



## Child Soldiers and Peace Agreements

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## Executive Summary

A child soldier is “any person under 18 years of age who is part of any kind of regular or irregular armed force or armed group in any capacity, including but not limited to cooks, porters, messengers and anyone accompanying such groups, other than family members. The definition includes girls recruited for sexual purposes and for forced marriage. It does not, therefore, only refer to a child who is carrying or has carried arms” (Cape Town Principles, 1997).

For societies transitioning from conflict to peace, the phenomenon of child soldiers poses significant challenges. These challenges include: difficulties associated with how to prevent future recruitment and use of child soldiers; reintegration of serving child soldiers into normal life; and ensuring accountability both of those who utilise child soldiers, and perhaps child soldiers themselves for crimes committed in this capacity. While no one mechanism or response can address those range of issues, peace agreements, as foundational documents that serve as the blueprint for peacebuilding and the post-conflict state, can make a useful contribution and even put in place responses to some or all of them. Of peace agreements signed between 1990 and 2022, 252 agreements include some reference to children. Of these, 77 peace agreements across 32 peace processes address child soldiers. The 189 peace agreement provisions in these 77 peace agreements serve as the basis for the analysis in this report.

## Recommendations

### **(i) Peace agreements should be comprehensive and precise in how they address child soldiers**

Peace agreements should be comprehensive in how they address child soldiers. However, imprecise language can perpetuate ambiguities and uncertainty regarding, for instance, what is a child soldier, and issues around accountability. In addition, consideration should be given to gender when formulating provisions on child soldiers.

### **(ii) The issue of child soldiers must be included as early as possible in peace negotiations**

Provisions on child soldiers need to be included early in the peace process. Given that those negotiating war's end are often reluctant to openly admit the presence of child soldiers in their ranks, it is important that the issue of child soldiers is raised by a diverse range of actors including international organisations, civil society, and promoted through a range of measures (persuasion, encouragement, naming and shaming).

### **(iii) Use language of binding commitments**

The obligations and responsibilities that attach to child soldiers are often vague, meaning cannot be monitored and implemented adequately. When provisions on child soldiers are included, they should be expressed as binding commitments, backed up by sanctions and with provision for monitoring and enforcement of third-party actors.

### **(iv) DDR provisions on children must be child-centred**

Disarmament, demobilisation and reintegration (DDR) programmes often fail to include children. In those instances when they do, children are often added as an afterthought. Peace agreements should include child-centred provisions on DDR, taking into account the challenges and experiences faced by child soldiers.

## Introduction

The phenomenon of child soldiers is not new. Some accounts document the involvement of children in hostilities as far back as the time of the ancient Greeks. Children featured in conflict during medieval times and both world wars saw children recruited into the ranks of armies. Yet, it is the so-called new wars – whereby conflict has shifted from international to internal in nature, and intensified in duration and complexity – which have led to a significant expansion in the use and recruitment of child soldiers (Kaldor and Chinkin, 2017).

For the purposes of this report, a child soldier is “any person under 18 years of age who is part of any kind of regular or irregular armed force or armed group in any capacity, including but not limited to cooks, porters, messengers, and anyone accompanying such groups, other than family members. The definition includes girls recruited for sexual purposes and for forced marriage. It does not, therefore, only refer to a child who is carrying or has carried arms” (Cape Town Principles, 1997).

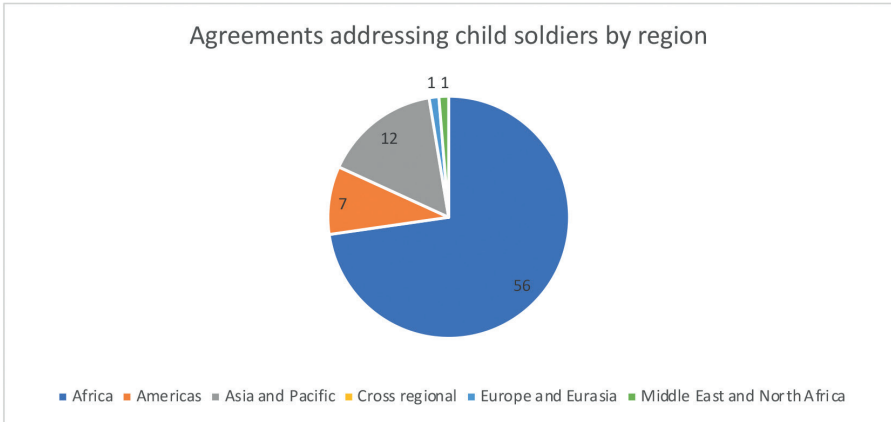
Child soldiers raise challenges for societies attempting to transition from conflict to peace. Most basically, the recruitment and use of child soldiers must be halted. Estimates suggest that there are approximately 250,000 child soldiers currently active (PeaceDirect, undated). Fifty-five parties to conflict are identified and listed by the UN Secretary-General as being involved in patterns of recruitment and use of child soldiers (UN Special Representative of the Secretary-General for Children and Armed Conflict, 2023), and in 2021 alone, the UN verified the recruitment and use of some 6,310 child soldiers (UN General Assembly and UN Security Council, 2022). In many cases, recruitment is forcible, with violence or the threat of violence used to conscript children. In other cases, recruitment is voluntary. Both forcible and voluntary recruitment raise dilemmas for how to cease the practice. Whereas ending forced recruitment requires focusing on those who compel children to enlist, voluntary recruitment additionally requires understanding and addressing the range of factors that converge to frame recruitment as desirable. Child soldiers must also be reintegrated back into society. Reintegration entails, amongst other things, identifying children in armed groups, disarming these children, separating them from adults and the unconditional and immediate release of children associated with armed forces and groups (UN Disarmament, Demobilization and Reintegration Centre, 2019). Reintegration should also require efforts to rehabilitate children, which owing to the impacts of conflict, can include providing physical, social, and psychological support. There are also issues relating to accountability.

Most obviously, that the use and recruitment of children constitutes a violation of international human rights, international criminal law, the laws of war and often domestic law, requires accountability for those that recruit and use children in conflict (Chapman and Stevenson Doornbos, 2019). In addition, while the tendency has been to treat child soldiers as victims, there is an emerging corpus of literature that advocates the need to better understand the nuances and complexities associated with the concept of a child soldier arguing, as part of this, that prosecution of children for their crimes may sometimes be appropriate (for example, Drumbl, 2012).

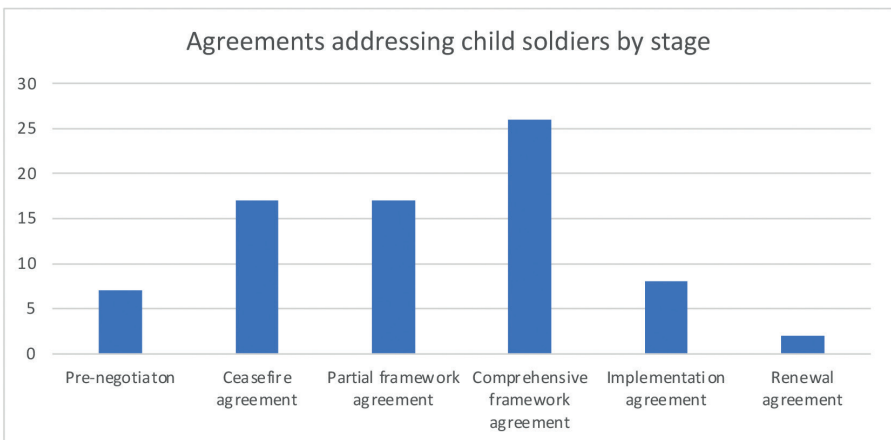
While no one mechanism or response can adequately and sufficiently address or resolve these matters, peace agreements, at least in theory, can make a useful contribution to ensuring that the issues are addressed. As documents created to end violence, address the past, and pave the way for a more peaceful society, peace agreements are abundant with opportunities to reshape the realities of child soldiers. This potential is recognised and reflected in numerous policy documents, civil society reports and UN Security Council Resolutions. Yet, existing literature on child soldiers in peace agreements is relatively scant. Where it exists at all, the preoccupation is often on the relative omission of provisions addressing child soldiers, with no systematic and wide-ranging effort to document how child soldiers have been addressed in peace agreements, and the lessons that might be gleaned for how this inclusion manifests. This report attempts to address this deficit.

## **Approach**

This report draws on a new dataset, the Children and Youth in Peace Agreements Database and Dataset, which codes references to children in peace agreements signed between 1990 and 2022. Of peace agreements signed between 1990 and 2022, 252 agreements include some reference to children. Of these, 77 peace agreements across 32 peace processes address child soldiers. Within these 77 agreements, there is a total of 189 peace agreement provisions on child soldiers.

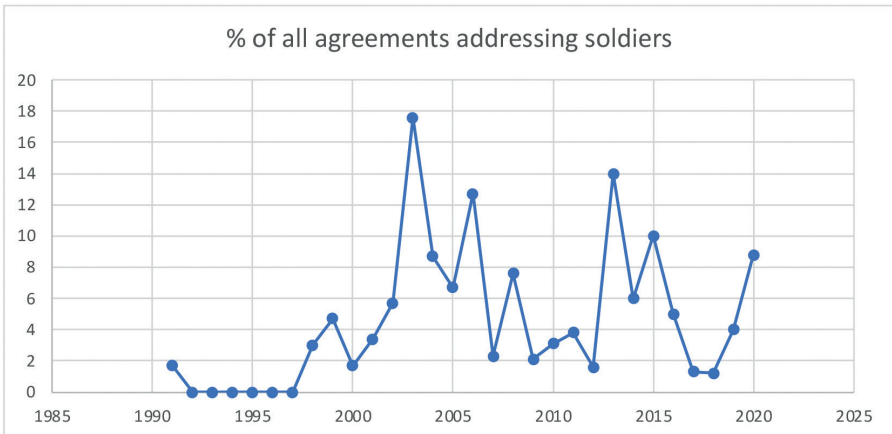


The majority of agreements addressing child soldiers are found in Africa and the most common type of peace agreement to address child soldiers is the comprehensive framework agreement.





The United Nations General Assembly adopted Optional Protocol on the Involvement of Children in Armed Conflict as a supplementary protocol to the Convention on the Rights of the Child by resolution 54/263 on 25 May 2000. The protocol came into force on 12 February 2002. While the adoption of the protocol does appear to have positively impacted the number of peace agreements addressing child soldiers, this has been far from consistent.



This report is based on the provisions addressing child soldiers in these 77 agreements.

The remainder is organised as follows.

Section 3 charts existing peace agreement provisions addressing child soldiers. Peace agreements address child soldiers in various ways with differing levels of clarity, detail, and substance. The categories discussed below are namely:

- ▶ Implicit references to child soldiers
- ▶ Recruitment and use of child soldiers
- ▶ Disarmament, demobilisation, and reintegration (DDR)
- ▶ Accountability

Section 4 considers some of the reasons for and benefits associated with including provisions on child soldiers before considering some of the challenges associated with doing so in Section 5. A number of concluding observations are then offered in Section 6.

## Peace Agreement Provisions Addressing Child Soldiers

Peace agreements address child soldiers in various ways with differing levels of clarity, detail, and substance. This section sketches out peace agreements provisions on child soldiers. The categories discussed below include:

- ▶ Implicit references to child soldiers
- ▶ Recruitment and use of child soldiers
- ▶ Disarmament, demobilisation, and reintegration (DDR)
- ▶ Accountability

This section paves the way for a discussion on the potential benefits and limitations with how existing peace agreements have to date responded to the child soldier phenomenon.

### (i) Implicit references to child soldiers

Prior to examining explicit references to child soldiers, peace agreements can also touch upon child soldiers implicitly both through commitments to international law and references to children more generally.

#### *a. International Law*

Peace agreements frequently refer to international law, albeit with varying levels of deference. In box below, the main international legal commitments regarding child soldiers are set out.

### Box 1: Child Soldiers under International Law

**Protocol I of 8 June 1977 additional to the Geneva Conventions** (Additional Protocol I), which governs international armed conflict, provides that:

“The Parties to the conflict shall take all feasible measures in order that children who have not attained the age of fifteen years do not take a direct part in hostilities and, in particular, they shall refrain from recruiting them into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, the Parties to the conflict shall endeavour to give priority to those who are oldest” (Article 77 [2]).

**Protocol II of 8 June 1977 additional to the Geneva Conventions** (Additional Protocol II), which governs non-international armed conflict, provides that:

“Children who have not attained the age of fifteen years shall neither be recruited in the armed forces or groups nor allowed to take part in hostilities” (Article 4 [3 c]).

**The Convention on the Rights of the Child** (1989) requires States Parties to:

“take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities” (Article 38 [2]); and

“refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest” (Article 38 [3]).

*cont'd*

**The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict** (2000) requires States Parties to:

- “take all feasible measures to ensure that members of their armed forces who have not attained the age of 18 years do not take a direct part in hostilities” (Article 1);
- “ensure that persons who have not attained the age of 18 years are not compulsorily recruited into their armed forces” (Article 2); and
- “raise the minimum age for the voluntary recruitment of persons into their national armed forces [from 15], recognizing that under the Convention persons under the age of 18 years are entitled to special protection” (Article 3 [1]).

The Optional Protocol also provides that:

- “armed groups that are distinct from the armed forces of a State should not, under any circumstances, recruit or use in hostilities persons under the age of 18 years”; and
- “States Parties shall take all feasible measures to prevent such recruitment and use, including the adoption of legal measures necessary to prohibit and criminalize such practices” (Article 4 [1] and [2]).

Under the **Statute of the International Criminal Court** (1998) conscripting or enlisting children under the age of 15 years or using them to participate actively in hostilities is a war crime, in both international and non-international armed conflicts (Article 8).

**ILO Convention No. 18** (1999) on the worst forms of child labour, also requires States Parties to take immediate and effective measures to secure the prohibition and elimination of such practices as a matter of urgency. For the purposes of the Convention, the worst forms of child labour are “all forms of slavery or practices similar to slavery,” such as “forced or compulsory recruitment of children for use in armed conflict” (Article 3 [a])

### **African Charter on the Rights and Welfare of the Child** (1990)

#### Article 22 – Armed conflicts

1. States Parties to this Charter shall undertake to respect and ensure respect for rules of international humanitarian law applicable in armed conflicts which affect the child.
2. States Parties to the present Charter shall take all necessary measures to ensure that no child shall take a direct part in hostilities and refrain in particular, from recruiting any child.
3. States Parties to the present Charter shall, in accordance with their obligations under international humanitarian law, protect the civilian population in armed conflicts and shall take all feasible measures to ensure the protection and care of children who are affected by armed conflicts. Such rules shall also apply to children in situations of internal armed conflicts, tension and strife

In the 252 peace agreements that refer to children, there are 27 references of the CRC, 5 of the Op-P, 5 referring to the African Charter for the Rights and Welfare of the Child, 2 references to international criminal law and 18 references to international humanitarian law.

There are varying levels of deference afforded to these standards. For instance, the [Intercongolese Negotiations: The Final Act \('The Sun City Agreement'\)](#) simply recalls 'the Convention on the Rights of the Child, adopted by the UN General Assembly, in its Resolution 44/25 dated 20 November 1989' (preamble). Other agreements use international legal instruments as the basis for their commitments. To demonstrate, in Sudan, [the Protocol between the Government of the Sudan \(GoS\), The Sudan Liberation movement/Army \(SLM/A\) and the Justice and Equality Movement \(JEM\) on the Enhancement of the Security Situation in Darfur in Accordance with the N'Djamena Agreement](#) stipulates that 'The Parties shall refrain from recruiting children as soldiers or combatants, consistent with the African Charter on the Rights and Welfare of Children, the Convention on the Right of the Child (CRC) and the Optional Protocol to the CRC on the Involvement of Children in Armed Conflict'(Article 8).

Similarly, the [Darfur Peace Agreement](#) (2006, Article 3) stipulates that the 'State shall protect the rights of the child, as provided in the regional and international conventions ratified by the GoS.' By contrast, some peace agreements are relatively strong on committing to international law. The 1995 [Dayton Peace Agreement](#) stipulates that the CRC, amongst other things, will be directly applied in Bosnia and Herzegovina (Annex 4). Similarly, in Burundi, an agreement stipulates that '[t]he rights, and duties proclaimed and guaranteed ...by... the Convention on the Rights of the Child shall form an integral part of the Constitution of the Republic of Burundi' (Burundi, 28/08/2000, [Arusha Peace and Reconciliation Agreement for Burundi](#), article 3).

*b. References to children more generally*

In a similar vein, peace agreements also include references to children more generally. These provisions address a range of issues, which include child protection (Central African Republic, 23/07/2014, [Accord de cessation des hostilités en République Centrafricaine](#), Article 5), education (Afghanistan, 22/07/2010, [Renewed Commitment by the Afghan Government to the Afghan People and the International Community to Afghanistan \(Kabul Conference Communiqué\)](#), para. 10), health (Colombia, 24/11/2016, [Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace](#), para. 1.3.2.1), participation (Democratic Republic of Congo, 01/04/2003, [Draft Constitution of the Transition](#), Article 22) and the right to an adequate standard of living (Iraq, 15/10/2005, [Constitution of Iraq](#), Article 30). While not discussed in any further detail, it is equally important when examining the relationship between child soldiers and peace agreements to recognise that provisions on children more generally in peace agreements necessarily apply to child soldiers.

## **(ii) Recruitment and use of child soldiers**

Peace agreements also address the recruitment and use of child soldiers. Children are targeted for recruitment into both state and non-state-based armed groups for a variety of reasons. Some suggest that children are considered particularly desirable recruits because they are more easily intimidated and physically vulnerable than adult soldiers (Grossman, 2007: 327). There are those who assess that children are 'expendable, replaceable – and they are cheap to maintain' (Accord, 2016). Others claim that armed groups recruit children because they are more militarily effective, or because the use of children as soldiers produces psychological complexities that can potentially slow down opposing troops (Haer and Böhmelt, 2016). Still again, achieving the organisation's immediate and long-term transgenerational goals are reasons offered by some for the recruitment of child soldiers (Nyamutata, 2020: 237).

As noted in the Machel Report – a seminal expose on the 'Impact of armed conflict on children', presented in 1996 to the General Assembly – child soldiers are recruited in many ways (UN General Assembly, 1996. para. 36). In some instances, children are forced to join both state and non-state armed groups. Coercion can take the form of threats against the child's life or physical safety. For instance, children are often beaten into submission (UN General Assembly and UN Security Council, 2022). In other cases, the lives of family members are used as leverage. Sometimes, recruitment takes place in situations where the same groups seeking to enlist children have also been responsible for the murder of his or her family. Indeed, such is the brutality child soldiers endure that others cite the requirements that children themselves kill their family members as a rite of passage (Wessells, 2006: 4).



## Box 2: Peace Agreement References to Child Recruitment

### **Sudan, Darfur, 18/03/2010, Ceasefire Agreement between the Government of Sudan and the LJM**

Page 3, THE PARTIES HEREBY

(2) Agree to:

a - Immediately cease and refrain from any:

...

11. Recruitment or use of boys and girls under age 18 years.

### **Sudan/Darfur, 31/05/2011, Doha Document for Peace in Darfur (DDPD)**

340. In accordance with this Agreement, the Parties agree to immediately cease and refrain from any:

...

x. Recruitment and use of boys and girls under age 18 by armed forces and armed groups in hostilities, in accordance with Sudan's obligations under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, and obligations under Protocol II (1977) of Geneva Conventions of 1949

### **Sudan, 03/10/2020, Sudan Peace Agreement (Juba Agreement)**

Page 156, TTLE 7. CHAPTER TWO: ASSEMBLY, TRAINING AND INTEGRATION, 24. Integration

24.9. Criteria for integrating individuals: the criteria for integrating individuals in the military establishment and security institutions shall be as follows:

24.9.2. No less than 18 years of age

### **Democratic Republic of Congo, 10/07/1999, Ceasefire Agreement (Lusaka Agreement)**

2. The cease-fire shall mean:

... c. all acts of violence against the civilian population by respecting and protection human rights. The acts of violence include summary executions, torture, harassment, detention and execution of civilians based on their ethnic origin; propaganda, inciting ethnic and tribal hatred; arming civilians; recruitment and use of child soldiers; sexual violence; training and use of terrorists; massacres, downing of civilian aircraft; and bombing the civilian populations:

There are 43 references to recruitment of child soldiers in peace agreements. In almost all cases, attention is directed at those who recruit children. Most basically, peace agreements can make general and generic references to recruitment, often expressed in concern over 'the recruitment and use of child soldiers in armed conflicts' (African Great Lakes, 20/11/2004, [Dar-Es-Salaam Declaration on Peace, Security, Democracy and Development in the Great Lakes Region](#), preamble). Peace agreements frequently commitments between the parties to abstain from further recruitment. An agreement in Burundi between Government of Burundi and National Forces of Liberation (PALIPEHUTU-FNL) mutually undertook to '[a]bstain from all actions that might be perceived as fresh recruitment drives, particularly among children' (Burundi, 10/06/2008, [Magaliesburg Declaration on the Burundi Peace Process](#), page 2, para. 1). Similarly, an agreement in the Democratic Republic of Congo (DRC) commits 'belligerent parties' to abstain from ... recruiting children as soldiers' (Central African Republic, 11/01/2013, [Déclaration de principe des parties aux négociations de Libreville sur la crise Centrafricaine](#), page 1). Frequently, these commitments are supplemented and strengthened by committing to international and regional law prohibiting child recruitment (Sudan/ Darfur, 09/11/2004, [Protocol between the Government of the Sudan \(GoS\), The Sudan Liberation movement/Army \(SLM/A\) and the Justice and Equality Movement \(JEM\) on the Enhancement of the Security Situation in Darfur in Accordance with the N'Djamena Agreement](#), Article 8).

Often, recruitment is included as a term in ceasefire agreements, with recruitment constituting a ceasefire violation (see, for example, Central African Republic, 23/07/2014, [Accord de cessation des hostilités en République Centrafricaine \(Brazzaville Agreement on Cessation of Hostilities\)](#), Article 2; Democratic Republic of Congo, 10/07/1999, [Ceasefire Agreement \(Lusaka Agreement\)](#), Article 1; South Sudan, 21/12/2017, [Agreement on the Cessation of Hostilities, Protection of Civilians and Humanitarian Access, Republic of South Sudan](#), Article 3). In other cases, peace agreements include commitments that legislation will be passed, which prohibits the recruitment of children (Yemen, 25/01/2014, [National Dialogue Conference Outcomes Document](#), Page 198, Chapter two, Section one, 39(c)). They can also commit to criminalise recruitment (Yemen, 25/01/2014, National Dialogue Conference Outcomes Document, Page 97, Chapter two, Section one, 19).

On several occasions, peace agreements are used to reassert prior commitments to refrain from recruiting child soldiers from earlier peace accords, with new agreements appearing to refresh promises made in the past. As an example, an agreement in Colombia reiterates the FARC's prior commitments 'to comply with their decision to end the recruitment of minors under 18 years old' ([Joint Communiqué #70](#), para. 3). Similarly, a peace agreement in the Central African Republic opens with the following:

Bearing in mind the pledge of 5 May 2015, signed by the politico-military groups that participated in the Bangui Forum, to end the recruitment and use of children and other serious violations of the rights of the child (Central African Republic, 10/05/2015, [Agreement between the Transitional Government and the armed groups on the principles of disarmament, demobilization, reintegration and repatriation and of integration into the uniformed State forces of the Central African Republic \(DDRR Agreement\)](#)), preamble).

In a limited number of circumstances, recruitment is stated in the language of rights. For example, the [Constitution of Zimbabwe Amendment \(No 20\) 2013](#) stipulates that '[e]very child, that is to say every boy and girl under the age of eighteen years, has the right not to be recruited into a militia force or take part in armed conflict or hostilities' (Zimbabwe, Article 81(1)(g)). Beyond recruitment, peace agreements can also attempt to prohibit the use of child soldiers. In most examples, the use of child soldiers is included alongside commitments on recruitment. For instance, the [Accord de Cessez-le-Feu](#) in Cote d'Ivoire commits parties to the agreement to refrain from the recruitment and deployment of child soldiers (Cote d'Ivoire, 03/05/2003, Accord de Cessez-le-Feu, para. 5). Prohibitions on the use of child soldiers is also often included as a ceasefire violation (Burundi, 07/09/2006, [Comprehensive Ceasefire Agreement between the Government of the Republic of Burundi and the Palipehutu – FNL](#), Article 2), while other peace agreements include a specific right on the part of children to be protected from use in armed conflict. The 2000 Arusha Peace agreement in Burundi states under its Charter of Fundamental Rights section, for instance, that 'No child shall be used directly in armed conflict, and children shall be protected in times of armed conflict' (Burundi, 28/08/2000, [Arusha Peace and Reconciliation Agreement for Burundi](#), Page 26-28, Protocol II: Democracy and Good Governance provides, Chapter I: Constitutional Principles on the Post-Transitional Constitution, Article 3).

### **(iii) 'Voluntary' Recruitment**

In the examples above, attention is primarily directed at those recruiting or using child soldiers. Implicit here is an assumption that children are coerced or forced to join an armed group. Yet, while forced recruitment is recognised as a primary reason for the incidence of children in armed groups, it is not the only reason. Children in armed groups also join the ranks for reasons that cannot be explained by, at least directly, coercion or force (see Brett, 2002; Brett and Specht, 2004; Reich and Gates, 2010; Downing, 2014). For instance, Grétry's research found that 'in most cases, forced enlistment is not the way a child soldier joins the army' (Grétry, 2011: 588). Her study compared the representations of adults involved in the arena of 'children in difficult situations' with those of former child soldiers. She assessed that while the former group holds the view that children tend to be forced into armed groups, there is a range of reasons beyond forcible recruitment that explain the decision to join. These include escaping poverty within the family, gaining military protection against other rebel groups by joining up, and being proud to wear a military uniform (*ibid*). Similarly, Somasundaram cites the brutality of war and desire for retribution, institutionalised violence that children suffer, and deprivation (Somasundaram, 2002). Other studies have explored the influence of the lack of education, poverty, vengeance, the allure of military life and starvation as motivators for joining armed groups (Goodwin-Gill and Cohn, 1994). When the existence of child soldiers is understood not only to be a consequence of forced recruitment but rather issues that relate to that wider environment, ending or reducing recruitment of children also necessitates tackling those matters that are much broader than simply child soldiers. The United Nations and World Bank (2018) study *Pathways for Peace: Inclusive Approaches to Preventing Violent Conflict* recognises, for instance, that longer-term efforts are needed to strengthen national systems and institutions that prevent the recruitment and use of children.

To this end, peace agreement provisions beyond those that directly target child soldiers might also be indirectly relevant. Alongside ending violence and as previously noted, peace agreements also attempt to address the underlying causes that led to conflict in the first place. Although each conflict is different with the specific issues addressed varying from context to context, peace agreements often address such issues as economic reform, education, health, security sector reform and rule of law reform. If, as some suggest, the wider socioeconomic environment is often a contributing factor to children joining armed groups, in attempting to address inequality, marginalisation, and economic opportunity, the wider package of reforms might also have a bearing on the decision of children to join armed groups. While a discussion on the substance of peace agreements more generally and child soldiers is beyond the confines of this report, as with those on provisions addressing children and international law, the relationship or potential connections between child soldiers and peace agreements is often more complex than the express provisions included.

#### **(iv) Disarmament, demobilisation and reintegration (DDR)**

Peace agreements can also address the disarmament, demobilisation, and reintegration (DDR) of child soldiers. DDR entails, amongst other things, identifying children in armed groups, disarming these children, separating them from adults and the unconditional and immediate release of children associated with armed forces and groups (Global Coalition for Reintegration of Child Soldiers, 2020). Conflict often has a devastating impact on child soldiers, complicating the matters to be addressed as part of a DDR process. Indeed, for Lysyuk, 'Victimization' embraces the scope of violence faced by children while being in armed forces and groups. This could include sexual assault, the loss of close ones or hometown, physical injuries, or psychological harm caused by the surrounding military environment' (Lysyuk, 2022: 46). Research also demonstrates that children often go through processes of indoctrination and severe abuse intended to maintain control over them. Similarly, their participation, apart from putting their lives at risk, 'deprives them of the warmth of family life, disintegrates them from their home communities, compromises their personal and professional future, and creates serious distortions on a psychological and moral level' (Banholzer and Haer, 2014: 112).

Nevertheless, in most cases, children are excluded from DDR processes. Even in those cases where provision for child soldiers is included, there are variations. In some cases, child soldiers appear to be an afterthought. For example, an agreement in Mali merely includes a request to expand the existing DDR programme to 'include local armed youth' (Mali/ 25/07/2019, [Agreement between the Dafing, Samogo, Fulani, Dogon and Bozo communities of the Baye municipality, located in the area \("circle"\) of Bankass and the region of Mopti \(Baye agreement\)](#)). Most often, provisions on DDR and child soldiers are fleeting, lacking any sufficient detail. In Liberia, as an illustration, the 2003 [Accra Agreement](#) simply stipulates that the NTGL [National Transitional Government of Liberia] shall 'accord special attention to the issue of child combatants' (Article XXXI). This includes an effort to 'mobilize resources with the assistance of the International Community... to address their special demobilization and re-integration needs' (ibid.).

Other agreements make cursory references to child soldiers without any further elaboration. In the Central African Republic, for example, an agreement states '[t]he eligibility criteria for participation in the disarmament, demobilization, reintegration and repatriation programme' include '[c]hildren associated with armed forces and groups are eligible for the disarmament, demobilization, reintegration and repatriation programme, whether or not they have weapons' ([Agreement between the Transitional Government and the armed groups on the principles of disarmament, demobilization, reintegration and repatriation and of integration into the uniformed State forces of the Central African Republic \(DDRR Agreement\)](#), Article 3). In other cases, like Joint Communiqué #97 in Colombia, more detail is included. This can comprise joint commitments to release children, assistance with transfer, and designated areas for demobilisation.

“The National Government and the FARC – EP, pursuant to joint communiqué # 96 dated September 2 whereby we agreed to start the departure process of the minors from the camps of the FARC – EP, hereby inform that we have agreed on a departure and transitory shelter protocol for boys, girls and adolescents leaving the FARC – EP camps. For that purpose, a transfer team will be formed from the exit point, made up by personnel of the International Committee of the Red Cross – ICRC – who will coordinate the operations, and two delegates of the social organizations that are part of the Technical Table created by means of Communiqué # 70 dated last May 15.”

**Colombia, 06/09/2016, Joint Communiqué #97**

The Sudan Comprehensive Peace Agreement of 2005 provides one example of an agreement with relatively comprehensive provisions on DDR. It provides for:

- ▶ Demobilisation of all child soldiers within six months of the signature of the Comprehensive Peace Agreement.
- ▶ Identification and registration, within six months from the signature of the Comprehensive Peace Agreement, of all children separated from their families for family tracing and ultimate reunification.
- ▶ Calling upon UNICEF, ICRC and other international organisations to assist in the child component of the DDR in the Sudan.
- ▶ Mobilising adequate financial and logistical support by the international community including governments, governmental organisations (NGOs) (paras. 24.9 – 24.12).

Similarly, more comprehensive is the [2016 peace agreement](#) in Colombia. It provides that child soldiers are to be the 'subject of special care and protection measures.' These are to be determined by National Reincorporation Council within the framework of the Commission for Monitoring, Promoting and Verifying the Implementation of the Final Agreement (CMPVI). The approach to reintegrating child soldiers is to be informed by 'guiding principles that will apply to minors... prioritising their access to healthcare and education' (ibid., para. 3.2.2.5). The agreement continues that 'These minors will be accorded all the rights, benefits and allowances established for the victims of the conflict' and stipulates that 'priority will be given to family reunification wherever possible, and to final placement in homes in their original communities or others of a similar nature, whilst at all times taking into account the best interests of the child' (ibid.). There is also provision for a timescale stating that 'The Special Reincorporation Programme for minors must be prepared by the National Reincorporation Council within a maximum of 15 days from when the Final Agreement is signed' (ibid).

Peace agreements can also task specific actors with supporting the DRR process. Sometimes, provisions are general. For instance, an agreement in the DRC commits parties to '[a]ccept to the immediate and unconditional presence of child protection agencies at the regroupment points in order to identify and take into care any children so identified' (Democratic Republic of Congo, 29/11/2006, [Accord Cadre pour la Paix en Ituri entre le Gouvernement de la République Démocratique du Congo et les Groupes Armés de l'Ituri \(MRC, FNI, et FRPI\)](#), page 2). By contrast, other agreements are specific about the particular actors and mechanisms responsible for overseeing and supporting the DDR process. As an example, the 1999 [Lomé Accord](#) in Sierra Leone commits to inviting the Office of the UN Special Representative for Children in Armed Conflict, UNICEF and other agencies, to address the special needs of these children in the existing disarmament, demobilization and reintegration processes (Part 5(1)). The International Committee of the Red Cross is also mentioned in a number of agreements in places like South Sudan (South Sudan, 17/08/2015, [Agreement on the Resolution of the Conflict in the Republic of South Sudan \(ARCSS\)](#), page 24), as are regional organisations like the African Union in such contexts as Burundi (Burundi, 08/04/2009, [Déclaration du Directoire Politique du processus de paix au Burundi sur le processus de mise en oeuvre des décisions conjointes prises à Pretoria](#)).



Local level agreements can draw on local level actors. For instance, an agreement in Kenya, for instance, notes '[t]hat the Council of Elders shall, among others, lead the disarmaments, demobilization and rehabilitation initiatives of the young men in militia groups occupied by the three communities' (Kenya, 21/10/2011, [Mabanga Peace Accord](#), page 4, para. 12). In other cases, mechanisms tasked with overseeing the implementation of an agreement or aspects of the agreement are engaged. This can be the national government as is the case in Liberia ([Accra Agreement](#)), or some specific mechanism established as part of the agreement. In the DRC, for example, the Transitional Security Arrangements Implementation Mechanism was a temporary structure 'responsible for coordinating the implementation of all Transitional Security Arrangements activities until the M23 combatants are transferred to the Secondary Cantonment Sites.' Amongst other things, it was tasked under the [Outcome Documents from the Conclusion of the Kampala Dialogue between the Government of the Democratic Republic of the Congo and the M23](#) with verifying 'the strength of their forces including the presence of any children among their ranks and other information that the TSAIM may request (page 18).' Similarly, in Burundi, the Joint Verification and Monitoring Mechanism (JVMM), which comprised the Parties to the agreement- The Government of Burundi and the Palipehutu – FNL – the United Nations (UN) and African Union (AU)- was responsible for the 'verification and control of the Ceasefire' including provisions on child soldier recruitment (Burundi, 07/09/2006, [Comprehensive Ceasefire Agreement between the Government of the Republic of Burundi and the Palipehutu - FNL](#), Page 9, Annexure 1 and page 16 Annexure 3).

#### **(v) Accountability**

The forced recruitment and use of child soldiers also raises questions regarding accountability. This matter can be approached from two different standpoints. The first, the one preferred by most organisations, international law, and international policy, perceives child soldiers as victims and suggests that accountability-based mechanisms should target those who have recruited and used children as combatants. The second relates to the possibility that child soldiers can and should be held accountable for crimes they have committed.

a) *Child soldiers as victims*

The primary approach under international law is to treat child soldiers as victims. As Grossman (2007: 323) assesses, 'hundreds of thousands of children under age eighteen participating in armed conflicts around the globe should be treated primarily as victims, not perpetrators, of human rights violations.' Aptel (2010: 21) concurs that 'children have not been and should not be tried for serious international crimes....' The pervasiveness of this position has led scholars like Catela to argue that there is an emerging customary law prohibiting the prosecution of child soldiers (2022: 807). Indeed, the Statute of the International Criminal Court (1998) – as the apex of international criminal law – specifically limits its jurisdiction to individuals who were over 18 years of age at the time of the alleged commission of the crime (see Box 3). This standard is supported by the Paris Principles (2007) – a set of legal and operational principles to protect children from recruitment or use in armed conflict – which maintain that children accused of international crimes committed while they were associated with armed forces or armed groups should be considered primarily as victims of offences against international law, not only as perpetrators.

### Box 3: The Approach of International Criminal Law Mechanisms to Child Soldiers

#### **International Criminal Tribunal for Yugoslavia (1993)**

The Statute and Rules of Procedure and Evidence of the International Criminal Tribunals for the former Yugoslavia and Rwanda do not explicitly limit their jurisdiction to over 18 year olds. In theory, the ad hoc tribunal could seek prosecutions of those who were under 18 at the time of their crime; however, the International Criminal Tribunal for Yugoslavia has not sought to prosecute children, largely because children did not play a major role in the conflict in the former Yugoslavia.

#### **International Criminal Tribunal for Rwanda (1994)**

The Rules of Procedure and Evidence of the Tribunal do not limit jurisdiction to over 18 year olds. In theory, the Tribunal could seek prosecution of those who were under 18 at the time of their crime; however, they have not sought to do so.

#### **The Special Court for Sierra Leone (2002)**

The Special Court for Sierra Leone was the first court with international involvement that had explicit jurisdiction to prosecute children aged 15-18 years.<sup>254</sup> This reflected the fact that many children were forcibly abducted and took part in the worst atrocities committed during the conflict. Still, the Prosecutor for the Court announced that, consistent with the Court's mandate to prosecute individuals bearing the "greatest responsibility" for crimes, he would not prosecute individuals for crimes committed before age 18.

#### **Rome Statute of the International Criminal Court (1998)**

There was a great deal of debate as to whether the International Criminal Court should have jurisdiction over offences committed by children under age 18. Ultimately, it was decided that the Statute would limit its jurisdiction to individuals who were over 18 at the time of alleged commission of the crime (Art 26, Rome Statute).

The reasons offered for opposing the prosecution of child soldiers are diverse. Some point to the vulnerability of children. For instance, Baillie Abidi (2021: 4) highlights the power differential between adults and children, which often results in an increased risk for exploitation and abuse in conflict contexts. Notably, armed groups are understood to prey on the vulnerability of children. In reference to child soldiers in Mozambique, Schafer (2004) assesses that both government and non-state forces took advantage of the recruits' psychological need for a substitute family. Others assess that the immaturity of children 'does not allow them to distinguish right from wrong' (Reiss, 1997: 644; see also Happold, 2008: 62), that children 'cannot fully comprehend the consequences of their acts' (Amnesty International, 2000: 6-7) and that as children they do not possess 'sufficient psychological maturity either to make an informed choice whether to participate in hostilities or to stand the peculiar stresses of combat' (Happold, 2000: 28). On this basis, international law tends to pursue accountability for those who recruit and use children.

Nevertheless, and notwithstanding the fact that peace agreements increasingly include some transitional justice (Vandeginste and Lekha Sriram, 2011), provisions dealing with accountability for those that recruit and use child soldiers are relatively sparse. One positive example in this regard is Colombia. The Special Jurisdiction for Peace (JEP) was established by the 2016 [Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace](#) and subsequent legislation. The JEP is tasked with investigating crimes committed by reason, occasion or directly or indirectly related to the armed conflict. The foregoing includes political and related crimes, serious human rights violations, crimes against humanity and war crimes. The JEP is authorized to investigate crimes committed by three main groups: (i) members of the FARC-EP, (ii) members of the State's military forces, and (iii) State officials who are not members of the military forces and third parties (civilians). The JEP has jurisdiction over the crimes committed during the armed conflict prior to December 1, 2016. The Final Peace Agreement, [499 Legislative Act 01 of 2017](#), and [Law 1820 of 2016](#), established provisions on amnesty and pardon for FARC-EP's members and civilians. It provided that amnesty could be granted for Political crimes (rebellion, sedition and attempted coups); Crimes related to political crimes committed in pursuit of the rebellion; and Peaceful protests, the defence of human rights, and leading civil society groups.

However, it also held, reaffirming previous agreements (see, for example, Colombia, 15/12/2015, [Agreement on the Victims of Conflict, 'Comprehensive System for Truth, Justice, Reparation and Non-repetition, including the Special Jurisdiction for Peace; and Commitment on Human Rights](#)), that the recruitment of minors will all be ineligible for an amnesty or pardon, in every case as established in the Rome Statute (Colombia, 24/11/2016, [Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace](#). See also [Law 1820 of 2016](#) and [Law 1957 of 2019](#)). Similarly, in the DRC, the [Outcome Documents from the Conclusion of the Kampala Dialogue between the Government of the Democratic Republic of the Congo and the M23](#) both the Government and M23 agreed that:

Given the atrocities and other massive violations of human rights perpetrated in the eastern Democratic Republic of Congo, and with a view to putting an end to impunity, [the Government and M23] shall ensure that prosecutions for war crimes, genocide, crimes against humanity, sexual violence and recruitment of child soldiers are initiated against any presumed author thereof (pages 9 and 14).

In the same agreement, on the subject of amnesty, this agreement also stipulates that 'in accordance with national and international law, the Amnesty does not cover crimes of genocide and crimes against humanity, including sexual violence, recruitment of child soldiers and other massive violations of human rights' (ibid., Annex 1, page 6). In Mali, the [Accord Pour la Paix et la Reconciliation au Mali - Issu du Processus d'Alger](#) provides, less conclusively as it relates to child soldiers, that there will be 'no amnesty for the authors of war crimes, crimes against humanity and serious violations of Human Rights, including violence against women, girls and infants, related to the conflict' (Article 47). Similarly ambiguous, the 2010 [Ceasefire Agreement between the Government of Sudan and the LJM](#) provides that the police shall investigate all crimes, including those committed against women and children, and ensure the prosecution of the perpetrators and the protection of the victims (page 4, para. 8). Thus, with limited exceptions, accountability for the use of child soldiers is not a primary feature of peace agreements.

### i) Child Soldiers as Perpetrators?

The issue of accountability can also be examined through a different lens when discussing child soldiers. Despite the dominant view of child soldiers solely as victims, others have argued that child soldiers might also be held to account for the crimes they commit. For instance, there are those who approach the matter by contemplating the rights of victims who suffer at the hands of child soldiers. Seyfarth (2013: 124) argues that notwithstanding the fact that children can face 'incomprehensible trauma', they are also 'perpetrators of some of the most violent crimes' in conflicts around the world. Lafayette (2013) emphasises that children are undoubtedly responsible for numerous deaths, rapes, mutilations, and other crimes. She continues that '[v]ictims of these atrocities must also receive proper consideration' and that 'their quest for justice cannot be secondary to the rehabilitation and forgiveness of a child soldier (ibid., 298)'. Some rely on deterrence-based arguments. Clark notes, for example, that impunity permits and even encourages the continued recruitment of child soldiers (undated, cited in Veale, 2006: 101). Mawson (1998, cited Veale, 2006: 101) also suggests that if child or adult perpetrators believe that they can get away with atrocities, there is little incentive not to commit further violence, particularly if there are gains to be made, thus leading to a spiral of violence. Fisher (2013) argues that accountability is a prerequisite for a smooth transition and the attainment of positive peace, while Norbert (2011) assesses that without legal ramifications, there is no incentive for the child soldier recruiters to stop their actions. A notable aspect of the arguments advanced by those willing to contemplate prosecution is that the concept of a child soldier presented is often more nuanced than the prototypical child soldier. This prototypical child soldier is, more of than not, a young African boy, forced to join a (often) non-state armed group, wielding weaponry and being forced to commit brutal acts, sometimes under the influence of some form of narcotics. Drumbl (2012a; 2012b) argues then that the predominant image of the child soldier is highly Africanized. This is despite the fact at the time of writing only about 40 percent of child soldiers worldwide were in Africa. Similarly, Drumbl found that not only are most child soldiers not young children but adolescents, with many aged 15, 16 or 17. He also holds that nearly 40 percent of child soldiers are girls and that regardless of their gender, child soldiers often do not carry weapons (ibid.). Moreover, the vast majority of child soldiers are formally constituted members of state armed groups, permitted, to some extent under the Optional Protocol. Others demonstrate that concepts like child and childhood are not universally accepted, such that it is impossible to reduce child soldiers to one, uniform and homogenous group.

Johnson (2022: 289) notes, for example, that:

This construction of children's agencylessness is challenged by research with child soldiers. Rather than a binary understanding of children having complete or no agency, children navigate the threats, opportunities, and lack of information in the environment as best they can, experiencing 'shifting realities of victimisation, participation and resistance'. While viewing children as agencyless in a binary understanding of agency might on balance produce better policy, drawing on this more nuanced view of agency provides a basis closer to children's lived experiences of both agency and victimization.

Nevertheless, all peace agreements that address this issue treat child soldiers as victims. For example, the 2011 [Doha Document for Peace in Darfur](#) stipulates that:

'[A]ll children, boys and girls, who are accused of crimes against international law after being unlawfully recruited by armed forces or armed groups are considered primarily as victims of violations against international law and not as alleged perpetrators (Article 63).

The 2016 Colombia Peace Agreement tasks the Judicial Panel for Determination of Legal Situations with deciding on whether or not to waive 'criminal prosecution against persons who, having directly or indirectly participated in the armed conflict as minors' (Colombia, 24/11/2016, [Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace](#), Page 310, para. 10). However, a strong indication that minors would not be prosecuted can be gleaned from earlier agreements. [Joint Communique #70](#), for instance, states that:

Under no circumstances may minors under 14 years old be declared criminally responsible. Minors between 14 and 18 years old that leave the camps of the FARC – EP in compliance with these trust-building measures will be granted the benefit of pardon for rebellion and related crimes, whenever there are no impediments in Colombian laws (para. 2). Moreover, the 2016 agreement itself stipulates that child soldiers should be treated the same as other victims of the conflict (Colombia, 24/11/2016, [Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace](#)).

## Reasons to Include Provisions on Child Soldiers

The above discussion demonstrates that peace agreements can and do address child soldiers in a variety of ways. The first reason to include child soldiers in peace agreements is that they make a difference. For instance, regarding DDR, existing literature suggests that peace agreement provisions that include child soldiers have a positive effect on DDR of children. Karanja (2008) argues that inclusion of child soldiers and their needs in peace agreements evidently contributes to successful demobilisation and reintegration. Happold (2005: 115) has previously argued that that presence of provisions on the needs of child soldiers prompts the parties concerned to comply with the requirements. Comparing Salvadoran and Angolan peace agreements, Verhey (2001: 22) assesses that 'the exclusion of child soldiers in the Salvadoran peace process hindered their reintegration, engendered resentment, and left them socially and economically marginalised'. By contrast, in 'Angola, a formal resolution prioritising child soldiers proved essential to achieving their demobilisation' (Ibid.) Cohn (1999: 134) assesses then that '[p]eace processes are the only opportunity to ensure that the distinctive situation of child soldiers is addressed during demobilization and reintegration.'

A second reason relates to the importance of agenda setting. Karanja (2008) highlights that child soldiers is often a hidden problem, one that those negotiating war's end are keen to maintain. He suggests that there is a conspiracy of silence among the fighting parties makes addressing the issue difficult. However, by raising this issue in peace negotiations, processes and agreements, the problem, which is otherwise hidden, can be made visible. Visibility is an effective way of addressing problems (ibid., 8). Happold (2005: 116) observes that 'it is peace agreement that sets the agenda for subsequent action. If the peace agreement provides for the demobilisation and reintegration of child combatants, it is more likely that real efforts, directed specifically to children's needs, will be undertaken to such an end'. In a similar vein, some identify the importance of raising the issue early in peace negotiations, processes and agreements so that the 'the problem, which is otherwise hidden, can be made visible' (ibid). This early advocacy Verhey notes is essential to generate political attention and commitment to child soldiers (Verhey, 2001: 8).



Thirdly, including children in peace agreements can also help to protect their rights. Following on from the above discussion, in directly referencing child soldiers and thus making the invisible visible, those negotiating wars end can also commit to recognise the rights of child soldiers. For example, the [Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace](#) in Colombia stipulates that:

These minors will be accorded all the rights, benefits and allowances established for the victims of the conflict as well as those deriving from their process of reincorporation in the terms contemplated in this Final Agreement and priority will be given to family reunification wherever possible, and to final placement in homes in their original communities or others of a similar nature, whilst at all times taking into account the best interests of the child.

Fourthly, peace agreements can also be utilised to help assert that children be regarded as victims. As noted, there is an ongoing debate that centres on the status of child soldiers, childhood, and their potential criminal culpability. Through peace agreements, parties to a conflict can help to clearly elucidate the position that is adopted in that specific context. This can, however, give rise to two diverging evaluations. If international actors take centre stage during negotiations as happened in Bosnia, for example, some might suggest that the content of a peace agreement merely reflects the views of the international community and with it the universalised and unreflective view of a homogenous child soldier. By contrast, if a peace agreement is primarily owned and led by parties to a conflict, the view that children are victims can be said to reflect the views of children as victims in that setting.

## Challenges and Limitations Associated with Addressing Child Soldiers in Peace Agreements

There are, however, numerous challenges and limitations associated with how child soldiers are addressing in peace agreements. These include the lack of a gender dimension, the relative limited engagement with child soldiers in peace agreements, lack of implementation of provisions on child soldiers, the use of ambiguous and exclusionary language.

### *a. No reference to girls or female child combatants*

According to some estimates, as many as 40% of all child soldiers are girls (Machel, 1996, 17; Save the Children, 2005; United Nations Office of the Secretary General's Envoy on Youth, 2015). It is well demonstrated that female child soldiers face the same challenges as their male counterparts and, in addition, 'have unique needs and vulnerabilities that must be prioritized in any efforts to prevent, release and reintegrate child soldiers' (Fore, 2021). For instance, the Paris Principles states that:

Girls in particular, and any children they may have, are likely to be stigmatized or rejected by their community if it is known that they have been used by armed forces or armed groups (Paris Principles, 2007).

Scholars have also documented the increased likelihood of abuse (Leibig, 2005), treated as sexual property and distributed as rewards for good soldiering (Mazurana and McKay, 2001). Nevertheless, girls are often marginalised. For instance, Haer (2017: 459) draws attention to a study conducted in five eastern provinces of the Democratic Republic of Congo, where 23 girls were demobilised in comparison to 1718 boys – despite girls being recruited or abducted just as extensively as boys (see Wessels, 2010). Peace agreements appear to perpetuate this exclusion. In no peace agreements is there express provision recognising and reflecting the particular circumstances of child soldiers. Instead, where girls are mentioned at all it is simply in reference to 'boys and girls' (Sudan/ Darfur, 31/05/2011, [Doha Document for Peace in Darfur \(DDPD\)](#)).

### *b. Few agreements have addressed child soldiers*

Firstly, the majority of peace agreements do not reference child soldiers at all. In his study, Happold (2005: 111-112) demonstrated that agreements predating the Machel report in 1996 did not acknowledge child soldiers and their needs. Mukhar (2014: 74) also found that '[w]hen an armed conflict is resolved with a treaty, the needs of children in general and child soldiers specifically are rarely addressed in the peace agreement.' For example, between 1990 and 2022, only 323 out of 1959 reference children and only a fraction of these 323 include any reference to child soldiers. Moreover, and as noted above, the reluctance of parties to negotiations to do so constitutes a significant barrier. Some identify that inclusion of child soldiers depends on 'the political will and resources to include child soldiers in peace agreements and demobilization programs and to support their reintegration into family and community (Verhey, 2001: 1). Other note that parties to a conflict are often reluctant to formally admit that they have recruited and used child soldiers leading to what Karanja (2008: 8) terms 'a conspiracy of silence.' For example, Martuscelli and Villa (2018: 388), commenting on peace agreements in Colombia prior to the 2016 Peace Agreement say of the omission of child soldiers in these earlier accords that because the use and recruitment of children is considered a crime of war under article 8 of the Rome Statute groups that recruit children tend to hide this practice.

### *c. Lack of implementation*

An issue that has enjoyed increased attention in recent years is peace agreement implementation (see, for discussion, Bramble and Paffenholz, 2021). There are numerous reasons for peace agreements failing to be implemented. These include, as examples, difficulties associated with the legal status of peace agreements and the binding nature of commitments (Bell, 2006), the presence of spoilers, lack of financial support, ambiguous provisions (Byers, 2021) and depleting levels of political will on the part of those negotiating (Molloy and Paladini-Adell, 2019). Peace agreements are also, as noted, frequently highly comprehensive in their scope. When provisions on child soldiers are understood as but one of a swathe of commitments, addressing a broad spectrum of reforms, it is also apparent that these provisions are in competition with others.

For example, the 2005 Sudan the 2005 Comprehensive Peace Agreement, as noted, was relatively comprehensive in the attention directed towards child soldiers. However, documenting the implementation of these provisions, the Peace Accords Matrix—a database which traces how peace agreement provisions materialise after an agreement (see Joshi and Darby, 2013) - demonstrates poor levels of implementation.

*d. Ambiguous language*

Peace agreements also vary widely in how they address child soldiers. In many cases, the language used is ambiguous and at non-committal. For instance, some provisions on recruitment simply acknowledge the problem without committing to address it. Others, particularly those on DDR, are loose and appear to be little more than an afterthought. A useful case in point is when peace agreements reference international law. As noted, child soldiers are addressed in various international law standards and peace agreements, in referencing them, can be understood to further strengthen commitments from state and non-state actors to them. The way in which provisions are expressed can have an important bearing on whether and to what extent they are complied with.

A related issue, one unique to international law references, is that international law as a whole itself is ambiguous on certain issues. For example, where the Optional Protocol prohibits recruitment by non-state actors of children under 18 and, in the case of state armed forces 15, international humanitarian law sets the limit at 15. Similarly, the war crime prohibiting child conscription caps the age at 15 years whereas the International Criminal Court's (ICC) jurisdiction is limited to persons above 18 years of age. This leaves a jurisdictional gap over children between 15-18 years. Similarly, Article 1 of the Optional Protocol, which prohibits the deployment of children under the age of 18 to take a direct part in hostilities, only requires States to take "all feasible measures" to fulfil this obligation. The question of what is and is not 'feasible' in a particular context is likely to be controversial. Thus, contrary to the view that references to international law provide additional levels of protection to child soldiers, thus strengthening peace agreement provisions on the same, a counterargument could be that through these references' peace agreements build in and perpetuate uncertainties that currently exist.

Against this backdrop, peace agreements hold the potential to clarify uncertain or ambiguities that attach to the issues of children, child soldiers and childhood more generally. As an example, peace agreements are well-placed to state clearly what constitutes a child. For instance, the [Ceasefire Agreement between the Government of Sudan and the LJM](#) commits both parties to immediately refrain from the recruitment or use of boys and girls under age 18 years. The [Darfur Peace Agreement](#) prohibits Any recruitment or use of boys and girls under age 18 years by Parties. In Yemen, the 2014 [National Dialogue Conference Outcomes Document](#) provides that:

The Government shall be responsible for providing protection and comprehensive monitoring of children below eighteen years of age. Recruitment of children or involving them in armed conflicts shall be criminalized. They shall enjoy full protection during military conflicts, natural disasters and emergencies.

These areas of clarity can have important impacts on who qualifies for DDR programmes, what constitutes a ceasefire violation or who is or is not to be regarded as a victim.

*e. Exclusionary language and impacts*

Those who argue in favour of including provisions on child soldiers frequently depart from the position that existing peace agreements tend, in the main, to exclude them. While correct, this preoccupation can also overlook how existing provisions have addressed child soldiers. One issue that is wholly overlooked is the use of the term child soldiers through peace agreements. 'Child soldiers' are often referred to by child protection agencies as 'children associated with armed forces and groups' (CAAFG), to emphasise the need for inclusive programmes that provide support to all child soldiers, not only those carrying weapons. As the International Bureau of Children's Rights (2010: 131) notes:

The definition of a child associated with armed groups and forces is intentionally broad because it seeks to extend the protection to as many children as possible in recovery programmes. The rationale for the broad definition is that, within armed groups and forces, roles can be fluid and whether a child is used as a cook, a porter, a soldier's 'wife' or for any other purpose, he or she is often exposed to the same dangers as combatants and all are forced to witness atrocities.

The Paris Principles have also emphasised that the expression 'children associated with armed forces and groups' was more appropriate than 'child soldiers' (2007).

## Paris Principles and Commitments on Children Associated with Armed Forces or Armed Groups

States that are signatory to the Paris Commitments commit to:

- ▶ Establish procedures and safeguards for recruitment by armed forces that screen out children or that otherwise comply with applicable international law
- ▶ Take measures, including legal and administrative measures, to prevent armed groups within their jurisdiction from recruiting and using children
- ▶ Support and facilitate the release of children associated with armed forces or armed groups at all times and without any preconditions
- ▶ Investigate and prosecute individuals believed or alleged to have engaged in recruitment and use of children
- ▶ Support monitoring and reporting of violations against children
- ▶ Cooperate with the implementation of measures taken by the United Nations Security Council against parties to armed conflict that unlawfully recruit or use children
- ▶ Support and take all necessary measures, including development and implementation of standard operating procedures for handover of children and of security sector training, and to treat children who are recruited or used by armed forces or groups including those who are deprived of their liberty in accordance international humanitarian and human rights law and with special consideration for their status as children.
- ▶ Treat children who have been unlawfully recruited or used by armed forces or armed groups, and who are accused of crimes against international law, first and foremost as victims and in accordance with international standards for juvenile justice and to seek alternatives to judicial proceedings wherever appropriate, using detention as a last resort
- ▶ Establish processes that assist children who cross borders to escape unlawful recruitment and use by armed forces or groups to effectively exercise their right to seek asylum Advocate for and seek the inclusion of minimum standards to end all recruitment and use, and to include the registration, release and treatment of children in all peace agreements with parties that have unlawfully recruited or used children.

In short, even at the most granular level, peace agreements might well perpetuate the exclusion of children associated with armed conflict more generally. In addition, while peace agreements might perform an important function of pushing back against those who advocate for holding child soldiers accountable, in treating child soldiers solely as vulnerable and as victims, peace agreements might present a wholly unnuanced and generalised view of child soldiers, which does not adequately reflect the realities on the ground. Moreover, and more generally, this presentation can undermine efforts to utilise peace agreements as the basis to redefine the perception of children in society, particularly one that better reflects the agency of children and their potential to be active participants in both peacebuilding and the post-conflict state more generally.



## Concluding Remarks

The existing literature on child soldiers and peace agreements is both outdated and, to a large extent, limited. Nevertheless, a commonality of existing contributions is the overarching and quite correct contention that child soldiers should be included in peace agreements, that they are not currently included, and that agreements in the future ought to include them. Underpinning these assertions is a recognition of the salience attached to peace agreements, a connection that has been drawn at the highest levels of UN policy. Nevertheless, this is but the start of the conversation and attention should be immediately directed to what this inclusion ought to look like, what matters should and can be addressed and how to do so. This article has sought to draw attention the ways in which peace agreements have sought to address child soldiers. This helps to contemplate what is possible, where opportunities lie for contributing to the multifaceted issues presented by child soldiers and the areas that peace agreements can, at least partially, play a role in supporting. Given the scale of the task, the impact of peace agreements is likely limited. However, in drawing attention to such issues as child soldier DDR, preventing future recruitment, and accountability, peace agreements can help to put child soldiers on peacebuilding roadmap. As existing guidelines and checklists have helped to articulate, how an issue is addressed is as important as inclusion itself. Those provisions on issues like DDR and recruitment must be robust, detailed, backed up financially with corresponding sanctions for non-compliance. Third party actors must also be involved in overseeing implementation and peace agreements should be viewed holistically, understanding how reforms and measures in one area can and should have a bearing on child soldiers.

## Useful Resources

- ▶ UNICEF, "Cape Town Principles And Best Practices On The Recruitment Of Children Into The Armed Forces And On Demobilisation And Social Reintegration Of Child Soldiers In Africa", available on-line at [http://www.UNICEF.org/emerg/files/Cape\\_Town\\_Principles\(1\).pdf](http://www.UNICEF.org/emerg/files/Cape_Town_Principles(1).pdf)
- ▶ Coalition to Stop the Use of Child Soldiers, "Themed Reports", available on-line at [http://www.childsoldiers.org/library/themed-reports?root\\_id=158&directory\\_id=162](http://www.childsoldiers.org/library/themed-reports?root_id=158&directory_id=162)
- ▶ International Bureau for Children's Rights (IBCR), Children and armed conflict: A guide to International Humanitarian and Human Rights Law <https://resourcecentre.savethechildren.net/pdf/3392.pdf/>
- ▶ UNICEF, "The Paris Principles: Principles and guidelines on children associated with armed forces or armed groups", available on-line at [http://www.unicef.org.uk/publications/pub\\_detail.asp?pub\\_id=122](http://www.unicef.org.uk/publications/pub_detail.asp?pub_id=122)
- ▶ United Nations and UNICEF, "Impact of Armed Conflict on Children", New York, 1996, available on-line at <http://www.UNICEF.org/Graça/>
- ▶ "Report of the Special Representative of the Secretary-General for Children and Armed Conflict", 13/07/2007, A/62/228, Part 2, available on-line at <http://daccess-ddsny.un.org/doc/UNDOC/GEN/N07/457/60/PDF/N0745760.pdf?OpenElement>.
- ▶ Office of the Special Representative and UNICEF published a more comprehensive strategic review: Special Representative of the Secretary-General for Children and Armed Conflict and UNICEF, "Machel Study 10-Year Strategic Review: Children and Conflict in a Changing World", 2009, available on-line at [www.un.org/children/conflict/english/machel10.html](http://www.un.org/children/conflict/english/machel10.html)
- ▶ Children and Youth in Peace Agreements Database. Accessible at: <https://peacerep.org/children-and-youth-database/>

## Key Stakeholders

UN Special Representative of the Secretary-General for Children and Armed Conflict: <https://childrenandarmedconflict.un.org/>

Security Council Working Group on Children and Armed Conflict: <https://www.un.org/securitycouncil/subsidiary/wgcaac>

United Nations Children's Fund (UNICEF): <https://www.unicef.org/>

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PeaceRep is a research consortium based at Edinburgh Law School. Our research is rethinking peace and transition processes in the light of changing conflict dynamics, changing demands of inclusion, and changes in patterns of global intervention in conflict and peace/mediation/transition management processes.

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