Nielsen, supra n 34.
170 Alston, 'Beyond "Them" and "Us": Putting Treaty Body Reform into Perspective' in Alston and Crawford (eds), *The Future of UN Human Rights Treaty Monitoring* (2000), at 505–06.
171 Krommendijk supra n 60, at 506.
172 Creamer and Simmons supra n 49, at 37.

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monitoring both the translation of an agreement into practice and ongoing rights violations if and when they occur. In other cases, the Committee is unlikely to exert any influence. The purpose of the above discussion is not to suggest that the Committee can or could make any impact on its own. Rather, any impacts that the Committee might make are best understood by contemplating the potential ways in which, through its observations and recommendations, it interacts with initiatives and actors attempting to achieve similar incremental objectives.

Nevertheless, despite the potential identified, the types of contribution outlined above are relatively sparse. Indeed, in many contexts where a peace process is underway, the CommCRC does not refer to a peace agreement at all. It should also be noted that the CommCRC might not be in a position to have any impact on advancing children's rights in peace processes. In some instances, peace agreements are signed some years after the last concluding observations in a country. For instance, the last reporting cycle in the Philippines was 2009[173] whereas agreements that contain any reference to children regarding the conflict in Mindanao have been signed between 2012 and 2017.[174] Similarly, in Sudan, the last concluding observations were issued in 2010[175] while agreements such as the Juba Accord were signed in 2020.[176] In examples such as these, the CommCRC has little opportunity to exert any influence over the peace process. In other cases, states have not ratified the CRC until after an agreement has been signed. Once again, this limits the scope of the CommCRC to have any bearing on the peace process. For instance, Somalia did not ratify the CRC until 2015, a number of years after the signing of a number of accords.[177]

Moreover, elucidating potential contributions through an examination of existing concluding observations risks advancing possibilities without a proper reflection on the challenges that scupper the possible fruition of this potential more generally. Indeed, any argument that seeks to advance a more nuanced role for the Committee—in this case advancing children's rights at different stages of a peace process—cannot divorce itself from the wider challenges associated with the treaty system more generally or the types of difficulties facing concluding observations as addressed in section 1 more specifically. It is necessary, in other words, to consider some of the barriers that could hinder the types of contributions identified above to outline potential pathways to bridge the chasm between possibility and reality. Against this backdrop, this section identifies a number of challenges that might limit the types of contributions discussed above, while also offering some suggestions to help bridge the chasm between potential and practice.

A. Overcome Generality and Understanding the Importance of Context

In the wider context of treaty body reform, a persistent criticism is that that UN bodies are often too general and non-specific in their recommendations.[178] Krommendijk, for instance, notes that some states consider that concluding observations are already completed before the actual dialogue and they pointed to factual mistakes and misunderstanding of the domestic context in some of these observations.[179] Similarly, referring to the dialogue component of the process, Sarkin has relayed a desire on the part of some states that dialogues 'be contextualised and

[173] CommCRC, Concluding observations regarding The Philippines, 22 October 2009, CRC/C/PHL/CO/3–4.

[174] See, for example, Philippines/Mindanao, Guidelines for the Operationalization of the Bangasamoro Normalization Trust Fund, 14 December 2017.

[175] CommCRC, Concluding observations regarding Sudan, 22 October 2010, CRC/C/SDN/CO/3–4.

[176] Sudan, Sudan peace agreement (Juba Agreement), 3 October 2020.

[177] Somalia, Protocol Establishing the Somali New Federal Parliament, 22 June 2012; Somalia, Protocol Establishing the Somali National Constituent Assembly, 22 June 2012; Somalia, Consultative Meeting on Ending the Transition in Somalia: Statement on Adoption of the Roadmap (Kampala Roadmap, 6 September 2011). This does always appear to have adversely effected the inclusion of children's provisions. As an example, in Somalia, the Provisional Constitution of the Federal Republic of Somalia includes a range of provisions on children and their rights (See Somalia, Provisional Constitution of the Federal Republic of Somalia, 1 August 2012, at Article 29).

[178] O'Flaherty, supra n 37; Mechlem, supra n 64.

[179] See Krommendijk, supra n 39.

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more focused (e.g. by limiting the number of questions raised by the experts)'.[180] Without fully understanding and reflecting the context in which recommendations are made, they are unlikely to maximize their potential impact.

An initial step towards greater contextual awareness could be to tailor recommendations in the context of the peace process. One approach should be understanding the wider trajectory and stage of the peace process and seeking to influence, for instance, peace negotiations or peace agreement implementation. This has not always been the case. For example, in October 2008, the Committee urged Uganda to, among other things:

> Take due account of the stigmatization and victimization of former child soldiers in all stages of peace negotiations with the LRA [Lords Resistance Army] and ensure that any durable peace agreement respects international norms with regards to truth, justice and reparations and that amnesties not be awarded for those who bear the responsibility for war crimes of child recruitment for the participation in hostilities.[181]

Ostensibly, the Committee sought to utilize the state reporting process to further promote the inclusion of children's issues in peace agreements. However, in February of the same year, an agreement had already been signed which included several provisions addressing this issue.[182] Rather than focusing on aspects of this agreement that the state had signed up to, attention was instead directed to negotiations which never happened—the 2008 agreement was the last peace agreement signed. The example appears to demonstrate a lack of awareness regarding the stage of the peace process or when and if children's issues have been included in peace agreements. As such, there is little scope for the Committee to monitor whether these provisions have been implemented and to what effect. Generalized recommendations that do not grapple with the wider context of conflict limit the impact the Committee can make. Applied to the current discussion, the salience of context points towards the need for the CommCRC to both understand and engage with the wider peace process.

B. Targeting Specific Issues

The need for specificity can also be examined from the perspective of issues addressed and recommendations delivered. Drawing back to the more general limitations of treaty bodies and concluding observations, many have commented that these panels of individual experts should no longer conduct a comprehensive assessment of the implementation of the entire treaty and all problematic areas.[183] The limitation of doing so is that recommendations become bland and unspecific to the country in question. More importantly, they fail to respond to the most pressing issues that impact children's rights and to those rights that are most often undermined.[184] In the context of conflict-affected settings, this does not mean simply mentioning conflict or peace, which also lack any meaningful precision. In Sierra Leone, for instance, one year after the signing of the Lome Peace Accord, the Committee encouraged the state in its efforts 'to integrate peace education ... into its teacher training programmes and school curricula ...'.[185] Similarly, the CommCRC has used its general observations to reiterate a previous recommendation of systematic inclusion of peace education both in the Israeli and Palestinian school systems and to encourage joint initiatives, bringing together both Israeli and Palestinian children, to be

[180] Sarkin, supra n 51.
[181] CommCRC, Concluding observations regarding Uganda, 17 October 2008, CRC/C/OPAC/UGA/CO/1, at para 29(b).
[182] Uganda, Agreement on Disarmament, Demobilization and Reintegration, Juba, Sudan, 29 February 2008.
[183] See Krommendijk, 'Less is More: Proposals for How UN Human Rights Treaty Bodies Can Be More Selective' (2020) 38 *Netherlands Quarterly of Human Rights* 15.
[184] Ibid., at 8.
[185] CommCRC, supra n 109, at para 67.

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undertaken to promote peace education.[186] Observations and recommendations such as these appear, on an initial reading, to be both welcome and desirable. Yet, these recommendations lack any real substance or direction. Indeed, it is often not entirely clear what is meant by peace itself.[187] Scholars have not only debated a continuum between the absence of violence at one end—a negative and positive peace at the other[188]—but more nuanced discussions have sought to unpack and understand who defines peace and the problems of liberal peace.[189] General and vague recommendations might signal to the world that the CommCRC is engaging with the peace process. Yet, they are unlikely to have the type of effect that more specific and targeted recommendations could have. Instead, pointed and specific recommendations based on a strong understanding of context could focus more specifically on issues around, for instance, child soldiers or recommend targeted support for those children psychologically or physically affected by war.

C. The Importance of Local Civil Society

There are multiple roles that civil society actors can undertake throughout the reporting process. Indeed, the Committee for its part promotes collaboration between the state and civil society. In Sudan, for instance, it encouraged the state to develop, in collaboration with civil society organizations and international organizations, a comprehensive system of psychosocial support and assistance for children affected by armed conflict, including child combatants, unaccompanied internally displaced people and refugees.[190] Yet, because the treaties do not provide for an explicit role for non-governmental organizations, some note that this aspect has developed on an ad hoc basis.[191] In short, despite the theoretical contributions that civil society can make, this is often not realized. If the focus of the Committee widens to include efforts to promote rights at different stages of a peace processes, it will be necessary to encourage those civil society groups that work in the area of peace to support the Committee's work. As an example, those groups with on-the-ground knowledge are well placed to help inform the CommCRC as to the types of issues that ought to be prioritized.

To this end, a related issue is the involvement of local level actors. Indeed, while international NGOs are regular contributors to the process, less input is received from local civil society actors. For instance, levels of compliance with the CRC will not only vary within a country. There are also likely to be different understandings and views regarding the impacts of even seemingly fully implemented aspects of the Convention. By better integrating local perspectives into this international mechanism, the CommCRC will be poised to make more impact on the ground, where implementation matters most. One area where this could be particularly beneficial is in helping to integrate children's perspectives. Working with local civil society actors often in direct and ongoing dialogue with children could provide a highly beneficial pathway for children's views to be included through Committee observations and recommendations.

D. Collaborative Monitoring

Despite the potential overlap between those officially tasked with monitoring implementation of a peace agreement and treaty bodies, there is often little formal cooperation between the two. Yet, as noted above, in any peace process there are often a plethora of actors involved

186 CommCRC, Concluding observations regarding Israel, 4 July 2013, CRC/C/ISR/CO/2–4, at para 66.

187 See generally Jarstad et al., 'Varieties of Peace: Presentation of a Research Program', Umeå Working Papers in Peace and Conflict Studies (2017).

188 See, for instance, Galtung, 'Violence, Peace, and Peace Research' (1969) 6 *Journal of Peace Research* 167.

189 Pospisil 'Pathways to Post-Liberal Peace: Perspectives on the "Common Good" in Peace and Statebuilding' (2017) Political Settlements Research Programme Working Paper No. 7

190 CommCRC, supra n 175, at para 72(d).

191 Gaer, 'Implementing International Human Rights Norms: UN Human Rights Treaty Bodies and NGOs' (2003) 2 *Journal of Human Rights* 339.

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in monitoring both human rights violations and implementation of a peace agreement. The Committee could, therefore, seek to better collaborate with those bodies tasked with monitoring implementation in order to get a better sense of what issues remain outstanding or lacking progress. For instance, the Kroc Institute at the University of Notre Dame has developed the Peace Agreement Matrix (PAM), which is a tool and database that traces the implementation of peace agreements globally. To do so, the project regularly cites the work of UN mechanisms such as formal peacebuilding missions and the UN High Commissioner for Human Rights.[192] There is, however, less reference to treaty bodies. Developing closer links between the CommCRC and monitoring mechanisms could also provide a fruitful source of implementation information for monitoring mechanisms. Moreover, as with understanding the wider context more generally, research has also demonstrated the importance of local people in implementation.[193] The aforementioned Kroc Institute is also uniquely responsible for monitoring the implementation of the Colombia peace agreement. The terms of reference Kroc are stipulated in the text of the 2016 agreement, which requires the mechanism to contribute to international and domestic implementation bodies through technical support.[194] By building better alliances with these organizations, the Committee could tap into this information in order to better inform its contributions to the review process. Doing so could help the Committee to develop more context-specific recommendations.

E. Collaboration Across the UN Mechanisms

The Committee regularly seeks to promote collaborations between the state under review and UN mechanisms. This includes encouraging states to collaborate with UNICEF on such issues as child-soldiers,[195] and the OHCR in the area of children's development.[196] Yet, there is often little formal collaboration between treaty bodies and other mechanisms. This potentially overlooks important information regarding the wider peace process, children's rights and realities on the ground. In the dual resolutions passed by the UN General Assembly and SC in April 2016 on 'sustaining peace', the UN sought to promote a holistic approach; one that integrated all three pillars of the UN's engagement—human rights, peace and security.[197] In pursuance of this objective, the Committee could seek to better collaborate with ongoing UN initiatives, particularly those that are directly focused on improving children's rights in conflict-affected settings. Moreover, strengthening institutional collaboration is important in another respect. Before, it was suggested that the recommendations of the CommCRC could help to strengthen the normative pull of, for instance, SC resolutions that promote the integration of children's rights in peace processes. But this presupposes that there is a degree of weight attached to resolutions produced by the SC. Yet, others contest whether such mechanisms have any effect. To this end, the CommCRC, through its concluding observations and recommendations could help to support and even improve awareness of and compliance with the outputs of bodies like the SC. In essence, greater collaboration among UN mechanisms could offer mutually reinforcing levels of support which ultimately benefit children.

192 See, for example, PAM, Accord for a Firm and Lasting Peace, 29 December 1996, available at: www.peaceaccords.nd.edu/accord/accord-for-a-firm-and-lasting-peace?2021 [last accessed 22 June 2022].

193 Molloy, 'Assessing and Influencing Progress in Peace Processes Workshop Report' (2018) Political Settlements Research Programme Report.

194 Ibid., at 12.

195 CommCRC, supra n 155, at para 58.

196 CommCRC, supra n 132, at para 17.

197 Mahmoud & Makoond,'Sustaining Peace: What Does It Mean in Practice?' (2017) International Peace Institute, at 2, available at: www.ipinst.org/wp-content/uploads/2017/04/1704_Sustaining-Peace-final.pdf [last accessed 15 June 2022].

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5. CONCLUSION

While conflict has a profound impact on children and their rights, peace ushers in the hope of a better existence, one where rights are respected, protected and realized. Yet, capturing this opportunity is replete with challenges, not least elevating issues pertaining to children on to the same level as other considerations being championed by those capable of destabilizing the peace. For this reason, it is necessary to think creatively about existing mechanisms and actors that can help to advance children's rights in these settings. As the primary guarantor of the most widely ratified international human rights treaty, the CommCRC is well placed to contribute to this objective. This article has suggested that through concluding observations, which stem from the mandatory reporting requirements of states, the Committee can make important contributions to advancing children's rights. Reflecting the nature of peace processes, it was also suggested that the lens of process-based performance offers a useful way of conceiving various smaller contributions that the Committee can make in pursuance of the objective of advancing children's rights in transitioning societies. These contributions include promoting children's issues in peace agreements, as well as championing the integration of children's views regarding the issues that ought to be addressed. There are also opportunities to monitor the implementation of agreements and child-specific provisions, in addition to continuing to hold states accountable for their violations of children's rights. Given the multiplicity of actors and initiatives that are often present in transitioning societies, the strength of these contributions is best understood in conjunction with other, ongoing and similar initiatives that are pursuing similar ends.

One response to the charge that the CommCRC should engage with peace process-based performance is that it asks of treaty bodies to extend beyond their immediate remit of monitoring compliance with the CRC. This is unlikely given the many criticisms that these bodies attract and their seeming inability to achieve this primary objective. Yet, it is the wider context of criticism and limitations of treaty bodies that supports the argument. Firstly, if the overall objective of the CommCRC is, at its core, to improve the rights of children, there can be no greater barrier to this objective than conflict. Thus, it is warranted and necessary to utilize concluding observations and recommendations in such a way that directly engages with the aspects of conflict and peace. Secondly, the objective is not to add additional layers of responsibility to the CommCRC. Rather, in line with the views of others, the intention is to sharpen the focus of the Committee's work, engaging with issues that are directly and specifically relevant to the context in question. Thirdly, promoting the inclusion of children's issues in agreements or perspectives in negotiations is central to the objective of increasing compliance with CRC. This stems from the place of peace agreements in shaping the post-conflict state. Thus, in order to ensure that states are complying with their obligations, these transitional moments represent opportunities for the state to commit to and subsequently enact the types of laws, policies and programmes necessary to advance children's rights. None of this is to say, of course, that significant challenges do not exist. Indeed, any suggestion that the CommCRC could play a more nuanced role cannot be legitimately expressed without alluding to the many challenges facing the treaty body system, the limitations associated with concluding observations or the wider context of conflict and peace. Yet, these same difficulties also help identify some of the ways in which this potential might be better realized in the future.

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