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Louder than words

An agenda for action to end state use of child soldiers

CHILD SOLDIERS INTERNATIONAL

Louder than words

An agenda for action to end state use of child soldiers

Report published to mark the tenth anniversary year of entry into force of the Optional Protocol on the involvement of children in armed conflict

CHILD SOLDIERS INTERNATIONAL

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Contents

Acknowledgements and methodology 5

Glossary of terms 8

Executive summary 11

Part I **Global trends in state use of child soldiers** **15**

1.1 Reinforcing the principle of prohibition on child soldier use 15

1.2 Practice versus principle 17

Table: Use of child soldiers by state armed forces and state-allied groups, January 2010–June 2012 20

Part II **The responsibility of states to end child recruitment and use by armed forces** **23**

2. Where children are at risk of use by state armed forces **23**

2.1 Children in national armies 28

2.2 Child soldier use by other elements of state security forces

Case study **Eritrea** **41**

3. Why children are at risk of use by state armed forces **44**

3.1 Are children prohibited in law from participating in hostilities? 45

3.2 Has 18 years been established in law as the minimum age for compulsory and voluntary recruitment? 49

3.2.1 The age of compulsory recruitment: no lower than 18 years *50*

3.2.2 The age of voluntary recruitment: time to end enlistment of under-18s *52*

3.2.3 Military schools: an indirect route to recruitment of children *55*

3.3 Does every child have independently verifiable proof of age? 56

3.4 Are there effective processes to verify the age of new recruits? 59

3.5 Are military recruitment processes subject to independent monitoring and oversight? 62

3.6 Is unlawful child recruitment and use criminalised in national law? 64

3.7 Does the criminal justice system have the capacity to effectively investigate and prosecute allegations of unlawful recruitment and use? 66

Case study **Liberia** **79**

Part III **State responsibility to prohibit the recruitment and use of children by state-allied armed groups** **83**

4.1 The nature of state-allied armed groups 83

4.2 The nature of state responsibility for allied armed groups 85

4.3 Child recruitment and use by state-allied groups and state complicity 87

4.4 National and international responses to child recruitment and use by state-allied groups 90

Case study **Yemen** **97**

Part IV **State responsibility for arms transfers and security sector reform: unexplored potential for impact on child recruitment and use** **101**

5.1 International standards regulating arms transfers 101

5.2 Arms transfers and child soldiers: translating concern into action 103

5.3 Security sector reform and child soldier prevention: untapped potential 106

Case study **DRC** **111**

Part V **The international response to state recruitment and use of child soldiers: widening the agenda to tackle risk** **115**

6.1 The UN Security Council framework and its reach 115

6.2 The UN's role in prevention 116

Case study **Myanmar** **119**

Part VI **Ten-Point Checklist to prevent the involvement of children in hostilities in state armed forces and state-allied armed groups** **123**

Appendix I: Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict 135

Appendix II: Data summary on recruitment ages of national armies 141

Acknowledgements and methodology

Child Soldiers International (previously known as the Coalition to Stop the Use of Child Soldiers) was established in 1998 to campaign for the adoption of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (Optional Protocol) and now works for its universal ratification and effective implementation. We are publishing this report to mark the tenth anniversary of the year in which the Optional Protocol entered into force as part of our ongoing efforts to support this important treaty's core aim to protect girls and boys under the age of 18 years from participation in armed conflict.

The report addresses the record of implementation of the Optional Protocol of states in relation to state armed forces and state-allied armed groups. It is based on information on military recruitment and use in over 100 states which includes detailed reviews of laws, policies and practices of more than 50 "conflict" and "non-conflict" states; information provided by 55 governments; reviews of documentation relating to Optional Protocol implementation by some 70 states; and data contained in other UN and NGO reports on child soldier recruitment and use in specific countries.

States on which detailed research was conducted were selected on the basis of one of three criteria: that they are or have recently been involved in armed conflict in which child soldier use by government armed forces or state-allied groups has occurred; states where there were concerns that safeguards to protect children against unlawful recruitment and use are insufficient so that, in the event of armed conflict, children could be at risk of use; states that have taken measures to reduce the risk to children of involvement in armed conflict by their armed forces or state-allied armed groups that could serve as examples of best practice.

Primary research was undertaken in Chad, the Democratic Republic of the Congo, Liberia, Myanmar, Thailand and the United Kingdom, as part of Child Soldiers International's ongoing research and advocacy projects. Detailed desk-based reviews of laws, policies and practices were undertaken on an additional 44 states.[1]

In addition, reviews were undertaken of secondary sources including: examinations of state party reports on implementation of the Optional Protocol and the Convention on the Rights of the Child by the UN Committee on the Rights of the Child; UN Secretary-General annual and country-specific reports on children and armed conflict; reports, statements and mission reports of the Special Representative of the Secretary-General for Children and Armed Conflict; recommendations of the UN Security Council Working Group on Children and Armed Conflict; and reports relating to children and armed conflict and security sector reform by national and international NGOs.

Child Soldiers International also wrote to 175 governments, both directly to ministries of defence in capitals and to diplomatic missions in London and Geneva, to request information on current national laws and policies relating to military recruitment of children by state armed forces. A total of 55 governments responded to these requests, for which Child Soldiers International would like to express its appreciation.[2]

The report was researched and written by Lucia Withers with support from Tomaso Falchetta and Rachel Taylor. Additional research was provided by Child Soldiers

International staff Mathilde Bienvenu, Isabelle Guitard, Ineka Hall and Charu Lata Hogg and by consultants: Bijan Baharan, David Buchbinder, Marjorie Farquharson, Jennifer Harbison, Martin Hill, Richard Horsey, Catherine Hunter, Paige Wilhite Jennings, Andrew Philip, Rania El Rajji, Claudia Ricca, Joshua Rogers/Saferworld and Louise Taylor. Information and analysis on military assistance and security sector reform was provided by Rachel Stohl and policy advice by Ron Dudai. Lucia Withers was responsible for designing and managing the research.

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Production of the report was managed by Victoria Forbes Adam. It was edited by Emma Blower and copy edited by Gail Richards. The report was co-designed by Emma Blower, Victoria Forbes Adam and Intertype with support from Ineka Hall. The cover was designed by Dan Chisholm. Child Soldiers International is also grateful to Michael Windsor-Ungureanu of Thread Design for design ideas. Typesetting was by Intertype. Financial management and fundraising support was provided by Martin Sarbicki and Carol Steel.

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Finally, Child Soldiers International would like to extend its appreciation to the Committee on the Rights of the Child; the Office of the Special Representative of the Secretary-General for Children and Armed Conflict; members of the UN Security Council Working Group on Children and Armed Conflict; the “Group of Friends on Children and Armed Conflict” chaired by Canada’s Permanent Mission to the UN in New York; UNICEF; and governments for their support and their willingness to engage with Child Soldiers International in the ongoing process of improving and strengthening our collective work until we reach the point at which every child is protected from involvement in armed conflict current and future.

Richard Clarke

Director, Child Soldiers International

Notes

1 Afghanistan; Armenia; Australia; Azerbaijan; Bangladesh; Bolivia; Canada; Central African Republic; Colombia; Côte d'Ivoire; Croatia; Cyprus; Czech Republic; Ecuador; Eritrea; Estonia; France; Georgia; Guatemala; Guyana; India; Iran; Israel; Italy; Kazakhstan; Liberia; Libya; Lithuania; Luxembourg; Mexico; New Zealand; Pakistan; Peru; Philippines; Russian Federation; San Marino; Sudan; Tajikistan; Turkmenistan; Uganda; United States of America; Uzbekistan; Venezuela; and Yemen.

2 Albania; Angola; Armenia; Austria; Barbados; Belgium; Belize; Bosnia and Herzegovina; Canada; Chile; Colombia; Cyprus; Czech Republic; Denmark; Ecuador; Estonia; Finland; Georgia; Germany; Ghana; Greece; Guatemala; Honduras; Hungary; India; Ireland; Israel; Latvia; Lebanon; Lithuania; Malawi; Moldova; Montenegro; Netherlands; New Zealand; Nicaragua; Norway; Paraguay; Peru; Portugal; Russian Federation; Singapore; Slovakia; Slovenia; Spain; Sweden; Switzerland; Taiwan; Tanzania; Thailand; Trinidad and Tobago; Turkey; Ukraine; Uzbekistan; and Zambia.

Glossary of terms

For the purposes of this document, the following definitions are used:

Accession: Accession means formal consent by a state to be legally bound by a treaty – a one-step process combining signature and ratification (see below) of a treaty.

Armed conflict: The term armed conflict is used to refer to both international and non-international conflicts of high and low intensity.

Child: A child is any person under 18 years of age. This is consistent with the Convention on the Rights of the Child (Article 1), the African Charter on the Rights and Welfare of the Child (Article 2) and International Labour Organization Convention No. 182 on the Worst Forms of Child Labour (Article 2).

Child soldier: A child soldier refers to any person below 18 years of age who is or who has been recruited or used by an armed force or armed group in any capacity, including but not limited to children, boys and girls, used as fighters, cooks, porters, messengers, spies or for sexual purposes. It does not only refer to a child who is taking or has taken a direct part in hostilities. This definition is consistent with the definition of a "child associated with an armed force or armed group" in the Paris Principles and Guidelines on Children Associated with Armed Forces or Armed Groups.

Committee on the Rights of the Child: This is the UN body of independent experts which monitors implementation of the Convention on the Rights of the Child by its state parties and the two optional protocols to the Convention, including the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

National army: Refers to a state's army, air force and navy.

Non-state armed group: Refers to armed groups that are distinct from state armed forces. These include state-allied armed groups (see below).

Ratification: Ratification is the means by which governments consent to be legally bound by an international treaty. In most cases, ratification follows signature of the treaty and requires action by the national parliament. States ratifying the Convention on the Rights of the Child or its optional protocols must deposit their instruments of ratification with the UN Secretary-General.

Recruitment: Refers to the means by which people become (formally or informally) members of armed forces or armed groups.

- **Enlistment or voluntary recruitment** occurs when persons facing no threat or penalty join armed forces or groups of their own free will;
- **Conscription** is compulsory recruitment into armed forces;

- **Forced recruitment** is a form of forced labour: it takes place without the consent of the person joining the armed forces or armed groups. It is achieved mainly through coercion, abduction or under threat of penalty;
- **Unlawful recruitment** refers to the recruitment of children under the age stipulated in international treaties applicable to the armed forces or armed groups.

Signature: A state may sign an international treaty to indicate its preliminary and general endorsement of its aims, but a signature is not a legally binding step or a firm commitment to proceed to the next, and final, step of ratification. Nevertheless, signing a treaty creates an obligation of good faith not to undermine the treaty's objectives.

Special Representative of the Secretary-General for Children and Armed Conflict (SRSG): The mandate of the SRSG was first established by UN General Assembly resolution 51/77 of 12 December 1996. In accordance with the mission statement, the SRSG serves as an independent advocate for the protection and well-being of children affected by armed conflict, working with partners to enhance their protection and facilitating through diplomatic and humanitarian initiatives the work of operational actors on the ground.

State-allied armed groups: Refers to non-state armed groups which are backed by or allied to state armed forces but which are not officially part of them. They can include irregular paramilitary forces, "self-defence" militias, and armed opposition groups supported by a foreign state.

State armed forces: Refers to the full range of government armed forces, including national armies, paramilitary and civil defence forces, police, border guards and other official forces regulated by law.

Straight-18 approach/straight-18 ban: Refers to the prohibition of recruitment and use of children in hostilities without exception or reservation.

UN Security Council children and armed conflict framework: This refers to the bodies and mechanisms set up under Security Council Resolution 1612 (2005): specifically the Security Council Working Group on Children and Armed Conflict (SCWG) and the Monitoring and Reporting Mechanism (MRM) on Children and Armed Conflict and its operational country-level Task Forces which monitor and report on six grave violations against children in armed conflict including their recruitment and use as soldiers.

Internet sources

Websites for a particular document or source are given in the notes at the end of each chapter. In most cases the link to the home page is provided (rather than a link to the specific document) so the reader can locate the specific document using the site's own search engine or from its home page. Where additional guidance

may be helpful for locating a specific document or web page, it is given in the relevant note.

Frequently cited sources in this report include:

Human Rights Watch (HRW): www.hrw.org

International Committee of the Red Cross: www.icrc.org

International Crisis Group (ICG): http://crisisweb.org

Documents on child rights and children and armed conflict are also available at the Child Rights International Network, www.crin.org.

Locating UN documents on the internet

UN human rights documents, such as those issued by the Committee on the Rights of the Child (UN Doc. CRC/…) and other Treaty Bodies, can be found on the website of the Office of the UN High Commissioner for Human Rights, www.ohchr.org.

Information on the work of the Committee on the Rights of the Child relating to OPAC (CRC and government reports, status of ratifications, declarations and reservations, CRC sessions etc.) can be found at www2.ohchr.org/english/bodies/crc.

UN documents on children and armed conflict (including those issued by the Security Council Working Group on Children and Armed Conflict) can be easily accessed via the website of the Office of the Special Representative of the Secretary-General for Children and Armed Conflict (OSRSG), http://childrenandarmedconflict.un.org.

Reports of the UN Secretary-General to other UN bodies and other documents issued in connection with the UN Security Council (UN Doc. S/…) and General Assembly (UN Doc. A/…) can be found on the main UN website (www.un.org) under the Documents link or at www.un.org/documents. The main UN website also provides links to other bodies in the UN system, such as UNHCR (www.unhcr.ch) and UNICEF (www.unicef.org).

The UN Treaty Collection online service offers (subscription only) access to over 40,000 treaties and international agreements: http://untreaty.un.org.

Executive summary

2012 marks ten years since the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (Optional Protocol) entered into force. It is the most comprehensive of international treaties relating to child soldiers and contains an expansive set of obligations on states aimed at ending the use of child soldiers in both state armed forces and non-state armed groups.

At the core of the Optional Protocol is prevention. While it requires states to take all feasible measures to release boys and girls from armed forces and armed groups and to support their recovery and reintegration, its primary aim is to ensure that children are protected from the possibility of involvement in armed conflicts in the first place.

International commitment to this aim is high: over three quarters of the world's states are party to the treaty. However, in practice, a significant number of states have yet to translate their words into action, having so far failed to put in place effective measures to prevent child soldier use, even in those forces over which they have direct control or influence.

In this report, Child Soldiers International focuses specifically on these forces, which include official state armed forces (national armies, paramilitaries, civil defence forces, police and other official armed elements of a state security apparatus). They also include certain non-state armed groups which can be described as "state-allied armed groups" – that is, groups which are not formally a part of state armed forces but which nevertheless support or are supported by states. (Although the latter do not represent the full range of non-state armed groups known to recruit and use children, states hold specific responsibilities with regard to their activities).[1]

The research shows that although many states already prohibit or claim to prohibit persons under the age of 18 years from joining their armed forces and/or from taking part in hostilities, when put to the test these commitments often do not translate into effective protection for children. The fact remains that when states are involved in armed conflict, directly or indirectly through their support of proxy armed groups, they are still prone to use child soldiers.

Although it is less common today for states to deploy under-18s in hostilities as part of national armies (army, navy, air force), ten states did so between January 2010 and June 2012 (Chad, Côte d'Ivoire, the Democratic Republic of the Congo, Libya, Myanmar, Somalia, South Sudan, Sudan, United Kingdom and Yemen). But when the wider spectrum of forces for which states are responsible are included (other official elements of state armed forces and state-allied armed groups) a total of 17 states are found to have used child soldiers in this period (the above, plus Afghanistan, Central African Republic, Eritrea, Iraq, the Philippines, Rwanda and Thailand). In another three states (Colombia, Israel and Syria) children were not formally recruited but were nevertheless reported to have been used for military purposes including intelligence gathering and as human shields.

However, based on its analysis of the laws, policies and practices of more than 100 "conflict" and "non-conflict" states, Child Soldiers International has found that children are at risk of use in state or state-allied armed forces in many more states than the 20 listed above. In some the risk is more immediate. In Eritrea or Iran, for example, where children are already in the ranks of the national army or paramilitary forces, the likelihood of their use in the event of hostilities is high. But even where the possibility of armed conflict seems more remote, protection for children from the possibility of use in hostilities by state or state-allied forces is often incomplete.

There are many factors (socioeconomic inequalities, insecurity and cultural traditions for example) which can make girls and boys vulnerable to involvement in armed conflicts, but it is the fact of recruitment – whether voluntary, compulsory or forced, formal or informal – that (in the vast majority of cases) ultimately makes their use possible. The risk of use can therefore be significantly reduced by creating legal, policy and practical barriers against the admission of children to military forces, regardless of economic, social or other factors which encourage or compel children to join.

The starting point for prevention, as many of those involved in drafting the Optional Protocol argued at the time, is to prohibit in law all recruitment, compulsory or voluntary, of anyone under the age of 18. Experience shows that where under-18s are recruited by state armed forces, prohibitions on their use in hostilities, even when supported by systems designed to screen troops prior to deployment, do not constitute an effective guarantee against their participation.

In many states, however, the challenge is not establishing 18 as a minimum age for recruitment; it is the matter of enforcing it. Enforcement requires at a minimum:

- Independent verifiable proof of age for every child;
- Effective processes to verify the age of new recruits;
- Independent monitoring and oversight of military recruitment processes;
- Criminalisation of child recruitment and use in law;
- Capacity within the criminal justice system to effectively investigate and prosecute allegations of unlawful recruitment and use.

Child Soldiers International's findings show that many states, even those that claim a "straight-18 ban", fall short on one or more of these criteria, thus exposing children to potential risk of use in national armies and other official elements of state armed forces.

Beyond their armed forces, states also bear responsibility for the actions of non-state armed groups allied to them. These groups can include irregular paramilitaries and "self-defence" militias. They may also include armed groups operating in other countries to which a state provides support. Such groups play a significant role in contemporary armed conflicts and it is common for them to have children in their ranks, often in significant numbers.

Degrees of state responsibility for the recruitment and use of child soldiers by these groups vary depending on the nature of the relationship between the state and the group. But effective child soldier prevention strategies require that states act on and are held accountable to their international obligations to prevent the use of child soldiers whether by their own armed forces or by armed groups allied to them.

This report highlights, however, that for the most part states have failed to take measures either to prevent children being recruited and used by allied armed groups or to investigate allegations of the involvement of state officials in supporting such practices. Where states have acted to end child soldier recruitment and use by allied armed groups, it is notable that success has generally been achieved only through the regularisation or total disbandment of these forces.

States also have further responsibilities towards children at risk of recruitment and use as child soldiers. The Optional Protocol requires that states should take measures to implement its provisions beyond their own borders, through cooperation and assistance, and this report identifies two specific areas where states could make a significant contribution in this regard.

First states must ensure that their trade in or transfer of arms or other forms of military assistance does not contribute to the problem. The relationship between the proliferation of small arms and children's involvement in armed conflict is well established and obligations exist under the Optional Protocol and other international treaties to prevent transfers of arms to situations where human rights abuses occur. In practice few states have acted on these obligations by conditioning weapons sales on ending unlawful recruitment or use of children. By failing to prevent transfers of arms to government forces or state-allied armed groups with a record of unlawful child soldier recruitment and use, these governments not only miss an opportunity to use their influence to end the practice, they also risk contributing to it.

Second, those states with the capacity and expertise can support other states in regularising recruitment practices, establishing oversight and accountability mechanisms and implementing other elements of a child soldier prevention strategy. Where such prevention has featured in the design of security sector reform (SSR) assistance programs the results have been positive but the examples are rare. In light of this, the report argues that the potential for SSR assistance programs to contribute to child soldier prevention must be further explored and acted upon.

Just as states must shift their focus beyond reaction to prevention so too must the UN. The UN has invested heavily in the children and armed conflict agenda in the last decade, establishing processes and mechanisms to respond to the issue, through which valuable work is being done. The majority of the resources are concentrated in the mechanisms and bodies set up under the UN Security Council on children and armed conflict framework, the focus of which is primarily directed at situations where risk of underage use has become real and there is evidence that children are already in the ranks of armed forces (or non-state armed groups)

and are actively participating in hostilities. Important as these responses are, they largely neglect the question of longer-term prevention.

In situations already on the UN Security Council's children and armed conflict agenda, responses must be strengthened through longer and deeper engagement. "Action plans" to end child soldier recruitment and use that are agreed with parties to armed conflicts (a key tool used by the UN) should not be regarded as the end goal, but as the beginning of a process of extended support for reform to create durable barriers against ongoing and future child recruitment.

The work of the UN Security Council on children and armed conflict framework must also be supplemented by broader approaches focusing more explicitly on prevention regardless of whether or not armed conflict exists or is even threatened. The Optional Protocol provides a framework for this preventative approach but enhanced monitoring of the risk of involvement in armed conflict faced by children is needed to reinforce the work of the Committee on the Rights of the Child in monitoring the implementation of the treaty. Where risks are identified it also requires investment in support to states to establish legal and practical barriers to prevent the recruitment and thereby use of the children concerned.

To assist states, as well as the UN and others working to protect children from involvement in armed conflict, in monitoring and better analysing risks to children and identifying actions to address them, Child Soldiers International has developed a "**Ten-Point Checklist to prevent the involvement of children in hostilities in state armed forces and state-allied armed groups**". The checklist is based around ten core questions covering the three areas of state responsibility focused on in this report (state armed forces, state-allied armed groups and arms transfers/ SSR assistance). Recommendations follow each question and reflect measures to protect children from recruitment and use that are highlighted in the report and which draw in particular on the Optional Protocol and the best practice of states in implementing it.

Child Soldiers International considers that waiting for the next conflict to break out to find out where under-18s may be vulnerable to military use places children at unnecessary and unacceptable risk. It believes that this risk can be significantly reduced if not entirely eliminated through earlier identification of and response to risk factors. If children's involvement in armed conflict is truly to become a thing of the past, this type of preventative work must be a central part of the children and armed conflict agenda for the next decade with states leading the way by fulfilling their legal obligations under the Optional Protocol.

Note

1 Child Soldiers International's work also includes research and advocacy in relation to this broader range of non-state armed groups.

Part I
Global trends in state use of child soldiers

The principle that children should not be involved in armed conflict is today almost universally accepted. It has been translated into legal obligations in international treaties, including the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (Optional Protocol), and is reflected elsewhere. States have demonstrated their commitment to the principle through high levels of Optional Protocol ratification and endorsement of other standards.

These commitments have resulted in some tangible improvements for children. There has been a steady decline in the number of states that permit under-18s to join their armed forces. Today almost two thirds of UN member states have committed to and/or adopted laws to prohibit the military recruitment of under-18s. In forbidding military recruitment of children the vast majority of states therefore now recognise, at least in theory, that the most effective way to protect children from involvement in armed conflict is to keep them out of the ranks of armed forces.

At first sight trends in child soldier use by states suggest that this is also on the decline. Even among states that do not legally prohibit the recruitment of children by their armed forces, far fewer states deploy under-18s as part of their national armies (army, air force, navy) today than was the case a decade ago.

But these trends hide a worrying reality: that where states are involved in armed conflict it remains common for children to be found serving in military forces under government control. In these situations children can still be found serving in national armies of some states, but their use also occurs in other elements of states' armed forces (for example paramilitaries and civil defence forces) as well as in state-allied armed groups which, although not legally a part of official armed forces, are nevertheless supported by or provide support to states and for whose actions those states therefore bear a responsibility.

1.1 Reinforcing the principle of prohibition on child soldier use

The adoption of the Optional Protocol in 2000 and its entry into force two years later represented an important advance in global efforts to end the involvement of children in hostilities. The Protocol's far-reaching provisions place obligations on states to protect children from recruitment and use by armed forces and groups and to ensure their release, recovery and reintegration both domestically and abroad.[1]

Among the most contested issues during the drafting of the Protocol was the age at which an individual could be recruited or deployed into hostilities by the armed

forces of states. In the text that was finally agreed, all recruitment and use of any person under the age of 18 years by non-state armed groups is prohibited (Articles 4.1 and 4.2).

For the armed forces of states the standard is lower. The Optional Protocol does not prohibit use, but rather requires states that are party to it to "take all feasible measures to ensure that members of their armed forces who have not attained the age of 18 do not take a direct part in hostilities" (Article 1). While it sets the minimum age for conscription at no lower than 18 years by state armed forces (Article 2), the Optional Protocol does not prohibit the voluntary recruitment of children, but provides only that states "shall raise in years the minimum age for the voluntary recruitment of persons into their national armed forces from that set out in … the Convention on the Rights of the Child" (Article 3.1). The minimum age for recruitment into armed forces set out in the Convention is 15 years (Article 38, paragraph 3). Article 3.1 of the Optional Protocol therefore requires that the minimum age for voluntary recruitment should be at least 16 years.

These provisions fall short of the aspirations of many of those involved in the drafting – during which a ban on compulsory and voluntary recruitment and all participation in armed conflict, both direct and indirect, by anyone under the age of 18 years ("straight-18 ban") – was supported by a majority of the government representatives, as well as by the Committee on the Rights of the Child and other UN experts, agencies and bodies, the ICRC and NGOs. It was ultimately defeated by a small minority of states whose national laws and practices permitted recruitment of under-18s. The resulting language was a compromise which ensured the support of the dissenting states but weakened the standard.

However, since the adoption of the Protocol, the principle that informed the majority position – that children should not be involved in armed conflict in any way in the forces of any party and that the best means of achieving this is to end all forms of child recruitment – has if anything become more firmly established.

Today 147 states, by virtue of being parties to the Optional Protocol, have agreed to a minimum age for compulsory recruitment by their national armed forces of no lower than 18 years. Of these, over 100 have also committed to a minimum voluntary recruitment age of 18 years or above for admission to national armies or other branches of the security forces in the legally binding declarations that states are required to deposit on ratification of or accession to the treaty (Article 3.2).[2] By committing not to allow under-18s to join the armed forces, their use in hostilities should, in theory, be ruled out.

States have also signed up to other international treaties and principles in which the age of 18 is recognised as the cut-off point below which no one should be recruited or used in armed conflict. All but eight out of the 54 member states of the African Union have ratified the African Charter on the Rights and Welfare of the Child, which requires parties to refrain from any recruitment of children (under-18s) and to take all necessary measures to ensure they are not involved in direct conflict (Article 22).[3]

As at June 2012 a total of 175 states had signed up to International Labour Organization (ILO) Convention 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. Under this treaty, forced or compulsory (but not voluntary) recruitment of children under the age of 18 for use in armed conflict is defined as among the worst forms of child labour from which children must be protected.

In addition, by October 2011, 100 UN member states had also endorsed the Paris Commitments and the accompanying Principles and Guidelines on Children Associated with Armed Forces or Armed Groups (Paris Commitments and Principles). Drawn up by the UN Children's Fund (UNICEF) in consultation with other UN agencies and civil society organisations in 2007, these seek to combat the unlawful recruitment or use of under-18s with fighting forces and achieve their successful release and reintegration.

1.2 Practice versus principle

Many states have incorporated treaty obligations and other commitments into national legislation. In 2001, one year after the Protocol was adopted, some 70 states were known to have established in national law a recruitment age of 18 years or older for all forms of military recruitment.[4] Today, the number is around 100 (see Appendix II, Data summary on recruitment ages of national armies). Others have committed to a "straight-18 ban" but have yet to adopt legislation to this effect.

There is some evidence that the adoption by states of a ban on recruitment of under-18s has led to tangible progress towards ending child soldier use, particularly in national armies (army, air force and navy), including in some where the practice had previously been prevalent. In the decade between 1998 and 2008, there was evidence that at least 25 states had used children in armed conflict as part of national armies.[5] The figure for the first half of 2012 was less than ten.

Yet, while the principle of prohibiting use is now widely accepted and some progress is visible, the bigger picture exposes a disappointing gap between commitments made to end the use of child soldiers and actual practice.

In a few cases an end to or reduced incidence of use of child soldiers by national armies is directly attributable to specific protection measures taken by states. However, in the majority of cases the use of child soldiers has ceased simply because hostilities have ended. A better indicator of progress towards achieving improved protection is the proportion of recent or current conflicts in which children have been used in hostilities by states, not only in national armies but in the broader spectrum of forces for which states are responsible. Looked at from this angle, it becomes apparent that children continue to fight on behalf of governments in the majority of armed conflicts in which states are involved.

The fact remains that where conflicts exist states remain prone, just like armed opposition groups, to turn to children to boost the strength of their military forces. So although the number of national armies that use child soldiers may be on the

decline, when the full range of forces for which governments are responsible are factored in, the number of states that continue to use under-18s in situations of armed conflict remains alarmingly high. In a period of less than two years between January 2010 and June 2012 child soldier use is reported to have occurred in:

- The national armies of nine states: Chad, Côte d'Ivoire, the Democratic Republic of the Congo (DRC), Libya, Myanmar, Somalia, Republic of South Sudan,[6] Sudan and Yemen. In addition, several under-18s have been inadvertently deployed in the British armed forces in recent years including at least one in 2010 (see section 3.1).
- Official paramilitaries, civil defence forces, police and other branches of state security forces in nine states: Afghanistan, the DRC, Iraq, Libya, the Philippines, Myanmar, Sudan, Thailand and Yemen.
- Irregular paramilitaries, "self-defence" militias and other armed groups that are not part of official state security forces but which are supported by or otherwise allied to governments in five states: the Central African Republic (CAR), Côte d'Ivoire, Somalia, Sudan and Yemen.
- Armed opposition groups operating in other countries with the support of or as proxy forces of governments of four states: Chad (Sudan armed opposition groups), Eritrea (Somali armed opposition groups), Rwanda (DRC armed opposition groups) and Sudan (Chad armed opposition groups).
- Six states where children, while not actually recruited, were nevertheless used informally by state armed forces in situations of armed conflict, for example as guides, spies, porters or as human shields: Afghanistan, Colombia, Israel, Libya, the Philippines and Syria.

All told, there are 20 states which are known to have used children in hostilities during the period 2010–12 in one type of force or another or in one capacity or another (see table below for details of forces involved).

In most cases the use of children has occurred in the context of protracted conflicts with long-standing patterns of human rights violations. For example, in state forces or state-allied armed groups in the CAR, Chad, the DRC, Myanmar, the Philippines, Somalia, Sudan and Yemen a pattern of recruitment and use of children by state forces or allied groups has been documented over several years and in some cases decades.

However, it is both significant and disturbing that where new conflicts have emerged or old ones been reignited, the states involved (and their opponents) have quickly resorted to using child soldiers. In two recent conflicts – in Côte d'Ivoire and Libya – reports of child recruitment and use emerged within weeks of the outbreak of hostilities. There are also allegations of renewed support by Rwanda for armed opposition groups in the DRC which are reported to have child soldiers in their ranks in the context of a recent army split in eastern Congo, and of the use of children as human shields by Syrian armed forces and state-allied armed groups in fighting there.

The persistent use of child soldiers by a number of states and the recruitment and use of child soldiers in new or reignited conflicts raises serious questions about how far international commitments made, and obligations entered into by governments, have been translated into effective strategies to protect children against involvement in hostilities on the ground. It also points to the need for a critical focus on what more needs to be done to prevent the use of child soldiers by states.

The research and findings set out in this report seek to respond to the challenge of prevention by asking searching questions about whether stated commitments are being translated into real and durable protections for children in the form of legal and practical safeguards against their involvement in armed conflict in state armed forces; what responsibilities states have with regard to armed groups with which they are allied and how these responsibilities can be fulfilled; what more states can do to support other states to end child soldier use; and, finally, what further role the UN can play in prevention.

In rising to the challenge of prevention, Child Soldiers International argues that effective strategies depend on the development and application of tools to analyse the risks facing children not only in situations of ongoing armed conflict – where the use of child soldiers has become an established fact – but across the board regardless of whether that state is or is not currently experiencing armed conflict.

Notes

1 The Optional Protocol came about as a direct result of the failure to achieve a complete prohibition on military recruitment and use of children in hostilities in the Convention on the Rights of the Child, which was adopted in November 1989. An inter-sessional open-ended Working Group was established by the UN Commission on Human Rights to negotiate the Optional Protocol and met six times between 1995 and 2000 before arriving at the final text which was adopted by the UN General Assembly on 25 May 2000. It entered into force on 12 February 2012.

2 Article 3.2 of the Optional Protocol requires states to deposit a binding declaration upon ratification of or accession to the Protocol that "…sets forth the minimum age at which it will permit voluntary recruitment into its national armed forces and a description of the safeguards that it has adopted to ensure that such recruitment is not forced or coerced".

3 The African Charter on the Rights and Welfare of the Child was adopted in 1990 and entered into force in 1999.

4 See Coalition to Stop the Use of Child Soldiers, *Child Soldiers Global Report 2001*, Appendix 1, Table of Country Statistics. The figure was based on the best available information at the time. In many states information on recruitment ages was not clear or not available.

5 The 25 states were: Afghanistan, Angola, Australia, Burundi, Central African Republic, Chad, Colombia, Republic of Congo, Democratic Republic of the Congo, Côte d'Ivoire, Eritrea, Ethiopia, Guinea-Bissau, Iran, Iraq, Liberia, Myanmar, Rwanda, Sierra Leone, Somalia, Sudan, Uganda, UK, USA and Yemen. See Coalition to Stop the Use of Child Soldiers, *Child Soldiers Global Reports 2001*, *2004* and *2008*.

6 The Republic of South Sudan became an independent state in July 2011.

Table: Use of child soldiers by state armed forces and state-allied armed groups, January 2010 – June 2012

	State	National army	Other elements of state armed forces	State-allied armed groups	Use of children as porters, spies, messengers, human shields and other temporary or informal roles[1]
1	**Afghanistan**		Police: Afghan National Police (ANP) and Afghan Local Police (ALP)		ANP and Afghan National Army (ANA) (use at checkpoints including as messengers and tea boys)[2]
2	**Central African Republic**			"Self-defence" militias	
3	**Chad**	Chadian National Army (ANT)		Sudan armed opposition group: Justice and Equity Movement[3]	
4	**Colombia**				Colombian National Army (use for intelligence purposes)[4]
5	**Côte d'Ivoire**	Former Defence and Security Forces (FDS) Republican Forces of Côte d'Ivoire (FRCI)[5]		Armed militias and "self-defence" groups instituted by supporters of former President Gbagbo and President-elect Ouattara, including *Jeunes patriotes* and *Commando Invisible*	
6	**Democratic Republic of the Congo**	Armed Forces of the Democratic Republic of the Congo (FARDC)	Paramilitary force: Republican Guard[6]		
7	**Eritrea**			Somali armed opposition group: *Al-Shabaab*	
8	**Iraq**		Civil defence force/militia: Awakening Councils[7]		
9	**Israel**				Israel Defense Forces (use of Palestinian children as human shields)[8]

10	**Libya (pro-Qadhafi forces)**	Libyan Armed Forces	Paramilitary force: The Kata'eb		State armed forces (use of children as human shields)[9]
11	**Myanmar**	National armed forces: *Tatmadaw Kyi*	Paramilitary force: Border Guard Forces		
12	**Philippines**		Paramilitary force: Citizen Armed Forces Geographical Units		Armed Forces of the Philippines (use of children as informants, guides and porters)[10]
13	**Rwanda**			DRC armed opposition groups including the "M23"[11]	
14	**Somalia**	Transitional Federal Government		State-allied militias, including *Ahlu Sunna Wal Jama'a*	
15	**South Sudan (Republic of)**	Sudan People's Liberation Army (SPLA)			
16	**Sudan**	Sudan Armed Forces	Police forces: including the Central Reserve Police and Border Intelligence Forces Paramilitary force: Popular Defence Forces	Pro-government militias Chadian armed opposition groups[12]	
17	**Syrian Arab Republic**				Syrian armed forces and allied armed group, Shabbiha militia (use of children as human shields)[13]
18	**Thailand**		Civil defence force: Village Defence Volunteers *(Chor Ror Bor)*		
19	**United Kingdom**	British Army[14]			
20	**Yemen**	Armed Forces of Yemen	Paramilitary forces: Central Security Forces[15] and Republican Guard	Pro-government tribal militias	

1 This refers to children who would not be regarded as members of state armed forces or allied groups (i.e. enlisted, conscripted or forcibly recruited) but who are nevertheless used by them in a temporary capacity. It does not include under-18s who are detained because they belong or are suspected of belonging to armed opposition groups and are interrogated for intelligence purposes.

2 See Children and armed conflict, Report of the Secretary-General, UN Doc. A/66/782-S/2012/261, 26 April 2012, paragraph 8.

3 The governments of Chad and Sudan signed a peace agreement in May 2009 and in January 2010 an agreement to normalise bilateral relations. Exchange visits in February and July 2010 led to further improvement in relations and reduced support for armed opposition groups operating on one another's territory.

4 See Children and armed conflict, Report of the Secretary-General, UN Doc. A/65/820-S/2011/250, 23 April 2011, paragraph 156 and Children and armed conflict, Report of the Secretary-General, UN Doc. A/66/782-S/2012/261, 26 April 2012, paragraph 130.

5 The Republican Forces (*Forces républicaines de Côte d'Ivoire,* FRCI) were established by presidential decree on 17 March 2011. They replaced the Defence and Security Forces (*Forces de défense et de sécurité,* FDS) which were under the command of former President Gbagbo.

6 The Republican Guard is under the direct command of the president of the DRC. Although officially its role is to protect the president and presidential installations, it does take part in combat operations. There are ongoing concerns about children in its ranks, although reports of actual child soldier use are difficult to verify.

7 Originally supported by the US-led Multi-National Force-Iraq, by 2009 the responsibility for the Awakening Councils had been transferred to Iraq's Ministry of Defence.

8 In 2011, the UN reported that Palestinian children had been used as human shields by the Israeli security forces for the third consecutive year, with three new cases documented in three separate incidents in the West Bank during 2010. See Children and armed conflict, Report of the Secretary-General, UN Doc. A/65/820-S/2011/250, 23 April 2011, paragraph 122.

9 See Physicians for Human Rights, *Witness to War Crimes, Evidence from Misrata, Libya*, August 2011, http://physiciansforhumanrights.org.

10 According to the UN, counter-insurgency strategies in the Philippines permit and encourage soldiers to engage with civilians, including children, for military purposes, using them as informants, guides and porters. See Children and armed conflict, Report of the Secretary-General, UN Doc. A/65/820-S/2011/250, 23 April 2011, paragraph 175.

11 There are credible reports of Rwandan support for armed opposition groups, including the "M23" led by defectors from FARDC. Rwanda has denied these allegations.

12 The governments of Chad and Sudan signed a peace agreement in May 2009 and in January 2010 an agreement to normalise bilateral relations. Exchange visits in February and July 2010 led to further improvement in relations and reduced support for armed opposition groups operating on one another's territory. The Chad opposition groups supported by Sudan no longer exist and were subsequently "de-listed" from the 2012 annual report on children and armed conflict of the UN Secretary-General.

13 See Children and armed conflict, Report of the Secretary-General, UN Doc. A/66/782-S/2012/261, 26 April 2012, paragraph 122.

14 Five 17-year-old soldiers were deployed to Afghanistan and Iraq between 2007 and 2010. One under-18 participated in combat in Afghanistan in 2010 (see section 3.1).

15 Anecdotal evidence only.

Part II

The responsibility of states to end child recruitment and use by armed forces

2. Where children are at risk of use by state armed forces

Children become involved in armed conflict on the side of states first and foremost because they are members of national armies or other elements of a state's security forces. The process by which children become a part of the armed forces may be via official recruitment channels, but can also result from more informal practices which see them absorbed into the armed forces and carrying out military or related functions without ever having been formally enlisted or conscripted.

While the recruitment of children into state armed forces may be lawful under the Optional Protocol (i.e. the voluntary recruitment of children between 16 and 18), practices often violate this standard, with the voluntary recruitment of under 16 year olds, the conscription (that is, compulsory recruitment) of those under 18, or the forcible recruitment of children through abduction or other forms of duress.

No matter how they come to be there, the presence of children in a state's armed forces places them at risk of the many dangers associated with armed conflict. The dangers are most pronounced when the individual's participation in hostilities is direct – such as through his or her deployment as a fighter or in other frontline roles. But even if their role does not involve frontline duties, indirect participation in hostilities can also pose significant dangers. Moreover, children serving in a state's armed forces are legitimate targets of attack during armed conflict since, under international humanitarian law, they are regarded as combatants irrespective of their age or role.[1]

For the purposes of prevention, it is vital to look at factors that put children at risk of being used in conflicts. When looked at through the prism of risk, the child soldier problem is not simply confined to situations of armed conflict, but emerges clearly as an issue in many other contexts where, in the event that conflict did break out, weaknesses in protection make it possible that children could become involved. For this reason, in addressing state practice, this chapter looks at both situations of current armed conflict and situations where there is no armed conflict.

2.1 Children in national armies

High risk for children in situations of armed conflict

Without effective safeguards in situations of armed conflict, the risk of children being used by fighting forces is always present. The risk is at its greatest where

the state is wilfully blind to the fact that the recruit is a child and therefore fails to protect them against use in hostilities. In the **DRC**, **Myanmar**, **Sudan** and **Yemen**, for example, despite 18 having been established in national law as the minimum age for recruitment, in practice the issue of age is systematically ignored. Indeed children in these countries are frequently targeted by military recruiters and in some cases coerced into joining. Because the presence of children in military ranks is generally not officially acknowledged – in fact is often denied – no measures are taken to prevent their deployment. As a result, children are used extensively in hostilities both in combat and non-combat roles by national armies in such states.

"Age blindness" can also be the product of not knowing. The Committee on the Rights of the Child has noted in relation to **Uganda**, for example, that low rates of birth registration result in the likelihood that children are present among voluntary recruits.[2] Similar concerns about the ability to determine the age of new recruits were raised in the **Philippines** where low birth registration rates – particularly in more remote areas and among certain minority groups, including indigenous groups – increase the possibility of underage recruitment.[3] The Armed Forces of the Philippines are currently engaged in internal armed conflict and the Ugandan army is deployed in operations in neighbouring states against the Lord's Resistance Army, raising concerns in both states about the possible participation of underage recruits in hostilities (for further discussion of age determination and age verification see section 3.3).

But risk to children of their involvement in hostilities does not only arise from unlawful recruitment, inadvertent or otherwise. It also exists where the presence of under-18s is regarded under the Optional Protocol as lawful (16 years and above). Among the declining number of states which place children at risk in this way, there are some in which the use of children in hostilities is not explicitly prohibited in national law and others where safeguards to prevent deployment of under-18s have not been established (see section 3.1). But even in those states where procedures aimed at guarding against the deployment of under-18s exist, the possibility of use remains, simply because under-18s are present in the forces.

The **United Kingdom** and **USA**, for example, permit voluntary recruitment at the age of 16 and 17 respectively. Both have policies which limit, while not absolutely prohibiting, the use of children in hostilities. Both have also introduced systems to track ages and locations of individual soldiers, with the aim of preventing under-18s from being deployed into hostilities. There nevertheless continue to be incidents where these systems fail and children are inadvertently sent to areas of armed conflict (see section 3.1).

Finally, the risk that children will become involved in armed conflict may arise because they have received military training as pupils in military schools, as part of the general school curriculum or through participation in cadet or other youth forces. Generally it is assumed that states do not intend to use such children in hostilities but the risk of possible use may nevertheless exist and there are examples to show that, where children are receiving military training, states have been unable to resist the temptation to use them when faced with an emergency.

In the case of **Mexico**, for example, military school students have been drawn into military operations against organised crime and drug cartels. According to a report by Mexico's Secretariat for National Defence, 5,609 cadets and military school students participated in the destruction of drug crops in 2009.[4] The Mexican government has since denied the involvement of under-18s in such activities and maintains that the "war on drugs" is not an armed conflict (an issue which is the subject of considerable debate domestically). Nevertheless, the Committee on the Rights of the Child expressed its concern that students in military schools have taken part in the fight against drug trafficking, which it considered could seriously jeopardise the rights and lives of children.[5]

Risks for children continue after armed conflict ends

The risk to children of recruitment and use in armed conflict, while often only apparent once a conflict is in full swing, can continue after the end of hostilities unless practical measures are taken to address the legal and institutional shortcomings which allowed children to be recruited by the armed forces in the first instance.

In the last decade a number of armed conflicts in which children are known to have been used by state armed forces have drawn to a close. As hostilities have ceased, large numbers of children have been released from fighting forces in the context of broader disarmament, demobilisation and reintegration (DDR) initiatives. However, unless addressed, the problems which facilitated underage recruitment and use during the conflict will remain, making the future re-emergence of the practice possible.

In **Chad**, for example, where child soldiers were extensively used by parties to armed conflict including the Chadian National Army (*Armée nationale tchadienne*, ANT), there was a marked decrease in incidents of underage recruitment after 2009. While encouraging, the trend is attributable in large part to improvements in the security situation and normalisation of relations between Chad and Sudan.[6] In the meantime, factors which contributed to unlawful child recruitment and hence use – namely a residual legal ambiguity in relation to the minimum age of recruitment; informal and often corrupt recruitment practices; absence of both the means to determine and processes to verify the age of new recruits; and lack of oversight and accountability – remain in place.

Improved security in Chad provides the most promising opportunity in years to address the question of how it is that children come to be associated with the ANT and to begin to close the routes through which this can happen. Preventing future underage recruitment is, however, dependent on military and associated reform. This is to some extent reflected in the "Action Plan" for the cessation of child soldier recruitment and use by the ANT and associated forces agreed by the government of Chad and the UN in June 2011. In addition to commitments to release and reintegrate any children in ANT ranks, the plan includes agreement to put in place effective age verification mechanisms and, in support of this, to strengthen the national birth registration system. It also addresses the need for accountability through commitments to criminalise recruitment and use of children

in national law and to promptly investigate and prosecute individuals for non-compliance.[7]

Achieving this and other elements of the plan, though, is dependent on political will and the commitment of resources by the government, which is not a given. It will also require international engagement including support for security sector reform for a period extending to several years at least. It is not clear, however, that this support will be forthcoming. Within months of the action plan being agreed other priorities had taken over and it was apparent that the UN Country Team did not have sufficient financial or logistical capacity to support its full implementation or to reliably assess whether the proposed measures had been successful in bringing about the release of all children in ANT ranks and in ending further recruitment. In the meantime, the limited program of military reform currently under way in Chad does not address the prevention of recruitment and use of child soldiers (see section 5.3).[8] In this context, Child Soldiers International was concerned, but not surprised, to learn that new cases of unlawful recruitment of children occurred in 2012.[9]

The case of **Côte d'Ivoire** demonstrates the dangers of ignoring the importance of longer-term support for structural reform. Here child recruitment and use was pervasive during the 2002–3 armed conflict and in the political unrest that followed. Many hundreds of children were released from fighting forces following the end of active hostilities. However, little progress was made in addressing factors which had previously facilitated child soldier recruitment and use, with the result that children became involved in renewed hostilities when political violence broke out in 2010.

Although child recruitment and use by Côte d'Ivoire's armed forces was assessed by the UN to have ended by 2006, and by armed groups affiliated to the government by 2007,[10] there were indications that the government was not fully committed to following through with measures that were needed to protect children from future recruitment or use. Among these was the government's failure to act on a commitment made in 2006 to the UN Security Council Working Group on Children and Armed Conflict (SCWG) to ratify the Optional Protocol "as soon as possible".[11] The government also ignored recommendations of the UN Secretary-General and the SCWG to initiate rigorous and timely investigations and prosecutions of perpetrators of crimes against children.[12] Finally, and perhaps most significantly, the network of pro-government youth militias which proliferated following the 2002 crisis and which were reported to have child soldiers in their ranks were never dismantled (see Chapter 4).[13]

When political violence broke out following the refusal of the incumbent president, Laurent Gbagbo, to concede defeat following an election run-off in November 2010, children were once again mobilised by forces on both sides.[14] These included the state armed forces and armed groups that remained loyal to former President Gbagbo, and forces loyal to the president-elect, Alassane Ouattara.

The end of hostilities and return to relative normalcy, if not full security, in Côte d'Ivoire provide another chance to tackle underlying problems which made likely,

if not inevitable, children's participation in the latest armed conflict. The country's accession to the Optional Protocol in March 2012 is a promising sign, as is the reported release of children associated with fighting forces.[15] However, to minimise the possibility of children once again becoming involved in any future hostilities, international engagement and support should continue until all provisions of the Optional Protocol are fully implemented. As is the case with Chad, this is necessarily a long-term exercise involving profound reform of the military as well as efforts towards strengthening broader legal and institutional protections for children against future recruitment and use as soldiers.

Risks for children present even in the absence of armed conflict

Just as the risk to children does not automatically end when armed conflicts draw to a close, the risk of use is not absent where there is no recent record of conflict. In situations where there are no current hostilities, if legal and practical safeguards are lacking, children are at risk of use in the event that hostilities were to break out.

The example of **Libya** demonstrates how existing weaknesses in legal and practical protections made children's use in armed conflict likely when it did break out. Although relatively little was known about the recruitment practices of the state armed forces in Libya prior to the 2011 conflict, there was already some cause for concern, not least because of the high degree of militarisation of children and adolescents and discrepancies in laws intended to protect children from military recruitment and deployment.

According to Libya's binding declaration to the Optional Protocol, 18 is the minimum voluntary recruitment age.[16] But under a law on mobilisation dating from 1991, 17 year olds could be deployed as combatants in the event of armed conflict. A Bill to amend this law by raising the age from 17 to 18 years is reported to have been drafted although it is not known if this was adopted prior to hostilities breaking out in 2011.[17]

Regardless of the legal age of army recruitment, children in Colonel Qadhafi's Libya participated in various military-related activities. Weapons training – including in the use of light arms and machine guns – is reported to have been a mandatory part of the school curriculum above elementary level.[18] Schoolchildren were also required to attend camps run by Revolutionary Committees, an armed force tasked with internal security functions and which subsequently formed an integral part of former President Qadhafi's support against opposition protestors.[19]

When conflict broke out in late February 2011 between pro-and anti-Qadhafi forces, children represented a pool of trained or partially-trained recruits for both sides and within weeks the involvement of children in both government and opposition forces began to be reported by UN and media sources.[20] On the side of the former government, children were deployed, including in frontline combat roles in various forces, including in the ranks of *Khamis Katiba* (also known as the 32nd Reinforced Brigade of the Armed People), a Tripoli-based paramilitary group headed by Colonel Qadhafi's son Khamis and one of the last to continue fighting.[21] There were allegations of forcible recruitment of under-18s and of

underage volunteers who joined pro-Qadhafi forces in response to enticements and appeals.[22] Media reports also indicated that some children who had attended military schools prior to the conflict were mobilised to fight in the forces of the former government.[23]

Post conflict, as Libya's transitional government embarks on the process of integrating and unifying "revolutionary fighters" into coherent national security institutions, special care is needed to ensure that children do not form part of those institutions. In this regard, the UN Support Mission in Libya (UNSMIL) has encouraged the authorities to prioritise the demobilisation of any children remaining within revolutionary brigades.[24] Beyond this, however, laws, policies and procedures must be reviewed and processes established to prevent the possibility of children being recruited and used in Libyan armed forces in the future.

The factors that put children at risk in Libya, and eventually led to their involvement in the 2011 war, are not unique. In many other countries children are exposed to the risk of use in state armed forces because of recruitment policies and practices that fail to provide proper safeguards as well as broader policies of militarisation of the population which include children and adolescents.

Eritrea represents the extreme end of the risk spectrum with unlawful conscription of children reported in the context of lifelong national service. Compulsory national service for all Eritrean citizens begins from the age of 18. In practice, a policy introduced in 2003 under which final year secondary school students are required to complete their education at a military camp in western Eritrea (Sawa military training centre), and regular conscription "round-ups", have resulted in credible allegations of unlawful recruitment of children, some as young as 15 years old (see Case Study at the end of this chapter). In view of the volatile security situation between Eritrea and Ethiopia and in the region more generally, the potential risk of child soldier use in any future armed conflict by Eritrea must be considered high.

But while Eritrea represents an extreme example there are many other situations in which children could be at risk of use by state forces in future conflicts. Illustrative examples are explored in Chapter 3, but detailed assessments of law, policies and practices relating to recruitment by national armies in other states are likely to reveal other situations where such risks are present.

2.2 Child soldier use by other elements of state security forces

A state's armed forces often include a range of forces beyond national armies which are established by law or otherwise officially recognised and empowered to exercise elements of the state's authority to use force. Among these are legally established paramilitary forces (for example national guards, border guards) and armed law enforcement forces (for example police, gendarmerie and intelligence services). They can also include civil defence forces, which in some states are established by law and trained and equipped by military or other state officials.

Although these forces are not always under the direct command of the military/ ministry of defence, they nevertheless form part of a state's official security apparatus and therefore, under the Optional Protocol and other international law, the state is considered to have direct responsibility for their acts.[25]

Any or all of these forces may and often do conduct military-type operations or otherwise take active part in armed conflicts. In many states these forces actively recruit and use children in their operations.

Unlawful recruitment and/or use of children by official state forces other than national armies has been documented by the UN or NGOs in at least 13 countries during the last decade. These include: **Afghanistan** (Afghan National Police, ANP and Afghan Local Police, ALP); **Algeria** (Legitimate Defence Force or *Groupes de légitime défense*, GLD); **Chad** (the Principle Security Service for State Institutions, *Direction Générale de Sécurisation des Services et Institutions de l'Etat*, DGSSIE); the **DRC** (Republican Guard); **India** (Special Police Officers, SPOs); **Iraq** (Awakening Councils); **Libya** (Revolutionary Guards and Revolutionary Committees and paramilitary force the *Kata'eb*); **Myanmar** (Border Guard Forces, BGF); **Peru** (Self-defence Committees or *Comités de Autodefensa*, CAD); **Philippines** (Citizen Armed Force Geographical Units, CAFGU and Civilian Volunteer Organizations, CVO); **Sudan** (Popular Defence Force; Police Forces including Central Reserve Police, Border Intelligence Forces and Camel Police); **Thailand** (Village Defence Volunteers, *Chor Ror Bor*); and **Yemen** (Central Security Forces and Republican Guard).

There is evidence of children's presence in the ranks of such forces today in Afghanistan, Iraq, Myanmar, Philippines, Sudan and Yemen. There are also unverified reports of child soldiers in the DRC's Republican Guard. However, lack of systematic monitoring means that it is not possible to establish whether the problem has been resolved elsewhere or indeed whether it may exist in other places.

Patterns of child soldier use by other elements of state security forces

Where unlawful child soldier recruitment and use is practised by national armies, it is not uncommon to find child soldiers in other branches of the state armed forces. In **Sudan**, for example, there is a long-established pattern of child recruitment and use by the Sudan Armed Forces but a range of other forces which are part of Sudan's official security forces also have long records of recruiting and using children.

Among them are the Popular Defence Forces (PDF), a paramilitary force under the command of the armed forces which is mandated "to assist the Sudan Armed Forces and other regular forces upon request".[26] The PDF is operational in areas of active conflict including Darfur, and in Southern Kordofan, where it has fought alongside regular government forces and has played a major role in the distribution of weapons and military training to tribal militias.[27] The minimum age for PDF membership was officially raised from 16 to 18 years in 2005 but there appears to have been little effort on the part of the Sudanese state to implement this age limit.[28]

Child recruitment is believed to result in part from recruitment practices amongst the tribal communities from which PDF members in Darfur are largely drawn. This is done through tribal and other local leaders, with no meaningful oversight or accountability over the process. According to UN experts children may also have been absorbed into the PDF and other Sudanese paramilitary forces, notably the Central Reserve Police and the Border Intelligence Forces, during a process aimed at integrating unofficial militias (*Janjaweed*) into government forces, but the lack of transparency of disarmament processes has made it impossible to confirm this either way.[29]

In the **Philippines**, despite the existence of numerous laws which regulate the age of recruitment and use of children in conflict, the Armed Forces of the Philippines (AFP) are reported both to have employed children themselves in counter-insurgency operations and to be complicit in child recruitment by paramilitary forces known as Citizen Armed Force Geographical Units (CAFGU).[30] There are also reports of child soldier recruitment and use by Civilian Volunteer Organizations (CVOs) which are formally a police auxiliary unit but which act both as anti-insurgent "vigilante groups" and as private armies and security guards for local politicians, wealthy landowners, private business and clans. As is the case with CAFGUs, 18 is the official minimum age for recruitment of CVOs but it is unclear what, if any, procedures exist in the municipalities from which members are drawn to prevent underage recruitment.[31]

There are also examples of states where there is no record of child soldier recruitment or use by the national army but where children are nevertheless present in the ranks of police, paramilitary or civil defence forces. In **Thailand**, for example, 18 is established in law and enforced in practice as the minimum age at which a person can voluntarily join the national army. However, in addition to the national army there exist various paramilitary and civil defence forces which, in southern Thailand, form a key element of military strategies against armed separatist groups operating in the region.

Among them are the Village Defence Volunteers (*Chor Ror Bor*) which have units present in most if not all of the approximately 1,500 villages of the three southernmost provinces in which the insurgency is concentrated. Under the control of the Ministry of the Interior, but trained by the military, *Chor Ror Bor* carry out a range of duties from village patrols and other local guard duties to participation in military operations. In 2010 Child Soldiers International found that children were present in *Chor Ror Bor* units.[32] In some cases they had been formally recruited and trained. In others the children were not officially members but nevertheless performed military-style duties or ran errands for adult recruits.

Recruitment of children was not found to be a deliberate policy. On the contrary several directives were issued by the authorities to the effect that under-18s should not be trained or admitted as members of *Chor Ror Bor*.[33] Rather it resulted from the highly localised and often informal nature of recruitment where practical responsibility for identifying recruits and the daily running of the unit rested with village headmen, few of whom had any knowledge of age criteria for membership. This, combined with the fact that a minimum age was not included in

regulations governing the establishment of *Chor Ror Bor*; a lack of oversight of how recruitment was taking place at a village level; and a highly militarised environment in which children lived in close proximity to *Chor Ror Bor* units, created an environment in which under-18s were highly vulnerable to recruitment and use.

Additional measures have since been taken by the Thai government including the introduction in April 2011 of an amendment to an existing regulation on village defence forces which, for the first time, establishes in law 18 as a minimum age at which a person can be trained and therefore officially become a member of *Chor Ror Bor*.[34] Further, in response to concerns about informal association raised *inter alia* by the Committee on the Rights of the Child,[35] the government instructed local authorities to prohibit and prevent under-18s from being involved in or being in the proximity of *Chor Ror Bor* units.[36] However, independent monitoring of association of children with *Chor Ror Bor* units and with other armed actors in southern Thailand is still lacking.

In **Afghanistan** there is also a distinction between the more centralised recruitment processes of the army and that of other elements of the state security apparatus – in this case national and local police forces. Although there are reports of informal child soldier use by Afghan National Army (ANA) units as messengers and tea boys, and despite the difficulties of accurately determining age in a situation where birth registration rates are low and other proof of age documentation unreliable, no cases of actual recruitment of under-18s by the ANA have been reported by the UN Monitoring and Reporting Mechanism in Afghanistan since it was established in 2008.[37]

In contrast, the UN has verified cases of child recruitment and use by the ANP. Unlike military recruitment, police recruitment in Afghanistan takes place at district level where there is less control and oversight and formal processes are not necessarily adhered to. The risk of underage recruitment by the ANP, created by difficulties in determining the true age of new recruits and lax recruitment practices, is exacerbated by broader institutional weaknesses, including lack of training and corruption, and pressure to sign up large numbers of recruits.[38] In this context ANP recruitment campaigns are reported to have taken place in school compounds even though school-age children are not eligible to enlist.[39]

With these factors in mind, reports of child recruitment by the even more localised and even less professional ALP cannot be considered surprising. A community-based self-defence initiative established by Presidential Decree in August 2010, the ALP was rapidly set up across the country under the control of the Ministry of the Interior with funding and military support from the USA. Its role is to protect rural communities against insurgent attacks in areas where there is limited national army and police presence.

The ALP, which was initially projected to be 10,000 strong, has an official minimum recruitment age of 18.[40] However, conditions in Afghanistan make age verification extremely difficult. In the case of the ALP there are particular challenges involved in adhering to minimum ages because of the localised nature of recruitment and weak vetting procedures.[41] This, combined with the pressure of rapid recruitment, has resulted in reports of child recruitment by the ALP including through intimidation.[42]

In the context of Afghanistan, any child present in either ALP or ANP ranks, both of which form part of counter-insurgency forces, is at significant risk of use in hostilities or attack by armed opposition forces.

A similar situation is reported in **Iraq** where armed groups known as Awakening Councils (also known as "Sons of Iraq") were set up in 2005 with the support of the Multi-National Force-Iraq (MNF-I) as a key element in combating insurgency. According to a report by the UN in 2011, their numbers reached over 100,000, primarily in Baghdad, although they remained present in most of Iraq, with the exception of the Kurdistan region. By 2009 responsibility for the Awakening Councils had been transferred to Iraq's Ministry of Defence and a process of integrating their members into the state security forces or other government agencies begun. The presence of hundreds of children in the Awakening Councils has been reported by the UN.[43]

In **Yemen**, the absence of safeguards to prevent underage recruitment has likewise resulted in the use of children in paramilitary forces. These include the Central Security Forces, a paramilitary force officially under the Ministry of the Interior. According to legislation which governs recruitment by the Central Security Forces, the minimum age for recruits is 18. However, there is anecdotal evidence to suggest that children are present in its ranks and that they were deployed against anti-government protestors in 2011.[44] Children are also reported to be in the ranks of Yemen's elite Republican Guard.[45] The use of children by these forces as well as the national army is facilitated by military recruitment practices in Yemen, where patronage, corruption and tribal loyalties subvert official processes and where birth registration rates are low (see Case Study at the end of Chapter 4).

Situations of potential risk

In other situations Child Soldiers International is concerned that children may be at risk of use by paramilitary or other official elements of a state's security apparatus, but there is insufficient information to confirm the current recruitment and use of children.

In **India**, for example, reports of the recruitment and use of young girls and boys by police auxiliary units known as Special Police Officers (SPOs) in the conflict-affected state of Chhattisgarh were first documented in 2006.[46] Following a Supreme Court order in 2011 that the state government should cease to use SPOs in counter-insurgency operations against Naxalite armed opposition groups, they are reported to have been demobilised and a replacement force created.[47] According to unverified reports efforts were made to identify and release under-18s during this process, but it is not known how successful this exercise was.[48]

Prior to the Supreme Court order, SPOs in Chhattisgarh had been engaged in counter-insurgency activities from direct combat roles to acting as spotters, guides and translators. Recruited from among the tribal groups living in the conflict-affected areas, casualty rates among SPOs have been high, leading the Supreme Court of India to declare that "…the young tribals have literally become cannon fodder in the killing fields of Dantewada and other districts of Chhattisgarh".[49]

In response to earlier concerns about unlawful recruitment and use of children by SPOs raised by national and international NGOs, assurances had been made in the past by the Chhattisgarh government that under-18s had been removed from SPO ranks. This turned out to be incorrect. In 2008 Human Rights Watch found that there was no procedure or scheme for systematically identifying, demobilising, and reintegrating underage SPOs.[50] Two years later India's National Commission for the Protection of Child Rights found that although children were no longer recruited, some who joined in previous years had not been demobilised and may still face dangers from insurgent groups.[51]

Available information on recruitment practices by some paramilitary and civilian defence forces in **Pakistan** also gives rise to concern that children may not be fully protected from recruitment by them. Given the frontline role that these forces play in counter-insurgency operations in Northwest Pakistan, any child in their ranks would be at risk of use or attack.

Recruitment by *Khassadars*, a local tribal police force located mainly in the Federally-Administered Tribal Areas (FATA), for example, is highly localised and the responsibility of tribes from which the members are drawn. FATA tribal decisions are not subject to national legislation and the distinctions between children and adults is not, according to tribal custom, based on chronological age, making it possible that under-18s could serve in *Khassadars* if nominated by the tribal authorities to do so.[52] Likewise informed observers have suggested that an individual's skills, connections and status may be a more important criterion for eligibility than age for government-backed village militias, known as tribal *lashkars*, which operate in Kyber Pakhunkhwa province and the FATA. In practice this may result in older candidates being favoured but does not preclude the possibility that under-18s could be recruited.[53]

In other situations, even if not currently affected by armed conflict, children's membership of paramilitary or civil defence forces, including through membership of youth wings, has the potential to place them at risk of use in the event of future hostilities. Likewise, where societies are highly militarised but where safeguards to ensure that children are protected from recruitment are absent, the risk of future use may be present.

In **Iran**, for example, the possibility that the many thousands of children who are members of the *Basij-e Mostaz'afin* (*Basij*) paramilitary organisation might be mobilised in the event of any armed conflict is potentially high. Incorporated into and under the command of the Islamic Revolution Guards Corps (IRGC), the *Basij's* mission is to "create the necessary capabilities in all individuals believing in the Constitution and the goals of the Islamic Republic to defend the country, the regime of the Islamic Republic, and aid people in cases of disasters and unexpected events".[54] In practice, the *Basij* is involved in a wide range of activities from internal security and law enforcement to moral policing and religious and social services.

Children are encouraged to join from a very young age: seven year olds can be registered as "Hopes of Basij"; 11 year olds as regular members (unpaid volunteers); and 15 year olds as active members (paid members who undergo

extensive ideological and political indoctrination).[55] According to a senior IRGC official some 4.6 million schoolchildren are members of the Students Basij.[56] Like all schoolchildren in Iran, young *Basij* members are militarily trained, receiving both theoretical and practical military training as part of their general education. Moreover, the possibility of participation in armed conflict by very young *Basij* members is explicit since, according to the organisation's statute, regular members can be mobilised in war.[57]

This possibility is not so remote. There is a history of child soldier use by the *Basij* including during the 1980–88 war with Iraq when poorly trained *Basij* were deployed alongside the regular Iranian military which was criticised for mobilising child soldiers for the war effort and using children for "martyrdom" operations.[58] More recently, the *Basij* were employed to suppress anti-government protests after the disputed presidential election in June 2009. High school branches were reported to be among those mobilised and high school students were reported to have "deserted" after commanders tried to use them to intimidate, harass or beat up fellow students taking part in demonstrations disputing the election results.[59]

Youth wings of paramilitary forces also exist elsewhere in the world and, although not comparable in size or role to the *Basij*, nevertheless result in paramilitary membership and military training of under-18s. In **Estonia** and **Lithuania**, for example, the National Defence League (*Kaitseliit*) and the Riflemen's Union, respectively, have youth wings which provide military and other training for children and adolescents.

Estonia's Young Eagles (for boys) and Home Daughters (for girls) are open to 8 to 18 year olds. The Young Eagles is said to have 3,000 members and according to its advertising offers them training in parachuting, flying gliders, orienteering and shooting weapons.[60] There are contradictory accounts of the content of training of under-18s in Lithuania's Riflemen's Union. The Committee on the Rights of the Child has previously expressed concern that children between the ages of 12 and 18 can receive military training in it,[61] but according to the Lithuanian Ministry of Defence, young riflemen cannot carry or use a weapon, be part of combat units, or be trained for combat action.[62] Other sources suggest, however, that training with firearms does feature in their activities.[63]

These youth wings are formally part of paramilitary forces which, in both Estonia and Lithuania, have statutory roles in national defence in the event of emergency. In neither case does it appear that members of the youth branches are required to participate in armed conflict but it is equally unclear what barriers exist to prevent the use of under-18s who have, or may have, been militarily trained in any future hostilities.

In **Norway**, where 16 year olds can join the Home Guard Youth, these barriers do exist, yet even so the Committee on the Rights of the Child has questioned the membership of children. The Home Guard is a formal component of the Norwegian armed forces described as "…an arena for outdoor recreation and other physical and sporting activities with a military element". However youth members are not members of the armed forces, are not given practical training, do not participate

in combat-related activities, and are exempt from service in the event of hostilities. Even with these safeguards in place the Committee has recommended that the age of recruitment is raised from 16 to 18 years to fully respect the spirit of the Optional Protocol and to provide full protection for children in all circumstances.[64]

Beyond situations where children are members of paramilitary forces and receive military-style training in them, there are other contexts in which risks to children may arise from broader militarisation of societies. For example, **Georgia** doubled its defence spending in the lead-up to 2008 and following the conflict with Russia in August that year reviewed its defence policies. Although the age for conscription or enlistment into the state armed forces remained unaltered at 18 years, various military training programs for youth have been created including the introduction of compulsory military training in schools and the establishment of a Cadets' Military Lyceum which admits 100 boys under 17 years old each year with the objective, among other things, of developing their basic military skills and abilities.[65] There were no reports of under-18s being used by Georgian forces in the 2008 conflict. However, in the context of rhetoric on the need for citizens to be ready to defend the nation and the introduction of programs to prepare youth for such a role, there may now be an increased risk of under-18s being used in any future hostilities.[66]

Similar concerns exist in **Venezuela** where the mobilisation of a large part of the civilian population in support of state security objectives presents a potential risk of military use of children. The expansion of civil defence forces, the National Bolivarian Militia (*Milicia Nacional Bolivariana*, MNB), officially the fifth component of the armed forces with a mission to organise and prepare its members to contribute to "the internal order, security, defence and the integrated development of the nation," has resulted in the enlistment of thousands of individuals in recent years.[67] Under the direct control of the president and the Commander in Chief of the National Bolivarian Armed Forces, it is projected that the MNB will grow in strength to several million members. There have been reports that in some cases recruits have been coerced into joining, but little is known about what safeguards exist to protect against underage recruitment.[68]

A more thorough analysis of the recruitment practices, the training and roles performed by any child members of these forces would be necessary to establish to what extent they might be at risk of use in armed conflict. However, as is the case with national armies, there is no cause for complacency: if involvement of children in future armed conflicts is to be prevented, it is far better that the opportunity is taken now to assess and address risks before the possibility of use arises.

Notes

1 The distinction between direct and indirect participation is an essential concept of international humanitarian law, whereby civilians (including civilian children) cannot be legitimately targeted for attack unless they are taking a direct part in hostilities.

2 Committee on the Rights of the Child, Consideration of report submitted by Uganda, Concluding observations, UN Doc. CRC/C/OPAC/UGA/CO/1, 17 October 2008.

3 Committee on the Rights of the Child, Consideration of report submitted by the Philippines, Concluding observations, UN Doc. CRC/C/OPAC/PHL/CO/1, 15 July 2008.

4 In addition, more than 300 conscripts in the Mexican armed forces undertaking national service early (prior to age 18) were offered the chance to complete their military service in three months (instead of one year) if they trained to destroy marijuana and poppy crops. A total of 3,862 under-18s undertook military service between 2007 and 2009 – it is not known if any took up the government's offer. The government has since stated that those under the age of 18 doing their military service early are under no circumstances involved in the fight against organised crime and the drug cartels. See Written replies by the government of Mexico with consideration to its initial report under the Optional Protocol, UN Doc. CRC/C/OPAC/MEX/Q/1/Add.1, 17 December 2010. The Secretariat for National Defence report is not available online, but was quoted in the report of the Child Rights Network in Mexico (Red por los Derechos de la Infancia de México, REDIM), *Children and Armed Conflict in Mexico: alternative report on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict*, January 2011.

5 Committee on the Rights of the Child, Consideration of report submitted by Mexico, Concluding observations, UN Doc. CRC/C/OPAC/MEX/CO/1, 7 April 2011.

6 See Children and armed conflict, Report of the Secretary-General, UN Doc. A/65/820-S/2011/250, 23 April 2011, paragraph 72.

7 Action Plan on children associated with armed forces and groups in Chad between the Government of Chad and the UN Monitoring and Reporting Mechanism Task Force on Grave Violations against Children during Armed Conflict, 14 June 2011.

8 See Child Soldiers International, *Better than Cure: Preventing the recruitment and use of children in the Chadian national army*, April 2012.

9 In June 2012, 24 recently recruited children were identified and released from the ANT in the military training centre of Mongo. Communication with UNICEF representatives in Chad, June 2012.

10 Children and armed conflict, Reports of the Secretary-General 2006 and 2007, UN Docs. A/61/529-S/2006/826, 26 October 2006, paragraph 23 and A/62/609-S/2007/757, 21 December 2007, paragraph 36.

11 Security Council Working Group on Children and Armed Conflict, Conclusions on Côte d'Ivoire, UN Doc. S/2007/93, 15 February 2007.

12 See Reports of the Secretary-General on children and armed conflict in Côte d'Ivoire, UN Docs. S/2006/835, 25 October 2006 and S/2007/515, 30 August 2007 and Security Council Working Group on Children and Armed Conflict, Conclusions on Côte d'Ivoire, UN Docs. S/AC.51/2008/5, 1 February 2008 and S/2007/93, 15 February 2007.

13 Coalition to Stop the Use of Child Soldiers, *Child Soldiers Global Report 2008*.

14 See Report of the Independent, International Commission of Inquiry on Côte d'Ivoire, UN Doc. A/HRC/17/48, 14 June 2011, paragraphs 93 and 102, http://www2.ohchr.org.

15 See Children and armed conflict, Report of the Secretary-General, UN Doc. A/66/782-S/2012/261, 26 April 2012, paragraph 29.

16 Declaration by the Libyan Arab Jamahiriya on accession to the Optional Protocol, 29 Oct 2004, http://www2.ohchr.org.

17 Labour Relations Act No. 12 of 2010 and Mobilization Act No. 21 of 1991. See third and fourth periodic reports of Libyan Arab Jamahiriya to the Committee on the Rights of the Child on implementation of the Convention on the Rights of the Child, UN Doc. CRC/C/LBY/3–4, 2 June 2010.

18 "My military training was limited to school where, like every Libyan schoolchild, I did military studies, including learning to use machine guns". See Saif al-Islam al-Qadhafi testimony to London High Court, in Mansour O. El-Kikhia: Saif Al-Islam Al-Gaddafi And The Telegraph, 21 August 2002, http://www.libya-watanona.com.

19 See Report of the International Commission of Inquiry on Libya, UN Doc. A/HRC/19/68, 2 March 2012.

20 See for example Statement by Special Representative for Children and Armed Conflict on the protection of children in Libya, 9 March 2011 and Statement by Special Representative for Children and Armed Conflict on the Situation of Children in Misrata, Libya, 19 April 2011, http://www.un.org; "Child soldiers sent by Gaddafi to fight Libyan rebels", Channel 4 News, 23 April 201, http://www.channel4.com/news; "The Teenagers and Women Keeping Libya's Rebels from Taking Tripoli", *Time Magazine*, 8 July 2011, http://www.time.com.

21 Report of the International Commission of Inquiry to investigate all alleged violations of international human rights law in the Libyan Arab Jamahiriya, UN Doc. A/HRC/17/44, 1 June 2011 and Report of the International Commission of Inquiry on Libya, UN Doc. A/HRC/19/68, 2 March 2012. See also, "Youngest at war in Libya tell stories of the front line", *The Independent*, 18 April 2011, http://www.independent.co.uk/news.

22 Report of the International Commission of Inquiry to investigate all alleged violations of international human rights law in the Libyan Arab Jamahiriya, UN Doc, A/HRC/17/44, 1 June 2011 and Report of the International Commission of Inquiry on Libya, UN Doc. A/HRC/19/68, 2 March 2012.

23 According to one media report a 17-year-old electronics student at a military college was ordered to join a battalion commanded by Khamis Qadhafi, one of the former President's sons, in a frontline role. See "Youngest at war in Libya tell stories of the front line", *The Independent*, 18 April 2011, http://www.independent.co.uk/news. In another case, a 17 year old who had completed two years at military school, but was working in a shop prior to armed conflict, was recalled for training and frontline combat. See "Libya crisis: Gaddafi using schoolboy conscripts on front line", *The Telegraph*, 15 April 2011, http://www.telegraph.co.uk/news.

24 Report of the Secretary-General on the United Nations Support Mission in Libya, UN Doc. S/2012/129, 1 March 2012.

25 See article 4 of the Draft articles on Responsibility of States for Internationally Wrongful Acts, Text adopted by the International Law Commission at its fifty-third session in 2001 and submitted to the General Assembly as part of the Commission's report covering the work of that session, General Assembly, Official Records, Fifty-sixth session, UN Doc. A/56/10. With regard to the responsibility of states for violations of international humanitarian law, see rule 149 of International Customary Humanitarian Law, http://www.icrc.org. The responsibility of states with regard to civil defence forces was also recognised by the UN Commission on Human Rights in its resolution 1994/67 which included a range of recommendations to governments to regulate and control these forces. See UN Commission on Human Rights, Civil defence forces, UN Doc. E/CN/4/RES/1994/67, 9 March 1994.

26 1989 Popular Defence Force Act, Article 5.

27 For further information on the PDF, see Small Arms Survey, Sudan Human Security Baseline Assessment, Popular Defence Forces (al Difa'al Shaabi) updated March 2011, http://www.smallarmssurveysudan.org.

28 Under the 1989 Popular Defence Forces Act, Article 11, the minimum age for recruits was 16 years. This was superseded by Chief of Staff Decision 1282 of 22 August 2005 which set the age at 18. The Popular Defence Force is now regulated by the 2007 Armed Forces Act under which the minimum age for voluntary recruitment is 18 years. See initial report of Sudan to the Committee on the Rights of the Child, UN Doc. CRC/C/OPAC/SDN/1, 16 December 2009.

29 Report of the Panel of Experts on the Sudan established pursuant to resolution 1591 (2005), UN Doc. S/2011/111, 8 March 2011, paragraph 137.

30 For details of the relevant laws see Coalition to Stop the Use of Child Soldiers, *Child Soldiers Global Report 2008*, Philippines entry. In addition a new bill criminalising the use of children in armed conflict was reportedly approved in 2011 with penalties of up to life imprisonment. See Human Rights Watch, "Philippines child soldiers bill faces hurdles," 3 June 2011. CAFGUs are regulated by the Armed Forces of the Philippines Reservist Act of 1991, also known as the Republic Act 7077. See initial report of the Philippines to the Committee on the Rights of the Child on implementation of the Optional Protocol, UN Doc. CRC/C/OPAC/PHL/1, 7 November 2007. For information on child soldier recruitment and use by CAFGU see Children and armed conflict, Report of the Secretary-General, UN Doc. A/65/820-S/2011/250, 23 April 2011; Report of the Secretary-General on children and armed conflict in the Philippines, UN Doc. S/2010/36, 21 January 2010; and Karapatan Alliance for the Advancement of People's Rights, *2010 Year-End Report on the Human Rights Situation in the Philippines*, http://www.karapatan.org.

31 For further information on CAFGU and CVOs see the Institute of Bangsamoro Studies and the Centre for Humanitarian Dialogue, *Armed Violence in Mindanao: Militia and Private Armies*, 25 July 2011, http://www.hdcentre.org/publications, and Human Rights Watch, *"They Own the People": The Ampatuans, State-Backed Militias, and Killings in the Southern Philippines*, 16 November 2010. A commitment has been made by the current president to disband CVOs, but it has yet to be fully acted upon. See Human Rights Watch, "Philippines: Keep Promise to Disband Paramilitaries", 30 March 2012.

32 The research was conducted with a local Thai NGO partner, the Justice for Peace Foundation.

33 Directive of 12 November 2009 on "Prohibition of youth under 18 years to apply for membership of *Chor Ror Bor*", and Directive of 4 August 2010 on "Prevention of children under 18 years becoming *Chor Ror Bor*".

34 Ministerial Regulation on Officials of the Security Unit to Protect and Maintain Peace and Order in a Village (No. 2) B.E. 2554 (2011), Article 6.

35 Committee on the Rights of the Child, Consideration of report submitted by Thailand, Concluding observations, UN Doc. CRC/C/OPAC/THA/CO/1, 21 February 2012.

36 Department of Provincial Administration circular to all governors, 17 February 2012, copy on file at Child Soldiers International.

37 The UN considers there is a risk that information on age provided in the national identity document used for recruitment purposes could be manipulated. See Mission Report: Visit of the Special Representative for Children and Armed Conflict to Afghanistan, 20–26 February 2010. Media reports also point to widespread falsification of recruitment documents. See "Afghanistan's army recruitment mess", BBC News, 10 February 2012, http://www.bbc.co.uk/news.

38 According to the International Crisis Group, "The poorly and hastily trained rank and file are largely illiterate, many are drug addicts, while officers, many appointed and promoted on political rather than professional grounds, are known more for their abuse of power, particularly at the local level." See International Crisis Group, *Afghanistan; Exit vs Engagement*, 28 November 2010.

39 See Report of the Secretary-General on children and armed conflict in Afghanistan, UN Doc. S/2011/55, 3 February 2011, paragraph 19.

40 For details of the initiative see Human Rights Watch, *"Just Don't Call It a Militia": Impunity, Militias, and the "Afghan Local Police"*, September 2011; International Crisis Group, *Afghanistan: Exit vs Engagement*, 28 November 2010; and NATO Training Mission Afghanistan: Year in Review, November 2009 to November 2010, http://www.ntm-a.com. On 10 December 2011, the commander of US Special Operations Command indicated that the ALP would be increased from its current strength of 9,800 to more than 30,000. See Human Rights Watch, "Afghanistan: Don't Expand Afghan Local Police: US Plans to Triple Size of Abusive Force", 15 December 2011.

41 Vetting of candidates for ALP recruitment is undertaken by the Ministry of Interior and the National Directorate of Security. Credible observers consider the vetting processes to be weak. For example, the International Crisis Group has expressed concern that "…the US has frequently resorted to creating and supporting parallel security forces, with dubious vetting and control mechanisms, multiplying the number of people with guns in a country awash with weapons. These include the Afghan Local Police (ALP)…". See International Crisis Group, *Aid and Conflict in Afghanistan*, 4 August 2011. Human Rights Watch has likewise noted that although proponents of the ALP point to safeguards such as Ministry of Interior control, nomination and vetting of members by village councils (*shura*) and training and mentoring by US forces, Ministry of Interior officials "…have conceded to Human Rights Watch that many such safeguards had also been promised for previous initiatives that ended in failure". See Human Rights Watch, *"Just Don't Call It a Militia": Impunity, Militias, and the "Afghan Local Police"*, September 2011.

42 See Children and Armed Conflict, Report of the Secretary-General, UN Doc. A/66/782-S/2012/261, 26 April 2012, paragraph 8.

43 See Report of the Secretary-General on children and armed conflict in Iraq, UN Doc. S/2011/366, 15 June 2011 and Children and armed conflict, Report of the Secretary-General, UN Doc. A/66/782-S/2012/261, 26 April 2012.

44 Child Soldiers International communication with confidential source in Yemen, July 2011.

45 Children and armed conflict, Report of the Secretary-General, UN Doc. A/66/782-S/2012/261, 26 April 2012.

46 See Asian Centre for Human Rights, *The Adivasis of Chhattisgarh: Victims of the Naxalite Movement and Salwa Judum Campaign*, 17 March 2006, http://www.achrweb.org/reports.

47 Supreme Court of India, Record of Proceedings, Writ Petition (Civil) No. 250 of 2007. *Nandini Sundar & Ors versus the State of Chhattisgarh*, 5 July 2011, http://supremecourtofindia.nic.in.

48 According to one media report it is possible that SPOs may not be disbanded but rather absorbed into non-combat positions within the police. See "No more special police. Says the judge", *Tehelka* Magazine. Vol. 8, Issue 28, 16 July 2011, http://tehelka.com.

49 Supreme Court of India, Record of Proceedings, Writ Petition (Civil) No(s). 250 of 2007, *Nandini Sundar & Ors versus the State of Chhattisgarh*, 5 July 2011, http://supremecourtofindia.nic.in.

50 Human Rights Watch, *"Being Neutral is Our Biggest Crime": Government, Vigilante, and Naxalite Abuses in India's Chhattisgarh State*, July 2008.

51 National Commission for the Protection of Child Rights, *Protection of Children's Rights in Areas of Civil Unrest,* 2010, http://www.ncpcr.gov.in.

52 Child Soldiers International telephone interview with retired officer of the Pakistan Army, 22 August 2011.

53 Child Soldiers International telephone interview with retired officer of the Pakistan Army, 22 August 2011. Tribal *lashkars* are formed by tribal elders and, while they are not formally a part of the state's security forces, receive government support including arms to fight insurgents. For further details see Amnesty International, *"As If Hell Fell On Me": The Human Rights Crisis in Northwest Pakistan*, AI Index: ASA 33/004/2010, June 2010.

54 Islamic Revolution Guards Corps Statute, Article 35.

55 This information is based on a summary of a book "Introduction to Basij" prepared for teachers in Iranian schools.

56 Interview with General Seyyed Mohammad Saleh Joker, commander of the Student Basij, with the semi-official Fars News Agency, 21 April 2010. According to other reports the Student Basij has 708 resistance units in 54,000 schools throughout the 31 provinces of Iran.

57 United States Institute for Peace, Iran Primer, The Basij Resistance Force, by Ali Alfoneh, http://iranprimer.usip.org.

58 A young *Basij* member, Mohammad Hossein Fahmideh, is commemorated as a martyr. Fahmideh was a 13-year-old school student when he blew up himself and an Iraqi tank in 1980 during the war with Iraq.

59 United States Institute for Peace, Iran Primer, The Basij Resistance Force, by Ali Alfoneh, http://iranprimer.usip.org.

60 'Organisation' tab, "Young Eagles" page, Noored Kotkad, on the website of the National Defence League, http://www.kaitseliit.ee.

61 Committee on the Rights of the Child, Consideration of report submitted by Lithuania, Concluding observations, UN Doc. CRC/C/OPAC/LTU/CO/1, 6 December 2007. See also official website of the Riflemen's Union, http://www.sauliusajunga.lt.

62 Information provided to Child Soldiers International by the Ministry of National Defence of the Republic of Lithuania, June 2011.

63 According to an account of joint training activities with UK cadet forces, "…weapons were issued and skill at arms training started. We were all issued with the AK4 assault rifle…" See website of Hampshire and Isle of Wight Army Cadet Force, http://www.hantsandiowacf.org.uk.

64 See fourth periodic report of Norway to the Committee on the Rights of the Child on implementation of the Convention on the Rights of the Child, UN Doc. CRC/C/NOR/4, 11 May 2009 and UN Committee on the Rights of the Child, Consideration of report submitted by Norway, Concluding observations, UN Doc. CRC/C/OPAC/NOR/CO/1, 6 July 2007.

65 "The Minister's Vision for 2009" and "The Minister's Vision for 2010", posted on the website of the Georgian Ministry of Defence, http://www.mod.gove.ge. The training takes place in general schools but is financed by the Ministry of Defence. Decree No 515, 2 August 2010, issued by the Georgian Minister of Defence established a Cadets' Military Lyceum in Kutaisi.

66 For example, President Saakashvili was quoted in the Georgian media in 2010 as saying "Every village must be able to defend itself. In every village, in every population centre on [unoccupied] free territory there must be small groups of people with specialised training. They must have leaders. They must have the minimum number of weapons necessary to defend themselves, their village, their lands, their street, their town, their district. So if our opponent tries to advance from the territory he has taken and purged of ethnic [Georgians] he will find every square metre of earth beneath his feet on fire. That is our task." Beslan Kmuzov, "Call-up has Started", *Ekho Kavkaza* (Caucasian Echo), published in Russian on 19 August 2010, http://www.ekhokavkaza.com.

67 Fundamental Law of the National Bolivarian Armed Forces, 2008.

68 For a detailed analysis of the National Bolivarian Militia and its role, see International Crisis Group, *Violence and Politics in Venezuela*, 17 August 2011.

Case Study **Eritrea: Widespread conscription of children goes unchecked**

Eritrea has the largest army in sub-Saharan Africa, with an estimated strength of between 200,000 and 320,000 men and women, representing around 35 per cent of the population in military service.[1] Military/national service is mandatory for every Eritrean. Conscription is provided for under the National Service Proclamation of 23 October 1995 under which all citizens aged 18 to 40 (male and female) are required to perform national service totalling 18 months. The period of national service can be extended in the event of mobilisation or emergency.[2] In 2002 the government did precisely this, extending national service indefinitely. Known as the "*Warsai-Yikalo* Development Campaign", this has trapped vast numbers of Eritreans in military and other forms of national service up to the age of 50 and possibly beyond.[3]

The militarisation of secondary education

Although by law national service begins when a person reaches 18 years, in practice for many it begins earlier. Girls and boys under the age of 18 years are among thousands of people who enter military training every year and who then spend most of the rest of their active working lives in military or other forms of national service. Although the Eritrean government denies allegations of unlawful conscription of under-18s, there is evidence that it occurs on a large scale.

To prevent increasing evasion of national service by school leavers, the government announced in 2003 that the final year of secondary education, Year 12, must be performed at the Sawa Military Training Camp in western Eritrea near the border with Sudan. Because the Year 12 designation is based not on a child's age but rather on the school grade achieved, some Year 12 students are under 18 years old. According to a recent US State Department report on human rights in Eritrea, "Students at Sawa were typically 18 years old or older, although a fair percentage were as young as 16 years old".[4]

The government denies underage conscription and argues that students attending the twelfth grade in Sawa should not be confused with national service conscripts.[5] However, the Year 12 students at Sawa have military status and are under the jurisdiction of the Ministry of Defence and subject to military discipline. They are therefore in reality soldiers, even if not fully operational members of the Eritrean National Army. Academic education is interspersed with military training such that, according to a teacher at Sawa interviewed by Human Rights Watch in 2008, "the students could not study. Students were always being forced to leave the class for some kind of military service".[6]

According to credible reports, under-18s may also have been unlawfully conscripted during annual conscription rounds or through regular military and police "round-ups" of suspected draft evaders. According to the published testimony of a former conscript detained in a round-up in 2007 there were 17 children aged 11–14 in his 500-strong battalion in training and an unspecified "big" number of others aged 15–17, including girls. He estimated that, in his intake of some 5,000 students, 170 were below 18. He also alleged that some 15–17 year olds were later selected for further special "commando training".[7]

It is possible that some of the underage conscription is inadvertent: some young Eritreans particularly those living in remote rural areas do not have official birth certificates and establishing age may therefore be difficult.[8] However, even in such cases the onus is on the authorities to find alternative means to prove that the individual has attained the minimum age for conscription.

But there is also evidence to suggest that the authorities may be well aware that not all new conscripts have reached 18 years. According to a leaked report by the commander of the Sawa Military Training Camp, dated 30 June 2008 and sent to the Office of the Eritrean President, 3,510 conscripts under the age of 18 years were enlisted in the twenty-first round of the national military service program that took place between August 2007 and February 2008.[9] Although the authenticity of the report cannot be verified, it is consistent with independent reports that under-18s in Eritrea are regularly enlisted for compulsory military training.

Once trained, conscripts may be assigned to military service including deployment to military camps on Eritrea's borders where there is a risk of their participation in hostilities, particularly on the border with Ethiopia with which there is a situation of "no-war-no peace" following the 1998–2000 war. It is not known if under-18s are among those deployed to these areas or whether they are deployed elsewhere in the country.[10]

Eritrea's links to child soldier recruitment and use in Somalia

The Eritrean government supports a number of armed opposition groups operating elsewhere in the region, at least one of which, *Al-Shabaab* in Somalia, is reported to have recruited thousands of children, many of them forcibly.[11] Eritrea acknowledges that it maintains relationships with Somali armed groups but claims that these are of a political and humanitarian nature. According to the UN Arms Embargo Monitoring Group on Somalia and Eritrea, however, the support is also military, material and financial.[12]

There are no reports of the direct involvement of Eritrean military or other officials in child recruitment and use by *Al-Shabaab*. However, there is no indication either that the government has used its influence to prevent it. The Monitoring Group noted in a 2011 report that "there is no evidence to suggest that Eritrea, either in terms of unilateral initiatives or through participation in multilateral political forums, is employing its privileged relationship with *Al-Shabaab* or other opposition groups for the purposes of dialogue or reconciliation".[13]

By providing military and material support, Eritrea contributes to the capacity of *Al-Shabaab* to carry out serious human rights abuses, including the widespread and systematic recruitment and use of child soldiers. As such it may bear responsibility for aiding and abetting the commission of such abuses. Its actions are also contrary to government obligations to act with due diligence to prevent the commission of human rights abuses and specifically in violation of Article 4 of the Optional Protocol which requires states to take all feasible measures to prevent recruitment and use of children by armed groups.

The international response

Despite Eritrea's poor record in relation to child soldiers both domestically and abroad, it has barely featured on international children and armed conflict agendas. Although it is party to the Optional Protocol, having acceded in 2005 (and deposited a binding declaration in which it states that 18 is the minimum age for recruitment into the armed forces), it has yet to

submit its first report on progress towards implementation of the treaty. Concerns relating to child soldiers have occasionally been raised elsewhere (in the Committee on the Rights of the Child's 2008 examination of Eritrea's report on implementing the Convention on the Rights of the Child; and during the Human Rights Council's 2009 Universal Periodic Review of Eritrea for example), but there has been no systematic monitoring of the situation.

The recent appointment by the Human Rights Council of a Special rapporteur on the human rights situation in Eritrea should result in greater attention being paid to the human rights situation there, creating new opportunities for the issue of unlawful recruitment of children to be addressed. This is particularly important given that the situation in Eritrea – where there is no actual armed conflict and children are therefore not participating actively in hostilities – is not addressed under the UN Security Council children and armed conflict framework.

Yet without proactive monitoring and at least some attempt to engage the Eritrean authorities (although hostile to independent human rights monitoring and notoriously difficult to influence) children will remain at risk of unlawful conscription and other human rights violations associated with it. There is a very real risk that, were the security situation in the region to deteriorate, these children would become involved in armed conflict. Intervention at that point could be too late for many of Eritrea's children.

Notes

1 UN High Commissioner for Refugees (UNHCR), *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Eritrea*, 20 April 2011, HCR/EG/ERT/11/01, available at: http://www.unhcr.org.

2 Articles 8, 9, 18 and 21 of the Proclamation of National Service No. 82/1995, available at: http://www.unhcr.org.

3 See International Crisis Group, *Eritrea: The Siege State*, 21 September 2010 and Human Rights Watch, *Service for Life: State Repression and Indefinite Conscription in Eritrea,* April 2009.

4 The US Department of State, 2010 and 2011 Country Reports on Human Rights Practices, Eritrea, http://www.state.gov.

5 See Report of the Working Group on the Universal Periodic Review: Eritrea, UN Doc. A/HRC/13/2, 4 January 2010.

6 Human Rights Watch, *Service for Life: State Repression and Indefinite Conscription in Eritrea,* April 2009.

7 Human Rights Concern-Eritrea, *Testimonies of untold atrocities and suffering*, 8 September 2008, http://www.ehrea.org.

8 UNICEF is supporting the Government of Eritrea to strengthen and expand birth registration services. See UNICEF, What we do, Eastern and Southern Africa/Child protection at: http://www.unicef.org.

9 The original version of the report is available at: http://asena.delina.org. An unofficial English translation is available at: http://www.arkokabay.com/news.

10 Others are assigned to military-controlled development tasks such as road building or construction or to work on enterprises owned by the state, the ruling party and military officers, to foreign aid funded projects, or other government jobs including in the civil service. See Human Rights Watch, *Service for Life: State Repression and Indefinite Conscription in Eritrea*, April 2009.

11 For further information on patterns of recruitment and use of child soldiers by *Al-Shabaab* see: Children and armed conflict, Report of the Secretary-General, UN Doc. A/65/820-S/2011/250, 23 April 2011; Report of the Secretary-General on children and armed conflict in Somalia, UN Doc. S/2010/577, 11 September 2010; Human Rights Watch, *No Place for Children: Child Recruitment, Forced Marriage, and Attacks on Schools in Somalia*, February 2012.

12 Report of the Monitoring Group on Somalia and Eritrea pursuant to Security Council resolution 1916 (2010), UN Doc. S/2011/433, 18 July 2011.

13 Report of the Monitoring Group on Somalia and Eritrea pursuant to Security Council resolution 1916 (2010), UN Doc. S/2011/433, 18 July 2011.

3. Why children are at risk of use by state armed forces

It is well established that socioeconomic conditions including poverty and other forms of deprivation contribute to the recruitment of children as soldiers, as can cultural attitudes towards children and circumstances such as displacement and family separation. These underlying conditions can also impact more widely on the ability of girls and boys to enjoy broader rights enshrined in the Convention on the Rights of the Child and other international human rights treaties. These are serious issues which must be addressed by states. However, ending recruitment or use of children by a state's armed forces need not wait for broader socioeconomic problems to be resolved or for conditions of full security to be established.

There are a range of other factors that put children at risk of use as soldiers that are not directly connected to *why* children join armed forces but rather *how* they come to be there and, once in the ranks, why they are then at risk of use in hostilities. Assessing and addressing these risk factors means looking more closely at the armed forces, in particular the laws and policies governing ages of recruitment and deployment, and the way in which recruitment processes are designed, conducted and overseen.

Establishing legal prohibitions on the participation of children in hostilities is the first step required of states under the Optional Protocol. But experience shows that where states recruit individuals below the age of 18 years, prohibitions on participation in hostilities, even when supported by systems to screen troops prior to deployment, do not constitute an effective guarantee against children's involvement in hostilities.

Real prevention requires states to address the problem at source. At a minimum this means stopping unlawful recruitment of children. Ideally it means ending all recruitment of under-18s. But enforcing age limits and achieving effective prevention depend on a range of other interconnected measures which together create barriers against children's admission to armed forces, regardless of economic, social or other factors which push or pull them in that direction. To assess the extent to which these barriers exist in particular states, a series of questions must be answered about the preventative measures in place:

- Has 18 years been established in law as the minimum age for compulsory and voluntary recruitment?
- Does every child have independently verifiable proof of age?
- Are there effective processes to verify the age of new recruits?
- Are military recruitment processes subject to independent monitoring and oversight?
- Is unlawful child recruitment and use criminalised in law?
- Does the criminal justice system have the capacity to effectively investigate and prosecute allegations of unlawful recruitment and use?

Using these questions as a structure, this chapter sets out the international standards that underpin the measures required of states, providing where possible examples of best practice in applying these standards, but at the same time pointing to state practice which by failing to ensure effective prevention through law, policy or practice places children at risk of involvement in armed conflict.

These questions also form the core of a "**Ten-Point Checklist**" which Child Soldiers International hopes will assist states and others in assessing where and why children are at risk of use in hostilities in armed forces for which states are responsible and to identify what measures can be taken to reduce these risks. The full checklist is provided in Part VI of this report.

3.1 Are children prohibited in law from participating in hostilities?

The international standards and best practice in applying them

Optional Protocol, Article 1: ***"States Parties shall take all feasible measures to ensure that members of their armed forces who have not attained the age of 18 years do not take a direct part in hostilities."***

Establishing legal prohibitions on the participation of children in armed conflict is among the "feasible measures" required of states under Article 1 of the Optional Protocol to ensure that children "do not take a direct part in hostilities". However, Article 1 does not provide a definition of "direct part in hostilities" nor does it define the difference between "direct" and "indirect" participation – indeed there is no treaty definition of these terms.

Under international humanitarian law, however, the concept of direct participation in hostilities is essential to the principle of distinction in the conduct of hostilities, whereby civilians (including civilian children) shall be protected from direct attack unless and for such a time as they take a direct part in hostilities.[1] But when it comes to the protection of children from use in armed conflict, the emphasis must be on preventing their involvement in any activities that put them at risk. In fact, best practice by states and jurisprudence of the Committee on the Rights of the Child support the principle that children should be protected against any and all types of participation in armed conflict.

In its interpretation of Article 1, the Committee on the Rights of the Child recognises the various dangers to which children may be exposed in hostilities and has argued for their protection against a wide range of conflict-related activities. These include the roles of combatants, spies, guards, cooks, porters, sexual slaves and medics,[2] as well as use of children as human shields and as informants for intelligence purposes.[3] The Committee's interpretation reflects customary international humanitarian law which prohibits the participation of children in hostilities, direct or indirect, without qualification.[4]

An increasing number of states prohibit the involvement of children under 18 years old for any purpose in armed conflict. States which have or claim to have adopted laws or policies to this effect include: Belarus,[5] Belgium,[6] Canada,[7] Ecuador,[8] France,[9] Germany,[10] Indonesia,[11] Kuwait,[12] Liberia,[13] Luxemburg,[14] Moldova,[15] New Zealand,[16] Slovenia,[17] Tunisia[18] and Ukraine.[19] In Argentina, Burkina Faso, Chile, Colombia, the DRC, Finland, Lithuania, Norway, Panama, Portugal, Sri Lanka and Uruguay the recruitment and use of under-18s by state forces and armed groups is criminalised in national law and thereby prohibited.

Where states permit use of children as combatants

Although most states take the view that children should not participate in armed conflict, the national laws or policies of a few states still explicitly permit under-18s to be deployed in hostilities as combatants or in other frontline roles.

These states include **Iran**, where as noted in section 2.2 legislation permits the mobilisation of children in the *Basij* in times of war. **Viet Nam** recognises the need for protection of children from involvement in armed conflict generally but allows exceptions which appear to permit children to be used as combatants. In its binding declaration to the Optional Protocol it states that those under the age of 18 years shall not be involved in "military battles" except in the case that there is "…an urgent need for safeguarding national independence, sovereignty, unity and territorial integrity".[20] In its consideration of Viet Nam's initial report on the Optional Protocol, the Committee on the Rights of the Child recommended that the active participation of children is prevented in hostilities even in the presence of the exceptional situations.[21]

There are other states which prohibit the deployment of children, but where age limits are inconsistent with Article 1. For example, **Armenia** and **Azerbaijan**, both of which are party to the Optional Protocol, prohibit the use of children in hostilities, but only for those who are 15 years old or younger.[22] This implies that deployment of 16 to 18 year olds may be considered permissible, which would be inconsistent with their obligations under the Protocol.

Where states limit legal protections against the use of children as soldiers

Among those states where under-18s are permitted to join their armed forces, the responsibility to protect them from deployment in hostilities is particularly high. Yet it is often these states which limit the protections that they are willing to offer to under-18s, or which commit to protect under-18s from use but lack the laws or policies to turn these commitments into practical protection.

Among these states some recognise the general principle that children should be protected from involvement in hostilities, but in a limited manner only. These limits can be based on whether participation in hostilities is defined as "direct" or "indirect"; whether hostilities take place at home or abroad; or the interpretation of "feasible measures" required of states under Optional Protocol Article 1.

The **USA**, for example, has taken steps towards protecting children from involvement in hostilities, but only insofar as their participation is defined as "direct". However, it has adopted a highly restrictive interpretation of "direct participation" which excludes certain activities *inter alia* "such as gathering and transmitting military information, transporting weapons, munitions, or other supplies, or forward deployment…"[23] This, as the Committee on the Rights of the Child has noted, runs contrary to the interests of improving protection for children in situations in armed conflict.[24] In practice the distinction between "direct" and "indirect" participation in hostilities can be difficult to ascertain and must be assessed on a case by case basis. Transporting ammunition to the front line, for example, is regarded by the ICRC as "almost certainly" direct participation in hostilities.[25] What is more, the line between the two can easily be crossed and what may begin as "indirect" can quickly become "direct" participation in the context of fast moving and unpredictable military operations.

Although the USA seeks to avoid participation of under-18s in "direct hostilities" according to its definition of the term, it does deploy them to "hazardous duty pay" or "imminent danger pay" areas which, it argues, is consistent with its interpretation of Article 1 of the Optional Protocol.[26] However, the definitions of "hazardous duty" and "imminent danger", suggest that individuals deployed to these areas could be at risk of attack if not actual participation in combat operations. Criteria for entitlement to hazardous pay include performance of duty in a hostile fire area where there is grave danger of physical injury or where there is an imminent risk thereof.[27] An imminent danger area is defined as "one in which a member [soldier] is subject to the threat of physical harm or imminent danger because of civil insurrection, civil war, terrorism, or wartime conditions".[28] Deployment to locations where such conditions exist is therefore hard to reconcile with the objective of protecting children from involvement in armed conflict to which states commit when ratifying the Optional Protocol.

The USA along with countries such as Australia and the United Kingdom also restrict protection for children in the event that the withdrawal of under-18s would adversely affect the success of a military operation. The USA defines "feasible measures" as only those measures which are "practical or practically possible, taking into account all the circumstances ruling at the time, including humanitarian and military considerations".[29] In the **United Kingdom**, deployment of members of the armed forces who have not yet reached 18 years is permitted where there is a genuine military need, the situation is urgent, it is otherwise not practicable to withdraw minors before deployment, or it would undermine the operational effectiveness of their ship or unit.[30] In **Australia** "feasible measures" are required only to the maximum extent possible, and where it will not adversely impact the conduct of operations.[31]

In **Ireland**, where the minimum age for recruitment is currently 17 (16 for apprentices), there is a geographic limit to their protection. Military personnel under 18 years old are precluded under administrative instructions from any service abroad, but not within Ireland itself. In theory, as the government itself accepts, members of the armed forces who have not attained 18 could be exposed to hostilities should they break out within the sovereign territory of Ireland.[32]

Regardless of military necessity or on whose territory their involvement occurs, military deployment can place children in situations of extreme danger. Where the safety and well-being of a child is at stake, the insistence that some forms of involvement are more acceptable than others or that military necessity can, if needs be, trump the best interests of the child, is detrimental to broader efforts to protect children from involvement in hostilities. States that insist on limiting prohibitions on use also undermine broader obligations to protect the rights of children enshrined in the Convention on the Rights of the Child.[33] Moreover, these states are willing to expose children to risks as part of their own armed forces which – by ratifying the Optional Protocol – they have deemed unacceptable for children of the same age associated with armed opposition groups (the Optional Protocol categorically prohibiting the recruitment and use of children by such groups).

Where procedural safeguards fail to protect against use of child soldiers

A number of states which permit the voluntary recruitment of 16 and 17 year olds by their armed forces argue that they have put in place measures to prevent those children from being deployed in armed conflict before they reach 18. However, many of these states do not have effective procedures for pre-deployment screening. Where they have, the evidence shows that even the best resourced troop tracking systems do not provide sufficient protections for children against involvement in hostilities.

In **Bangladesh** the government has previously maintained that there is no scope for any person to be employed for actual service or combat duty before attaining the age of 18, because those recruited below that age are required to undergo periods of training. However, the recruitment age for the army is 17 years old and the period of training just nine months.[34] In the case of Airmen, for whom the minimum recruitment age is 16 years, initial training for several categories of recruit is just 18 to 36 weeks long.[35] On completion of training some members of the Bangladesh army and air force could therefore still be under 18 years and on active duty.

A similar situation exists in **Pakistan** where the minimum age for voluntary recruitment is set at 18 years with the possibility of beginning two years earlier (at 16) for training. However, according to the official website of Pakistan's air force an individual may join as an aero-technician from the age of 15 years (one year below internationally accepted standards). According to the website, training for aero-technicians lasts a minimum of 46 and a maximum of 143 weeks depending on trade and skills requirements.[36] In theory, it would therefore be possible for an aero-technician to be fully trained and qualified for active service before their sixteenth birthday. In these circumstances, it is unclear whether additional safeguards exist to prevent them from being deployed in situations of armed conflict.

Reliance on periods of training to ensure that recruits reach age 18 prior to deployment is an inadequate safeguard against child soldier use. This is not only because the period of training is not always sufficient to bring recruits up to the age of 18 but, even where it is, it does not afford an absolute guarantee against under-

18s who are members of the armed forces and have been militarily trained being deployed in the event of a crisis. For this, prohibition in law of direct and indirect participation in hostilities is needed which must, where states recruit below the age of 18 years, be backed up by pre-deployment screening systems.

However, even in those states where screening processes exist, they do not fully guarantee the identification and removal of all under-18s prior to deployment. In both the United Kingdom and the USA, for example, the numbers of under-18s deployed into areas of armed conflict has reduced significantly since the introduction of pre-deployment screening but in neither case has it ceased entirely.

The **United Kingdom** has administrative guidelines and procedures and a system for tracking personnel, but has admitted that its systems are not infallible and that soldiers have been inadvertently deployed to operational theatres before they turn 18.[37] The most recent cases reported by the UK Ministry of Defence involved five 17 year olds who were deployed between April 2007 and April 2010 to Afghanistan and Iraq.[38] The British army has also confirmed that one 17 year old spent six weeks in Helmand, Afghanistan in 2010 where he participated in armed combat. According to media reports, the young soldier wanted to fight and was able to bypass the checks that should have picked up that he was underage. The case was attributed by the army to "human error".[39]

The **USA** claims that no 17 year olds in its armed forces have been engaged directly in hostilities in recent years.[40] It does, however, admit that in fiscal year 2008 (the period for which data is available) six military personnel under the age of 18 were deployed although according to the USA's interpretation of "direct participation" none took part in direct hostilities before turning 18.[41]

3.2 Has 18 years been established in law as the minimum age for compulsory and voluntary recruitment?

Evidence shows that where states permit under-18s to join armed forces they cannot, whatever their intention, ever completely protect them from involvement in armed conflict. The only real guarantee is therefore to keep children out of the ranks. The starting point for this is to establish 18 years in law as the minimum age for both compulsory and voluntary recruitment. As is the case with any law, its effectiveness depends on enforcement – but legislating for a minimum age of 18 or above provides the legal basis on which to build measures for implementation and sanctions for non-compliance.

3.2.1 The age of compulsory recruitment: no lower than 18 years

The international standards and best practice in applying them

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

Under the Optional Protocol there is no leeway on the age of compulsory recruitment (conscription): Article 2 establishes 18 as the absolute minimum age at which an individual can be compulsorily recruited into a state's armed forces. In practice, an increasing number of states have abolished or are in the process of abolishing conscription. With very few exceptions, those that still retain it have set the age of compulsory recruitment at 18 years or above.

Several states have acted to close legal loopholes that could, under certain circumstances result in the conscription of under-18s. **Paraguay**, for example, has (according to its initial report on implementation of the Optional Protocol) taken steps to ensure that that the earliest date at which individuals could be conscripted is their eighteenth birthday, by amending legislation in 2007 to specify that conscripts must be 18 years before starting service. Previously males were conscripted the year that they turned 18, thus allowing for 17 year olds to be recruited.[42] It is not known whether this legislative amendment has reduced the practice of forced recruitment of often very young children in Paraguay.[43]

Other states have amended legislation to ensure the particular protection of children against conscription in the context of armed conflict or other emergencies. Croatia, Norway and Serbia, for example, have abolished legal provisions which permitted the age of conscription to be lowered at such times. In **Croatia**, prior to 2002 when a new Defence Law was introduced, the age of conscription could be lowered to 16 years in a state of emergency.[44] It claims subsequently to have gone further and raised the age of recruitment from 18 to 20 years old in time of war.[45] In **Norway**, where boys were previously liable for military service in wartime from January of the year they turned 17 years, a 2002 amendment to the law banned all recruitment of under-18s in peacetime and war.[46] In **Serbia**, legislation passed in 2009 explicitly prohibits conscription of under-18s in all circumstances, including states of emergency or war – previously 17 year olds could be called on to perform military service on the order of the president.[47]

Where children remain at risk of underage conscription

Today, legally sanctioned conscription of under-18s by state armed forces is rare: to Child Soldiers International's knowledge there now remain only a few states where conscription of persons below 18 years is permitted in law. These include **Cuba**, where 16 year olds must register for call-up at 17 years of age. In **Guinea** and **Niger** compulsory recruitment of children under the age of 18 is authorised in law although conscription may not be currently enforced in either country.[48]

In other states the minimum age for conscription is set at 18 years, but recruitment practices may result in under-18s being called up. In **Brazil** and **Cyprus**, for example, individuals are called up in the year they turn 18 rather than on or after the date of their eighteenth birthday, creating the possibility that 17 year olds could be unlawfully conscripted.[49]

There also remain a few states which in peacetime do not conscript below the age of 18 years or do not conscript at all, but which nevertheless retain laws or policies that permit or could result in mobilisation of under-18s in national armies in the event of war or other emergencies. These include **Antigua**, **Cape Verde**, **Dominican Republic**, **Honduras**, **Montenegro**, **Mozambique**, **San Marino** and **Viet Nam**. In **Turkey** 15–18 year olds can apparently be deployed in civil defence forces during national emergencies.[50]

In a few cases, the existence of legislation permitting underage conscription appears to be a historical oversight – left on the statute books although not implemented. **Belgium**, for example, reported to the Committee on the Rights of the Child in 2009 that legislation allowing for 17 year olds to be mobilised in times of war was still in place, although no longer applicable, and in any case superseded by a law which explicitly provides that a soldier in training may not take part in armed operations.[51] In other cases laws may be ambiguous. Under legislation on armed forces recruitment and mobilisation in **Chile**, for example, there is provision for the president to call upon all persons "regardless of sex or age limit" to serve in times of war, although elsewhere in the same law it is established that 18 is the minimum age for conscription.[52]

The governments of both Belgium and Chile have argued that there is no risk to children in practice. However, their assurances have not satisfied the Committee on the Rights of the Child, which has expressed concern about the risk of underage conscription created by ambiguities of drafting or leaving redundant legislation in place. In the case of Belgium it recommended that the relevant legislation is repealed.[53] In the case of Chile the Committee recommended that it expressly clarify that legal provisions on general mobilisation only apply to persons over 18 years of age.[54]

Even in **Liechtenstein** the fact that there are no armed forces is not, in the view of the Committee, sufficient guarantee against potential conscription of under-18s in the event of war or other emergency. According to the Committee the risk here arises because the Constitution provides for mandatory conscription of "every man fit to bear arms", but does not specify a minimum age. The Committee recommended that Liechtenstein establish clear legal guarantees to protect persons under the age of 18 from recruitment in the case of war or an emergency.[55] In doing so it reinforces the point that, however remote the possibility of armed conflict, the existence of laws allowing for children to be mobilised should hostilities break out, or the absence of legislation to preclude such mobilisation, places children at risk of involvement in hostilities. It is precisely at these moments when efforts to protect children from involvement in hostilities should be multiplied rather than weakened. (For state by state conscription ages see Appendix II, Data summary on recruitment ages of national armies.)

3.2.2 The age of voluntary recruitment: time to end enlistment of under-18s

The international standards and best practice in applying them

Optional Protocol, Article 3.1: "*States Parties shall raise in years the minimum age for the voluntary recruitment of persons into their national armed forces from that set out in article 38, paragraph 3, of the Convention on the Rights of the Child, taking account of the principles contained in that article and recognizing that under the Convention persons under the age of 18 years are entitled to special protection.*"

Optional Protocol, Article 3.2: "*Each State Party shall deposit a binding declaration upon ratification of or accession to the present Protocol that sets forth the minimum age at which it will permit voluntary recruitment into its national armed forces and a description of the safeguards it has adopted to ensure that such recruitment is not forced or coerced.*"

The Optional Protocol requires that states that are party to it set a minimum age for voluntary recruitment and that it should be no lower than 16 years. However, a range of compelling arguments for establishing 18 years as the minimum age for both enlistment and conscription were rehearsed during the negotiations for the drafting of the Optional Protocol *inter alia* because: a minimum age below 18 for admission to armed forces is inconsistent with established standards on the minimum age for employment in dangerous or unhealthy occupations; it is difficult to determine in practice whether recruitment is truly voluntary; in the event of armed conflict it avoids the possibility of under-18s being legitimately attacked and the temptation to make use of the military skills of under-18s who are already members of the armed forces; where children are protected from military recruitment the risk of being subject to other human rights abuses enshrined in the Convention on the Rights of the Child is reduced; and because of the damaging effects of children's involvement in armed conflict on their mental and physical integrity.[56]

These arguments remain valid today and, given the persistent pattern of child soldier use in state armed forces or the risk thereof, counter-arguments look increasingly thin. On the basis of the risk of use alone, the evidence is clear: where there is armed conflict and where children are members of state armed forces, the risk of participation is significantly increased.

In practice, the trend towards a universal straight-18 ban continues. There are now close to 130 states which have legislated or otherwise committed to prohibit children from enlisting in their armed forces. At least 31 states have raised the age of voluntary recruitment for their armed forces to 18 years or above or enshrined it in law since 2000.[57] Others have indicated that they are planning to do so (see below).

Where voluntary recruitment of under-18s is permitted

The number of states that have yet to accept the principle that the best protection against involvement of children in armed conflict is not to recruit them is diminishing. However, there remain a few that have not set a minimum age for voluntary recruitment or which allow recruitment of children younger than permitted by international standards. In **Guinea-Bissau**, for example, recruitment of under-16s is permitted with parental consent. The same was true in **Guyana**, although there are unconfirmed reports that the voluntary recruitment age may recently have been raised to 18 years. In **Pakistan** 15 year olds can join the air force as aero-technicians, while in **Seychelles** voluntary recruitment of under-18s is also permitted with parental consent but no minimum age appears to be specified in law. The same is true in **Barbados**, although in practice intake to the Barbados Defence Forces is reported to be restricted to individuals who are no younger than 17 years and nine months.[58]

In addition there remain some 42 states where under national law 16 or 17 year olds can volunteer to join the armed forces. Although not in violation of the Optional Protocol, these states are out of step with what is now generally accepted to be best practice.

According to the information available to Child Soldiers International, 17 year olds can enlist in the armed forces of **Algeria**, **Australia**, **Austria**, **Azerbaijan**, **Bolivia**, **Brunei**, **Cape Verde**, **Chile**, **China**, **Cuba**, **Cyprus**, **France**, **Germany**, **Israel**, **Jamaica**, **Lebanon**, **Malaysia**, **Malta**, **Netherlands**, **New Zealand**, **Philippines**, **Sao Tome and Principe**, **Saudi Arabia** and the **USA**. According to **Malta**'s Optional Protocol declaration, under-18s have not been recruited in practice since the 1970s.[59]

The number of states which are known to permit recruitment at the lower age of 16 years now numbers less than 20. They are: **Bangladesh**, **Brazil**, **Canada**, **Egypt**, **El Salvador**, **India**, **Iran**, **Ireland**, **Jordan**, **Mauritania**, **Mexico**, **Pakistan** (with exception of aero-technicians, see above), **Papua New Guinea**, **Singapore**, **Tonga**, **Trinidad and Tobago**, the **United Kingdom** and **Zambia**.[60] Of these, **Jordan** has indicated that it no longer recruits under-18s in practice;[61] the Government of **Trinidad and Tobago** has stated that it is reviewing the Defence Force Act with a view to removing a provision permitting recruitment of persons between 16 and 18 years with parental consent, thereby establishing 18 years as the minimum age without exception;[62] and the Government of **Ireland** announced in June 2012 that it would raise the minimum age for voluntary recruitment to the Permanent Defence Forces to 18 years.[63]

Among the states that permit voluntary recruitment of 16 or 17 year olds, there are a number which specifically state that recruitment below the age of 18 years is "for training only". In their declarations upon ratifying or acceding to the Optional Protocol several states including **Germany**, **Ireland**, **Jamaica**, **Malta**, **Mexico** and **the Philippines** specify that under-18s may be recruited but for the purposes of training only.[64] **France**'s declaration specifies 17 as the minimum age for voluntary

recruitment,[65] but legislation also permits recruits to enter at 16 years for general or vocational training as a volunteer in the armed forces (or pupil in a military school).[66]

None of the declarations clarify how "training only" differs from ordinary recruitment except, in the case of Ireland, Jamaica and the Philippines, to specify that recruits could not (or would not be permitted to) complete training before reaching 18 years of age. In this regard, it appears that the only difference between "training only" recruits and ordinary recruits is whether or not they will be ready for deployment, making the declaration more relevant to the issue of preventing underage use than identifying the armed forces minimum recruitment age. Whilst there may be no intention for such recruits to be deployed into hostilities, the fact remains that they are members of the armed forces and therefore both legitimate targets of attack for enemy forces and at risk of potential deployment if the state armed forces were in urgent need of personnel.

In addition to these states which have yet to raise the minimum voluntary recruitment age to 18 years, there are some states which claim to have done so but have yet to fully translate this into national law and policy. **Tanzania**, for example, committed to 18 years in its binding declaration to the Optional Protocol, but legislation governing recruitment age remains ambiguous, requiring not that recruits *are* 18 years old but only that they *appear* to be so. While the intention may be clear, the vague wording creates a possible loophole by which individuals could be accepted for enlistment on the basis of a subjective judgement by recruiters rather than objective proof of age.

Chad also states in its binding declaration to the Optional Protocol that 18 is the minimum age for voluntary recruitment and several separate laws reflect this. However, legislation dating back to 1992 continues to provide for the enlistment of under-18s with parental consent (Ordinance on the Status of Military Personnel, 29 August 1992). Arguably this has been superseded by subsequent legislation, but a draft version of a new Child Protection Code which appeared in 2011 contained the same provision which was only removed when Child Soldiers International called attention to it.[67]

Ecuador likewise committed to a straight-18 ban in its binding declaration to the Optional Protocol, but recruitment of younger persons is not completely precluded under national legislation. According to Ecuador's own report on the implementation of the Protocol, legislation on compulsory military service does not expressly prohibit the recruitment of volunteers under the age of 18 years. The report goes on to note that because no mention of such a limit is made, the legislation fails to establish safeguards to protect volunteers under the age of 18. The Committee on the Rights of the Child recommended that the legislation be revised to guard against the possibility of underage recruitment.[68] (For state by state voluntary recruitment ages see Appendix II, Data summary on recruitment ages of national armies.)

3.2.3 Military schools: an indirect route to recruitment of children

The international standards and best practice in applying them

Optional Protocol, Article 3.5: ***"The requirement to raise the age in paragraph 1 [to a minimum of 16 years] of the present article does not apply to schools operated by or under the control of the armed forces of the States Parties, in keeping with articles 28 and 29 of the Convention on the Rights of the Child."***

Under the Optional Protocol the requirement to raise the age of voluntary recruitment to a minimum of 16 years does not apply to schools operated by or under the control of the armed forces of the states parties. This was not, however, intended to be interpreted in such a way as to circumvent the voluntary recruitment age applicable to regular recruitment channels. Indeed, as a means of respecting their rights as children, preventing their involvement in hostilities, and protecting them against the possibility of attack, the Committee on the Rights of the Child recommends that children in military schools should be classified as civilians and not as members of the armed forces.[69]

Where military schools facilitate child soldier use

Contrary to the intention of the Protocol and to the position of the Committee on the Rights of the Child, in a significant number of states under-18s in military schools are classified as members of the armed forces. They include: **Armenia**, **Azerbaijan**, **Belarus**, **Chile**, **Guatemala**, **Honduras**, **Japan**, **Kazakhstan**, **Kyrgyzstan**, **Mexico**, **Paraguay**, **Peru**, the **Russian Federation**, **Tajikistan**, **Turkmenistan**, **Ukraine**, **Uzbekistan** and **Viet Nam**. As the Committee on the Rights of the Child has noted in relation to Azerbaijan, the fact that military school students are categorised as being on active military service puts them at risk of involvement in hostilities.[70] The case of Mexico, where military school pupils were reportedly used in military drug operations in 2009 (see section 2.1), clearly shows that there is a link between the status of students in military schools and the risk of their involvement in hostilities.

Mexico is among a number of states in which the officially declared minimum recruitment age is also effectively lowered because pupils in military schools are considered to be members of the armed forces. Other states where this is the case include Armenia, Japan, Kazakhstan, Kyrgyzstan, Peru, Tajikistan, Turkmenistan, Ukraine, Uzbekistan and Viet Nam. In at least five of these – Kazakhstan, Mexico, Peru, Tajikistan and Turkmenistan – pupils in military school acquire military status at an age lower than is permitted in international standards.

Children in **Mexico** may enrol in some military schools from the age of 15 years and in others at 16 or 17. All military school students, regardless of their age, are considered to be members of the armed forces.[71] In **Kazakhstan**, **Peru**, **Tajikistan** and **Turkmenistan** children may also enrol in some military schools from the age of 15 years where they are likewise classified as members of the armed forces.[72] This not only contravenes national law on minimum recruitment ages (according to their

binding declarations under the Optional Protocol the minimum age for voluntary recruitment in Mexico is 18 years or 16 years for trainee technicians in signal units, 19 in Kazakhstan, 18 in Peru and Tajikistan and 17 in Turkmenistan), but is also in contravention of the minimum age established in the Optional Protocol to which all five are party.

The age at which children can enrol in military schools in **Armenia**, **Kyrgyzstan**, **Ukraine** and **Uzbekistan** remains above lawful limits, but is still below the age of 18 years (or 19 in the case of Ukraine) to which these states committed in their binding declarations. In Armenia, Ukraine and Uzbekistan children can enter military higher education institutes at the age of 17 and in Kyrgyzstan at 16 years. In all four, pupils are regarded as members of the national armed forces.[73] The minimum voluntary recruitment age in **Belarus**, the **Russian Federation** and **Viet Nam** is also 18 years. All three note in their declarations to the Optional Protocol that students in military schools are exceptions or variations to this; but this does not change the fact that – as active members of the armed forces – military school pupils in these countries are placed at risk of involvement in hostilities.[74]

3.3 Does every child have independently verifiable proof of age?

The international standards and best practice in applying them

Convention on the Rights of the Child, Article 7(1): *"The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality…"*

A minimum age for recruitment (compulsory or voluntary) means little unless it is enforced, and effective enforcement is predicated on the authorities being able to establish the age of recruits. Although the Optional Protocol provides no explicit direction on how this should be achieved, and there is little in the way of other international guidance, it is generally recognised that the most reliable method for age assessment is birth registration.

Birth registration is the official recording of a child's birth and enables that child to obtain a birth certificate which is a personal document issued to an individual by the state. It is a right under the Convention on the Rights of the Child (see above) and other international standards.[75] By registering the birth of a child, his or her existence is established under the law and the foundation provided for safeguarding and accessing many of the child's civil, political, economic, social and cultural rights. For the purposes of military recruitment it provides documentation that associates an individual with their date of birth.

Birth registration for children under five is almost universal in the majority of industrialised countries. In other situations where it has been prioritised, public funding dedicated to it and international expertise and support sought, there has been significant progress towards achieving universal registration. However,

according to UNICEF some 51 million births each year are not registered worldwide.[76] Rates of non-registration are amongst the highest in conflict-affected countries where registration systems that might exist have broken down, but the problem is also broader.

Where birth registration is not universal, alternatives to birth certificates are necessary for recruitment purposes, although these should be considered as a temporary measure only. Again there is little guidance on what alternatives should comprise, although the Committee on the Rights of the Child has recommended that they should be based on objective elements, such as school diplomas, and has raised concern when states have relied on more subjective methods such as testimonials.[77]

While alternative age verification methodologies are necessarily resource intensive and time consuming, the responsibility is not on the individual to prove their age, but rather on the recruiting authorities to establish it.[78] In accordance with the recommendation of the Committee on the Rights of the Child, if the age of the volunteer or conscript cannot be reliably determined, he or she should not be admitted into the armed forces.[79]

To be reliable, however, alternatives must use more than one form of documentation or approach. **Liberia** represents an example of best practice in this regard where, in the context of internationally driven security sector reform following the end of the armed conflict in 2003, the discredited army was disbanded and a new force recruited and vetted under a rigorous and highly centralised selection process that involved a series of checks and cross-checks performed by internationally-led vetting teams on the basis of documentation, interviews and file reviews (see Case Study at the end of this chapter).

In **Myanmar**, where around a third of births are not registered and falsification of age documentation by military recruiters is common, the International Labour Organization (ILO) has developed alternative methodologies which rely on a combination of sources to identify underage workers in the context of its program to support the eradication of forced labour. The sources include official family lists, education records, testimonials and statements from village headmen and religious leaders, and formal attestations signed in the presence of a lawyer.[80] However, these methodologies are used only in the context of the ILO's program on forced labour, through which complaints of forced labour (including of unlawful child recruitment) are received and investigated. Systematic age verification as part of actual recruitment processes remains lacking, allowing unlawful recruitment of children to continue (see Case Study at the end of Chapter 6).

Where documentary proof of age is not available, medical assessments are also sometimes suggested as an alternative.[81] However, experts question the accuracy of medical (for example bone age or dental age assessment) or physical (for example anthropometric measurements including height, weight, skin and puberty rating) methodologies.[82] There are also ethical concerns associated with these approaches and, where used, informed consent must be gained and other considerations including the respect for the dignity of the individual taken into

account.[83] Because of these and other concerns, good practice developed by Save the Children, the United Nations High Commissioner for Refugees (UNHCR) and UNICEF for identifying children separated by conflict and reuniting them with their families recommends that medical age assessment procedures are only undertaken as a measure of last resort. These include cases where there are grounds for serious doubt and where other approaches, such as interviews and attempts to gather documentary evidence, have failed to establish the individual's age.[84]

Where no other options are available medical methodologies may be necessary in the context of release and reintegration processes to identify and thereby bring about the release of children who are already within the ranks of armed forces. But even then ethical concerns may override utility. For the purposes of recruitment, medical assessments should be avoided. If there is any element of doubt about the age of a potential recruit, it cannot be accurately resolved through medical or physical examinations. In such circumstances, and if there is no independently verifiable objective means of proving that an individual has attained the minimum recruitment age, the benefit of the doubt should prevail and the individual should not be recruited.

Where an individual's age cannot be determined

Although there are examples of good practice, the challenges involved in establishing alternatives on which determination of age for military recruitment can be based are manifold and methodologies often prove to be unreliable. In **Uganda**, for example, where the government has worked closely with the UN to end underage recruitment by state armed forces with some success, the problem of low birth registration rates remains the Achilles' heel. Government officials have recognised that methods used to determine ages in rural communities – whether an individual attends school, their height, body weight and the responsibilities they shoulder – are often inconsistent and unreliable.[85] Efforts are under way to strengthen the birth registration system but still only three in every ten births of children under five are registered.[86] In the meantime, the concern of the Committee on the Rights of the Child that under-18s could be present in the ranks of Uganda's armed forces because ages cannot be reliably determined remains valid.[87]

The Committee has likewise raised concerns about inadvertent underage recruitment in **Timor-Leste** where, in the absence of any other documentary proof, affidavits from three people are used to verify age at recruitment. This reliance on testimonials in Timor-Leste has been deemed by the Committee to be insufficient proof of age.[88]

School diplomas used in isolation can also be unreliable. In **India**, for example, the age and identity of ordinary soldiers is commonly established through a combination of documents including birth certificates, school diplomas or other education certificates.[89] However, education certificates alone do not always represent an accurate indicator of age and can be easily falsified. The question of reliability is particularly pertinent in certain geographic areas of India or among ethnic communities where education levels required for joining the armed forces are lowered to encourage representation of disadvantaged communities – typically

tribal, hill, island and other more remote communities.[90] Among these groups, birth registration rates are lower than the national average (rates of 59 per cent in urban areas drop to 35 per cent in rural areas)[91] and schooling is often delayed or interrupted, with the result that school grade documents may bear little relation to the age of the individual.

3.4 Are there effective processes to verify the age of new recruits?

The international standards and best practice in applying them

Optional Protocol, Article 3.3: ***"States Parties that permit voluntary recruitment into their national armed forces under the age of 18 years shall maintain safeguards to ensure, as a minimum, that:... (d) Such persons provide reliable proof of age prior to acceptance into national military service."***

Optional Protocol, Article 6.2: "*States Parties undertake to make the principles and provisions of the present Protocol widely known and promoted by appropriate means, to adults and children alike.*"

While proof of age is the first requirement for age assessment, the second is verification processes which are sufficiently robust to prevent anyone who does not meet age or other recruitment criteria from being conscripted or enlisted. The efficacy of an age verification system depends on certain fundamental elements being in place. These include:

- Regular (formal and standardised) processes for recruitment;
- Those responsible for recruitment being made aware of the recruitment policies including in relation to minimum age and being made individually responsible for applying them;
- Those responsible for recruitment not being put under pressure to ignore the rules;
- Those liable to conscription, and potential voluntary recruits, being made aware of minimum age requirements and knowing their rights in relation to military service.

In countries where state security institutions are weak and there is little or no civilian control over the activities of the armed forces, establishing and applying standardised recruitment procedures (including effective age verification processes) is particularly challenging and resource intensive. In some cases it will necessarily involve institutional reform including – but not limited to – regularising military recruitment policies and practices and establishing control and oversight over these processes.

Where irregular recruitment practices lead to underage recruitment

In situations of armed conflict, unregulated, informal or localised recruitment processes in which there is little or no oversight or accountability are often at the root of the problem of child soldier use. This has been demonstrated in countries including **Chad**, the **DRC**, **Myanmar**, **Sudan** and **Yemen**.

However, poor military recruitment practices exist elsewhere and in some cases there is evidence that they result in individuals being conscripted or enlisted below official recruitment ages. In **Peru**, for example, although much progress has been made in ending unlawful recruitment by the army**,** the combination of poor age documentation and weak verification processes continues to result in unlawful underage recruitment. In 2008 approximately 120 complaints of recruitment of mainly 14 to 17 year olds were reported to have been received by the Office of the Ombudsperson, despite 18 being the minimum age for enlistment.[92] In 2010, 16 cases were documented and another 11 during the first half of 2011.[93]

In **Eritrea** there is wide scope for under-18s to be "accidentally" caught up in annual conscription round-ups that are reported to draw in between 5,000 and 10,000 individuals in a single round (see Case Study at the end of Chapter 2). In **Tajikistan** there is evidence of underage recruitment resulting from official pressure to fill conscription registers and prevent draft evasion. By law boys are called up at 18 years but inefficient bureaucracy and chaotic recruitment drives have resulted in people who are not eligible being conscripted, including some who are too young. According to an NGO study of the autumn 2010 call-up, the use of press gangs resulted in forced recruitment from private homes and public spaces, including of a significant number of people who had not received call-up papers. In one reported case from 2008, a 17 year old, who was exempt both on grounds of age and because he was an only son, was rounded up and held for 24 hours before his release could be secured.[94]

Where pressure to recruit facilitates underage recruitment

Setting targets for recruitment is both normal and reasonable practice for armed forces. However, undue pressure to recruit – particularly when the pressure is on individual recruiters and linked to systems of rewards and punishments – can undermine official recruitment processes and lead to unlawful recruitment of children. These pressures occur most frequently (although not exclusively) in conflict-affected countries in response to urgent manpower needs. As such there is often a direct link between such practices and the use of children in hostilities as new recruits are required to perform roles in planned or ongoing military operations.

In **Myanmar**, for example, there is a widespread unofficial system of incentives and punishment for military recruiters to achieve targets, as well as a system by which serving soldiers can only be discharged if they find a replacement. The resulting "recruitment economy" has created an informal network of civilian brokers who profit from finding new recruits, and pressures on soldiers to ignore age restrictions. These systems are widely regarded as being among the main drivers of underage recruitment in Myanmar where children, particularly those without official

identification documents, are targeted as an easily available pool of recruits (see Case Study at the end of Chapter 6).

Cash incentives to recruiters have also been reported in the DRC and in Yemen and in both cases are believed to have contributed to underage recruitment. In the **DRC**, armed forces recruitment has often been carried out at the discretion of regional military commanders and individual unit commanders. In some cases individual officers are reported to have been given cash to go and find new recruits. In a situation like the DRC where irregular and localised recruitment practices are common and birth registration rates are low, such practices can further undermine already chaotic recruitment processes (see Case Study at the end of Chapter 5).[95] In **Yemen**, officers receive pay and equipment according to the number of soldiers registered in their units, thereby creating incentives for officers to inflate their troop levels, if necessary by recruiting children (see Case Study at the end of Chapter 4).

Elsewhere performance-related targets and harsh penalties for failing to achieve them may contribute to irregular recruitment practices. In **Tajikistan**, for example, it is reported that recruiting officers who do not meet targets risk losing their jobs, which may account in part for over-zealousness in identifying potential candidates for conscription (see example above).

Where recruiters do not know the rules

In order to apply laws on minimum ages of recruitment, recruiting officers and others involved in or with responsibility for recruitment must be made aware of the regulations and be individually responsible for acting in conformity with them.

In some situations lack of familiarity of recruiters with national laws or policies relating to the minimum age for recruitment may have contributed to underage recruitment. In **Afghanistan**, for example, police officials in one province where a recruitment campaign for the ANP was under way informed UN monitors that girls and boys who were literate and over the age of 16 (two years below the official age of recruitment) would be accepted into police training courses.[96] It is therefore encouraging to note that over 150 staff have since been trained by the Ministry of Interior in age assessment procedures and a nationwide campaign has been launched to prevent underage recruitment.[97] In **Thailand**, research by Child Soldiers International and its national NGO partner found that while senior military officials were aware of government directives relating to the age of recruitment by the Village Defence Volunteers, provincial and village level officials (i.e. those responsible for *Chor Ror Bor* recruitment) generally were not.[98] In both cases, the lack of knowledge of those involved in recruitment is likely to have directly led to child soldier use.

In addition to knowing what the minimum age is, those responsible for recruitment must also be aware of what constitutes proof of age. This should be explicitly and unambiguously set out in military manuals and other relevant documents. In some states this appears not to be the case with the result that recruiters may have insufficient guidance on how to reach a decision on age. In **Guyana**, for example, where the minimum age for voluntary recruitment may already be in contravention

of international standards (see section 3.2.2 above) a recruiting officer is required only to be "satisfied by the production of" a birth certificate or "any other evidence appearing to him to be sufficient, that a person offering to enlist has or has not attained the age permitted … for recruitment".[99]

Where recruits do not know or ignore the rules

It is equally important that potential conscripts and volunteers for military service and their families are aware of age criteria, both to discourage underage applicants and to protect against underage conscription or forced recruitment. The Committee on the Rights of the Child has frequently raised concern about low awareness of the Optional Protocol among children, parents and affected communities.[100]

Examples show that this lack of awareness can contribute to underage recruitment in situations where the military represents one of the few sources of regular employment. Underage recruitment in **Peru**, for example, has been attributed in part to requests by families to the military authorities to allow their sons to join up. In **Uganda** state officials have noted that falsification of documents by applicants or their families remains an obstacle to preventing underage recruitment. Specifically, they have admitted that village councils, which are responsible for verifying the age of potential recruits, may not necessarily be impartial and families conspire with them to inflate the ages of children to secure them a job in the military.[101] In order to discourage these practices, falsification of age documents has been criminalised under the Penal Code.[102]

3.5 Are recruitment processes subject to independent monitoring and oversight?

The international standards and best practice in applying them

Optional Protocol, Article 6.1: ***"Each State Party shall take all necessary legal, administrative and other measures to ensure the effective implementation and enforcement of the provisions of the present Protocol within its jurisdiction."***

Enforcement of the measures referred to in this chapter requires both effective monitoring systems and sanctions for non-compliance. Indeed, states that are party to the Optional Protocol are required to take all necessary legal, administrative and other measures to ensure its effective implementation and enforcement. The establishment of an independent mechanism to monitor the implementation of the Protocol and the criminalisation of unlawful underage recruitment and use are among the necessary measures envisaged here.

For a body monitoring implementation of the Optional Protocol to be effective it must be independent of the military. It must also have the mandate, powers and capacity to enable it to systematically monitor recruitment practices, receive and

act on complaints and take remedial actions as required. In many cases, this role will fall to an existing national human rights institution (NHRI) with a constitutional and/or legislative mandate to protect and promote human rights: for example a national human rights commission, a child rights commission, ombudsperson or commissioner for human rights. The minimum standards for the role and responsibilities of such national human rights institutions are set out in the Principles relating to the Status of National Institutions (also known as the Paris Principles). These principles have become accepted as the test of an institution's legitimacy and provide benchmarks against which proposed, new and existing NHRIs are assessed and accredited.[103]

However, it is not enough to assume that the function of monitoring Optional Protocol implementation will be carried out by these bodies. The Committee on the Rights of the Child has repeatedly pointed out that this role must be explicitly mandated. It has also called upon states to ensure that there is a dedicated unit or division within the institution which specialises in and has expertise on child rights and that it has adequate financial and staff resources. National monitoring bodies should, where relevant, also cooperate and coordinate closely with national and international child protection agencies with expertise in the release, recovery and reintegration of children associated with armed forces and groups.

Where monitoring is inadequate

In its reviews of state practice, the Committee on the Rights of the Child has often drawn attention to situations where there is no or inadequate provision for independent monitoring of military recruitment and use of children. In the case of **Sudan**, for example, it has expressed concern that there is no independent human rights institution capable of carrying out this function.[104]

In others, it considers that the existing institutional framework is not up to the task. The reasons for this can vary. In some states it is a question of mandate. In **Bosnia and Herzegovina**, for example, a national human rights institution exists but does not have a specific mandate to monitor the implementation of the Optional Protocol. In this case the Committee recommended that the Parliamentary Military Commissioners are specifically mandated to ensure compliance with the Optional Protocol by the armed forces, in close cooperation with the Ombudsman for Human Rights.[105]

In **Ireland** the two institutions under which the responsibility might fall are precluded from addressing the issue. On the one hand the Office of the Ombudsperson, which is generally responsible for investigating complaints by children or on their behalf, is not permitted to investigate actions which relate to or affect national security or military activity. On the other hand the Ombudsperson for Defence is precluded from investigating various matters including those concerning the organisation, structure and deployment of the defence forces. The Committee on the Rights of the Child called for actions of the defence forces relating to children under the age of 18 to be brought under the purview of the Office of the Ombudsperson for Children – that is, the body with specific expertise on child rights.[106]

Elsewhere the Committee on the Rights of the Child has raised concerns that monitoring regimes are undermined by lack of independence, expertise or resources. In the **Republic of Korea** the National Human Rights Commission has the competence to monitor violations of individual rights of children, including their unlawful recruitment and use, but lacks a child rights division with the specific skills and expertise to carry out this function effectively.[107] The same is the case in **Sri Lanka** where the National Human Rights Commission does not have a specialised unit for children. The Sri Lanka Commission also suffers from lack of independence and does not have the necessary human, financial and technical resources to carry out its responsibilities effectively.[108] The Committee has likewise raised concerns that inadequate resources available to human rights institutions in **Colombia**, **Nicaragua** and **Uganda** mean that they cannot effectively or systematically monitor recruitment practices and other issues relating to the Protocol.[109]

Without effective independent monitoring there is little possibility of identifying cases of underage recruitment and its causes. UN children and armed conflict actors can and do play this role temporarily in countries in which they have established monitoring and reporting task forces. However, they are present in relatively few states and should not, in any case, be regarded as a substitute for permanent national human rights institutions which should perform the role on an ongoing basis.

3.6 Is unlawful child recruitment and use criminalised in national law?

The international standards and best practice in applying them

Optional Protocol, Article 6.1: ***"Each State Party shall take all necessary legal, administrative and other measures to ensure the effective implementation and enforcement of the provisions of the present Protocol within its jurisdiction."***

The Optional Protocol imposes an explicit obligation on states that are party to it to criminalise the recruitment of children and their use in hostilities by non-state armed groups. In relation to state armed forces states are also required to take all necessary legal measures to ensure implementation and enforcement of the treaty. This should, as the Committee on the Rights of the Child consistently recommends, include criminalising unlawful underage recruitment and use by state armed forces. Independently of the Optional Protocol, states also have obligations under the Rome Statute of the International Criminal Court and customary international humanitarian law to criminalise the war crime of conscripting or enlisting children under the age of 15 years or using them to participate actively in hostilities.[110]

In a significant number of states the recruitment and use of children in hostilities has been criminalised. In many cases this has been done at the time of passing legislation to implement the Rome Statute.[111] Other states have included the crime in their criminal codes,[112] in laws on child protection,[113] or in military codes.[114]

In doing so, some states have adopted standards higher than those provided in the Rome Statute, by setting at 18 years the relevant age for the crime of recruitment and use of children by both non-state armed groups and state armed forces. These include **Argentina**,[115] **Burkina Faso**,[116] **Chile**,[117] **Colombia**,[118] **DRC**,[119] **Finland**,[120] **Liberia**,[121] **Lithuania**,[122] **Norway**,[123] **Panama**,[124] **Portugal**,[125] **Sri Lanka**[126] and **Uruguay**.[127]

Where the state fails to criminalise or prosecute recruitment and use of children

While a growing number of states have criminalised child recruitment and use, there are still many whose governments have yet to pass legislation explicitly criminalising such acts. These include states where there is evidence that children have been used in hostilities by state armed forces in recent years, such as **CAR**, **Chad**, **Côte d'Ivoire**, **India**, **Libya**, **Somalia**, **Thailand** and **Yemen**. The Committee on the Rights of the Child has noted with concern the lack of legislation in other states including **Andorra**, **Bangladesh**, **Bulgaria**, **Guatemala**, **Japan**, **Republic of Korea**, **Kuwait**, **Liechtenstein**, **Luxemburg**, **Maldives**, **Malta**, **Monaco**, **Oman**, **Qatar**, **Sierra Leone**, **Spain**, **Syria**, **Tanzania**, **Timor-Leste**, **Tunisia**, **Turkey** and **Viet Nam**.[128]

Some governments have passed legislation to criminalise child soldier recruitment and use but the legislation is not in full compliance with the Optional Protocol. For example, in some states recruitment and use by both state armed forces and non-state armed groups is criminalised, but only of children under the age of 15 years. **Belarus**,[129] **Belgium**,[130] **Bosnia and Herzegovina**,[131] **Burundi**,[132] **Canada**,[133] **Croatia**,[134] **Denmark**,[135] **Georgia**,[136] **Germany**,[137] **Ireland**,[138] **Kenya**,[139] **Republic of Korea**,[140] **Mali**,[141] **Malta**,[142] **Netherlands**,[143] **New Zealand**,[144] **Samoa**,[145] **Slovenia**,[146] **Trinidad & Tobago**,[147] **United Kingdom**[148] and the **USA**[149] are among those where this is the case. In **Australia** criminal law distinguishes between recruitment and use by non-state armed groups (criminalised below the age of 18 years) and state armed forces (criminalised below 15 years).[150]

Although 15 years is consistent with the age established by the Rome Statute and international humanitarian law below which recruitment and use constitutes a war crime, the Optional Protocol sets a higher standard. States that are party to the Optional Protocol are required, at a minimum, to criminalise the recruitment and use of persons under the age of 18 by non-state armed groups. With regard to state armed forces criminalisation should apply to compulsory recruitment of under-18s and to voluntary recruitment at an age which is consistent with the minimum age set by the state, which should be no lower than 16 years. With a view to strengthening protection for children from participation in hostilities the Committee on the Rights of the Child has encouraged states to criminalise both the direct and indirect participation in hostilities of under-18s.[151]

Some of the same states referred to above and others further limit the scope of application of legislation to situations of armed conflict by criminalising child soldier recruitment and use as a war crime only. The war crime of conscripting or enlisting children under the age of 15 years into national armed forces or using them to

participate actively in hostilities applies to crimes that are committed in the context of international and non-international armed conflicts. It would not apply, however, to situations of violence not amounting in intensity to an armed conflict or unlawful recruitment in non-conflict conditions.

Again, this may be consistent with states' obligations under international criminal and humanitarian law, but the Optional Protocol is a human rights instrument and as such is applicable in peacetime as well as in situations of armed conflict. As the Committee on the Rights of the Child has consistently pointed out, the obligation to criminalise unlawful recruitment and use of children in hostilities applies to all states, regardless of whether they are party to a conflict and/or whether armed groups operate in their territory.[152]

In other cases states apply different standards depending on the nature of the armed forces. In **Croatia**,[153] **Ethiopia**,[154] **Macedonia**,[155] **Montenegro**,[156] **Nicaragua**,[157] **Serbia**[158] and **Sudan**,[159] for example, the recruitment and/or use of children in hostilities is criminalised but only with respect to their national armies. This excludes other elements of the state armed forces, for example paramilitaries or civil defence groups where they exist, as well as non-state armed groups.

Limits on the scope of criminalisation can also relate to the question of territory and whether national courts can exercise universal jurisdiction over the crime of unlawful recruitment of children and their use in hostilities: that is, whether the national authorities are empowered to undertake criminal investigation and prosecutions of individuals suspected of unlawfully recruiting and using children regardless of where the crime was committed or the nationality of the accused and the victim.

Approximately three quarters of states have authorised their courts to exercise universal jurisdiction over certain crimes under international law, including war crimes.[160] However many states have yet to establish universal jurisdiction over unlawful recruitment and use of children. The Committee on the Rights of the Child has raised concern that extraterritorial jurisdiction has not been fully established by countries including **Andorra**, **Belgium**, **Costa Rica**, **Croatia**, **El Salvador**, **France**, **Guatemala**, **Iceland**, **Israel**, **Kyrgyzstan**, **Kuwait**, **Luxemburg**, **Macedonia**, **Maldives**, **Montenegro**, **Nicaragua**, **Sierra Leone**, **Spain**, **Sudan**, **Switzerland**, **Syria**, **Tanzania**, **Turkey**, **United Kingdom**, **USA** and **Viet Nam**.[161]

3.7 Does the criminal justice system have the capacity to effectively investigate and prosecute allegations of unlawful recruitment and use?

The international standards and best practice in applying them

Optional Protocol, Article 6.1: ***"Each State Party shall take all necessary legal, administrative and other measures to ensure the effective implementation and enforcement of the provisions of the present Protocol within its jurisdiction."***

Legislation to criminalise the recruitment and use of children is a prerequisite for ending impunity but it achieves little unless fully implemented. Without effective investigations and prosecutions, crimes remain unpunished and any deterrent effect of the legislation is lost or significantly weakened.

The obligation of states to carry out effective investigations of serious human rights violations and prosecutions of suspected perpetrators is well established in international human rights standards, including in the International Covenant on Civil and Political Rights.[162] Trials before independent, impartial and competent courts are a necessary requisite to address impunity and to ensure the right of victims to an effective remedy.

Trials of military personnel are often conducted by military courts for military code offences. However, noting the risk of impunity, independent human rights experts have consistently recommended that trials of military personnel for ordinary crimes and human rights violations (which would include the unlawful recruitment or use of children in hostilities), are carried out by independent, ordinary, civilian courts.

Where the state fails to investigate or prosecute

Although there have now been several international investigations and prosecutions of individuals suspected of conscripting or enlisting children or using them to participate actively in hostilities, the record of states at a national level is abysmal. Only rarely is action taken against individuals suspected of unlawful recruitment and use of children by state (or indeed any) armed forces.

In **Myanmar** the government is reported to have taken disciplinary action against 261 people suspected of unlawful recruitment of children since 2007 but criminal investigations and prosecutions are exceptional (see Case Study at the end of Chapter 6). The picture elsewhere is also one of virtual impunity.

In the **DRC**, for example, only one serving member of the armed forces, the FARDC, Alexandre Bwasolo Misaba, is known to have been successfully prosecuted in relation to child recruitment, despite consistent reports of unlawful recruitment and use of children by the FARDC for many years.[163] Following Misaba's trial in 2008, in which he was charged with "disobeying orders" under the military justice system, a Child Protection Code was adopted under which the crime of recruitment or use of children below the age of 18 years by armed forces and groups was made the subject of between 10 and 20 years' imprisonment. This provision has never been applied. Moreover, the government has failed to arrest and surrender to the International Criminal Court (ICC) the former rebel commander and until early 2012 senior FARDC commander Bosco Ntaganda, against whom there is an indictment which includes charges of child enlistment and use in hostilities.[164]

Criminal legislation is also in place but unused in other countries where there is ample evidence to initiate investigations and prosecutions. These include: the **Philippines**, where child recruitment and use is punishable with sanctions of up to life imprisonment but where despite UN documented cases of recruitment and

use of children by the national army and other branches of the armed forces no one has been held to account; **Sudan**, where, under the Armed Forces Act 2007, fraudulent recruitment of children under the age of 18 years is a criminal offence but where this law has never been applied; and **Yemen**, where the widespread use of child soldiers within the ranks of forces under government control has also been documented by the UN as well as by NGOs in recent years. Yemeni government officials have stated that recruitment under the age of 18 is against the law; however, no trials of individuals suspected of committing such crimes are known to have taken place.[165]

So while legislation is a prerequisite, other factors are also essential to ensure enforcement, including an independent, impartial criminal justice system capable of undertaking credible and effective investigations and prosecutions of human rights violations. Child soldier prevention agendas need to look beyond the international standards and national legislation to the settings in which these are implemented. In the same way that ending recruitment of children may not be achievable without reform of the military and associated institutions, accountability may only be possible through more comprehensive judicial reform. This is necessarily part of a longer-term endeavour which requires the involvement and support of a wide range of national and international stakeholders.

Notes

1 What constitutes direct or indirect participation depends on a range of factors and can be ascertained by applying the International Committee of the Red Cross (ICRC) Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law (ICRC Interpretive Guidance), http://www.icrc.org.

2 Committee on the Rights of the Child, Consideration of reports submitted by Colombia, Nepal, Philippines and Uganda, Concluding observations, UN Docs respectively: CRC/C/COL/CO/3, 8 June 2006, paragraph 80; CRC/C/15/Add.261, 21 September 2005, paragraph 81; CRC/C/PHL/CO/3–4, 22 October 2009, paragraph 69; and CRC/C/OPAC/UGA/CO/1, 17 October 2008, paragraph 24.

3 Committee on the Rights of the Child, Concluding observations on Colombia, UN Doc. CRC/C/OPAC/COL/CO/1, 21 June 2010, paragraph 37; and Israel, UN Doc. CRC/C/OPAC/ISR/CO/1, 4 March 2010, paragraph 24.

4 Rule 137, Participation of Child Soldiers in Hostilities, ICRC Customary IHL Database, http://www.icrc.org.

5 Act No. 365-Z of July 2008 amending the Children's Rights Act included an amendment to Article 33 to prohibit the recruitment of children for involvement in hostilities or for any other use in military conflicts. See initial report of Belarus to the Committee on the Rights of the Child on implementation of the Optional Protocol, UN Doc. CRC/C/OPAC/BLR/1, 25 March 2010.

6 Act of 28 February 2007 determining the status of soldiers on active service with the armed forces. The Act was due to come into force by July 2011. See third and fourth periodic reports of Belgium to the Committee on the Rights of the Child on implementation of the Convention on the Rights of the Child, UN Doc. CRC/C/BEL/3–4, 4 December 2009.

7 National Defence Act 1985, Article 34, http://laws-lois.justice.gc.ca.

8 Article 57 of the Organization Act establishing the Childhood and Adolescence Code prohibits the use of children and adolescents in internal or international armed conflicts or hostilities. See initial report of Ecuador to the Committee on the Rights of the Child on implementation of the Optional Protocol, UN Doc. CRC/C/OPAC/ECU/1, 7 April 2009.

9 See Committee on the Rights of the Child, Consideration of report submitted by France, Concluding observations, UN Doc. CRC/C/OPAC/FRA/CO/1, 5 October 2007 in which the Committee notes with appreciation the signature of a memorandum by the Ministry of Defence to amend the Defence Code in order to ensure that children under the age of 18 do not take part in hostilities, in accordance with Article 1 of the Protocol.

10 Directive transmitted by letter dated 9 September 2004 from the State Secretary in the Federal Ministry of Defence (annex I) to the Bundeswehr (Federal Armed Forces). See initial report of Germany to the Committee on the Rights of the Child on implementation of the Optional Protocol, UN Doc. CRC/C/OPAC/DEU/1, 17 April 2007.

11 Law No. 23 of 2002 on Child Protection, Article 63.

12 Army Act No. 32 of 1967. See Committee on the Rights of the Child, Consideration of report submitted by Kuwait, Concluding observations, UN Doc. CRC/C/OPAC/KWT/CO/1, 13 February 2008.

13 Children's Law of Liberia, Section 22.2, copy on file at Child Soldiers International.

14 Act of 20 December 2002 amending the Military Organization Act clearly prohibits the involvement of volunteer soldiers under the age of 18 either in operations of collective

or common defence or in peacekeeping operations. See initial report of Luxembourg to the Committee on the Rights of the Child on implementation of the Optional Protocol, UN Doc. CRC/C/OPAC/LUX/1, 6 November 2006.

15 Law No. 1245-XV of 18 July 2002 on the Preparation of Citizens for Homeland Defence and Law No. 162-XVI of 22 July 2005 on the Status of Military Personnel. See Committee on the Rights of the Child, Consideration of report submitted by the Republic of Moldova, Concluding observations, UN Doc. CRC/C/OPAC/MDA/CO/1, 20 February 2009.

16 The Defence Force Orders for Personnel Administration (DFO 4), paragraph 2.11, amended to expressly prohibit active service, both within and outside New Zealand, by members of the Armed Forces who are under the age of 18 years and amendment to Defence Act 1990, section 37 which now states that no person serving in the Armed Forces who is under 18 years is liable for active service. See third and fourth periodic reports of New Zealand to the Committee on the Rights of the Child on implementation of the Convention on the Rights of the Child, UN Doc. CRC/C/NZL/3–4, 14 June 2010.

17 The Service in the Slovene Army Act No. 68/07, Article 7. See Written replies by the government of Slovenia with consideration to its initial report under the Optional Protocol, UN Doc. CRC/C/OPAC/SVN/Q/1/Add.1, 29 April 2009.

18 Act No. 2004–1 of 14 January 2004 concerning national service, Articles 2 and 29 and Article 18 of Act No. 95–92 of 2 November 1995 promulgating the Child Protection Code. See initial report of Tunisia to the Committee on the Rights of the Child on implementation of the Optional Protocol, UN Doc. CRC/C/OPAC/TUN/1, 30 August 2007.

19 Child Protection Act, Article 30. See initial report of Ukraine to the Committee on the Rights of the Child on implementation of the Optional Protocol, UN Doc. CRC/C/OPAC/UKR/1, 29 October 2009.

20 Declaration by Viet Nam on ratification of the Optional Protocol, 20 December 2001, http://www2.ohchr.org.

21 Committee on the Rights of the Child, Consideration of report submitted by Viet Nam, Concluding observations, UN Doc. CRC/C/OPAC/VNM/CO/1, 17 October 2006.

22 Law on the Rights of the Child, Article 29, May 1996, http://www.parliament.am and initial report of Azerbaijan to the Committee on the Rights of the Child on implementation of the Optional Protocol, UN Doc. CRC/C/OPAC/AZE/1, 31 March 2011, paragraph 7.

23 "Understandings" lodged by the United States of America on ratification of the Optional Protocol, 23 December 2002, http://www2.ohchr.org.

24 Committee on the Rights of the Child, Consideration of report submitted by United States of America, Concluding observations, UN Doc. CRC/C/OPAC/USA/CO/1, 25 June 2008, paragraphs 6 and 7.

25 See ICRC Interpretative Guidance. ICRC interpretive guidance also seems to accept that certain types of intelligence gathering (intelligence of a tactical nature) may constitute taking a direct part in hostilities, http://www.icrc.org.

26 In its second periodic report to the Committee on the Rights of the Child on implementation of the Optional Protocol, the US admitted that there had been 17-year-old service members deployed to "hazardous duty pay" or "imminent danger pay" areas, UN Doc. CRC/C/OPAC/USA/2, 31 October 2011, paragraph 50.

27 US Code, Pay and Allowances of the Uniform Services, Chapter 5 – Special and Incentives Pay, Sub-chapter II, available at: http://www.law.cornell.edu.

28 See Marines Blog (the Official Blog of the United States Marine Corps), Imminent Danger Pay: What you need to know, 3 February 2012, http://marines.dodlive.mil.

29 "Understandings" lodged by the United States of America on ratification of the Optional Protocol, 23 December 2002, http://www2.ohchr.org.

30 Declaration by the United Kingdom of Great Britain and Northern Ireland on ratification of the Optional Protocol, 24 June 2003, http://www2.ohchr.org.

31 Australian Government, Department of Defence, Defence Instructions (General), Amendment, Management and administration of Australian Defence Force members under 18 years of age, 22 April 2008. http://content.defencejobs.gov.au.

32 See initial report of Ireland to the Committee on the Rights of the Child on implementation of the Optional Protocol, UN Doc. CRC/C/OPAC/IRL/1, 5 February 2007.

33 For example under the Convention of the Rights of the Child children have the right to protection from physical or mental harm (Article 19); enjoyment of the highest attainable standard of health (Article 24); and protection from economic exploitation and hazardous work (Article 32). The Convention has been ratified by all states with the exception of the Republic of South Sudan, Somalia and the USA.

34 See Answers by the State Party to the questions asked by the Committee on the Rights of the Child, UN Doc. CRC/C/OPAC/BGD/Q/1/Add.1, for 41st Session, January 2006.

35 See Bangladesh Air Force, Recruitment, Airmen: How to Apply, http://www.baf.mil.bd.

36 See Pakistan Air Force recruitment website, Training Period, http://www.joinpaf.gov.pk. According to this website the shortest training path for an aero-technician would be via the Pre-Trade Training School Kohat Aero-Technician (31 week minimum) plus IMG Karachi MET Asstt (14 weeks' training).

37 Initial report of the United Kingdom to the Committee on the Rights of the Child on implementation of the Optional Protocol, UN Doc. CRC/C/OPAC/GBR/1, 3 September 2007, paragraph 11.

38 Letter to the Committee Chair, from Rt Hon Andrew Robathan MP, Minister of State for Defence Personnel, Welfare and Veterans, Ministry of Defence, 28 February 2011 cited in House of Lords and House of Commons Joint Committee on Human Rights Legislative Scrutiny: Armed Forces Bill, Twelfth Report of Session 2010–12 May 2011, paragraph 21.1. The report noted that of the five, two were within two days of their 18th birthday, and two were identified on their arrival in theatre and returned to the UK; they redeployed after their 18th birthdays. The fifth individual was not identified until after turning 18. Available at: http://www.publications.parliament.uk.

39 See "Brit hero fought the Taliban…at 17", *The Sun*, 22 January 2012, http://www.thesun.co.uk.

40 According to the USA's second periodic report on the implementation of the Optional Protocol, a review of more than 1.7 million service members did not "uncover any service member under the age of 18 who had engaged directly in hostilities as the United States understands that term". See UN Doc. CRC/C/OPAC/USA/2, 31 October 2011.

41 Second Report of the United States of America to the Committee on the Rights of the Child on implementation of the Optional Protocol, UN Doc. CRC/C/OPAC/USA/2, 31 October 2011, paragraph 51.

42 Law 3360 of 2 November 2007 abolished article 10 and modified article 5 of Law 569/75 on compulsory military service, establishing that "in no case might military service be embarked upon before the age of 18". See initial report of Paraguay to the

Committee on the Rights of the Child on implementation of the Optional Protocol, UN Doc. CRC/C/OPSC/PRY/1, [undated].

43 See Coalition to Stop the Use of Child Soldiers, *Child Soldiers Global Report*, *2001*, *2004* and *2008*.

44 See initial report of Croatia to the Committee on the Rights of the Child on implementation of the Optional Protocol, UN Doc. CRC/C/OPAC/HRV/1, 11 January 2007 and UN Committee on the Rights of the Child, Consideration of report submitted by Croatia, Concluding observations, UN Doc. CRC/C/OPAC/HRV/CO/1, 23 October 2007.

45 Details of legislation not specified. See Summary record of the proceedings of the Committee on the Rights of the Child hearing Croatia's initial report on implementation of the Optional Protocol, UN Doc. CRC/C/SR.1258, 8 January 2008, paragraph 56.

46 Third periodic report of Norway to the Committee on the Rights of the Child on implementation of the Convention on the Rights of the Child, UN Doc. CRC/C/129/Add.1, 6 October 2004.

47 See Law on Military, Labour and Material Duties referred to in UN Committee on the Rights of the Child, Consideration of report submitted by Serbia, Concluding observations, UN Doc. CRC/C/OPAC/SRB/CO/1, 11 June 2010.

48 See General Survey on the fundamental Conventions concerning rights at work in light of the ILO declaration on Social Justice for a Fair Globalization, 2008, UN Doc. ILC.101/III/1B, 2012, paragraph 491, http://www.ilo.org.

49 Declaration by Brazil on ratification of the Optional Protocol, 27 January 2004, www2.ohchr.org, and Communication from Cyprus Ministry of Defence, July 2011.

50 National Defence Service Law 3634. See Committee on the Rights of the Child, Consideration of report submitted by Turkey, Concluding observations, UN Doc. CRC/C/OPAC/TUR/CO/1, 29 October 2009.

51 Act of 30 April 1962 on military service. See third and fourth periodic reports of Belgium to the Committee on the Rights of the Child on implementation of the Convention on the Rights of the Child, UN Doc. CRC/C/BEL/3–4, 4 December 2009, paragraph 911.

52 Armed Forces Recruitment and Mobilization Act, Decree-law No. 2306 of 1978, as amended by Act No. 20045 of 10 September 2005, Article 69. See Written replies by the government of Chile with consideration to its initial report under the Optional Protocol, UN Doc. CRC/C/OPAC/CHL/Q/1/Add.1, 21 December 2007.

53 Committee on the Rights of the Child, Consideration of report submitted by Belgium, Concluding observations, UN Doc. CRC/C/BEL/CO/3–4, 18 June 2010.

54 Committee on the Rights of the Child, Consideration of report submitted by Chile, Concluding observations, UN Doc. CRC/C/OPAC/CHL/CO/1, 13 February 2008.

55 Committee on the Rights of the Child, Consideration of report submitted by Liechtenstein, Concluding observations, UN Doc. CRC/C/OPAC/LIE/CO/1, 4 March 2010.

56 See the six reports of the working group on a draft optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts: E/CN.4/1995/96, 10 February 1995; E/CN.4/1996/102, 21 March 1996; E/CN.4/1997/96, 13 March 1997; E/CN.4/1998/102, 23 March 1998; E/CN.4/1999/73, 24 March 1999; E/CN.4/2000/74, 27 March 2000.

57 Afghanistan (2003), Bosnia and Herzegovina (2003), Burundi (2009), Croatia (2002), Denmark (Home Guard, 2001), DRC (2003), Finland (2000), Hungary (2001), Iraq (2003), Italy (2010), Republic of Korea (2004), Liberia (2008), Luxembourg (2007), Maldives (2002), Moldova (2005), Montenegro (2007), Nepal (2005 – by virtue of

Supreme Court ruling which made null and void the 1971 Boy's Recruitment and Conditions of Service Rules under which recruits had to be between 15 and 18 years old), Norway (2002), Oman (2008), Paraguay (2006), Rwanda (2001 for armed forces and 2005 for Local Defence Units), Serbia (2009), Sierra Leone (2007), Slovakia (2002), Slovenia (2007), Sudan (2007), Switzerland (2002), Timor-Leste (2004), Turkmenistan (2010), Ukraine (2001), Yemen (2002).

58 Information provided to Child Soldiers International by the Permanent Mission of Barbados, September 2011.

59 Declaration by Malta on ratification of the Optional Protocol, 9 May 2002, www2.ohchr.org.

60 Some sources indicate that the minimum age for voluntary recruitment in the Dominican Republic and the Democratic Republic of Korea could be 16, but this has not been verified in relation to either country.

61 Third periodic report of Jordan to the Committee on the Rights of the Child on implementation of the Convention on the Rights of the Child, UN Doc. CRC/C/JOR/3, 2 March 2006.

62 Communication from Ministry of National Security, Trinidad and Tobago, July 2011.

63 It is not known if this applies to apprentices who may by law join from 16 years, although in practice are now accepted only when they reach 17 years old. See "Minimum Age 18 to join the Defence Forces", *Inside Ireland*, 6 June 2012, http://insideireland.ie.

64 See www2.ohchr.org/english/bodies/crc, or UN Treaty Collection, http://treaties.un.org.

65 Declaration by France on ratification of the Optional Protocol, 5 February 2003, www2.ohchr.org.

66 France, Code of Defence, Title III, Chapter II Recruitment, Article L4132–1, http://www.legifrance.gouv.fr.

67 Written communication between Child Soldiers International and UNICEF Chad, August 2011.

68 Initial report of Ecuador to the Committee on the Rights of the Child on implementation of the Optional Protocol, UN Doc CRC/C/OPAC/ECU/1, 7 April 2009 and Committee on the Rights of the Child, Consideration of report submitted by Ecuador, Concluding observations, UN Doc. CRC/C/OPAC/ECU/CO/1, 1 April 2010.

69 See for example Committee on the Rights of the Child, Consideration of report submitted by Belarus, Concluding observations, UN Doc. CRC/C/OPAC/BLR/CO/1, 28 April 2011.

70 Committee on the Rights of the Child, Consideration of report submitted by Azerbaijan, Concluding observations, UN Doc. CRC/C/OPAC/AZE/CO/1, 3 February 2012.

71 Child Rights Network in Mexico (Red por los Derechos de la Infancia de México, REDIM), *Children and Armed Conflict in Mexico: alternative report on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict*, January 2011, available at: http://www.childrightsnet.org/resources.

72 Under Kazakhstan's Law on Military Duty and Military Service, No. 74-III ZRK, 8 July 2005, as amended in 2011, children are classified as "military service personnel", http://mod.gov.kz. According to information provided by the Embassy of Peru, London, in June 2011, children can enter military schools run by the armed forces from the age of 15, where they are considered members of the armed forces on active service (including during school vacations). Children in Turkmenistan can enter

military educational institutes from the age of 15, where they are known as cadets and classified as military service personnel under the 2010 Law of Turkmenistan on Military Duty and Service, Article 2 (23), http://www.turkmenistan.gov.tm.

73 Armenia's 2002 Law on the Performance of Military Service, ZR-380, as amended in 2003 and 2004, Articles 1.1 4(2) and 5(4) define "military service personnel" as including cadets of pre-conscription age "in military educational establishments" and cadets are considered to have the same "rights, privileges and duties" as other military personnel, http://www.parliament.am/legislation. Under Kyrgyzstan's Compulsory Military Service Act, boys are able to enter the Higher Military Academy from the age of 16–17 where under the Compulsory Military Service Act they are national servicemen (cadets). See Coalition to Stop the Use of Child Soldiers, *Child Soldiers Global Report 2008*. In Ukraine, 17 year olds can enrol in military schools where they are classified as members of the armed forces (information provided to Child Soldiers International by the Embassy of Ukraine, London, July 2011). In Uzbekistan children can enrol in higher military education institutes from the age of 17. Enrolment in these institutes is deemed to be the equivalent to military service. See initial report of Uzbekistan to the Committee on the Rights of the Child on implementation of the Optional Protocol, UN Doc. CRC/C/OPAC/UZB/1, 26 January 2012, paragraph 153 and 155.

74 In Belarus the admission to and categorisation of pupils at military schools at 17 is regarded as an exception to the regular recruitment age of 18 years (see declaration by Belarus on accession to the Optional Protocol, 25 January 2006). In Russia, where the regular recruitment age is also 18 years, military school pupils of 16 or 17 years old are regarded as performing compulsory military service, although they do not have a military service contract (see declaration by the Russian Federation on ratification of the Optional Protocol, 24 September 2008, www2.ohchr.org).

75 Article 24(2) of the International Covenant on Civil and Political Rights states that "Every child shall be registered immediately after birth and shall have a name." Resolutions have also been adopted by the UN General Assembly and Human Rights Council calling upon states to ensure registration of children immediately after birth, including General Assembly resolution 65/197, 21 December 2010 and Human Rights Council resolution A/HRC/RES/19/9, 3 April 2012.

76 See UNICEF *Good Practices in Integrating Birth Registration into Health Systems (2000–2009), Case Studies, Bangladesh, Brazil, The Gambia, and Delhi, India*, Working Paper, January 2010, http://www.unicef.org/protection.

77 For a detailed review of existing approaches to and literature on age assessment practices see Terry Smith and Laura Brownlees, *Age assessment practices: a literature review & annotated bibliography*, UNICEF Discussion Paper, April 2011, http://www.unicef.org/protection.

78 This is implicit in recommendations made by the Committee on the Rights of the Child to states to establish alternative means of determining age where birth registration documents are not available.

79 See for example Committee on the Rights of the Child, Consideration of report submitted by Egypt, Concluding observations, UN Doc. CRC/C/OPAC/EGY/CO/1, 18 July 2011.

80 In 2007 the ILO established a complaints mechanism for victims of forced labour (which includes recruitment and use of child soldiers) in Myanmar in cooperation with the Myanmar government.

81 See UN Committee on the Rights of the Child, Consideration of reports submitted by Bangladesh and the Philippines, Concluding observations, UN Docs. CRC/C/OPAC/BGD/CO/1, 17 March 2006 and CRC/C/OPAC/PHL/CO/1, 15 July 2008. See also

The Paris Principles: Principles and Guidelines on Children Associated with Armed Forces or Armed Groups, February 2007.

82 According to a recent UNICEF discussion paper, "Evidence shows that most experts agree that age assessment is not a determination of chronological age but an educated guess, and can only ever provide an indication of skeletal or developmental maturity from which conclusions about chronological age may be inferred." See Terry Smith and Laura Brownlees, *Age assessment practices: a literature review & annotated bibliography*, UNICEF Discussion Paper, April 2011, http://www.unicef.org/protection.

83 Committee on the Rights of the Child, General Comment No. 6 on the Treatment of Unaccompanied and Separated Children outside their Country of Origin, states that "identification measures including age assessment should not only take into account the physical appearance of the individual, but also his or her psychological maturity. Moreover, the assessment must be conducted in a scientific, safe, child and gender-sensitive and fair manner, avoiding any risk of violation of the physical integrity of the child; giving due respect to human dignity", UN Doc. CRC/GC/2005/6, 1 September 2005, paragraph 31.

84 Save the Children, UNHCR and UNICEF, Separated Children in Europe Programme: Statement of Good Practice, 4th Revised Edition, 2009, http://www.separated-children-europe-programme.org.

85 Initial report of Uganda to the Committee on the Rights of the Child on implementation of the Optional Protocol, UN Doc. CRC/C/OPAC/UGA/1, 17 July 2008.

86 Uganda Democratic Health Survey 2011, Preliminary Report, http://www.measuredhs.com/pubs.

87 UN Committee on the Rights of the Child, Consideration of report submitted by Uganda, Concluding observations, UN Doc CRC/C/OPAC/UGA/CO/1, 17 October 2008.

88 See Summary record of the proceedings of the Committee on the Rights of the Child hearing the initial report of Timor-Leste on implementation of the Optional Protocol, UN Doc. CRC/C/SR.1290, 23 January 2008.

89 Indian Army website, 'Career prospects', 'Recruitment of Other Ranks', http://indianarmy.nic.in.

90 The districts in which recruits are eligible for a dispensation are: Jammu & Kashmir, Uttarakhand, Sikkim, Andaman & Nicobar Islands, Lakshadweep Islands, Himachal Pradesh and the Northeast states except for Arunachal Pradesh. They are eligible for a dispensation in educational qualification to Class VIII (i.e. schooling to age 12–13). This dispensation also applies to two ethnic communities: Gorkhas and Adivasis. A further dispensation to Class V (age 9–10) is granted for recruits from the Ladakh region of Jammu & Kashmir and all recruits from Arunachal Pradesh. See Indian Army website, 'Dispensation in Educational Qualification', http://indianarmy.nic.in.

91 See UNICEF, *The State of the World's Children 2011*, Statistics, Table 9, Child Protection, http://www.unicef.org.

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93 Office of the Ombudsperson (*Defensoría del Pueblo*), "Office of the Ombudsman recommends that the Ministry of Defence adopt measures to prevent recruitment of minors for military service", Press Release 215/2011/DP/ OCII, 20 July 2011, http://www.ciudadanosprotegiendociudadanos.org.

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95 Child Soldiers International interview with UNICEF official, DRC, August 2010.

96 Report of the Secretary-General on children and armed conflict in Afghanistan, UN Doc S/2011/55, 3 February 2011.

97 See Children and armed conflict, Report of the Secretary-General, UN Doc. A/66/782-S/2012/261, 26 April 2012, paragraph 172.

98 See Coalition to Stop the Use of Child Soldiers and Justice for Peace Foundation, *Priority to Protect: Preventing children's association with village defence militias in southern Thailand*, March 2011.

99 Defence Act of Guyana, Section 18(3) on Enlistment, http://legalaffairs.gov.gy/information.

100 See for example UN Committee on the Rights of the Child, Consideration of reports on implementation of the Optional Protocol, Concluding observations on Argentina; Azerbaijan; Bangladesh; the DRC; El Salvador; Ireland; Israel; Mexico; Moldova; Mongolia; Montenegro; Nicaragua; Poland; Sierra Leone; Slovenia; Spain; Sri Lanka; Sudan; Tanzania; Thailand; Tunisia; Turkey; Uganda; Ukraine.

101 Initial report of Uganda to the Committee on the Rights of the Child on implementation of the Optional Protocol, UN Doc CRC/C/OPAC/UGA/1, 17 July 2008, paragraph 19.

102 Uganda Penal Code Act, Chapter XXXIV, Section 361, available at: http://www.wipo.int.

103 The Paris Principles were adopted by General Assembly resolution 48/134 of 20 December 1993. They address *inter alia*: the mandate and competence; composition and pluralism; and autonomy and independence of national human rights institutions (NHRI). NHRIs that are compliant with the principles are accredited by the International Coordinating Committee of the National Institutions for the Protection of Human Rights.

104 See Committee on the Rights of the Child, Consideration of reports submitted by Sudan, Concluding observations, UN Doc. CRC/C/OPAC/SDN/CO/1, 6 October 2010.

105 Committee on the Rights of the Child, Consideration of reports submitted by Bosnia and Herzegovina, Concluding observations, UN Docs. CRC/C/OPAC/BIH/CO/1, 1 October 2010.

106 Committee on the Rights of the Child, Consideration of reports submitted by Ireland, Concluding observations, UN Doc. CRC/C/OPAC/IRL/CO/1, 14 February 2008.

107 Committee on the Rights of the Child, Consideration of reports submitted by the Republic of Korea, Concluding observations, UN Doc. CRC/C/OPAC/KOR/CO/1, 27 June 2008.

108 Committee on the Rights of the Child, Consideration of reports submitted by Sri Lanka, Concluding observations, UN Doc. CRC/C/OPAC/LKA/CO/1, 1 October 2010.

109 Committee on the Rights of the Child, Consideration of reports submitted by Colombia, Nicaragua and Uganda, Concluding observations, UN Doc. CRC/C/OPAC/COL/CO/1, 11 June 2010; CRC/C/OPAC/NIC/CO/1, 1 October 2010; and CRC/C/OPAC/UGA/CO/1, 17 October 2008.

110 See article 8.2(b)(xxvi) and article 8.2(e)(vii) of the Rome Statute of the International Criminal Court. Under customary international humanitarian law all states must investigate war crimes and prosecute the suspects. See Rule 158 of ICRC, Customary IHL Database, http://www.icrc.org.

111 States include: Argentina; Australia; Belgium; Bosnia & Herzegovina; Burkina Faso; Canada; Chile; Costa Rica; Denmark; France; Georgia; Germany; Ireland; Kenya; Korea (Republic of); Malta; Netherlands; New Zealand; Norway; Philippines; Portugal; Rwanda; Samoa; Slovenia; South Africa; Trinidad & Tobago; Uganda; United Kingdom; and Uruguay.

112 For example: Burundi; Colombia; Croatia; Ecuador; Ethiopia; Finland; Lithuania; Mali; Nicaragua; Panama; Senegal; Serbia; Sri Lanka; and the USA.

113 For example: Botswana; the DRC; Liberia; and Kenya.

114 For example: Sudan.

115 Law 26.200 of 2007 on the Implementation of the Rome Statute.

116 Law 052–2009/AN of 3 December 2009 determining the powers and procedures of implementation of the Rome Statute.

117 Law 20357 defines crimes against humanity and genocide and war crimes, 2009.

118 Penal Code – Law 599 of 24 July 2000.

119 Law No. 09/001 of January 2009 on the protection of children.

120 The Criminal Code of the Republic of Finland, 2008.

121 Children's Law of Liberia, 2012.

122 Criminal Code, 2000.

123 Penal Code (Chapter 16–1 on international crimes), 2008.

124 Penal Code of the Republic of Panama, Law 14 of 2007 (as amended by Law 26 of 2008).

125 Law no. 31/2004 of 22 July 2004.

126 Penal Code (Amendment) Act, No. 16 of 2006.

127 Law 18.026 Implementing the ICC Statute.

128 See Committee on the Rights of the Child, Concluding observations on initial reports of respective states.

129 Criminal Code, 1999.

130 Law on serious violations of international humanitarian law, 5 August 2003.

131 Law on Implementation of the Rome Statute of the ICC and Cooperation with the ICC, 2009.

132 Law No. 1/05 of 22 April 2009 revising the penal code.

133 Crimes against humanity and war crimes Act 2000.

134 Criminal Code, 1998.

135 Act on the International Criminal Court, 2001.

136 Criminal Code, 1999.

137 Act to Introduce the code of Crimes against International Law, 2002.

138 International Criminal Court Act, 2006.

139 International Crimes Act, 2008.

140 Act on Punishment of Crimes under the Jurisdiction of the International Criminal Court, 2007.

141 Penal Code, Law No. 1/079 of 20 August 2001.

142 Criminal Code, amended in 2002.

143 International Crimes Act, 2003.

144 International Crimes and International Criminal Court Act, 2000.

145 International Criminal Court Act, 2007.

146 Criminal Code, 2008.

147 International Criminal Court Act, 2006.

148 International Criminal Court Act, 2001, and International Criminal Court (Scotland) Act 2001.

149 Child Soldiers Accountability Act, 2008.

150 Criminal Code Act, amended in 2009.

151 See for example Committee on the Rights of the Child, Consideration of reports submitted by Colombia, Concluding observations, UN Doc. CRC/C/OPAC/COL/CO/1, 21 June 2010 and Nicaragua, Concluding observations, UN Doc. CRC/C/OPAC/NIC/CO/1, 1 October 2010.

152 See for example Committee on the Rights of the Child, Consideration of report submitted by Croatia, Concluding observations, UN Doc. CRC/C/OPAC/HRV/CO/1, 23 October 2007; Committee on the Rights of the Child, Consideration of report submitted by Czech Republic, Concluding observations, UN Doc. CRC/C/OPAC/CZE/CO/1, 21 June 2006; and Committee on the Rights of the Child, Consideration of report submitted by Slovenia, Concluding observations, UN Doc. CRC/C/OPAC/SVN/CO/1, 12 June 2009.

153 Criminal Code, 1998.

154 Criminal Code, 2005.

155 Criminal Code, 2005.

156 Criminal Code, 2003.

157 Criminal Code, 2008.

158 Criminal Code, 2005.

159 Armed Forces Act, 2007.

160 Amnesty International, *Universal jurisdiction: A preliminary survey of legislation around the world*, AI Index: IOR 53/004/2011, October 2011.

161 See Committee on the Rights of the Child, Concluding observations on initial reports of respective states.

162 International Covenant on Civil and Political Rights, Article 2.

163 Misaba was sentenced to five years' imprisonment in 2008 under article 113 of the Military Penal Code. He subsequently escaped from prison.

164 Ntaganda has been sought on an ICC arrest warrant since August 2006 on charges of war crimes for recruiting and using child soldiers in active combat in 2002 and 2003 in the north-eastern district of Ituri. In 2009 the armed opposition group the National Congress for the Defence of the People (CNDP) which he headed at the time was integrated into the FARDC and Ntaganda was promoted to the rank of general. In April 2012 he led a mutiny against the DRC government. In March 2012 the ICC found Ntaganda's co-accused, Thomas Lubanga, guilty of the war crime of recruiting and using child soldiers. On 14 May 2012, the ICC prosecutor officially filed a request for a new arrest warrant against Ntaganda on additional charges.

165 See Report of the UN High Commissioner for Human Rights on the human rights situation in Yemen, UN Doc. A/HRC/19/51, 13 February 2012, paragraph 32.

Case Study **Liberia: A page turned?**

Liberia's two wars (1989–1997 and 1999–2003) were characterised by grave human rights violations including the forced recruitment and use in hostilities of many thousands of children. The large numbers of girls and boys who participated in the wars (estimated to have been between 21,000 and 36,000)[1] led Liberia's subsequent Truth and Reconciliation Commission (TRC) to conclude that children were specifically targeted by all armed factions including government armed forces and allied armed groups, and were heavily relied upon to perform a broad range of tasks, such as porters, cooks, spies and scouts, domestic servants and sex slaves as well as taking part in active combat.

In its final report published in 2009, the TRC made wide-ranging recommendations to provide redress and reparations to child victims and prevent future human rights abuses against children. On the specific issue of underage recruitment and use it declared that the government of Liberia must "make re-recruitment of child soldiers impossible" and that it should "closely monitor recruitment into the newly reconstituted Armed Forces of Liberia and ensure that none of the recruits is younger than 18".[2]

Although many of the TRC's recommendations have yet to be acted upon, by the time the TRC report was published efforts were already well under way to address the specific question of how to prevent under-18s from being recruited as members of the newly constituted army.

Army reform: a post-conflict priority

Following years of human rights violations committed by security forces in Liberia, far-ranging reform of the security sector was widely regarded as an imperative. Signatories to the 2003 Comprehensive Peace Agreement which brought an end to the second war agreed to disband irregular forces and restructure the Armed Forces of Liberia (AFL).[3] In the years that followed, an internationally driven process to radically reform security structures, including the military, has taken place.

Disbanding of irregular forces took place under a UN-led process to disarm, demobilise, reintegrate and rehabilitate (DDRR) fighting forces. The main forces involved were those loyal to the former president, Charles Taylor, some of which fought under the name of the official national army while others constituted loosely aligned militias.[4] They also included two armed opposition groups: the Liberians United for Reconciliation and Democracy (LURD) and the Movement in Democracy in Liberia (MODEL). By the time the disarmament and demobilisation phase of the DDRR program ended in late 2004 over 100,000 ex-combatants had been released, of whom more than ten per cent were children (more than 10,000 children including more than 2,300 girls).[5]

In contrast to similar processes elsewhere, the DDRR process in Liberia did not absorb ex-combatants into government security forces. Rather, the AFL was itself disbanded and an entirely new, much smaller "light" national army recruited and trained.

Integrating child soldier concerns into SSR design

Although not originally planned for, the decommissioning of existing personnel provided a unique opportunity to build the AFL from scratch.[6] In particular it contributed to the objective of re-establishing public trust in the state security apparatus by ensuring that the army's new members were not tainted by past involvement in human rights abuses or other crimes. Candidates were vetted against a number of criteria including their human rights record, levels of education and age. Although the minimum age for voluntary recruitment to the armed forces according to legislation in force at the time (1956 National Defence Law) was 16, a policy decision was taken that candidates for recruitment to the newly formed AFL should be at least 18 years old.

The necessity of international technical and financial support in achieving these standards was recognised in the peace agreement which included a request for USA involvement in the restructuring of the army. As part of this support the private military company, DynCorp International, which had been awarded the contract by the US State Department to recruit and train the AFL, put in place a process to vet applicants.

Working closely with the Liberian authorities, DynCorp designed a selection process tailored to the context where the paucity of documentation that could reliably establish a recruit's identity, age, education or prior history created particular challenges. In relation to age, with birth registration rates standing at only four per cent even today, birth certificates were not an option for establishing age for the majority of candidates.[7]

The process used to select the original 2,000 new recruits relied instead on various alternative methodologies to establish eligibility, beginning with interviews with candidates and followed by a process of verification of facts provided by them. This involved a trawl of publicly available documentation, including hospital records and data from an NGO that had run extensive education support programs in Liberia for many decades. This was followed by on-site interviews with parents, neighbours, friends, members of local councils and churches, employers and other members of the candidates' community. The interviews were supplemented by information campaigns via the media to encourage the public to report any relevant information about the candidates.[8] A further review of files to finalise recruitment decisions was undertaken by the committee in charge of recruitment co-chaired by representatives of the Liberian Ministry of Defence and the US Embassy, and a civil society representative.

The time and resources required for this process were significant. Recruitment of the original batch of 2,000 troops originally planned for began in early 2006 and was not completed until 2009; training was ongoing at the time of writing.[9] Applicants were vetted individually by a team of national and international researchers at a rate of just three to five per researcher per week.

The success of the broader military reform process remains to be seen: although the government of Liberia officially assumed responsibility for development of the new army at the beginning of January 2010, it is not expected to reach fully independent operational status until 2014.[10] In the meantime concerns have been raised about cases of misconduct and desertions.[11] However, by all accounts the agreed criteria for candidates were strictly and uniformly implemented.[12]

Sustainability of the model

A challenge for all involved is to ensure the high standards continue to be enforced. Whether this can be achieved is an open question. The government has signed but has yet to ratify the Optional Protocol. It has, however, taken a number of legislative measures to prohibit child recruitment and use. A new National Defence Act was adopted in 2008 under which AFL service is open only to citizens of Liberia between the ages of 18 and 35. After a delay of several years a Children's Law entered into force in February 2012.[13] The law provides that children should be protected from involvement in conflict; prohibits the recruitment or conscription of any child by the Ministry of Defence and amends the Penal Code to criminalise recruitment and use of child soldiers.[14]

In the meantime, a division for vetting and intelligence has been established in the Ministry of Defence and was, as at March 2011, staffed by around 20–30 civilians. Although apparently committed to applying the vetting procedures, it will have to do so without the levels of technical expertise available to DynCorp or the continued financial support of the USA.[15]

Having shown how child soldier recruitment can be prevented when the issue is prioritised and resourced, the Liberian government and its donors should be mindful of protecting this achievement. It will be some years before birth certification can be employed to verify the age of new recruits. In the meantime continued investment in the alternative methodologies is critical – to short-change this process means short-changing children and putting them once again at risk of use as soldiers.

Notes

1 Republic of Liberia, Truth and Reconciliation Commission (TRC of Liberia), Volume Three: Children, the Conflict and the TRC Children Agenda, Section 4.4.1 Recruitment and Reasons for Children to Join Armed Forces, http://trcofliberia.org.

2 TRC of Liberia, Volume Three: Children, the Conflict and the TRC Children Agenda, Section 7 Recommendations, http://trcofliberia.org.

3 Comprehensive Peace Agreement Between the Government of Liberia and the Liberians United for Reconciliation and Democracy (LURD) and the Movement for Democracy in Liberia (MODEL) and Political Parties, Accra, 18 August 2003, available at: http://www.usip.org.

4 The invasion of Liberia in 1989 by Charles Taylor's National Patriotic Front of Liberia (NPFL) led to the first conflict. He was elected President in 1997. By 1999 there was active fighting between government troops, including the Anti-Terrorist Unit (ATU), and armed opposition groups – LURD in the west and north of the country and the MODEL in the east and south with support from neighbouring Guinea, Sierra Leone and Côte d'Ivoire.

5 Children and armed conflict, Report of the Secretary-General, UN Doc. A/59/695-S/2005/72, 9 February 2005.

6 The demobilisation of the AFL was completed in December 2005 and the USA launched its recruitment and restructuring program in January 2006.

7 See UNICEF, *State of the World's Children 2012*, Statistical Table on Child Protection, http://www.unicef.org.

8 Child Soldiers International confidential interview with former senior official with DynCorp in Liberia, May 2012.

9 See GlobalSecurity.org, Liberian Security Sector Reform (LSSR) Program, Security Sector Reform for National Defense Program, http://www.globalsecurity.org. In January 2011, Liberian President Johnson Sirleaf declared the initial total force projection of 2,000 as inadequate and announced plans to recruit at least 300 more soldiers. See International Crisis Group, *Liberia: How Sustainable is the Recovery?* 19 August 2011.

10 It had been estimated that the army would become fully operational in 2012, but a number of factors, including insufficient equipment, delays in the procurement of new assets and continued delays in endorsing the national defence strategy, mean a delay in the army's full operational status to at least 2014. See Twenty-

third progress report of the Secretary-General on the United Nations Mission in Liberia, UN Doc. S/2011/497, 5 August 2011.

11 See International Crisis Group, *Liberia: How Sustainable is the Recovery?* 19 August 2011.

12 See for example International Crisis Group, *Liberia: Uneven Progress in Security Sector Reform*, 13 January 2009, http://www.crisisgroup.org, and United States Institute for Peace, "Security Sector Reform in Liberia: Domestic Considerations and the Way Forward", April 2007, http://www.usip.org.

13 UNICEF, "President Sirleaf launches Children's Law of Liberia", 4 February 2012.

14 Children's Law of Liberia, copy on file at Child Soldiers International.

15 Child Soldiers International interview with representatives of the Division of Vetting and Intelligence Section, Monrovia, March 2011.

Part III

State responsibility to prohibit the recruitment and use of children by state-allied armed groups

The responsibility of states to protect children from involvement in armed conflict does not end with its official armed forces. It also extends to armed groups which are "associated" with or "allied" to states. Such groups can include irregular paramilitary forces and self-defence militias which operate without an explicit legal basis or official recognition but which nevertheless enjoy the support of a government including its security forces. It can also include armed opposition groups engaged in armed conflicts in other countries to which a foreign state provides support.

"State-allied armed groups" often play a significant role in contemporary armed conflicts and it is common for them to have children in their ranks. Indeed, the risk of underage recruitment and use by such groups is often greater than in official armed forces. By their very nature – as unofficial forces – their recruitment processes tend to be unregulated, informal and lacking in policies relating to minimum age or procedures to implement them.

The type of support extended by states to such groups varies significantly and, with it, the degree of control that a state exercises over them. Although they are not subject to laws and policies applicable to official elements of the armed forces, states do however have obligations under the Optional Protocol to adopt measures to stop and prevent the recruitment and use of children by these groups. States though have generally failed to act on these responsibilities, and international bodies have not systematically held governments to account for their role in supporting, facilitating or tolerating child soldier recruitment and use by such groups.

4.1 The nature of state-allied armed groups

The proliferation of armed actors operating in non-international armed conflicts that characterises modern warfare means that rather than a neat division of two sides – one clearly defined as official state armed forces, and the other as armed opposition groups – there are often multiple armed actors involved, often with shifting alliances.

In this context many armed groups fight against government forces but there are also other non-state armed actors who are supported by, allied to, or even in some cases controlled by states. There is no universally accepted definition of what constitutes armed groups and broad categorisation is difficult as each armed conflict and the parties involved have their own singularities. Nevertheless, the armed actors described in this chapter can be loosely grouped into three

categories: irregular paramilitaries; "self-defence" militias; and armed groups operating in other countries.[1]

Irregular paramilitaries are used or relied on by states in certain armed conflicts to support military campaigns against armed opposition groups. These groups differ from regular paramilitaries described in section 2.2 in that they have no legal basis and are not formally under military command.

In some cases these armed groups are effectively under government control. For example, among the *Janjaweed* militias, which acted with and on behalf of Sudanese armed forces in Darfur, some were organised into paramilitary structures, operated under defined command structures and undertook attacks at the request of the Sudanese authorities.[2]

In other situations the state may not have overall command but irregular paramilitary groups nevertheless operate in territory controlled by the government, engage in military operations jointly or in lieu of state forces, and/or receive arms and ammunition and other forms of technical, financial or political support. Such is the case in Yemen where tribal militias are not formally a part of the state's armed forces, but have participated on its side in its various conflicts with armed opposition groups (see Case Study at the end of this chapter).

"Self-defence" militias typically emerge or are set up to fill security gaps in areas where the state is not able or willing to provide protection. They often have the direct or tacit support of state officials. Unlike civil defence forces they are not regulated by law and are not officially part of state armed forces. They tend to be formed on an ad hoc basis and often operate at a more localised level. At least initially, their role is generally primarily defensive, for example protecting their community against armed opposition groups or other local security threats. This role may evolve over time and in some cases they actively participate alongside state armed forces in military operations.

In the CAR, for example, self-defence militias have proliferated in conflict-affected areas as a result of the weakness and limited presence of state security forces. However, in addition to providing local security against armed criminal gangs and other armed elements, self-defence militias have also been used as auxiliaries to the armed forces in operations against armed opponents of the state. According to the UN there are also indications that some have been formed expressly on the initiative or with the support of the Ministry of Interior and that they are armed by local authorities.[3]

Mai Mai militias in eastern DRC are another example of "self-defence" militias whose role and relationship with the state has evolved over time. Mai Mai origins were also in community protection but today they are better known for criminal activities. Their relationship with the state is complex and changing, having variously fought with and in opposition to government armed forces. In recent years some Mai Mai groups have been absorbed into state armed forces as part of broader army integration processes aimed at demobilising armed groups. Others have remained outside or left the process. Although the latter are now regarded as

opponents by the DRC government, and military operations have been launched against some, the legacy of the Mai Mai as a state-supported movement entails continuing responsibilities for the state (see below).

State-supported armed groups operating in other countries: Many armed opposition groups also depend, at least to some degree, on support by foreign states. The extent and nature of this support varies significantly and it is typically denied by the governments concerned. Among the most notable example today is Eritrea's support of Somali armed opposition groups. The UN reports that this involves significant and sustained political, financial and material support, including arms, ammunition and military training to *Al-Shabaab* and other armed groups active in Somalia (see Case Study at the end of Chapter 2).[4]

There are other recent examples where foreign state support to armed groups has significantly contributed to the capacity of armed groups to conduct military operations. Such was the case in the DRC where armed opposition groups enjoyed the support of foreign governments in the region. Rwanda and Uganda in particular have both been key protagonists in conflicts in eastern DRC. Although both had withdrawn their troops from the region by 2003 there was evidence of continued support, particularly by Rwanda, to armed groups fighting the government until 2009. Improved regional relations and the absence of foreign state support for armed groups in the DRC resulted, according to the UN Group of Experts monitoring the implementation of sanctions in the DRC, in armed groups being "collectively weakened".[5] Recent reports however indicate renewed Rwandan support to armed opposition groups in the DRC (see below).

Improved relations since 2010 between Chad and Sudan have resulted in reduced support by the two governments to armed opposition groups operating on one another's territories. Prior to this both states had engaged in well established practices of supplying arms, ammunition, vehicles and training as well as safe havens and other forms of military support to armed groups opposing one another.[6]

4.2 The nature of state responsibility for allied armed groups

Optional Protocol, Article 4.1: *"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."*

Optional Protocol, Article 4.2: *"States Parties shall take all feasible measures to prevent such recruitment and use, including the adoption of legal measures necessary to prohibit and criminalize such practices."*

The Optional Protocol covers all types of military forces: state armed forces, non-state armed groups allied to states and non-state armed opposition groups that are independent of any state involvement. Articles 1 to 3 refer to national armies and other legally established or officially constituted state armed forces. Armed

groups "that are distinct from the armed forces of a State" are covered by Article 4 of the Optional Protocol. As has been noted elsewhere, a government can declare a group either to be part of the armed forces of the state or as not being part of them. There is no third option: all are covered and either way the Protocol confers obligations on states.[7]

The wording of Article 4 was left intentionally vague to cover a broad range of armed groups. However, the fact that states have responsibility to prevent recruitment by armed groups covered by this provision is clear. Specifically, states are required to "take all feasible measures to prevent" recruitment and use of children by such groups.

What constitutes "feasible measures" depends on the type of relationship between the state and the armed groups. Although states may have limited capacity to influence the practice of armed groups against which they are fighting, when the armed groups are allied to them there will be at least some level of influence over such groups and their actions: the stronger the level of control of the state over these groups, the more extensive the measures the government can, and is required to, take to comply with its obligations under Article 4.

Under international law, a state's responsibility may be engaged in three different ways:

Firstly, where an armed group is acting on instruction or under the direction or control of a state, even when the group does not have a legal basis and is not officially recognised by the state, its members are *de facto* state officials and the state is directly responsible for their acts.[8]

Secondly, even when a state does not exercise effective or overall control over armed groups with which it is allied, it may still be directly responsible for human rights violations committed by state officials in support of these armed groups. Such would be the case, for example, if the armed forces or other state officials assist or are complicit in the recruitment and use of children by state-allied armed groups.

State officials' support for the commission of crimes by allied armed groups, such as unlawful recruitment and use of children, may also carry individual criminal responsibility. In May 2012, for example, the Special Court for Sierra Leone found Charles Taylor guilty of aiding and abetting the commission of crimes committed by armed groups active during the armed conflict in Sierra Leone. The former President of Liberia was found to have provided arms, ammunition, operational support and encouragement which contributed substantially to the commission of crimes by these armed groups, including conscripting or enlisting children under the age of 15 years or using them to participate actively in hostilities.[9]

Thirdly, and more broadly, under human rights and international humanitarian law, states have an obligation to protect individuals from abuses committed by non-state armed groups.[10] The triggering of this obligation does not require proof of any sort of state support to the armed groups: the state has a stand-alone obligation to

act with due diligence to protect individuals from human rights abuses. The state clearly fails to fulfil this obligation if, instead of taking measures to protect children from being recruited and used by armed groups, it turns a blind eye and supports these groups with weapons or in other ways.

4.3 Child recruitment and use by state-allied armed groups and state complicity

From 2010 to mid-2012 there were reports of links between ten states and non-state armed groups with child soldiers in their ranks. These are: **CAR** (self-defence militias supported by the government); **Chad** (Sudan armed opposition groups); **Côte d'Ivoire** (militias allied to former President Gbagbo); **Eritrea** (armed opposition groups in Somalia); **Myanmar** (village militias known as *Pyi thu sit*); **Rwanda** (armed opposition groups in the DRC); **Somalia** (government-allied militias including *Ahlu Sunna Wal Jama'a*); **Sudan** (pro-government militias and armed opposition groups in Chad); **Sri Lanka** (*Tamil Makkal Viduthalai Pulikal* (TMVP) Iniya Barrathi faction); and **Yemen** (pro-government tribal militias).

The number of children in the ranks of state-allied armed groups has been, and in some cases continues to be, considerable. For example, in the **CAR** children are estimated to constitute one third of the total membership of self-defence militias.[11] Although precise numbers are not known they can be presumed to be relatively high given the reported increase in the number of such groups since the beginning of 2008, with 10 to 15 per cent of the population of some villages said to belong to them.[12] In **Yemen** children also make up a significant proportion of tribal militias which are estimated to have thousands of members. According to UN estimates 15 per cent of their membership is under 18 years old,[13] although other sources suggest that the figure could be as high as 50 per cent.[14]

Irregular paramilitaries in **Sri Lanka** were likewise responsible for having recruited hundreds of children in the past. Although active recruitment by the Karuna faction, subsequently known as the Tamil Peoples Liberation Tigers, (*Tamil Makkal Viduthalai Pulikal*, TMVP) ceased with the end of the armed conflict in 2009, in the years following its 2004 split from the Liberation Tigers of Tamil Eelam (LTTE) and its re-alignment on the side of the government, the Karuna faction recruited, mostly forcibly, hundreds of children.

In **Myanmar**, little is known about the recruitment practices of the many local militia groups allied to the government. According to informed observers there are dozens of such groups, some of which are surrendered armed opposition groups or breakaway factions, while others have been established by the authorities. In 2010, the UN raised concern that children may be attending mandatory military training for village militias known as "*Pyi thu sit*" in lieu of adult male family members.[15]

Levels of child recruitment and use by armed groups that receive or previously received support from foreign governments is also high, in some cases staggeringly so. In **Somalia**, for example, some 2,000 children were reported to have been

abducted for military training by the Eritrean-backed Somali armed opposition group *Al-Shabaab* in 2010 and close to 1,000 in 2011.[16] Thousands of children are also reported to have been recruited and used by Sudanese armed groups backed by the Chadian government, notably the Justice and Equality Movement (JEM) and the Sudanese Liberation Army (SLA/G-19 breakaway faction).[17] A Sudanese-backed Chadian armed opposition group, the Union of Forces for Democracy and Development (UFDD), was also reported to have high numbers of children within its ranks prior to its integration into Chad government forces in 2009–10.[18]

State involvement in child soldier use by allied armed groups

The role of states in unlawful recruitment and use of children by allied armed groups differs and identification of the type and extent of support can be challenging. Generally of an informal, unofficial nature, allegations can be difficult to verify – particularly where access to independent monitors is restricted – and are usually denied by the states involved. Difficulties in tracing the relationships between governments and armed groups may be further exacerbated by the tendency of these groups to splinter, merge and shift alliances.

Nevertheless there is often sufficient evidence of a relationship between a state and a specific armed group to establish the extent of state accountability for their actions. In the case of **Sudan**, for example, it was clearly established by the UN that the state had overall control over the *Janjaweed* which operated under the command of the Sudanese Armed Forces and acted on state orders. As such the Sudanese state is considered to be directly responsible for its acts.[19]

Participation in or complicity by state armed forces and other state representatives in child recruitment by allied groups has also been documented by independent investigations elsewhere. There is strong evidence for example of past involvement by **Rwanda** and **Uganda** in the recruitment and use of children by armed opposition groups operating in the DRC. During the 1998–2002 armed conflict, both states supported various armed groups, all with a record of recruitment and use of children.[20]

Rwanda's later support for the National Congress for the Defence of the People (*Congrès national pour la défense du peuple*, CNDP) and complicity in child recruitment by this group has been particularly well documented. According to the UN Group of Experts on the DRC and others, many children were recruited from refugee camps inside Rwanda where CNDP recruitment networks existed, sometimes with the direct involvement of government army officers, police or administrative officials who were present during some recruitment and/or involved in the children's transportation and transfer to the CNDP in the DRC.[21]

Rwanda's support for armed opposition groups in the DRC was said to have ended following an improvement in regional relations in 2009 and 2010. But according to recent reports, Rwandan government and military officials are once again providing support to their former CNDP allies following the breaking away in April 2012 of forces previously integrated into the DRC national army. Several armed groups in eastern DRC are now reportedly receiving Rwandan military and political support; in particular the group known as the "M23" is alleged by the UN Group of Experts

to have received ammunition, training and new recruits from Rwanda.[22] Senior members of this armed group have long been associated with unlawful child soldier recruitment and use[23] and according to the Group of Experts and other sources children under the age of 18 are among the recruits sent from Rwanda.[24]

Evidence of complicity of military officials in unlawful child recruitment by state-allied armed groups was likewise found in the past in **Sri Lanka** by the UN and NGOs. Human Rights Watch documented the abduction of children by the Karuna faction in areas under Sri Lankan government control in 2006. According to the report of a fact-finding mission by a Special Advisor to the Special Representative of the Secretary-General for Children and Armed Conflict the same year there was "strong and credible evidence that certain elements of the government security forces are supporting and sometimes participating in the abductions and forced recruitment of children by the Karuna faction".[25]

In other cases, state involvement in child recruitment by allied armed groups may not be direct, but nevertheless government policies or statements can encourage the practice. In **Côte d'Ivoire**, for example, there are reports that children were enticed to join pro-Gbagbo militias in 2010 by promises of jobs in the regular police force and the army.[26] In **Yemen**, systems of patronage – through which children and other fighters with tribal militias that have fought alongside the government are rewarded with positions in the army – are thought to contribute to the problem of unlawful recruitment (see Case Study at the end of this chapter).

Elsewhere, states may not have direct control over the groups in question and state officials (civilian or military) may not necessarily be directly or routinely involved in child recruitment. Nevertheless, where states provide support to armed groups which are known to unlawfully recruit and use child soldiers and fail to use their influence to protect children, that state also bears responsibility for its support for these unlawful acts.

In the **CAR** the state has failed to act with due diligence to protect children by introducing laws to prohibit and criminalise underage recruitment by self-defence militias. This, according to the UN, has encouraged underage boys to join. However, state responsibility in the CAR may go further because government officials are also reported to be involved in the processes through which children are recruited. Again, according to the UN, although many boys volunteer to join these militias, pressure from peers and local authorities is also instrumental. Moreover, recruits are initially selected by local leaders in areas under their control and the names of candidates then transmitted to local government, police and judicial authorities and to the Ministries of the Interior and Defence, any or all of which could and should prevent children from being admitted.[27]

In **Chad** there is evidence that state officials supported child recruitment by JEM and SLA from Sudanese refugee camps in Chad between 2006 and 2008. According to UN reports at the time there was compelling evidence that the Chadian authorities were aware but not able or willing to prevent recruitment from taking place in refugee camps, and that in some cases local officials assisted with the recruitment.[28]

The responsibility of states for human rights abuses committed by armed groups allied to them does not stop with the end of the alliance. Where states have supported groups in the past and not taken measures to prevent them from committing human rights abuses, the state may still be held responsible for the consequences of such support. In the **DRC**, for example, a domestic military court established that the state bore responsibility for human rights abuses by a Mai Mai group even though the group was, at the time the crimes were committed, opposing the government. In a judgement against a Mai Mai commander and his subordinates in 2009, the court found that the government had civil liability because it had failed to disarm its former allies at the end of the 2003 armed conflict, and ordered the state to pay damages to the victims of the group's actions.[29]

4.4 National and international responses to child recruitment and use by state-allied groups

For the most part states have failed to act upon their obligations in relation to armed groups allied to them. With few exceptions they have not taken measures either to prevent children being recruited and used by them or to investigate allegations of the involvement or support of state officials in such practices.

Where states have acted to end child soldier recruitment and use by allied armed groups it is notable that it has generally been successfully achieved only by regularising or entirely disbanding these forces. In **Rwanda**, for example, recruitment of under-18s by Local Defence Forces (LDF), a volunteer force created by the government in the 1990s and charged with ensuring local security, was brought to an end through the introduction of legislation in 2005 which both formalised their legal status and established 18 as the minimum age for recruitment.[30] Since then there have been no further reports of child recruitment by the LDF.

In the case of **Uganda** the government acting under pressure from the UN demobilised Local Defence Units (LDUs) which were allied to the state armed forces, the Ugandan People's Defence Forces (UPDF). The LDUs were first listed as a party to armed conflict that recruited and used children in the 2003 Report of the Secretary-General and although not regulated by law they were, according to the UN, *de facto* under the command of the UPDF and received training and arms from them. At the time these groups were reported to have close to 1,130 children in their ranks.[31] Critically, the action plan agreed between the government of Uganda and the UN in 2009 included "auxiliary forces" (*de facto* LDUs) and required the government to take measures to prevent the association of children with them. The same year, the UN Secretary-General reported that the LDUs were in the process of being disbanded and their members integrated into the army or police. Those who did not meet recruitment criteria, including on age, were demobilised and reintegrated into their communities.[32]

The release of children from state-allied groups in both Côte d'Ivoire and Sri Lanka was also achieved with UN involvement, but in both cases the militia or irregular paramilitary structures continue to exist outside the official security forces. Moreover, while UN-backed action plans resulted in the release of children from state-allied groups in both countries, the extent of the state's support to these armed groups and its responsibility for child soldier recruitment and use by them has not been adequately addressed.

In the case of **Sri Lanka**, the release of children from the TMVP followed the signing of an action plan by the TMVP, the government of Sri Lanka and the UN in December 2008. The TMVP has since been registered as a political party and, although it no longer maintains an armed wing, according to credible reports some of its cadres are armed. It remains unclear what barriers would exist to renewed child recruitment by the TMVP in the event of future hostilities. Moreover, although the Sri Lankan government claims to have established investigations into the complicity of members of the state armed forces in child recruitment by the TMVP, no prosecutions have been initiated against persons allegedly responsible for child recruitment.

In the case of **Côte d'Ivoire** the failure to disestablish the networks of state-allied armed groups which had been responsible for child soldier recruitment and use during and after the 2002 armed conflict directly contributed to the resurgence of the same practices, in some cases by the same groups, in 2010. At the end of the 2002–3 conflict an estimated 1,000 children were associated with militias close to the ruling party of the former president, Laurent Gbagbo.[33] Four of these groups subsequently agreed to action plans to release underage members and end future recruitment. However, the government was not a party to the plans and its responsibility for the actions of its allies was therefore not addressed.[34] It also failed to act on a request by the UN Security Council Working Group on Children and Armed Conflict to cooperate with the UN to identify other militias with children in their ranks and encourage them to also agree action plans.[35]

In the meantime a network of pro-government armed militia, or youth groups, continued to operate in Côte d'Ivoire as parallel security forces, supplementing and sometimes standing in for the police and gendarmerie.[36] Some were responsible for serious human rights abuses, including, in the case of the Young patriots (*Jeunes patriotes*), the use of children in violent mass demonstrations in the years following the conflict.[37] The Young patriots were among the armed militias that took part in the hostilities during 2010 in support of former President Gbagbo.[38] Although the number of children in the ranks of these militias on this occasion is not known, under-18s were reported to have performed a wide range of roles including in combat, manning checkpoints, in surveillance work, cooking and providing other forms of assistance to the pro-government fighting forces.[39]

There are other cases in which states have neither acted to prevent nor been held responsible for unlawful child soldier recruitment and use by allied armed groups. In the case of **Eritrea**'s support for *Al-Shabaab*, for example, not only has the government failed to use its influence to end recruitment and use of children by the group, but Eritrea's relationship with *Al-Shabaab* and the responsibilities that arise

from this have not been addressed under the UN Security Council children and armed conflict framework (see Case Study at the end of Chapter 2).

Chadian and **Sudanese** support for armed groups operating in one another's territory has also not been adequately addressed. Generic recommendations have been issued in the past by the UN Security Council Working Group on Children and Armed Conflict to the government of Chad to enhance security in and around camps for refugees and internally displaced persons to prevent the recurrence of child recruitment from these sites and to continue to facilitate unhindered access for UN actors to all military centres and camps.[40] These recommendations, if implemented, would no doubt improve the protection of children from unlawful recruitment and other human rights abuses. They do not, however, address the alleged support of the two governments for armed groups, or their responsibility for unlawful recruitment and use of children resulting from this support.

The grave consequences of failing to hold states accountable for their support of allied armed groups that recruit and use children are highlighted by allegations of renewed **Rwandan** support for armed opposition groups in the DRC (see above). Although Rwanda's past role in unlawful child recruitment and use by the DRC armed opposition groups has been well documented, efforts to hold the Rwandan government to account have been inconsistent and contributed to a situation of impunity in which such actions can be repeated.[41]

This inconsistency undermines the principle established by the Optional Protocol and other international human rights treaties that states are required to prevent human rights abuses, including child soldier recruitment and use, by armed groups over which they have control or influence. The relationships are not always easy to establish; nevertheless understanding them is critical to the development of strategies and programs to protect children and end child soldier recruitment and use by such groups – a process which supporting states must be involved in and held accountable to.

Notes

1 This chapter does not include situations of common criminality or violence, although in these contexts there may also be armed groups associated with or supported by the state where child members of these groups face similar risks to those associated with armed groups that are involved in armed conflicts.

2 See the analysis of the relationship between *Janjaweed* militias and government armed forces in Report of the International Commission of Inquiry on Darfur to the Secretary-General, UN Doc. S/2005/60, 1 February 2005.

3 See Reports of the Secretary-General on children and armed conflict in the Central African Republic, UN Doc. S/2011/241, 13 April 2011, paragraph 1; and UN Doc. S/2009/66, 3 February 2009.

4 See for example Report of the Monitoring Group on Somalia and Eritrea submitted in accordance with resolution 1916 (2010), UN Doc. S/2011/433, 18 July 2011, Report of the Monitoring Group on Somalia submitted in accordance with resolution 1853 (2008), UN Doc. S/2010/91, 10 March 2010; and Report of the Monitoring Group on Somalia submitted in accordance with resolution 1811 (2008), UN Doc. S/2008/769, 10 December 2008.

5 Final report of the UN Group of Experts on the Democratic Republic of the Congo, UN Doc. S/2010/596, 29 November 2010, paragraph 13.

6 See for example Final reports of the UN Panel of Experts on the Sudan, UN Doc. S/2008/647, 11 November 2008, paragraph 151.

7 See for example Rachel Brett, *Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict*, International Council on Human Rights Policy & International Commission of Jurists, Workshop, Geneva, 13–14 February 2005 and Matthew Happold, "The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict", *Yearbook of International Humanitarian Law*, 2001.

8 See article 8 of the Articles on the Responsibility of States for Internationally Wrongful Acts, reproduced in Resolution 56/83 of the UN General Assembly on Responsibility of States for internationally wrongful acts, UN Doc. A/RES/56/83, 18 January 2002. See also rule 149 of International Customary Humanitarian Law, ICRC, Customary IHL Database, http://www.icrc.org, which states: "A State is responsible for violations of international humanitarian law attributable to it, including: … (c) violations committed by persons or groups acting in fact on its instructions, or under its direction or control". The elements to determine what constitutes state control have been the subject of different approaches by international bodies but regardless of these different approaches it is clear that the control requires evidence of actions that go beyond the mere providing of arms, training or financial assistance to these armed groups.

9 Special Court for Sierra Leone, Trial Chamber II, Prosecutor v. Charles Ghankay Taylor, Judgement, Case No. SCSL-03–01-T, 18 May 2012.

10 The responsibility of states to protect from human rights abuses by non-state actors has been long established in international human rights law. See for example the Human Rights Committee General Comment on article 2 of the International Covenant on Civil and Political Rights, UN Doc. CCPR/C/21/Rev.1/Add.13, 26 May 2004, paragraph 8. The UN Special Rapporteur on extrajudicial, summary or arbitrary executions has also noted, with particular regard to state-allied armed groups, that "The State has direct responsibility for the actions of non-State actors that operate at the behest of the Government or with its knowledge or acquiescence. Examples include private militias controlled by the Government (which may, for example, be ordered to kill political opponents) as well as paramilitary groups and deaths squads",

Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, UN Doc. A/HRC/14/24, 20 May 2010, paragraph 46(a). In international humanitarian law this obligation is worded as an obligation to "ensure respect". See Customary International Humanitarian Law, Rule 139 which states "each party to the conflict must respect and ensure respect for international humanitarian law by its armed forces and other persons or groups acting in fact on its instructions, or under its direction or control" (ICRC, Customary IHL Database, http://www.icrc.org).

11 Children and armed conflict, Report of the Secretary-General, UN Doc. A/64/742-S/2010/181, 13 April 2010, paragraph 57.

12 Report of the Secretary-General on children and armed conflict in the Central African Republic, UN Doc. S/2009/66, 3 February 2009.

13 Children and armed conflict, Report of the Secretary-General, UN Doc. A/65/820-S/2011/250, 23 April 2011, paragraph 197.

14 Seyaj Organization for Childhood Protection, Summary Report of Situation of Children in armed conflict, Sa`dah War and Harf Sofian north Yemen, 2009, http://reliefweb.int/organization/seyaj.

15 Children and armed conflict, Reports of the Secretary-General, UN Doc. A/64/742-S/2010/181, 13 April 2010, paragraph 89 and UN Doc. A/65/820-S/2011/250, 23 April 2011, paragraph 106.

16 Children and armed conflict, Reports of the Secretary-General, UN Doc. A/65/820-S/2011/250, 23 April 2011, paragraph 130 and UN Doc. A/66/782-S/2012/261, 26 April 2012, paragraph 97.

17 Children and armed conflict, Report of the Secretary-General, UN Doc. A/62/609-S/2007/757, 21 December 2007, paragraph 109.

18 Children and armed conflict, Report of the Secretary-General, UN Doc. A/64/742-S/2010/181, 13 April 2010, paragraph 62.

19 This responsibility has been made explicit by the UN Secretary-General in noting that the government bears direct responsibility not only for the recruitment and use of children by official elements of the state's armed forces but for "all aligned forces". See Reports of the Secretary-General on children and armed conflict in the Sudan, UN Docs. S/2006/662, 17 August 2006, paragraph 57; S/2007/520, 29 August 2007, paragraph 60; and S/2009/84, 10 February 2009, paragraph 68.

20 Report of the Mapping Exercise documenting the most serious violations of human rights and international humanitarian law committed within the territory of the Democratic Republic of the Congo between March 1993 and June 2003 (UN Report of the Mapping Exercise), Office of the High Commissioner for Human Rights, August 2010.

21 Final report of the UN Group of Experts on the Democratic Republic of the Congo, UN Doc. S/2008/773, 12 December 2008, paragraphs 61–63.

22 Addendum to the Interim report of the Group of Experts on the DRC (S/2012/348) concerning violations of the arms embargo and sanctions regime by the government of Rwanda, UN Doc. S/2012/348/Add.1, 27 June 2012.

23 They include Sultani Makenga, a colonel and former rebel leader alleged to have been involved in civilian killings and recruitment of children for use in combat, and Bosco Ntaganda, an army general wanted by the ICC on charges of war crimes for recruiting and using children in combat in the north-eastern district of Ituri in 2002–3.

24 See for example Interim report of the Group of Experts on the DRC submitted in accordance with paragraph 4 of Security Council resolution 2021 (2011), UN Doc. S/2012/348, 21 June 2012; Human Rights Watch, "DR Congo: Rwanda Should Stop Aiding War Crimes Suspect", 3 July 2012; and "Rwanda supporting DR Congo mutineers", BBC, 28 May 2012, http://www.bbc.co.uk/news.

25 See Human Rights Watch, *Complicit in Crime: State Collusion in Abductions and Child Recruitment by the Karuna Group*, January 2007 and Statement from the Special Advisor on Children and Armed Conflict, 13 November 2006.

26 See Report of the UN High Commissioner for Human Rights on the situation of human rights in Côte d'Ivoire, UN Doc. A/HRC/16/79, 23 February 2011, paragraphs 30–3.

27 Report of the Secretary-General on children and armed conflict in the Central African Republic, UN Doc. S/2009/66, 3 February 2009, paragraphs 31 and 32.

28 For example, Children and armed conflict, Reports of the Secretary-General, UN Doc. A/61/529-S/2006/826, 26 October 2006, paragraph 79 and A/63/785-S/2009/158, 26 March 2009, paragraph 27.

29 The case was against Gédéon Kyungu Mutanga, commander of a Mai Mai group in Katanga province, and his subordinates. Gédéon and 20 of his subordinates were found guilty of various crimes. The original charges also included war crimes relating to the recruitment of 300 children between 2003 and 2006. These charges were dropped, however, after the court ruled that war crimes charges were not admissible in the absence of a declaration of war.

30 Law No. 25/2004 of 19 November 2004 Establishing and Determining the Organisation and Functioning of the Local Service in Charge of Assisting the Maintenance of Security Referred to as "Local Defence," Article 9(3), *Official Gazette*, No. 1, 1 January 2005. See Coalition to Stop the Use of Child Soldiers, *Child Soldiers Global Report 2008*.

31 Report of the Secretary-General on children and armed conflict in Uganda, UN Doc. S/2007/260, 7 May 2007, paragraph 8.

32 Children and armed conflict, Report of the Secretary-General, UN Doc. A/63/785-S/2009/158, 26 March 2009.

33 Report of the Secretary-General on children and armed conflict in Côte d'Ivoire, UN Doc. S/2006/835, 25 October 2006, paragraph 2.

34 Action plans were signed with the *Front pour la libération du grand ouest* (FLGO); *Mouvement ivoirien de libération de l'ouest de la Côte d'Ivoire* (MILOCI); *Alliance patriotique de l'ethnic Wé* (APWé); and *Union patriotique de résistance du Grand Ouest* (UPRGO). See Children and armed conflict, Report of the Secretary-General, UN Doc. A/62/609-S/2007/757, 21 December 2007.

35 Security Council Working Group, Conclusions on Côte d'Ivoire, UN Doc. S/2007/93, 15 February 2007.

36 See Office of the High Commissioner for Human Rights, Report of the Commission of Inquiry on the events connected with the march planned for 25 March 2004 in Abidjan, 29 April 2004. For further details on youth militias in Côte d'Ivoire see also Human Rights Watch, *"The Best School": Student Violence, Impunity and Crisis in Côte d'Ivoire*, May 2008.

37 Children and armed conflict, Report of the Secretary-General, UN Doc. A/61/529-S/2006/826, 26 October 2006, paragraph 24.

38 Children and armed conflict, Report of the Secretary-General, UN Doc. A/65/820-S/2011/250, 23 April 2011, paragraph 84.

39 Report of the Independent, International Commission of Inquiry on Côte d'Ivoire, UN Doc. A/HRC/17/48, 14 June 2011, paragraph 102.

40 See Security Council Working Group, Conclusions on children and armed conflict in Chad 2007 and 2011, UN Docs. S/AC.51/2007/16, 24 September 2007 and S/AC.51/2011/4, 3 May 2011.

41 Rwanda's involvement in unlawful recruitment of children by DRC armed opposition groups was raised by the UN Security Council Working Group on Children and Armed Conflict in 2006 when it called for a démarche by the President of the Security Council to the Government of Rwanda on the need to cease any movements of the then CNDP commander, Laurent Nkunda, on Rwanda's territory (see Security Council Working Group, Conclusions on children and armed conflict in the Democratic Republic of the Congo, UN Doc. S/2006/724, 11 September 2006). The UN Security Council Working Group has not addressed the issue since, although other parts of the UN system have. A 2008 report by the UN Group of Experts on the DRC, for example, contained detailed information on Rwanda's continued support for CNDP and complicity in child soldier recruitment and use (see Final report of the UN Group of Experts on the Democratic Republic of the Congo, UN Doc. S/2008/773, 12 December 2008 and Report of the Mapping Exercise documenting the most serious violations of human rights and international humanitarian law committed within the territory of the Democratic Republic of the Congo between March 1993 and June 2003, August 2010, http://www.ohchr.org.

Case Study **Yemen: A deep-rooted problem made worse by inaction**

The recruitment and use of child soldiers in Yemen is widespread and entrenched. It is rooted in a complex mix of socioeconomic conditions, high levels of armed violence and cultural tradition. However, the government has also historically failed to establish effective control over and regularise recruitment practices of the armed forces or the tribal militias on which it relies for support in armed confrontations against opponents.

Yemen's armed forces and state-allied armed groups have been engaged in various conflicts in recent years: against the *Al-Houthi* armed opposition group in the north of the country; against *Ansar al-Sharia* (a group allegedly linked to *Al-Qaeda* in the Arabian Peninsula – AQAP) in the south; in the cities of Ta'izz and around the capital, Sana'a, against tribal opposition fighters; and in the suppression of anti-government demonstrations in Sana'a and other major cities in 2011. Child soldiers have participated in forces under government control in most if not all of these conflicts or confrontations.

Despite a well established pattern of unlawful recruitment and use of children by state armed forces and allied armed groups, Yemen received relatively little attention from the UN under the Security Council children and armed conflict framework until 2010, when Yemen first featured in the text of the UN Secretary-General's annual report on children and armed conflict. *Al-Houthi* rebels and state-allied tribal militias were listed in the annual report for the first time in 2011, and state armed forces (along with the defected First Armoured Division, see below) in 2012.

Child soldier use by state armed forces and allied armed groups

Children were reportedly seen in uniform serving as part of armed units mobilised by the state to quell protest against the 33-year rule of President Saleh in 2011.[1] Among these forces were the elite Republican Guard and the paramilitary force nominally under Ministry of Interior control, the Central Security Forces, both of which are reported to have under-18s as members.[2] Under-18s also participated in the violence in the Yemeni army's First Armoured Division whose commander defected to the opposition in March 2011. Children who were already in the Division's ranks were deployed to protect anti-government protestors. Many, however, claimed to have been recruited in previous years to fight for the government in its intermittent conflict with the *Al-Houthi* forces in the northern governate of Sa'ada.[3] Other units deployed in these wars were also reported to have had children in their ranks.

These regular forces were backed by pro-government tribal militias which were reported to have used boys and girls in various combat, logistical and support roles. There are also reports of forced marriage of girls to members of tribal militias and their *Al-Houthi* opponents.[4] Both government forces and allied tribal militias are also reported to be recruiting children to fight against *Ansar al-Sharia*.[5]

Although tribal militias are not formally a part of the armed forces, the linkages are clear. Tribal sheikhs often serve as military officers or collect salaries from the government as a reward for services rendered and the government has frequently incorporated tribal militias into the regular armed forces.[6] Material support, including funds and weapons, has also

been provided to tribal militias in exchange for their support.[7] Whether through longer-term alliances or short-term financial incentives, the militias are regularly utilised by the state in a relationship that is openly acknowledged. In October 2010, for instance, the government announced that it would pay tribal militias to fight AQAP in southern Yemen.[8]

Failure to regulate recruitment practices

The government of Yemen has on a number of occasions indicated a commitment to ending the use and recruitment of children – it acceded to the Optional Protocol in 2007 and in 2011 the Minister of Legal Affairs and the Higher Council for Motherhood and Childhood (HCMC) reaffirmed in writing their intention to work with the UN on ending the recruitment and use of children. At the same time it has denied allegations of unlawful recruitment by its armed forces. In response to concerns raised by a delegation from the Office of the High Commissioner for Human Rights in December 2011, for example, the Ministers for Defence and the Interior challenged allegations of underage recruitment on the basis that recruitment of children below the age of 18 is against the law.[9]

That much is true. The government has established an age limit for both the police and the army of 18 years: a 2002 Law on Child Rights states that "persons under the age of 18 cannot participate in armed conflict or be recruited".[10] A minimum age of 18 years for recruitment by the police and military reserves is also stipulated in other legislation (General Reserve Act No. 23 of 1990 and Police Force Act).[11] However, the legal standards and claims that military recruitment is centrally administered, with the age of recruits requiring confirmation by two witnesses, bear little relation to the practice.[12]

In reality recruitment processes are politicised and personalised, used to secure the support of tribesmen and to reward personal loyalty among officers. No consistent attempt is made to verify ages of recruits.[13] Officers of the First Armoured Division, for example, have admitted to allowing recruitment of 15 year olds and occasionally younger children.[14] This is thought to reflect broader government practice and is not limited to this breakaway Division.

The practice of supplying officers with pay and equipment according to the number of soldiers registered in their units creates incentives for officers to increase troop levels, including by recruiting children.[15] According to some reports, growing opposition to the government in 2011 and subsequent military defections resulted in intensification of recruitment efforts in which recruiters have been told to turn a blind eye and falsify documents.[16] Local child rights activists also report that increased levels of violence in the country have led to an increase in child recruitment by all sides, including the state.[17]

The government has taken no action to investigate reports of unlawful child soldier recruitment and use by state-allied tribal militias or to end the practice. Indeed its policy of allowing members of tribal militias, including children, to join the army as a reward for their fighting on behalf of the government seems to indicate that it has condoned the practice.[18]

Putting child soldiers on the security sector reform agenda

Yemen's new government has indicated its intention to undertake military reform but faces internal resistance to its plans. A Military Affairs, Security and Stability Committee has been established to head the military reform process and is charged, among other things, with the responsibility to "rehabilitate those who do not meet the conditions of service in the armed

forces" (Article 16.5), which would presumably include under-18s.[19] The Committee has met but has yet to develop a plan to implement this and its other responsibilities. In relation to other elements of the security forces, a letter was sent in April 2012 by the Ministry of Interior to the Heads of all security forces under its control instructing them to adhere to the minimum recruitment age of 18 years for new recruits to the police and to release any underage members.[20]

However, much more is required. Processes to screen all military units and allied armed groups for underage members are urgently needed but will remain difficult until all units are brought under government control. The demobilisation of children from tribal militias will require the regularisation of these forces. Likewise, ending ongoing or future unlawful recruitment of children will require the regularisation of recruitment processes and the introduction of effective age verification mechanisms. Impunity for violations against children, including their recruitment and use as child soldiers by state and state-allied forces, must also be challenged. The first step towards this should be the introduction of criminal sanctions for child soldier recruitment and use in national law.

Donor support to the government will be critical to the success of any reforms aimed at protecting children from recruitment and use by state security forces. This will require a shift of emphasis away from the focus on counter-terrorism operations to a broader program aimed at establishing security which incorporates safeguards against human rights abuses.

Notes

1 Report of the UN High Commissioner for Human Rights on the human rights situation in Yemen, UN Doc. A/HRC/19/51, 13 February 2012 and Report of the UN High Commissioner for Human Rights on the visit by the Office of the High Commissioner for Human Rights to Yemen, UN Doc. A/HRC/18/21, 16 September 2011.

2 Confidential source. See also Children and armed conflict, Report of the Secretary-General, UN Doc. A/66/782-S/2012/261, 26 April 2012 and Catherine Shakdam, "Child Soldiers in Yemen", Foreign Policy Association, 8 August 2011, http://foreignpolicyblogs.com.

3 See Human Rights Watch, "Yemen: Stop Using Children in Armed Forces: Child Soldiers Recruited by Army Now Deployed by Opposition", 14 April 2011 and *All Quiet on the Northern Front? Uninvestigated Laws of War Violations in Yemen's War with Huthi Rebels*, March 2010.

4 Children and armed conflict, Report of the Secretary-General, UN Doc. A/65/820-S/2011/250, 23 April 2011.

5 Children and armed conflict, Report of the Secretary-General, UN Doc. A/66/782-S/2012/261, 26 April 2002.

6 Yezid Sayigh, *Fixing Broken Windows, Security Sector Reform in Palestine, Lebanon and Yemen*, Carnegie Middle East Center, October 2009, http://www.carnegieendowment.org.

7 Villagers from different parts of Sa'ada and 'Amran told Human Rights Watch that "the government provided weapons, money, and promises of future assistance" in exchange for support from fighters. Human Rights Watch, *All Quiet on the Northern Front? Uninvestigated Laws of War Violations in Yemen's War with Huthi Rebels*, March 2010.

8 "Yemen turns to tribes to fight Al-Qaeda", *Asia Times*, 28 October 2010, http://www.atimes.com.

9 Report of the UN High Commissioner for Human Rights on the human rights situation in Yemen, UN Doc. A/HRC/19/51, 13 February 2012.

10 Law No. 45 (2002) on Child Rights, Article 149.

11 Third periodic report of Yemen to the Committee on the Rights of the Child on implementation of the Convention on the Rights of the Child, UN Doc. CRC/C/129/Add.2, 3 December 2004.

12 E-mail communication with Ahmed Algorashi, Executive Manager, Seyaj Organization for Childhood Protection, 13 July 2011.

13 See Seyaj Organization for Childhood Protection, *Summary report of Situation of children in armed conflict, Sa'dah War and Harf Sofian north Yemen*, 2009, http://cfsc.trunky.net.

14 Human Rights Watch, “Yemen: Stop Using Children in Armed Forces: Child Soldiers Recruited by Army Now Deployed by Opposition”, 14 April 2011.

15 Yezid Sayigh, *“Fixing Broken Windows”: Security Sector Reform in Palestine, Lebanon, and Yemen*, Carnegie Middle East Center, October 2009, http://www.carnegieendowment.org.

16 Catherine Shakdam, “Child Soldiers in Yemen”, Foreign Policy Association, 8 August 2011. http://foreignpolicyblogs.com.

17 “Child Rights Organizations Silent on Child Military Recruitment”, *Yemen Times*, 16 April 2012, http://www.yementimes.com.

18 E-mail communication with Ahmed Algorashi, Executive Manager, Seyaj Organization for Childhood Protection, 13 July 2011.

19 The Committee was set up in accordance with the implementing mechanism of the Gulf Cooperation Council (GCC) initiative which was signed in November 2011 and resulted in the transfer of power to the Vice-President. According to the implementing mechanism, the new government would appoint a committee to “restructure” the security forces, including the army, the police and the intelligence services. An English translation of the GCC implementing mechanism is available at: http://www.yemenpeaceproject.org.

20 Confidential source.

Part IV

State responsibility for arms transfers and security sector reform: unexplored potential for impact on child recruitment and use

The responsibility of states to protect children from involvement in armed conflict also stretches beyond their own borders. In recognition of this many states already contribute to international efforts to end child soldier recruitment and use globally, in particular through involvement in and support for UN-established children and armed conflict processes and programs for the release and reintegration of children associated with armed forces and armed groups. Few, however, translate their responsibilities into national policies and practice in relation to trade and transfers in arms or broader military and security sector reform assistance programs, although both could have a significant impact on the recruitment and use of child soldiers.

Although the relationship between the proliferation of small arms and child soldier recruitment and use is well established, and obligations exist under the Optional Protocol and other international treaties to prevent arms transfers to situations where human rights abuses occur, in practice few states have acted on these obligations by conditioning weapons sales on ending unlawful recruitment or use of children.

Less well recognised and even more rarely utilised is the potential role of security sector reform (SSR) assistance programs in contributing to preventing child soldier recruitment and use in recipient states. Yet military and broader SSR reforms that regularise recruitment practices and establish oversight and accountability are often among the most critical part of any child soldier prevention strategy, as this report has argued.

5.1 International standards regulating arms transfers

Optional Protocol, Article 7.1: "*States Parties shall cooperate in the implementation of the present Protocol, including in the prevention of any activity contrary thereto and in the rehabilitation and social reintegration of persons who are victims of acts contrary thereto, including through technical cooperation and financial assistance. Such assistance and cooperation will be undertaken in consultation with the States Parties concerned and the relevant international organizations*."

Optional Protocol, Article 7.2: "*States Parties in a position to do so shall provide such assistance through existing multilateral, bilateral or other programmes or, inter alia, through a voluntary fund established in accordance with the rules of the General Assembly*."

There is growing international consensus on the need to prevent arms transfers and other military assistance where there is a substantial risk that they could be used for or contribute to the commission of serious abuses of human rights. This principle is reflected in international law and in regional treaties on arms transfers.

These include the Optional Protocol, which establishes international as well as domestic responsibilities on states to prevent the involvement of children in armed conflict. In particular, Article 7 requires states to cooperate in implementing its provisions, including in the prevention of any activity contrary to the treaty. In its interpretation of this obligation the Committee on the Rights of the Child has consistently held that states should prohibit the sale of arms when the final destination is a country where children are at risk of unlawful recruitment or use in hostilities.

The Committee's position is in line with other obligations in public international law under which a state is considered responsible where it aids or assists another state in the commission of a wrongful act.[1] Providing arms to a state with the knowledge that those arms will be used to commit violations of international humanitarian or human rights law would trigger such responsibility.

Several international and regional standards relating specifically to arms transfers also contain provisions that regulate or prohibit arms transfers if there is a risk of violations of human rights or of international humanitarian law. These include the Economic Community of Western African States (ECOWAS) Convention on Small Arms and Light Weapons, which prohibits the transfer of arms where they would be used to commit violations of human rights;[2] and the European Union Code of Conduct on Arms Exports, which requires EU states to be vigilant in issuing licences for arms transfer to countries where serious human rights violations are reported.[3]

Efforts are also under way to finalise the draft of an international treaty to regulate the global trade and transfer of conventional weapons. Among the criteria for prohibiting arms transfers that advocates of the Arms Trade Treaty (ATT) have called to be included in the draft is the substantial risk of serious violations of human rights and international humanitarian law. Thus, while it may not be explicit in the eventual text, the transfer of arms to situations where children are at risk of unlawful recruitment or use in hostilities would fall within the scope of the ATT, if adopted.

As such the ATT would therefore represent an important step in clarifying the responsibility of states to regulate the transfer of arms to situations of serious human rights abuses, including where child soldiers are recruited and used. However its effectiveness, as with the Optional Protocol and other treaties that place an obligation on states to restrict arms transfers, will depend on states following through with national legislation and enforcement – something on which the record to date is poor.

5.2 Arms transfers and child soldiers: translating concern into action

The UN response

The linkages between child soldiers and transfers of arms and other military assistance have long been made. More than 15 years ago Graça Machel, the UN Secretary-General's expert on children and armed conflict, found that the proliferation of inexpensive and lightweight weapons made so widely available by the international arms trade was contributing to the unlawful recruitment of children and their use in hostilities.[4] The UN Secretary-General has since consistently pointed to the correlation between the easy availability of small arms and human rights abuses against children, including their recruitment and use as soldiers, and has repeatedly called for bans on the export or supply of small arms and military assistance to parties concerned.[5] The Special Representative of the Secretary-General for Children and Armed Conflict (SRSG) has likewise recommended that there be a ban on the export or supply of arms to groups that unlawfully recruit or use children.[6]

The UN Security Council has called for measures to curb illicit arms transfers, including establishing effective control of transfers of small arms which prolong armed conflict and intensify its impact on children.[7] It has expressed its intention to impose targeted sanctions, including bans on the export or supply of small arms and other military assistance to parties listed in the annual reports on children and armed conflict of the UN Secretary-General that refuse to cooperate with the UN in developing action plans to end child soldier recruitment and use or fail to fulfil their commitments under such plans.[8]

Following from this, unlawful recruitment and use of children has begun to feature among the criteria for UN sanctions, first in the DRC in 2006 and subsequently in Somalia in 2011.[9] In the DRC, FARDC members are among individuals subjected to sanctions (asset freezes and travel bans) under this regime.[10] Arms embargoes have also been imposed in both countries to address broader security and humanitarian concerns, although not specifically to address unlawful child soldier recruitment and use.

First steps by states

Despite frequently repeated statements of concern about the relationship between the proliferation of small arms and child soldiers, when it comes to bilateral arms transfers, with few exceptions exporting states do not consider the record on child soldier recruitment and use by recipient states in their decision-making processes. Indeed, for the most part they have neither the laws nor policies in place on which to base such decisions. In the few countries that do, there is little evidence that they are applied.

To Child Soldiers International's knowledge there are only three states – Belgium, Switzerland and the USA – that have enacted laws to condition arms exports

specifically on a recipient country's record on recruitment and use of children. To this extent they are leading the way. However, a lack of publicly available information on the application of these laws in Belgium and Switzerland means it is not possible to assess where they have been applied and with what effect. In the USA, decisions to waive application of the legislation for two consecutive years mean that its potential impact remains largely untested.

Nevertheless the legislation of all three states provides informative examples of what might be possible elsewhere and how legal regimes might be strengthened to provide protection against the possibility that transfers of arms or other military assistance could contribute to child soldier recruitment and use in recipient states.

Switzerland's Ordinance on trade in war materials includes respect for human rights and non-use of child soldiers among the criteria to be considered in authorising arms and other military transfers to recipient states.[11] As indicated above, however, it is not known whether weapons transfers have been denied on the basis of these provisions and if so to which countries.[12]

In **Belgium**, arms trade law regulating government to government transfers of arms prohibits the export of arms to countries where it has been established that children are unlawfully recruited or used in the armed forces of the recipient state.[13] According to Belgium's third and fourth periodic report on the implementation of the Convention on the Rights of the Child, arms licence applications are referred to a commission for review which takes into account various criteria, including whether children under the age of 16 years have been recruited by the armed forces, and whether children under the age of 18 years are engaged in combat. Checks are also made about the country's record on respect for the Convention on the Rights of the Child and whether it has ratified the Optional Protocol.[14]

Although the inclusion of child soldier recruitment and use as an explicit criterion for prohibition of arms exports in the law in Belgium is positive, its scope is nevertheless limited because it addresses only government armed forces and only recruitment of children under 16 years of age. By excluding armed groups that are distinct from the state it would not cover state-allied armed groups. Moreover, in the absence of publicly available information on how many licences have been refused and to where, the practical effect of the Belgian law cannot be ascertained.

The **USA** law, Child Soldiers Prevention Act (CSPA), likewise has limitations but nevertheless represented an important development when adopted in 2008. The law prohibits the US government from providing foreign military financing, military training, and other categories of military assistance to governments that use child soldiers in their own armed forces or support militias or paramilitaries that use child soldiers.

The definition of a child soldier under the CSPA includes under-18s who take a direct part in hostilities or are compulsorily recruited into governmental armed forces and under-18s who are recruited or used by non-state armed forces. To this extent, the USA has gone further than Belgium by including armed forces distinct from the forces of the state, thereby covering state-allied groups. However, the

definition only covers the voluntary recruitment into armed forces of a "person under 15 years of age" which is younger than the minimum age for voluntary recruitment established by the Optional Protocol.[15]

Further, the CSPA does not provide for a complete prohibition on military assistance even where these criteria are matched. In particular it does not impact on military assistance under the purview of the Department of Defense. It also gives the president the ability to waive the provisions of the law if he/she deems continued military assistance to be in the national interest of the USA. Nevertheless, within these limits, the prohibition of the transfer of those forms of military assistance that are covered in the law – Foreign Military Sales (FMS), Direct Commercial Sales (DCS), Excess Defense Articles (EDA), International Military Education and Training (IMET) and Foreign Military Financing (FMF) – has the potential to send a clear message and strong incentive to targeted governments to comply with international standards.

In practice the leverage has so far not been utilised, as almost no military assistance has been withheld from countries where the law should be applicable. In both 2010 and 2011 the State Department identified six countries as unlawfully recruiting and using children in their armed forces: Chad, the DRC, Myanmar, Somalia, Sudan and Yemen. Of the six, Myanmar does not receive US military assistance and the US government contends that the assistance received by Somalia is not covered by the CSPA.[16] In 2010, President Obama invoked his authority to waive the prohibition of transfers of military assistance to the remaining four countries. In 2011, the president again issued waivers for most of the countries affected, but withheld US$2.7 million in foreign military financing from the DRC.[17]

Further steps to be taken by states

Other states may not have legislation that specifically prohibits arms transfers on the basis of child soldier recruitment and use, but some do claim to have enacted laws or policies which regulate the trade in arms based on generic human rights safeguards. In reports to the Committee on the Rights of the Child on the implementation of the Optional Protocol, various states have referred to this type of legislation and argued that it can be used to prohibit the transfer of arms to countries where children are at risk of unlawful recruitment and use. For example, **Bulgaria**, **Croatia**, **France**, **Germany**, **Ireland**, **Spain** and the **United Kingdom** have included human rights standards and other criteria contained in the EU Code of Conduct on Arms Exports in their national legislation or practice.[18] Other governments including **Chile**, **Israel**, **Italy**, **Republic of Korea**, **Moldova**, **Montenegro**, **Serbia**, **Slovenia**, **Sweden** and **Tanzania** claim that national laws or policies prohibit the transfer of arms to governments responsible for human rights violations or more broadly to situations of armed conflict.

Legislation containing generic human rights criteria is useful but, unless made explicit, the issue of child soldiers can be easily overlooked or ignored. In practice it is also difficult to establish how far states take the issue into account. By way of a preliminary survey, Child Soldiers International asked a small number of major arms-exporting states to respond to a questionnaire in 2011 asking whether, how and on what basis they took child soldiers into account when making arms transfer

decisions. With the exception of Sweden, states asked were unwilling or unable to provide details of whether child soldiers did feature in decision-making processes and if so how.[19]

Many states, however, have not even taken the first step of enacting legislation on which to base decisions. In countries including **Argentina**, **Belarus**, **Colombia**, **Egypt**, **Macedonia**, **Sierra Leone**, **Sudan**, **Syria**, **Tunisia**, **Uganda** and **Ukraine** the Committee on the Rights of the Child has expressed concern at the lack of information or specific provisions in domestic legislation that could be used to prevent the transfer of arms when the final destination is a country where children are known to be – or may potentially be – recruited or used in hostilities.[20]

By failing to prevent arms transfers to government forces or state-allied armed groups (or indeed armed opposition groups) with a record of unlawful child soldier recruitment and use these states risk contributing directly or indirectly to these abuses. Weapons and other hardware may, for example, be used by underage recruits to provide logistical support to units into which they are incorporated, or by recruiters to force children to join up.

Today, there is a significant amount of publicly available information on where children are unlawfully recruited and used. The UN's mechanism for monitoring and reporting on children and armed conflict provides data on many situations. The conclusions of the Committee on the Rights of the Child on the progress of individual states towards implementation of the Optional Protocol are also informative about levels of risk to children of recruitment and use by state armed forces and allied armed groups. Data on child soldier use in a wide range of situations is also to be found in the reports of NGOs including Child Soldiers International. On the basis of this information alone, states could begin to make informed decisions about where and from which forces weapons and other forms of military assistance should be withheld.

To facilitate these processes, however, legislation which explicitly prohibits transfers of arms and other military assistance to states where children are subject to or at risk of unlawful recruitment and use by state armed forces or allied groups is an essential first step. To be effective, it will also require consistency of application and a greater degree of transparency by states on whether and how criteria relating to child soldier recruitment and use are informing export decisions.

5.3 Security sector reform and child soldier prevention: untapped potential

Optional Protocol, Article 7.1: "*States Parties shall cooperate in the implementation of the present Protocol, including in the prevention of any activity contrary thereto and in the rehabilitation and social reintegration of persons who are victims of acts contrary thereto, including through technical cooperation and financial assistance. Such assistance and cooperation will be undertaken in consultation with the States Parties concerned and the relevant international organizations*."

Optional Protocol, Article 7.2: "*States Parties in a position to do so shall provide such assistance through existing multilateral, bilateral or other programmes or, inter alia, through a voluntary fund established in accordance with the rules of the General Assembly*."

Security Sector Reform (SSR) covers a wide range of processes and institutions of which reform of the armed forces and related institutions is often a core element. Typically this includes regularisation and professionalisation of military forces, improving civilian oversight, and establishing the legal and institutional frameworks necessary to achieve effective accountability of the military and other security forces.[21] The potential for these broader reform programs to include specific legal and practical safeguards against child soldier recruitment that are outlined in this report is therefore considerable.

Under the Optional Protocol there is an obligation on states both to seek assistance with reforms where needed and to provide it where possible. The provision under Article 7 requiring states to cooperate in the implementation of the treaty specifies that this should include support for the rehabilitation and social reintegration of child soldiers, but also in the "prevention of any activity contrary" to the treaty. This has been interpreted by the Committee on the Rights of the Child as an obligation on those states that lack the capacity to fully implement the provisions of the Protocol to actively seek assistance to do so.[22] Conversely, Article 7 also confers an obligation on states parties with capacity to provide such assistance, bilaterally or through international institutions such as the UN.

In states where protection of children from involvement in armed conflict depends on reform of the armed forces, support to SSR processes is a direct route through which states could assist in preventing child soldier use globally. Yet children are generally overlooked in SSR programs even in states where unlawful child recruitment and use is a long established and well recognised problem. It is precisely in these states that effectively addressing child soldier recruitment depends on the types of legal and institutional reform described in previous chapters.

Chad is a case in point, where regularisation of recruitment practices and the establishment of oversight and accountability mechanisms could have a huge impact on preventing future child soldier use by state armed forces. There is no comprehensive security sector reform process in Chad, although an ad hoc process to downsize the Chadian National Army (ANT), bloated during the years of armed conflict by hasty recruitment drives, assimilation of armed opposition groups, patronage and informal recruitment, was undertaken in 2011. Some support to army reform is provided by the French government, which is cooperating in the establishment of a database of ANT personnel and standardisation of recruitment processes. However, the context is challenging and progress is slow. Moreover, although reform in both areas could contribute significantly to ensuring that under-18s are not recruited by the ANT, child soldier prevention is not explicitly built into the design of the program and other issues, such as the absence of effective age verification processes, are not directly addressed by it.

Likewise in the **DRC** child soldier prevention is not explicitly integrated into the design of military reform assistance programs. Much of the military assistance to the DRC is in the form of training, in particular of rapid reaction forces, and is therefore likely to have little impact on broader practices of child recruitment and use by the FARDC and Republican Guard. Two multi-national programs address issues of structural reform aimed at improving levels of professionalism of the FARDC, progress towards which should contribute to reducing if not ending human rights violations by the national armed forces. However, stopping the recruitment and use of child soldiers is not included as an objective against which the impact of these assistance programs are measured (see Case Study at the end of this chapter).

In contrast, where child soldiers have featured more prominently on SSR agendas, much progress has been made towards reducing the risk of underage recruitment and thereby use. **Liberia** is the most notable example in this regard where US-supported assistance to army reform resulted in the introduction of age verification procedures which have been successful in ensuring that under-18s have been prevented from joining the newly established armed forces (see Case Study at the end of Chapter 3).

To date Liberia is the exception rather than the rule. But demand for SSR support is growing and is now part of the mandate of most new UN peacekeeping and specialised political missions. In this context there are significant opportunities for, and responsibilities on states to contribute to, the global endeavour of ending child soldier recruitment and use via their SSR assistance programs.

Children and armed conflict stakeholders also have a vital yet largely unexplored role to play in putting child soldiers on SSR agendas. Although the issue has occasionally been raised, including by the UN Security Council Working Group on Children and Armed Conflict and the SRSG, it has not so far been given the priority it needs. Nor has the relationship between military reform and prevention of child recruitment and use been reflected in strategies of child protection agencies on the ground.

If prevention rather than cure is the objective, military reform has to become a central part of the children and armed conflict agenda. UN leadership will be needed to ensure that the issue features in the design of internationally supported SSR programs, including those carried out under the auspices of UN missions. In the meantime, providers of SSR assistance must likewise consider how their programs can contribute to the goal of protecting children from involvement in armed conflict.

Notes

1 According to Article 16 of the Articles on the Responsibility of States for Internationally Wrongful Acts, "A State which aids or assists another State in the commission of an internationally wrongful act by the latter is internationally responsible for doing so if: (*a*) That State does so with knowledge of the circumstances of the internationally wrongful act; and (*b*) The act would be internationally wrongful if committed by that State." Reproduced in UN Doc. A/RES/56/83, 18 January 2002.

2 The Economic Community of Western African States (ECOWAS) Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Materials, states, in article 6(3)(a), that "a transfer [of small arms] shall not be authorised if the arms are destined to be used: a) for the violation of international humanitarian law or infringement of human and peoples' rights and freedoms, or for the purpose of oppression".

3 European Union, European Code of Conduct on Arms Exports, Criterion two (respect of human rights in the country of final destination) requires EU states to exercise "special caution and vigilance in issuing licences, on a case-by-case basis and taking account of the nature of the equipment, to countries where serious violations of human rights have been established by the competent bodies of the UN, the Council of Europe or by the EU". Available at: http://ec.europa.eu. For further details of standards and guidelines see Clare Da Silva, *Creating a human rights standard for the arms trade treaty*, Disarmament Forum, January 2009, available at: http://www.humansecuritygateway.com.

4 The Impact of Armed Conflict on Children, Report of the expert of the Secretary-General, Ms Graça Machel, submitted pursuant to General Assembly resolution 48/157 (known as the "Machel Report"), UN Doc. A/51/306, 26 August 1996.

5 See Children and armed conflict, Reports of the Secretary-General 2000, 2003, 2005, 2006, 2007 and 2009. See also Report of the Secretary-General on small arms, UN Doc. S/2008/258, 17 April 2008 and Second Report of the Secretary-General on small arms, UN Doc. S/2011/255, 5 April 2011.

6 See Summary of the UN Security Council annual meeting on children and armed conflict, UN Doc. S/PV.4684, 14 January 2003; and reports of the Special Representative of the Secretary-General for Children and Armed Conflict, UN Doc. A/58/328, 29 August 2003, paragraph 72; UN Doc. A/63/227, 6 August 2008, paragraph 54; UN Doc. A/65/219, 4 August 2010, paragraphs 34–38; and UN Doc. A/66/256, 3 August 2011, paragraphs 59 and 60.

7 Security Council Resolution 1539 (2004).

8 Security Council Resolutions 1539 (2004), paragraph 5(c); SCR 1612 (2005) paragraph 9; SCR 1882 (2009) paragraph 7.c; SCR 1998 (2011), paragraph 9.

9 See Security Council Resolutions 1698 (2006), paragraph 13, and 2002 (2011), paragraph 1(d).

10 List of individuals and entities subject to the measures imposed by paragraphs 13 and 15 of Security Council Resolution 1596 (2005), as renewed by paragraph 3 of resolution 1952 (2010), http://www.un.org/sc.

11 Article 5b of the Ordinance on trade in war materials, 25 February 1998, http://www.admin.ch.

12 Child Soldiers International wrote to Switzerland's Department of Defence in March 2012 to request further information about how the issue of child soldiers is taken into account in decisions on arms transfers but the response did not contain specific information on the issue.

13 Law modifying the Act of 5 August 1991 concerning the import, export, transit and prevention of trafficking in arms, ammunition and materiel particularly intended for military use or for the maintenance of order and related technology (as amended by the Act of 26 March 2003), Article 4(a), http://archives.sipri.org.

14 Third and fourth periodic reports of Belgium to the Committee on the Rights of the Child on implementation of the Convention on the Rights of the Child, UN Doc. CRC/C/BEL/3–4, 4 December 2009, paragraphs 907–910.

15 The definition contained in the CSPA under Sec. 402 is as follows: "Consistent with the provisions of the Optional Protocol to the Convention of the Rights of the Child, the term 'child soldier' (A) means:

(i) any person under 18 years of age who takes a direct part in hostilities as a member of governmental armed forces;

(ii) any person under 18 years of age who has been compulsorily recruited into governmental armed forces;

(iii) any person under 15 years of age who has been voluntarily recruited into governmental armed forces; or

(iv) any person under 18 years of age who has been recruited or used in hostilities by armed forces distinct from the armed forces of a state; and

(B) includes any person described in clauses (ii), (iii), or (iv) of subparagraph (A) who is serving in any capacity, including in a support role such as a cook, porter, messenger, medic, guard, or sex slave."

16 US assistance provided to the Transitional National Government (TNG) of Somalia is considered peacekeeping assistance outside the scope of the CSPA.

17 See Presidential Memorandum – Child Soldiers Prevention Act of 2008, 25 October 2010, and Presidential Memorandum – Child Soldiers Prevention Act of 2008, 4 October 2011, both available at: http://www.whitehouse.gov.

18 See Committee on the Rights of the Child, Concluding Observations on initial reports on the implementation of the Optional Protocol by the respective states.

19 According to Sweden's response, "Sweden's export guidelines take into account HR and IHL, and national policies on the child soldier issue would be factored in as part of a holistic assessment of individual export cases. In practice, a combination of restrictive export policies and the nature of the Swedish defence industry's product portfolio (mainly hi-tech, big-ticket items) make it highly unlikely that countries where child soldiers are an issue would be considered as export destinations."

20 See Committee on the Rights of the Child, Concluding observations on initial reports on the implementation of the Optional Protocol by respective states.

21 The UN Secretary-General used the term security sector "to describe the structures, institutions and personnel responsible for the management, provision and oversight of security in a country. It is generally accepted that the security sector includes defence, law enforcement, corrections, intelligence services and institutions responsible for border management, customs and civil emergencies. Elements of the judicial sector responsible for the adjudication of cases of alleged criminal conduct and misuse of force are, in many instances, also included. Furthermore, the security sector includes actors that play a role in managing and overseeing the design and implementation of security, such as ministries, legislative bodies and civil society groups. Other non-State actors that could be considered part of the security sector include customary or informal authorities and private security services." Report of the Secretary-General, Securing peace and development: the role of the United Nations in supporting security sector reform, UN Doc. S/2008/39-A/62/659, 23 January 2008.

22 See for example Committee on the Rights of the Child, Consideration of report submitted by the Philippines, Concluding observations, UN Doc. CRC/C/OPAC/PHL/CO/1, 15 July 2008 and Committee on the Rights of the Child, Consideration of report submitted by Sierra Leone, Concluding observations, UN Doc. CRC/C/OPAC/SLE/CO/1, 1 October 2010.

Case Study **Democratic Republic of the Congo: Heading slowly backwards**

Between 2004 and 2006, the release of tens of thousands of children from the national army and non-state armed groups marked a high point in government, UN and NGO efforts in the DRC to recover child soldiers and return them to their home communities. Their release was part of a larger project to create a reformed and professional Congolese army, drawn from all factions of the badly fractured state, respectful of human rights and capable of protecting the civilian population.

A disarmament, demobilisation and reintegration (DDR) program was set up in the wake of a 2002 peace agreement that officially ended years of armed conflict in the DRC. The peace agreement did not, however, bring a complete end to hostilities: armed conflict has continued since in the east of the country between government armed forces and an array of armed opposition groups. Nor has army reform proceeded as envisaged. In the meantime, recruitment and use of children by the army continues, at a lower level than before, but with a regularity that exposes the lack of effective mechanisms to prevent it. Today hundreds of children are believed to be still serving in the *Forces Armées de la République Démocratique du Congo* (FARDC), and the Republican Guard (*Garde Républicaine*) and incidents of recruitment of children by state armed forces continue to be reported.[1]

The failings are not attributable to lack of international attention on the issue: child soldier recruitment and use by all parties to armed conflict in the DRC has featured on UN children and armed conflict agendas for over a decade.[2] The national authorities have also acted by ratifying the Optional Protocol; establishing 18 as the minimum age for recruitment in law; and criminalising the military recruitment and use of children by state and non-state armed forces under the Child Protection Law of 2009.[3] However, in the absence of far-reaching reform of the armed forces, the relatively comprehensive framework of laws and policies that now exists to protect children from participation in armed conflict has had limited effect.

Absence of army reform leaves children vulnerable

The government's main peacebuilding strategy of integrating members of armed opposition groups into the FARDC was to have been accompanied by comprehensive military reform, supported by the international community, to create a professional and cohesive army under clear state control. While successive rounds of integration have taken place, military reform has proceeded slowly.

The internationally-sponsored integration process conducted between 2004 and 2006 (known as the "brassage") resulted in the identification and release of some 30,000 children. Hundreds more under-18s were released through subsequent rounds of integration of armed groups. However, the process has at times been chaotic and hundreds of children were not released but absorbed into the FARDC during the integration process in 2007 (known as "mixage") and "accelerated integration" of 2009 during which units were often combined with no effort to identify combatants or verify their age. Many were deployed within their newly formed FARDC units to combat zones in the east.[4]

The integration strategy was not accompanied by the reforms needed to regularise the FARDC and make it accountable. Many of the newly-integrated units retained the

composition, identity and chains of command of their former armed group. Although some improvement in conduct has recently been reported, the FARDC remains an amalgam of poor quality forces with divided loyalties, pervaded by opaque parallel chains of command.[5] The lack of effective state control over parts of its own army remains a fundamental obstacle to ending child recruitment and use.

Without effective control of the armed forces, recruitment procedures are inconsistently applied and there are no repercussions for those who ignore laws and policies relating to minimum ages. Informal recruitment continues and ineffective or non-existent mechanisms to verify the age of recruits are exacerbated by low levels of birth registration – less than one third of Congolese children are registered at birth.[6]

The latest plan for military reform was presented by the Ministry of Defence in January 2010 and envisages three phases of reform over 15 years involving among other things the consolidation and downsizing of the army and the introduction of a new legal framework.[7] However, according to a 2012 report by 12 national and international NGOs, the army reform plan has not been followed up with practical planning for implementation and is routinely bypassed or undermined by day-to-day decision making.[8] In the meantime the government has ignored UN Security Council calls for the introduction of a vetting mechanism to exclude from the army individuals accused of war crimes and other human rights violations.[9] The Republican Guard, which is answerable directly to the president, is also excluded from reform plans and remains effectively above the law.

International support for military reform

The international program of cooperation for military reform has largely stalled as a result of resistance from within the DRC's political and military leadership; the government's preference for bilateral over multilateral defence relations; and the failure of international donors to harmonise their efforts.[10] What began as a more or less shared donor consensus on reform consists now, for the most part, of a series of scattered and small-scale initiatives. Despite the FARDC's record of recruitment and use of child soldiers, the issue does not feature as a priority within donor assistance programs.

The majority of international assistance to the defence sector takes place at a bilateral level with a focus on training and equipment rather than structural reform that might address ongoing human rights violations by the FARDC including the unlawful recruitment and use of children: donors including Angola, Belgium, China, South Africa and the USA, for example, have agreed to government requests to train and equip a FARDC Rapid Reaction Force. Broader support for the professionalisation of the FARDC is provided by two multilateral assistance programs, both of which have more potential to impact on the child soldier problem, although neither has fully integrated child soldier prevention into the design of its program.

The International Security and Stabilization Support Strategy (ISSSS), launched in 2009 with the involvement of the UN and bilateral donors in support of the government's stabilisation plan for the east (the Stabilization and Reconstruction Plan for War-Affected Areas, STAREC) includes child soldier-related goals. The agreement of an action plan on child soldier recruitment and use as a "benchmark for success" and identification and extraction of children associated with integrating armed groups are among the areas where external support is being provided.[11]

The European Union mission to provide advice and assistance for security sector reform in the Democratic Republic of the Congo (EUSEC RD Congo) makes no reference to child soldiers but has supported among other things a biometric census of FARDC members and the introduction of individual military identity cards, as well as reform of salary ("chain of payments") systems. Some underage members of the FARDC have been identified through the census, although in smaller numbers than those believed to be in the ranks.[12]

Neither program, however, addresses broader issues of recruitment procedures, age verification and oversight needed to achieve the objective of ending ongoing unlawful recruitment and use of children by the FARDC. Active screening of the FARDC for underage recruits does not feature in the plans either.

While efforts to secure the release of children in the FARDC and Republican Guard ranks must continue, any real chance of finally ending entrenched patterns of child recruitment and use by government armed forces is dependent on reform of those forces. In a context such as the DRC where the state does not have full control over its military, strategies to protect children from involvement in armed conflict must go hand in hand with SSR. Child soldier prevention without SSR means a never-ending cycle of release and re-recruitment.

Notes

1 According to the UN Secretary-General's 2012 report on children and armed conflict, of the 272 cases of child recruitment and use documented in 2011 in DRC, the FARDC was responsible for the largest number. See UN Doc. A/66/782-S/2012/261, 26 April 2012.

2 The national armed forces in the DRC have featured among parties that recruit and use children in every annex to the Secretary-General's Annual Report on Children and Armed Conflict since the system of "listing" began in 2002. Prior to this, child soldier recruitment and use by government forces was documented in the 2000 and 2001 Reports of the Secretary-General on Children and Armed Conflict. Under Security Council Resolution 1279 (1999) child protection was incorporated into the mandate of the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) and child protection advisors deployed as part of the mission.

3 Law No. 09/001 of 10 January 2009 on Child Protection.

4 For further details see, Coalition to Stop the Use of Child Soldiers, *Democratic Republic of Congo: Priorities for children associated with armed forces and armed groups*, July 2007 and *Report to the Committee on the Rights of the Child in advance of the DRC initial report on the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict*, April 2011.

5 See Human Rights Watch, "DR Congo: Bosco Ntaganda Recruits Children by Force", 16 May 2012.

6 According to UNICEF, *State of the World's Children 2012*, Statistical Table on Child Protection, 28 per cent of children in the DRC are registered at birth, http://www.unicef.org.

7 Henri Boshoff, Dylan Hendrickson, Sylvie More and Thierry Vircoulon, *Supporting SSR in the DRC: Between a Rock and a Hard Place – An Analysis of the Donor Approach to Supporting Security Sector Reform in the Democratic Republic of Congo*. Netherlands Institute of International Relations ("Clingendael"), April 2010, http://www.clingendael.nl/publications; and Henri Boshoff, *Completing the demobilisation, disarmament and reintegration process of armed groups in the Democratic Republic of Congo and the link to security sector reform of FARDC. Mission difficult!* Institute for Security Studies, 23 November 2010, http://www.iss.co.za.

8 *The Democratic Republic of Congo: Taking a Stand on Security Sector Reform*, April 2012, produced by the following NGOs: African Association of Human Rights; Congolese Network for Security Sector Reform and Justice; Eastern Congo Initiative; Ecumenical Network for Central Africa; The Enough Project; European Network for Central Africa; Group Lotus; International Federation of Human Rights; League of Voters; Open Society Initiative; Pole Institute; Intercultural Institute for Peace in the Great Lakes Region; Refugees International; UK All-Party Parliamentary Group on the Great Lakes Region of Africa.

9 For example Security Council Resolution 1906 (2009), paragraph 32.

10 For more detail see, among others, Caty Clément, "Security Sector Reform in the DRC: Forward to the Past", in *DCAF Yearbook 2009, Security Sector Reform in Challenging Environments*, October 2009. http://www.dcaf.ch.

11 The ISSSS is designed to deliver a targeted program of support in five areas: security; political dialogue; state authority; return, reintegration and recovery; and sexual violence. Programs under the ISSSS are funded by voluntary bilateral contributions. The program is financed by donors including: Belgium; Canada; the European Commission; France; Germany; Japan; Netherlands; Norway; Spain; Sweden; United Kingdom; United Nations Peacebuilding Fund; and the USA. See International Security and Stabilization Support Strategy, Integrated Program Framework 2009–12, http://mdtf.undp.org.

12 The second census of "accelerated integrated" forces – mainly CNDP and Mai Mai groups – identified only 128 child soldiers. The numbers of children recovered separately from these forces by the UN peacekeeping mission, which changed its name in 2010 to the UN Organization Stabilization Mission in the Democratic Republic of Congo (MONUSCO), are much higher: MONUSCO Child Protection Section documented the release of 353 children from the FARDC from January to September 2010, for example.

Part V
The international response to state recruitment and use of child soldiers: widening the agenda to tackle risk

6.1 The UN Security Council framework and its reach

In recognition of the negative impact of child soldier recruitment and use on the rights of children and also for international peace and security, significant UN attention and resources are dedicated to responding to this issue.

The main international interventions on children and armed conflict take place within a framework developed over the last decade by the UN Security Council. It includes the listing (often referred to as "naming and shaming") of government and non-government military forces that recruit and use children in annexes of the UN Secretary-General's annual reports on children and armed conflict; the establishment of UN-led monitoring and reporting task forces in countries where parties are listed; and the review of progress towards ending child soldier use by these parties by the UN Security Council Working Group on Children and Armed Conflict (SCWG).[1] In addition, the Special Representative of the Secretary-General for Children and Armed Conflict (SRSG) is mandated by the UN General Assembly to serve as a moral voice and independent advocate for the protection and well-being of boys and girls affected by armed conflict.

Since the system of listing was established in 2002, the national armies of states or other official elements of state security forces of 13 states have featured in the annexes for their recruitment and use of children: **Afghanistan**, **Burundi**, **Chad**, **Côte d'Ivoire, DRC**, **Liberia**, **Myanmar**, **Somalia**, **South Sudan**, **Sudan**, **Syria**, **Uganda** and **Yemen**.[2] During the same period state-allied armed groups have been listed in UN Secretary-General annual reports as among parties that recruit and use children in ten countries: **CAR**, **Chad**, **Colombia**, **Côte d'Ivoire**, **DRC**, **Somalia**, **Sri Lanka**, **Sudan**, **Uganda** and **Yemen**.[3]

Where government or government-allied forces feature in the Secretary-General's annual report, scrutiny by the UN Security Council has resulted in some successes. In accordance with a Security Council resolution requiring named parties to cooperate with the UN in the design and implementation of plans to release children and prevent future use, the governments of **Afghanistan**, **Chad**, **Myanmar**, **Somalia**, **South Sudan** and **Uganda** have signed up to action plans to release under-18s from their armed forces and prevent future recruitment.[4] State-allied armed groups have done likewise in **Côte d'Ivoire** and **Sri Lanka**.

In the case of Uganda, successful implementation of such a plan resulted in the "delisting" in 2009 of the Ugandan People's Defence Forces (UPDF) and its allied armed group the Local Defence Units, following verification by the UN that recruitment and use of children by these parties had ended.[5] State-allied armed

groups in Côte d'Ivoire and Sri Lanka have also been removed from the annexes on the basis that they no longer recruit children.

The Afghan, Chad, Myanmar, Somalia and South Sudan action plans are more recent and state security forces in all five remain on the Secretary-General's annexes pending full implementation of the commitments contained in the plans. Progress has been even slower elsewhere. Despite the listing of their armed forces or armed groups allied to the state (in some cases for many years) the governments of the **CAR**, the **DRC**, **Sudan** and **Yemen** had not, at the time of writing, agreed to action plans.

6.2 The UN's role in prevention

The framework established by the UN Security Council to address child soldiers (and other grave violations against children) have in many ways been ground-breaking. Year on year more armed forces or groups that recruit or use children have been listed in the Secretary-General's annual reports or otherwise become subject to UN scrutiny and action. Strengthening these processes and mechanisms to achieve maximum impact should remain a high priority. As part of this the UN Security Council must address the full spectrum of state responsibility for their armed forces and for armed groups that they support (or which support them) either domestically or abroad. There should also be longer and deeper UN engagement with listed parties – action plans should not be regarded as the end goal but the beginning of extended support for reform to create durable barriers against unlawful recruitment.

However, the UN Security Council children and armed conflict-related mechanisms and processes are set up to address only situations already on the agenda of or otherwise of concern to the Council. In other words, listed parties represent only the more extreme end of the spectrum where the risk has become real and there is evidence that children are already in the ranks of armed forces (or non-state armed groups) and are actively participating in hostilities. The rationale is clear: children in these situations are in immediate and urgent need of protection. However, important as these reactive responses are, there is another agenda which these approaches do not sufficiently address: prevention.

As argued in this report, children are at risk of recruitment and deployment in hostilities – indeed may even already be in the situation of being used – by a far broader range of forces under the control or influence of states than are currently addressed under the Security Council framework. The Security Council-linked mechanisms and processes do not have the mandate to address all of these situations. The Committee on the Rights of the Child does, and through its application of a more preventative human rights framework in its examination of state progress towards implementation of the Optional Protocol (and the Convention on the Rights of the Child) it has identified potential risks to children in many states and recommended measures to address them.

Nevertheless, far-reaching as the Committee's work is, it is also far from a catch-all. Even for those states that have signed up to the Optional Protocol or the Convention on the Rights of the Child, the Committee lacks a mechanism for ongoing monitoring that is independent of the erratic reporting of states. Nor does it have powers to enforce implementation of its recommendations.

This situation results in some states escaping scrutiny and action. States such as Eritrea and Iran, for example, where the risk of child soldier use in the event of armed conflict is extremely high, or India and Pakistan, where available information suggests that safeguards to prevent the use of child soldiers may not be sufficiently robust, are currently subject to little or no international scrutiny either because they are not party to the Optional Protocol or because they have not reported to the Committee on the Rights of the Child on implementation.[6] Research for this report has identified many other situations where children are at risk of unlawful recruitment and use which have entirely escaped or are not subject to ongoing independent scrutiny.

Rather than waiting for the next conflict to break out to find out precisely where this risk exists, the more reactive responses generated under the UN Security Council framework need to be supplemented by broader approaches which focus on prevention before the possibility of child soldier use arises. The Optional Protocol provides a framework for a prevention-orientated approach, but it requires improved implementation by states and for the work of the Committee on the Rights of the Child to be reinforced at a national level by a range of other actors from child protection and rights experts through to military and security sector reform stakeholders.

This is new territory and the precise modalities need to be further explored. However, as a first step it requires enhanced monitoring and analysis of the risks faced by children and where risks are identified it requires investment in establishing legal and practical barriers to prevent child recruitment.

While states should lead on this process, the UN also needs to consider how its existing responses can be reinforced to encourage and support states to reduce if not eliminate the risk to children of use in hostilities. In particular, UN bodies, experts and agencies with child protection/child rights mandates, together with national and international NGOs, must develop mechanisms and allocate resources to work with states (conflict and non-conflict) to proactively assess where risk exists and to develop strategies to mitigate these risks. In doing so they must work closely with other key stakeholders, in particular security sector reform actors, to ensure that there is the strongest level of legal and institutional protection possible against underage recruitment and use.

Notes

1 Security Council Resolution (SCR) 1379 (2001) requested the UN Secretary-General to attach to his annual report on children and armed conflict a list of parties that recruit or use children in violation of international obligations applicable to them. SCR 1539 (2004) requested the UN Secretary-General to devise an action plan for systematic and comprehensive monitoring and reporting and called on parties listed in Annex I of the annual report to prepare concrete time-bound actions plans within three months to end child recruitment. SCR 1612 (2005) requested the implementation of the monitoring and reporting mechanism proposed by the Secretary-General and established a working group of the Security Council consisting of all members of the Council to review the reports of the mechanism.

2 The Côte d'Ivoire national army was listed in the 2005 and 2006 Secretary-General's reports, but removed in 2007 without having agreed to an action plan. Liberian government armed forces were named in 2003 only.

3 See annexes to the annual Reports of the Secretary-General on children and armed conflict, 2002–12: CAR – Self-defence militias (2009, 2010, 2011, 2012); Chad – SLA (2006), Sudanese armed groups backed by the government of Chad, JEM (2007, 2009, 2010, 2011, 2012), SLA-G19 faction (2007), Sudanese Toroboros (2009), Chadian self-defence groups (2007); Colombia – AUC (2003, 2005); Cote d'Ivoire – Armed militias affiliated with the Presidential camp (FLGO, MILOCI, APWé, UPRGO) (2006); DRC – Dissident/non-integrated elements of FARDC (2005, 2006, 2007), RCD-Goma (2002, 2003), RCD-National (2002, 2003), RCD-Kisangani/ML (2002, 2003), Mai Mai (2002, 2003, 2005, 2006, 2007, 2009, 2010, 2011, 2012); Somalia – *Al-Shabaab* (2009, 2010, 2011, 2012); Sri Lanka – TMVP/Karuna faction (2006, 2007, 2009), TMVP/Iniya Barrathi faction (2010, 2011, 2012); Sudan – government-allied militias (2003, 2009, 2010, 2011, 2012), *Janjaweed* (2005, 2006, 2007), JEM (2005), SLM/A (2005), Chadian opposition groups (2006, 2007, 2009, 2010, 2011); Uganda – Local Defence Units (2003, 2005, 2006, 2007); Yemen – pro-government tribal militias (2011, 2012). The relationship between some of these armed groups and states has changed over time and alliances with states or state support to them has not in all cases been consistent or continuous.

4 Security Council Resolution 1539 (2004) calls on parties listed in the annual report on children and armed conflict of the Secretary-General "…to prepare within three months concrete time-bound action plans to halt recruitment and use of children in violation of the international obligations applicable to them, in close collaboration with United Nations peacekeeping missions and United Nations country teams, consistent with their respective mandates".

5 Children and armed conflict, Report of the Secretary-General, UN Doc. A/63/785-S/2009/158, 26 March 2009, paragraphs 139–41.

6 Eritrea acceded to and India ratified the Optional Protocol in 2005 but neither has submitted an initial report on implementation. Iran and Pakistan have signed but not ratified the Protocol.

Case Study **Myanmar: A chance for change?**

Despite important political and security developments in Myanmar in recent years the forcible recruitment of children and their use in hostilities by the national army, *Tatmadaw Kyi*, continued and reports of unlawful child recruitment by state-allied armed groups persisted. However, recently after protracted negotiations with the UN, the government of Myanmar agreed in June 2012 to an action plan for the release and reintegration of children associated with the government forces. It is too early to judge whether the action plan will impact on ending this long-standing violation of children's rights, but it is hoped that it represents the starting point for the development of effective prevention strategies.

Recruitment and use of child soldiers by the army

Recruitment of boys by the army in Myanmar takes place in violation of domestic law (since the army is all male, underage recruitment affects only boys). Under the 1959 Defence Services Act (amended in 1974) and War Office Regulation 13/73 of 1974, persons under the age of 18 are prohibited from joining the armed forces. The Myanmar military is also an all-volunteer force, making compulsory recruitment illegal under current domestic law.[1]

While the precise number of children in the army's ranks is unknown, levels of reported cases of child recruitment (widely recognised as being lower than the actual number) suggest that they are high: 243 complaints of underage recruitment were reported in 2011;[2] and 24 cases of underage recruitment were verified in the first three months of 2012.[3]

In the context of widespread poverty, youth unemployment and lack of education and training opportunities, some boys lie about their age in order to enlist. However the dominant pattern is of forced recruitment. Typically, boys between the ages of 14 and 17 are targeted, although there have been cases of 11 year olds being forcibly recruited. While some child recruits, particularly younger ones, may be given lighter duties, for example as orderlies, children have frequently seen active service and combat in internal conflicts against non-state armed groups. In addition to those formally recruited, there are confirmed reports of children being used as porters on the front line.[4]

Military recruitment of children is in large part a by-product of the pressures to meet recruitment targets and a lack of willing adult recruits. Army expansion in the 1990s created high demand for recruits at a time when pay and conditions were poor and attrition rates among enlisted men high. As a result forced recruitment increased – particularly of minors, who were more easily tricked or pressured to sign up – and continues today.

Recruiters are rewarded for exceeding recruitment quotas and punished for failing to meet them. This has led to the emergence of an informal network of civilian brokers who are paid in cash or kind for bringing in recruits. Where individual cases of underage recruitment have been brought to the military's attention it has resulted in them being demobilised, but the authorities have so far been unwilling to address the systemic problem of economic incentives that drive the practice of forced recruitment of children.

Effective age determination procedures are critical to addressing both forced and "voluntary" forms of child recruitment. Those without proof of age documentation (birth certificate or identification cards) are at greatest risk of unlawful recruitment, but falsification of age and

identity in recruitment registers is also said to be common. According to the government, screening of new recruits does take place: it claims that 417 potential new recruits were rejected between January and the end of September 2011 because they were under 18 years old.[5] However, more robust procedures are clearly needed to verify ages which must include systems to ensure that a copy of at least one official proof of age document is placed on the file of every new recruit. Strengthening birth registration systems and improving access to and affordability of other forms of documentation in which age is recorded – such as household lists and national ID cards – are also needed to support such processes.[6] Recent steps by the new government to streamline documentation services should help in this regard.

Age verification must also be reinforced by effective oversight and accountability. Again, some measures have been taken but they are insufficient to address the nature and scale of the problem. A complaints mechanism on forced labour established by the International Labour Organization (ILO) in 2007 in Myanmar provides a route through which parents and other concerned parties can seek the release of unlawfully recruited children.[7] The mechanism has had some notable successes in resolving individual cases but is not a substitute for proactive monitoring, including regular, independent, on-site verification of military facilities to ensure compliance with the law. In this regard, restricted access to UN monitors to conflict-affected areas and to military facilities has hampered independent international oversight.

In the past five years disciplinary action is reported to have been taken against recruiters (including against 27 officers) in 166 cases. These do not, however, reflect the number of alleged incidents of underage recruitment. Punishments, generally in the form of reprimands and salary deductions, do not appear to act as a meaningful deterrent, the benefits derived from underage recruitment outweighing the risk of sanctions. Despite recommendations by the Security Council Working Group on Children and Armed Conflict (SCWG) to prosecute as a matter of priority persons responsible for crimes committed against children, to Child Soldiers International's knowledge only one criminal prosecution (of a civilian broker) for child recruitment has ever taken place.[8] The lack of an independent, impartial judiciary in Myanmar remains a contributing obstacle to addressing accountability for such crimes.

Government responsibility for other armed forces

State responsibility for other elements of the armed forces or armed groups allied to it must also be addressed as part of any strategy to protect children from recruitment and use in Myanmar. Reports indicate that processes initiated in 2009 to merge former armed opposition groups into units of the Border Guard Forces (BGF, a paramilitary unit under the command of the army) have not involved the demobilisation of children.[9] Some of the groups that transformed into BGF units have been listed in the UN Secretary-General's report annexes as having children in their ranks. These include the Democratic Karen Buddhist Army (DKBA), about which there are continuing reports of forcible recruitment of children.[10]

In addition to BGF units, dozens of local militia groups are allied with the government, thereby placing a responsibility on the government to take steps to ensure that these groups do not recruit or use children. They include the Kachin Defence Army, Mong Tai Army Homein, Pao National Organization, Rawang Militia (formerly known as the Rebellion Resistance Force), Brigades 3 and 7 of the Shan State Army–North and the Pansay Militia. None are "listed" by the UN as having children in their ranks, but there are allegations of child recruitment by

some of these militia groups.[11] The origins of these groups are complex, and their legal status unclear. Some are small insurgent groups that have surrendered, or individual units that have split away from larger groups to agree peace deals with the government. Others have been established by the Myanmar authorities as a strategy to undermine the influence of other, larger armed groups. However, given their reliance on government support, the Myanmar state has responsibilities for ensuring that children are neither recruited nor used by them.

Prospects for progress

The *Tatmadaw Kyi* was first listed in the annexes to the UN Secretary-General's annual report on children and armed conflict in 2003 as having unlawfully recruited and used child soldiers and it has been named in every annual report since (the BGF was included alongside the *Tatmadaw Kyi* in 2011). It was not until 2007 that the Special Representative of the Secretary-General obtained a commitment from the government that it would work with UNICEF to finalise an action plan to prevent underage recruitment.[12] Five years on the action plan has now been signed. But this is the beginning and not the end of a process that will require a significant commitment of resources by the national authorities and by the UN to ensure that real protection from unlawful military recruitment and use of children is achieved.

As a next step, the government must ratify the Optional Protocol and seek support for its effective implementation from UN child rights bodies, other child rights experts and second states as appropriate. On its side the UN must dedicate adequate resources to supporting both the implementation of the action plan and the Optional Protocol when adopted. Progress must also be closely monitored. To this end the SCWG, which has not reviewed Myanmar's record on implementation of UN Security Council resolutions on children and armed conflict since 2009, must increase its level of scrutiny and exercise pressure if recent developments in Myanmar are to lead to real protection of children there from involvement in armed conflict in state armed forces.

Notes

1 A new law providing for conscription, the People's Military Service Law, was introduced in 2010 but has not been brought into force.

2 Children and armed conflict, Report of the Secretary-General, UN Doc. A/66/782–S/2012/261, 26 April 2012.

3 Confidential source.

4 Children and armed conflict, Report of the Secretary-General, UN Doc. A/66/782–S/2012/261, 26 April 2012.

5 Children and armed conflict, Report of the Secretary-General, UN Doc. A/66/782–S/2012/261, 26 April 2012.

6 The national birth registration rate in Myanmar is 72 per cent. See UNICEF, The State of the World's Children 2012, Statistics, Table 9, http://www.unicef.org. Temporary national registration cards (NRC) are issued when births are registered and are later converted into a permanent ID document. However, the process of obtaining the permanent NRC can involve taking time off work and travelling significant distances, which incurs costs that are prohibitive for some.

7 In February 2007 the Government of Myanmar signed a Supplementary Understanding with the ILO which provided for the establishment of a complaints mechanism under which individuals could bring cases of forced labour under ILO Convention 29 concerning Forced and Compulsory Labour.

8 See Security Council Working Group on Children and Armed Conflict, Conclusions on Myanmar, UN Doc. S/AC.51/2009/4, 28 October 2009.

9 This arrangement was designed to implement section 338 of the 2008 Myanmar Constitution which states that "all the armed forces in the Union shall be under the command of the Defence Services". For discussion, see International Crisis Group, *Myanmar: Towards the Elections*, 20 August 2009. Smaller groups were given the alternative of becoming government militias.

10 Children and armed conflict, Report of the Secretary-General, UN Doc A/66/782–S/2012/261, 26 April 2012. The DKBA split in 2010, with the majority joining the *Tatmadaw Kyi* as border guard forces. There are also continued reports of child soldier recruitment and use by DKBA forces that did not join as well as by other armed opposition groups in Myanmar.

11 According to Children and armed conflict, Report of the Secretary-General, 2011, there were also confirmed reports of the recruitment and use of children by village militias known as "*Pyi thu sit*", UN Doc. A/65/820-S/2011/250, 23 April 2011.

12 Office of the Special Representative of the Secretary-General for children and armed conflict, "Myanmar: Government and UN begin dialogue on Child Soldiers", 29 June 2007.

Part VI

Ten-Point Checklist to prevent the involvement of children in hostilities in state armed forces and state-allied armed groups

To assist in assessing where and why children are at risk of use in hostilities in armed forces for which states are responsible and to identify what measures can be taken to reduce these risks, Child Soldiers International has developed a "Ten-Point Checklist to prevent the involvement of children in hostilities in state armed forces and state-allied armed groups".

The checklist is based around ten core questions covering the three areas of responsibility covered by the report:

Child soldier use by state armed forces

- Are children prohibited in law from participating in hostilities?
- Has 18 years been established in law as the minimum age for compulsory and voluntary recruitment?
- Does every child have independently verifiable proof of age?
- Are there effective processes to verify the age of new recruits?
- Are military recruitment processes subject to independent monitoring and oversight?
- Is unlawful child recruitment and use criminalised in national law?
- Does the criminal justice system have the capacity to effectively investigate and prosecute allegations of unlawful recruitment and use?

Child soldier use by state-allied armed groups

- Are legal and practical safeguards in place to prevent recruitment and use of children by any armed groups allied to the state?

Arms transfers and security sector reform assistance

- Are measures in place to ensure that international arms transfers and other forms of military assistance do not contribute to or facilitate the unlawful recruitment and use of children as soldiers in recipient states?
- Are safeguards set out in this checklist reflected in national security sector reform (SSR) programs and in SSR assistance programs?

Recommendations following each question reflect the measures needed to protect children from recruitment and use highlighted in this report and draw on international human rights law and standards, in particular the Optional Protocol.

They are also informed by best practice of states and the recommendations of expert bodies including the Committee on the Rights of the Child. The recommendations are cumulative – that is, they cannot be treated in isolation as it is their combined effect which will create an effective barrier to recruitment and use of children.

It is hoped that this checklist will be used by governments and government bodies (*inter alia*, ministries responsible for children, defence, human rights, justice and labour as well as national human rights institutions or other statutory bodies with responsibility for monitoring armed forces, child rights and Optional Protocol implementation); UN child protection and child rights experts; national and international NGOs; donors and other key stakeholders to assist them in identifying whether children are at risk of use in armed conflict in any given national context and, if so, what measures are needed to mitigate that risk.

I Child soldier use by state armed forces

1. ARE CHILDREN PROHIBITED IN LAW FROM PARTICIPATING IN HOSTILITIES?

- Under the Optional Protocol states are required to "take all feasible measures to ensure that members of their armed forces who have not attained the age of 18 do not take a direct part in hostilities" (Article 1). Under international humanitarian law, the concept of direct participation in hostilities is essential to the principle of distinction in the conduct of hostilities, whereby civilians (including civilian children) cannot be the object of direct attack unless and for such a time as they take direct part in hostilities.
- However, when it comes to the protection of children from armed conflict, the emphasis should be on preventing their involvement in any activity that puts them at risk of use. Best practice by states and the jurisprudence of the Committee on the Rights of the Child support the principle that children should be protected against any and all types of involvement in armed conflict. This also reflects customary international humanitarian law which prohibits the participation of children in hostilities, direct or indirect, without qualification.

The use in hostilities of anyone under the age of 18 years must be prohibited in law

- Legislation must be enacted by all states to prohibit the participation of children in hostilities. Ideally this should be a blanket prohibition on both "direct" and "indirect" participation in order to protect children not only from deployment as a combatant or in other frontline roles, but also from the dangers that can result from indirect participation.

Practical safeguards against deployment must be put in place by states that permit voluntary recruitment below 18 years

- Where states have not yet raised the minimum age for voluntary recruitment to 18 years or above, to limit the risk of child soldier use effective safeguards must

be established to ensure that any under-18s in armed forces are not deployed in hostilities. Safeguards must be based on systems in which the age of members of the armed forces is checked before deployment. Where the age of soldiers cannot be objectively verified as being 18 years or above, they must not be deployed.

2. HAS 18 YEARS BEEN ESTABLISHED IN LAW AS THE MINIMUM AGE FOR COMPULSORY AND VOLUNTARY RECRUITMENT?

Under the Optional Protocol, 18 is the minimum age at which an individual can be conscripted into a state's armed forces (Article 2). The minimum age for voluntary recruitment by states is 16 years or above (Article 3.1). However, on the basis of best practice by states there is a clear trend towards a "straight-18" ban on all forms of military recruitment of children (compulsory and voluntary) which, if implemented, is the most effective safeguard against the military use of children. This position is supported by the Committee on the Rights of the Child, the ICRC and other experts on child rights and child protection.

Banning children from the ranks of armed forces avoids the risk that under-18s may be inadvertently deployed. It also protects them from attack by opposing forces since under international humanitarian law all members of armed forces are regarded as combatants and therefore as legitimate targets of attack during armed conflict irrespective of their age or role. This includes not only under-18s who are on active duty, but also those in training or where as pupils in military schools they are accorded the status of members of the armed forces.

The age of compulsory recruitment should be established at 18 years or above in law

- In accordance with international standards, the age of compulsory recruitment should be set at 18 years or above. There must be no circumstances in which this can be lowered to allow for the mobilisation of under-18s in any forces in times of war or during other emergencies.
- The earliest date at which an individual can be conscripted should be their eighteenth birthday and not the year in which they turn 18.

The age of voluntary recruitment should be established in law, ideally at 18 years or above

- The minimum age at which voluntary recruitment is permitted by state armed forces should be established in law. In no circumstances must it be lower than 16 years. However, in line with the practice of the majority of states and in order to achieve the highest standard of protection against possible use in armed conflict, the minimum age should ideally be set at 18 years or above.
- On becoming party to the Optional Protocol, states must deposit (in accordance with Article 3.2) a declaration of the minimum voluntary recruitment age. This declaration, which is legally binding, must include detailed information on safeguards adopted to ensure that recruitment is voluntary and effective age verification mechanisms are in place.

Exceptions to the minimum voluntary recruitment age should be abolished

- Exceptions to the minimum voluntary recruitment age which permit boys or girls to join armed forces at a younger age, for example for "training only" or on the basis of parental consent, should be abolished.

Children who are students in military schools should have civilian status

- Students in military schools who are under the age of 18 years should be regarded as civilians and their rights as children respected. The civilian status of students in military schools should be established in law.
- Students in military schools who are under the age of 18 years should not receive weapons training and in no circumstances should they be used in hostilities in any role.

States that lawfully permit the voluntary recruitment of under-18s (16 or 17 year olds) should review these policies

- States in which the minimum age for voluntary recruitment is below 18 years should carry out periodic reviews of their policies with a view to raising the minimum recruitment age to 18 years or above. Such reviews should be carried out in an informed manner, with the participation of all relevant stakeholders, including child rights and protection experts.
- States which raise the minimum age for voluntary recruitment after they become parties to the Optional Protocol should strengthen their binding declaration (in accordance with Article 3.4) by notifying the UN Secretary-General of this change.

3. DOES EVERY CHILD HAVE INDEPENDENTLY VERIFIABLE PROOF OF AGE?

Effective implementation of legislation on the minimum age for recruitment – compulsory or voluntary – is predicated on the state being able to establish the age of all potential recruits. The Optional Protocol requires states to ensure that applicants for voluntary recruitment have reliable proof of age prior to acceptance for military service (Article 3.3(d)). Where conscription is still practised, reliable proof of age is also necessary.

Birth registration, which is a right of every child under the Convention on the Rights of the Child (Article 7.1), is the most reliable means of proving an individual's age. In states which have not yet achieved universal birth registration, alternatives are necessary for recruitment purposes but should be considered as a temporary measure only. Where children do not have birth registration documents and there are no reliable alternative means to prove age there is a potential risk of underage recruitment and thereby use in hostilities.

States should achieve universal birth registration

- In accordance with Article 7.1 of the Convention on the Rights of the Child, every child must receive his or her own identity document at birth. To achieve this,

states should ensure that birth registration is free and compulsory; appropriate administrative mechanisms are established including at local levels to register the birth of all children; and the population is made aware that births must be registered through awareness raising and other publicity campaigns.

- States that have not yet achieved universal birth registration should make it a priority and seek the support of the UN and donors in accelerating progress towards it.

Temporary alternative means of establishing the age of an individual should be used where birth registration is not yet universal

- Where states have not yet achieved universal birth registration, alternative measures to establish an individual's age should be put in place. Such measures should be regarded as temporary pending the achievement of universal birth registration. For the purposes of military recruitment, alternatives should depend on more than one form of documentation or approach, all of which should provide, or cumulatively provide, objective proof of age. These can include, *inter alia*, identity cards, school diplomas or other school records and methodologies involving cross-checking with families, local officials and others in a position to know the age of a candidate for recruitment.
- Methodologies involving medical or physical assessment (for example bone or dental age or anthropometric measurements such as height, weight, skin and puberty rating) raise ethical concerns and are not sufficiently reliable to be used for military recruitment purposes.

4. ARE THERE EFFECTIVE PROCESSES TO VERIFY THE AGE OF NEW RECRUITS?

Responsibility for establishing the age of new recruits lies with the recruiting party. Systems to verify the age of new recruits must be in place and be sufficiently robust to prevent anyone who does not meet age or other recruitment criteria from being conscripted or enlisted.

The way in which recruitment processes are conducted can significantly decrease the risk of unlawful recruitment and thereby use. Unregulated, informal or localised recruitment processes create a high risk of underage recruitment. Irregular recruitment practices that result in underage recruitment also create a very real danger of use. Where a person's age is not or cannot be verified at the point of enlistment or conscription or the recruitment is via unofficial channels, the fact that the individual could be a child, with all the protections this entails, is either not known or not recognised. Indeed, for military purposes those in this situation are treated as adults and exposed to the same conditions and risks as their adult comrades. In situations of armed conflict, this means that there are no barriers to their deployment.

Recruitment processes should be formal and standardised, include age verification procedures and avoid targeting under-18s

- Recruitment methods should be designed and implemented to make compliance with the law practicable. There should be standard procedures for recruitment which include effective age verification procedures which should be applied without exception. In situations where proof of age may be difficult to establish, time should be built into the recruitment process in order to permit checks to be carried out.
- Recruitment campaigns that target children under the age of 18 years, for example via internet sites designed for children, in schools or other facilities used by children, should be prohibited.
- Informal association of children with the armed forces (in which children who have not been formally recruited and are therefore not officially members of armed forces nevertheless perform military and other functions for them) must be prohibited and measures introduced to prevent such practices.

Those responsible for recruitment should know what the minimum age is and be personally responsible for applying it

- All those involved in recruitment processes should be fully aware of their obligations under international and domestic law, including in relation to the minimum age at which compulsory and voluntary recruitment is permitted. Age criteria and age verification procedures for recruitment should be included in basic training for military recruiters and be reflected in military instructions and guidelines. These instructions should specify the disciplinary sanctions applicable to those who fail to uphold them. Recruiters should be made aware that underage recruitment may also incur criminal sanctions.
- Military recruiters should know what documentation constitutes proof of age and should be personally responsible for verifying the reliability of the identification documents. A copy of proof of age documentation should be placed on the file of every candidate for recruitment.

When the age of potential recruits is in doubt, they must not be recruited

- If it cannot be established that an individual has reached the minimum age at which, by law, he or she can be conscripted or enlisted, the benefit of the doubt should be given and they must not be recruited. Recruiters should be instructed that this is the case.

Recruiters should not be under pressure to break the rules

- Incentives for achieving recruitment quotas, such as monetary compensation and promotions, or punishments for failing to achieve them, such as demotions and discharge, increase the risk of underage recruitment and should be avoided.

Potential recruits and those liable to conscription should be aware of minimum ages and know their rights and duties in relation to military service

- Public awareness campaigns should be conducted to ensure that all sections of the population are adequately informed about recruitment criteria, including

in relation to minimum ages for conscription and voluntary recruitment, and about legal protections granted to children during armed conflict by international humanitarian and human rights law. Information on minimum recruitment ages, provisions of the Optional Protocol and other relevant standards should be made widely known to children and their parents and other relevant members of society.

- Potential recruits must be informed of the duties involved in military service in accordance with Article 3.3(c) of the Optional Protocol.

5. ARE MILITARY RECRUITMENT PROCESSES SUBJECT TO INDEPENDENT MONITORING AND OVERSIGHT?

To ensure the effective implementation of national laws and international standards (including the Optional Protocol) on recruitment of children, independent inspection regimes should be established to verify that procedures have been followed, recruitment criteria met and, specifically, that no child is recruited or used in violation of applicable national or international law.

Where allegations of unlawful recruitment or use are made, mechanisms that are independent of any internal military processes should investigate the allegations. Where relevant they should identify underage recruits and initiate processes to bring about their release and reintegration. Additionally they should be mandated to investigate causes of unlawful recruitment and be able to recommend remedial actions and, where necessary, initiate administrative measures and criminal proceedings against individuals suspected of involvement in such practices.

Military recruitment should be monitored by a statutory body independent of the military with adequate powers and resources

- An independent body such as a national human rights institution that is separate from the military should monitor recruitment practices for compliance with national laws relating to minimum ages for recruitment and use and with the Optional Protocol and other relevant international standards. It should have an explicit mandate to monitor issues relating to children and armed conflict and dedicated resources (financial and human) to carry out its work independently and in a systematic manner. It should have expertise in child rights and staff should be trained in dealing with complaints in a child-sensitive manner. It should have a nationwide presence and be easily accessible to children and their parents.
- The independent monitoring body should be given unhindered access to all military facilities on an ongoing basis, including training sites, to identify underage recruits and initiate their immediate release and reintegration.
- The independent monitoring body should be responsible for monitoring the content of recruitment campaigns in order to ensure that they do not target children or are not otherwise designed to put children at risk of unlawful recruitment.

Independent monitoring bodies should coordinate closely with child protection experts

- Statutory bodies responsible for monitoring child soldier recruitment and use should coordinate closely with national and international child protection experts including to ensure that any underage recruits receive appropriate support for their release, recovery and reintegration.

6. IS UNLAWFUL CHILD RECRUITMENT AND USE CRIMINALISED IN NATIONAL LAW?

The Optional Protocol imposes an obligation on states that are party to it to explicitly criminalise recruitment of children and their use in hostilities. Article 6.1 requires states parties to "take all necessary legal, administrative and other measures to ensure the effective implementation and enforcement of the provisions of the present Protocol within its jurisdiction". Article 4.2 requires states to adopt legal measures "necessary to prohibit and criminalize" the recruitment and use in hostilities of children under the age of 18 years by armed groups (distinct from the armed forces).

Independently of the Optional Protocol, states also have obligations under the Rome Statute of the International Criminal Court (ICC) and customary international humanitarian law to criminalise the war crime of conscripting or enlisting children under the age of 15 years or using them to participate actively in hostilities. A growing number of states have adopted standards higher than that of the Rome Statute by setting at 18 years the relevant age for the crime of recruitment and use of children by both non-state armed groups and state armed forces.

Underage recruitment and use of children must be criminalised in national law

- States must criminalise the recruitment of persons under the age of 18 by non-state armed groups. With regard to state armed forces criminalisation should apply to compulsory recruitment of under-18s and to voluntary recruitment at an age which is consistent with the minimum age set by the state, which must be no lower than 16 years.
- The use in hostilities of children under the age of 18 in both state armed forces and non-state armed groups must be criminalised. With a view to providing the strongest possible protection for children from participation in armed conflict, states should criminalise both their direct and indirect participation.
- The crime of unlawful recruitment of children should apply at all times, in both wartime and in peace.

Criminalisation of unlawful recruitment and use should apply extra-territorially

- Laws to criminalise underage recruitment and use of children should enable national judicial authorities to undertake criminal investigations and prosecutions of individuals suspected of unlawfully recruiting and using children in hostilities regardless of where the crime was committed or the nationality of the accused or the victim.

7. DOES THE CRIMINAL JUSTICE SYSTEM HAVE THE CAPACITY TO EFFECTIVELY INVESTIGATE AND PROSECUTE ALLEGATIONS OF UNLAWFUL RECRUITMENT AND USE?

Legislation to criminalise the recruitment and use of children is a prerequisite for ending impunity but achieves little unless it is applied. Without effective investigations and prosecutions, the crimes remain unpunished and any deterrent effect of the legislation is lost or significantly weakened. The existence of an independent and impartial judiciary and broader criminal justice system is therefore an essential element for prevention of children's involvement in armed conflict. Where this does not exist, prevention strategies must include measures aimed at supporting and strengthening these institutions.

Trials of military personnel are often conducted by military courts for military code offences. However, noting the risk of impunity, independent human rights experts have consistently recommended that trials of military personnel for ordinary crimes and human rights violations (which would include the unlawful recruitment or use of children in hostilities) are carried out by ordinary, civilian courts.

All allegations of underage recruitment must be independently investigated and suspects prosecuted

- Prompt, effective and impartial investigations into all credible allegations of unlawful recruitment or use of children must be undertaken by a body independent of the alleged perpetrator.
- Individuals reasonably suspected of the unlawful recruitment or use of children must be prosecuted and brought to trial in an independent, impartial civilian court in proceedings that meet international fair trial standards.
- Military personnel reasonably suspected of unlawful recruitment or use of children should be immediately suspended from active duty pending completion of an investigation and appropriate disciplinary action taken against them.
- States should make public information on the number of investigations and prosecutions or cases of disciplinary action taken against individuals and the outcome of these processes.

States must cooperate with the International Criminal Court to investigate and prosecute unlawful recruitment and use of child soldiers

- States that have not already done so should accede to the Rome Statute of the ICC and ensure that the war crime of conscripting or enlisting children or using them to participate actively in hostilities is incorporated into national legislation. In doing so states should ideally set at 18 years the age below which the war crime applies.
- States must extend their full cooperation to the ICC in its investigation and prosecution of such crimes, including identifying and locating witnesses, arresting and surrendering accused persons in their territories, and cooperating in the implementation of reparations to the victims.

II Child soldier use by state-allied armed groups

8. ARE LEGAL AND PRACTICAL SAFEGUARDS IN PLACE TO PREVENT RECRUITMENT AND USE OF CHILDREN BY ANY ARMED GROUPS ALLIED TO THE STATE?

Some states have unofficial links with non-state armed groups such as irregular paramilitaries, "self-defence" militias and armed opposition groups operating in other countries. State relationships with such groups vary and can range from political and military support (such as providing weapons, training, logistical support and financing) to participation in joint military operations. In some cases state authorities have been found to be directly or indirectly involved in the recruitment and use of children by state-allied armed groups.

The responsibility of states with regard to such groups is established under Article 4 of the Optional Protocol. This requires states that are party to the Protocol to "take all feasible measures to prevent" recruitment and use of any person under the age of 18 years by armed groups "distinct from the armed forces" of the state. What kind of measures would be considered "feasible" depends on the type of relationship between the state and these armed groups. The greater the level of state control or influence over the group the wider the range of measures that are feasible. The following sets out the minimum measures that must be taken.

Standards in relation to child recruitment in state armed forces should apply to armed groups which are allied to the state

- The recruitment ages and procedures of armed groups established, controlled, condoned, armed or permitted to bear arms by the state, should be brought into line with those for regular government forces.
- The minimum age for recruitment by armed groups that are not officially recognised as being a part of the state's armed forces must be 18 years in accordance with Article 4.1 of the Optional Protocol.
- The recruitment and use in hostilities of persons under the age of 18 years by non-state armed groups (including those allied to, but not officially part of, state security forces) must be criminalised in law.
- Reports of recruitment and use of children by state-allied armed groups must be promptly and effectively investigated and perpetrators brought to justice.

Civilian and military officials must be prohibited from providing military, financial and other support to armed groups which recruit and use children

- Administrative and military orders should be issued to explicitly prohibit civilian and military officials from providing support to irregular paramilitaries, "self-defence" militias and other armed groups which recruit and use children. These orders should include information on the range of disciplinary and criminal sanctions applicable to those who fail to uphold them.

The involvement of state officials in supporting armed groups that unlawfully recruit and use children must be investigated

- There must be effective investigation of reports of civilian and military officials' involvement in support of irregular paramilitaries, self-defence militias and other armed groups which recruit and use children. Those officials should be suspended from active duty pending the results of the investigation.
- Where state officials are reasonably suspected of complicity in the unlawful recruitment of children by irregular paramilitaries, "self-defence" militias and other state-allied armed groups, they must be prosecuted and brought to trial in an independent, impartial civilian court in proceedings that meet international fair trial standards.

III Arms transfers and security sector reform assistance

9. ARE MEASURES IN PLACE TO ENSURE THAT INTERNATIONAL ARMS TRANSFERS AND OTHER FORMS OF MILITARY ASSISTANCE DO NOT CONTRIBUTE TO OR FACILITATE THE UNLAWFUL RECRUITMENT AND USE OF CHILDREN AS SOLDIERS IN RECIPIENT STATES?

The Optional Protocol establishes global as well as domestic responsibilities on states that are party to it to prevent the involvement of children in armed conflict. Specifically, Article 7 requires states to cooperate in implementing provisions, including in the prevention of any activity contrary to it. Providing arms or other forms of military assistance to a state whose armed forces or armed groups allied to it are known to unlawfully recruit or use children risks contributing directly or indirectly to this practice and is therefore contrary to this obligation on states to prevent the use of children in hostilities.

This obligation is also contained in other public international law under which a state is considered responsible where it aids or assists another state in the commission of a wrongful act, as well as in various treaties and guidelines relating to the sale and transfer of arms and other military assistance. The Committee on the Rights of the Child has consistently held that states should prohibit the sale of arms when the final destination is a country where children are at risk of unlawful recruitment or use in hostilities.

Legal prohibitions on transfers of arms and other forms of military assistance should be adopted

- Specific prohibitions should be established in law to prevent the sale or transfer of arms and other forms of military assistance to states when the final destination is a country in which children are known to be, or may potentially be, unlawfully recruited or used in hostilities by state armed forces.
- Prohibitions on the sale or transfer of arms and other forms of military assistance should also apply to states that provide direct or indirect support to armed groups that recruit and use child soldiers.

- States should make public the number of sales or transfers that have been halted as a result of prohibitions relating to child soldier recruitment and use by recipient states.
- Where there is evidence that children have been unlawfully recruited or used in the past checks should be carried out to establish whether measures have been taken to prevent the continuation or recurrence of this practice before agreeing to arms transfers or providing other forms of military assistance.

10. ARE SAFEGUARDS SET OUT IN THIS CHECKLIST REFLECTED IN NATIONAL SECURITY SECTOR REFORM (SSR) PROGRAMS AND IN SSR ASSISTANCE PROGRAMS?

In some states, implementing the legal and practical measures contained in this checklist will require reform of military and other security sector frameworks and institutions. Where this is the case child soldier prevention should be integrated into the design and implementation of SSR processes.

Under the Optional Protocol there is an obligation on states both to seek assistance to implement the provisions of the Protocol where needed and to provide it where possible. The provision under Article 7 requiring states to cooperate in implementation, including in the prevention of any activity contrary to the treaty, has been interpreted by the Committee on the Rights of the Child as an obligation on those states that lack the capacity to fully implement the provisions of the Protocol to actively seek assistance to do so.

Conversely, Article 7 also confers an obligation on states parties that have the capacity to provide such assistance, bilaterally or through international institutions such as the UN. SSR assistance programs represent one important way through which states can fulfil this obligation by supporting recipient states to strengthen mechanisms to prevent child recruitment by state armed forces and allied armed groups.

States should seek assistance to implement measures to prevent underage recruitment

- States whose armed forces or state-allied armed groups have recruited children or used them in hostilities should seek the assistance of the UN and of other states to introduce the preventative measures described in this checklist as part of the reform of their security sector.

State providers of security sector reform assistance should ensure that child soldier prevention features in the design and implementation of such programs

- States providing assistance to security sector reform (bilaterally, through the UN or via other multilateral programs) should ensure that this assistance contributes to strengthening mechanisms to prevent child recruitment and use by state armed forces of the recipient state. To this end, child soldier prevention should feature as an explicit objective of security sector assistance programs which should be designed to take account of the issues covered in this checklist.

Appendix I:
Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

Adopted and opened for signature, ratification and accession by General Assembly resolution A/RES/54/263 of 25 May 2000

Entered into force on 12 February 2002

The States Parties to the present Protocol,

Encouraged by the overwhelming support for the Convention on the Rights of the Child, demonstrating the widespread commitment that exists to strive for the promotion and protection of the rights of the child,

Reaffirming that the rights of children require special protection, and calling for continuous improvement of the situation of children without distinction, as well as for their development and education in conditions of peace and security,

Disturbed by the harmful and widespread impact of armed conflict on children and the long-term consequences it has for durable peace, security and development,

Condemning the targeting of children in situations of armed conflict and direct attacks on objects protected under international law, including places that generally have a significant presence of children, such as schools and hospitals,

Noting the adoption of the Rome Statute of the International Criminal Court, in particular, the inclusion therein as a war crime, of conscripting or enlisting children under the age of 15 years or using them to participate actively in hostilities in both international and non-international armed conflicts,

Considering therefore that to strengthen further the implementation of rights recognized in the Convention on the Rights of the Child there is a need to increase the protection of children from involvement in armed conflict,

Noting that article 1 of the Convention on the Rights of the Child specifies that, for the purposes of that Convention, a child means every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier,

Convinced that an optional protocol to the Convention that raises the age of possible recruitment of persons into armed forces and their participation in hostilities will contribute effectively to the implementation of the principle that the best interests of the child are to be a primary consideration in all actions concerning children,

Noting that the twenty-sixth International Conference of the Red Cross and Red Crescent in December 1995 recommended, inter alia, that parties to conflict take every feasible step to ensure that children below the age of 18 years do not take part in hostilities,

Welcoming the unanimous adoption, in June 1999, of International Labour Organization Convention No. 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, which prohibits, inter alia, forced or compulsory recruitment of children for use in armed conflict,

Condemning with the gravest concern the recruitment, training and use within and across national borders of children in hostilities by armed groups distinct from the armed forces of a State, and recognizing the responsibility of those who recruit, train and use children in this regard,

Recalling the obligation of each party to an armed conflict to abide by the provisions of international humanitarian law,

Stressing that the present Protocol is without prejudice to the purposes and principles contained in the Charter of the United Nations, including Article 51, and relevant norms of humanitarian law,

Bearing in mind that conditions of peace and security based on full respect of the purposes and principles contained in the Charter and observance of applicable human rights instruments are indispensable for the full protection of children, in particular during armed conflicts and foreign occupation,

Recognizing the special needs of those children who are particularly vulnerable to recruitment or use in hostilities contrary to the present Protocol owing to their economic or social status or gender,

Mindful of the necessity of taking into consideration the economic, social and political root causes of the involvement of children in armed conflicts,

Convinced of the need to strengthen international cooperation in the implementation of the present Protocol, as well as the physical and psychosocial rehabilitation and social reintegration of children who are victims of armed conflict,

Encouraging the participation of the community and, in particular, children and child victims in the dissemination of informational and educational programmes concerning the implementation of the Protocol,

Have agreed as follows:

Article 1

States Parties shall take all feasible measures to ensure that members of their armed forces who have not attained the age of 18 years do not take a direct part in hostilities.

Article 2

States Parties shall ensure that persons who have not attained the age of 18 years are not compulsorily recruited into their armed forces.

Article 3

1. States Parties shall raise in years the minimum age for the voluntary recruitment of persons into their national armed forces from that set out in article 38, paragraph 3, of the Convention on the Rights of the Child, taking account of the principles contained in that article and recognizing that under the Convention persons under the age of 18 years are entitled to special protection.
2. Each State Party shall deposit a binding declaration upon ratification of or accession to the present Protocol that sets forth the minimum age at which it will permit voluntary recruitment into its national armed forces and a description of the safeguards it has adopted to ensure that such recruitment is not forced or coerced.
3. States Parties that permit voluntary recruitment into their national armed forces under the age of 18 years shall maintain safeguards to ensure, as a minimum, that:
   (a) Such recruitment is genuinely voluntary;
   (b) Such recruitment is carried out with the informed consent of the person's parents or legal guardians;
   (c) Such persons are fully informed of the duties involved in such military service;
   (d) Such persons provide reliable proof of age prior to acceptance into national military service.
4. Each State Party may strengthen its declaration at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall inform all States Parties. Such notification shall take effect on the date on which it is received by the Secretary-General.
5. The requirement to raise the age in paragraph 1 of the present article does not apply to schools operated by or under the control of the armed forces of the States Parties, in keeping with articles 28 and 29 of the Convention on the Rights of the Child.

Article 4

1. Armed groups 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.
2. States Parties shall take all feasible measures to prevent such recruitment and use, including the adoption of legal measures necessary to prohibit and criminalize such practices.
3. The application of the present article shall not affect the legal status of any party to an armed conflict.

Article 5

Nothing in the present Protocol shall be construed as precluding provisions in the law of a State Party or in international instruments and international humanitarian law that are more conducive to the realization of the rights of the child.

Article 6

1. Each State Party shall take all necessary legal, administrative and other measures to ensure the effective implementation and enforcement of the provisions of the present Protocol within its jurisdiction.
2. States Parties undertake to make the principles and provisions of the present Protocol widely known and promoted by appropriate means, to adults and children alike.
3. States Parties shall take all feasible measures to ensure that persons within their jurisdiction recruited or used in hostilities contrary to the present Protocol are demobilized or otherwise released from service. States Parties shall, when necessary, accord to such persons all appropriate assistance for their physical and psychological recovery and their social reintegration.

Article 7

1. States Parties shall cooperate in the implementation of the present Protocol, including in the prevention of any activity contrary thereto and in the rehabilitation and social reintegration of persons who are victims of acts contrary thereto, including through technical cooperation and financial assistance. Such assistance and cooperation will be undertaken in consultation with the States Parties concerned and the relevant international organizations.
2. States Parties in a position to do so shall provide such assistance through existing multilateral, bilateral or other programmes or, inter alia, through a voluntary fund established in accordance with the rules of the General Assembly.

Article 8

1. Each State Party shall, within two years following the entry into force of the present Protocol for that State Party, submit a report to the Committee on the Rights of the Child providing comprehensive information on the measures it has taken to implement the provisions of the Protocol, including the measures taken to implement the provisions on participation and recruitment.
2. Following the submission of the comprehensive report, each State Party shall include in the reports it submits to the Committee on the Rights of the Child, in accordance with article 44 of the Convention, any further information with respect to the implementation of the Protocol. Other States Parties to the Protocol shall submit a report every five years.
3. The Committee on the Rights of the Child may request from States Parties further information relevant to the implementation of the present Protocol.

Article 9

1. The present Protocol is open for signature by any State that is a party to the Convention or has signed it.
2. The present Protocol is subject to ratification and is open to accession by any State. Instruments of ratification or accession shall be deposited with the Secretary-General of the United Nations.
3. The Secretary-General, in his capacity as depositary of the Convention and the Protocol, shall inform all States Parties to the Convention and all States that have signed the Convention of each instrument of declaration pursuant to article 3.

Article 10

1. The present Protocol shall enter into force three months after the deposit of the tenth instrument of ratification or accession.
2. For each State ratifying the present Protocol or acceding to it after its entry into force, the Protocol shall enter into force one month after the date of the deposit of its own instrument of ratification or accession.

Article 11

1. Any State Party may denounce the present Protocol at any time by written notification to the Secretary-General of the United Nations, who shall thereafter inform the other States Parties to the Convention and all States that have signed the Convention. The denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General. If, however, on the expiry of that year the denouncing State Party is engaged in armed conflict, the denunciation shall not take effect before the end of the armed conflict.
2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under the present Protocol in regard to any act that occurs prior to the date on which the denunciation becomes effective. Nor shall such a denunciation prejudice in any way the continued consideration of any matter that is already under consideration by the Committee on the Rights of the Child prior to the date on which the denunciation becomes effective.

Article 12

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.
2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly and accepted by a two-thirds majority of States Parties.
3. When an amendment enters into force, it shall be binding on those States Parties that have accepted it, other States Parties still being bound by the provisions of the present Protocol and any earlier amendments they have accepted.

Article 13

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States Parties to the Convention and all States that have signed the Convention.

Appendix II:
Data summary on recruitment ages of national armies

This table provides data on the minimum ages for recruitment (conscription and voluntary) by national armies (army, navy and air force) of states and territories. Information is provided on the status of ratification by states of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict and the minimum age for recruitment as indicated by states in their binding declarations on ratification or accession to the treaty. Where available, data is also provided on situations where under-18s who are enrolled in military schools, youth wings of national armies or are in other forms of military training are classified as members of the armed forces.

The data is based on a variety of sources including: communications from governments to Child Soldiers International; reviews of relevant legislation where available; information provided by states to the Committee on the Rights of the Child; and other secondary sources including the International Labour Organization (ILO) and the CIA Factbook. Child Soldiers International was unable to access current information on every state and where this is the case it has used data from its 2008 Child Soldiers Global Report (this information is represented in italics).

Child Soldiers International would welcome any updates, clarifications or corrections to the information contained in this table, including copies of relevant legislation. Information can be sent to info@child-soldiers.org.

Key: a = acceded; r = ratified; s = signed

State/territory	OPAC status	OPAC binding declaration: Minimum voluntary recruitment age	Legal minimum conscription age	Legal minimum voluntary recruitment age	Comments
Afghanistan	a	22	no conscription	18**	** The minimum age for voluntary recruitment was amended in 2003 by presidential decree from 22 to 18.
Albania	a	19	19*	19	* 18 in case of general/partial mobilisation. However, according to Albania's Ministry of Defence, conscription was suspended in 2009 (Communication from Ministry of Defence, July 2011).
Algeria	a	17	*19**	*17***	* ** According to its declaration under the Optional Protocol.
Andorra	r	18 (police and customs)	n/a*	n/a**	* **Andorra has no national army.
Angola	a	18	20	18 men 20 women	
Antigua & Barbuda			*no conscription**	*18*	* The Governor-General has powers to call up men for national service and set the age at which they could be called up.
Argentina	r	18	18*	18	* No conscription in practice. However, if the number of volunteers failed to meet the quota of recruits for a particular year Congress could authorise the conscription of citizens who turned 18 that year for a period not exceeding one year.
Armenia	r	18 (conscription)	18	18**	** 17 year olds can become cadets at military higher education institutes where they are classified as "military personnel".
Australia	r	17	no conscription	17	
Austria	r	17	18	17	
Azerbaijan	r	17 as cadet	18	17**	** 17 year olds are considered to be on active service at cadet military school.
Bahamas			*no conscription*	*18*	
Bahrain	a	18	*no conscription*	*Unclear*	
Bangladesh	r	16 non–commissioned soldiers, 17 commissioned officers	no conscription	16	

Barbados			no conscription	18 (younger with parental consent)**	** No minimum age established in law for individuals under 18 recruited with parental consent. However, where such consent is obtained, the Barbados Defence Force limits its intake to persons who are at least 17 years and nine months (Communication from Permanent Mission of Barbados to the UN, Geneva, September 2011).
Belarus	a	18 (17 for students of military academies)	18	18**	** Children can enrol as cadets in the Military Academy from the age of 17 and are classified as members of the armed forces.
Belgium	r	18	no conscription*	18**	* Conscription was suspended in 1994. Child Soldiers International is not aware if legislation permitting recruitment of persons under the age of 18 into the armed forces in times of war or other emergencies has been repealed. ** Voluntary recruitment can occur when an applicant completes secondary education regardless of age. Six under-18s were serving in the Belgian armed forces as at 1 May 2011 (Communication from Belgian Chief of Defence, June 2011).
Belize	r	16	no conscription*	18 or 16**	* According to Belize's second periodic report on implementation of the Convention on the Rights of the Child, military conscription is at the Governor-General's determination. The report notes that it is considered inconceivable that this would ever be set at an age below the age of voluntary enlistment (18 years) but that there would be merit in reviewing whether this should be established in law (UN Doc. CRC/C/65/Add.29, 13 July 2004). Child Soldiers International does not know whether this review was undertaken. ** Belize's Optional Protocol declaration states 16 years but the 1981 Defence Act provides that no under-18s can join the defence forces.
Benin	r	18	18	18	
Bhutan	r	18	no conscription	18	
Bolivia	a	17 (pre-military service)	18	17	
Bosnia & Herzegovina	r	18	no conscription	18	
Botswana	r	18	*no conscription*	18**	** Under the Botswana Defence Force Act of 1977 a recruiting officer shall not enlist a person under the "apparent age" of 18 years.

Brazil	r	16	18*	16**	* According to Brazil's binding declaration the obligation for military service begins the year a citizen turns 18 years making it possible that an individual could be conscripted before their 18th birthday. ** According to Brazil's binding declaration citizens may present themselves for voluntary military service provided they have attained the minimum age of 16 years but their acceptance is only possible from 1 January of the year they turn 17.
Brunei Darussalam			*no conscription*	*17 years and six months***	** The armed forces had a Boys Wing to train individuals intending to serve as technical personnel or military officers, to which boys between the ages of 15 and 16 and a half could apply. It was unclear if members of the Boys Wing were members of the armed forces.
Bulgaria	r	18 (conscription)	18*	*18*	* Conscription abolished in 2008.
Burkina Faso	r	18	no conscription	18	
Burundi	r	18	no conscription	18	
Cambodia	r	18	*18**	*18*	* Not known if conscription practised.
Cameroon	s		no conscription	18**	** Cameroon's second periodic report on implementation of the Convention on the Rights of the Child in 2009 states that no one under 17 years can be enlisted but elsewhere it is stated that enlistment is at 18 (UN Doc. CRC/C/CMR/2, 22 October 2009 and Written replies by the government of Cameroon with consideration to its initial report under the Optional Protocol. UN Doc. CRC/C/CMR/Q/2/Add.1, 8 December 2009).
Canada	r	16	no conscription	16 and 17**	** 16 for Reserve Force and Regular Officer Training and 17 for other Canadian Forces Programs.
Cape Verde	a	17	18*	17	* According to the ILO, under national legislation 17 year olds may be conscripted in times of war (see General Survey on the fundamental Conventions concerning rights at work in light of the ILO Declaration on Social Justice for a Fair Globalization, 2008, UN Doc. ILC.101/III/1B, 2012).
Central African Republic	s		18	Unclear	
Chad	r	18	20	18**	** Ordinance on the Status of Military Personnel, 29 August 1992, provides for enlistment of under-18s with parental consent. This law has been superseded by others in which 18 is established as the minimum voluntary recruitment age, but had not been amended or repealed.

Chile	r	18, conscription can be advanced by one year (as volunteer) to 17 by request	18*	17**	* According to a communication from the Ministry of Defence, legal regulations establish that registration for conscription is at 18 years but that conscripts should enter service only when they turn 19 (June 2011). A separate communication from the Embassy of Chile, London stated that registration was at 17 and entry into service at 18 years (April 2011). In practice, since 2006, military service has effectively been voluntary because there are more conscripts than places available. The Committee on the Rights of the Child has raised concern that the president can call upon all persons "regardless of sex or age limit" to serve in times of war (UN Committee on the Rights of the Child, Consideration of report submitted by Chile, Concluding observations, UN Doc. CRC/C/OPAC/CHL/CO/1, 13 February 2008). ** Entry to military schools is permitted on completion of secondary education which, according to a communication from the Ministry of Defence, is usually at 17 or 18 years. Students in military schools are classified as members of the armed forces (June 2011).
China	r	17*	18	17**	*China's binding declaration contains a contradictory statement that citizens who have not yet reached 17 by 31 December of a given year may be recruited for active service. **China's second periodic report to the UN Committee on the Rights of the Child quoted the Military Service Law as stipulating that "no one in China under the age of 15 may voluntarily enlist in any armed force". However, this may be an error (UN Doc. CRC/C/83/Add.9, 15 July 2005).
Colombia	r	18	18	18**	** The status of children in military schools is ambiguous. According to a communication from the Colombian Mission to the UN in Geneva, children can enter armed forces schools from the age of 16 where they are considered "student members of the armed forces" but they are not part of the military hierarchy and cannot be deployed (July 2011). It is not clear from the communication if they have full civilian status. However, Colombia's initial report on implementation of the Optional Protocol appears to clarify this. It states that military school students do not have military status and cannot be called up in the event of mobilisation (UN Doc. CRC/C/OPAC/1, 21 October 2009).
Comoros			no conscription	18	
Congo (Democratic Republic of the)	r	18	18	18	
Congo (Republic of)	a	18	no conscription	18	

Cook Islands			n/a*	n/a**	* **The Cook Islands has no national army.
Costa Rica	r		n/a*	n/a**	* ** Costa Rica has no national army.
Côte d'Ivoire	a	18	18*	18	* Conscription is not enforced
Croatia	r	18 (conscription)	18*	18	* Conscription has been suspended but can be reactivated in times of war or other emergencies. An amendment to legislation is reported to have raised the age of conscription in such conditions from 18 to 20 years (UN Doc. CRC/C/SR.1258, 8 January 2008).
Cuba	r	17	*16**	*17*	* All male citizens are liable for two years compulsory military service between 1 January of the year they turn 17 and the last day of the year they turn 28, making it possible that 16 year olds could be conscripted.
Cyprus	r	17	18*	17**	* All male citizens are required to register at 16 in accordance with the National Guard Law of 2011. Male citizens have an obligation to enlist in the National Guard starting from 1 January of the year they turn 18 (making it possible that under 18s could be conscripted). Conscripts under 18 who are called to service participate in training only (Communication from Ministry of Defence, July 2011). ** Conscripts can start service early as volunteers from the age of 17 years.
Czech Republic	r	18	*18**	*18*	* Conscription ended in 2004 and can only be reinstated in a state of "national danger" or war.
Denmark	r	18	18	18	
Djibouti	r	18	*no conscription*	*18***	** A voluntary national service program accepted volunteers between the ages of 17 and 25. Participants of the Service national adapté (SNA) were subject to military discipline, but it is unclear if they are regarded as part of the armed forces. Military training formed up to 30 per cent of the training and military activities included participation in operations to help the public in case of natural or industrial disasters and activities relating to guarding military installations.
Dominica	a	18 (police)	n/a*	n/a**	* ** Dominica has no national army.
Dominican Republic	s		no conscription*	*16 or 18***	* No conscription in peacetime. However, according to the ILO, national law authorises the recruitment of under-18s in times of war (see General Survey on the fundamental Conventions concerning rights at work in light of the ILO Declaration on Social Justice for a Fair Globalization, 2008, UN Doc. ILC.101/III/1B, 2012). ** 16 according to *Ley Orgánica de las Fuerzas Armadas*. However, the government reported to the Committee on the Rights of the Child in 2007 that the minimum age was 18 (second periodic report of Dominican Republic to the UN Committee on the Rights of the Child, UN Doc. CRC/C/DOM/2, 16 July 2007).

Ecuador	r	18 (conscription)	18*	18**	* Conscription suspended ** According to Ecuador's initial report to the Committee on the Rights of the Child on implementation of the Optional Protocol, "the special legislation on compulsory military service does not expressly prohibit the recruitment of volunteers below 18 years of age. Because no mention of such a limitation is made, the legislation fails to establish safeguards to protect volunteers under the age of 18" (UN Doc. CRC/C/OPAC/ECU/1, 7 April 2009).
Egypt	a	16	18	16**	** In its consideration of Egypt's initial report on implementation of the Optional Protocol, the Committee on the Rights of the Child noted "the statement by the delegation that voluntary recruitment into the armed forces of persons under 18 is prohibited under domestic law". The Committee went on to note that notwithstanding this statement "…the State party's declaration upon ratification of the Optional Protocol that 16 years constitute the minimum age for voluntary recruitment into the armed forces is still in place and was confirmed in the Written replies of the State party" (UN Doc. CRC/C/OPAC/EGY/CO/1, 18 July 2011).
El Salvador	r	16	*18*	*16*	
Equatorial Guinea			18	18	
Eritrea	a	18	18*	18	* All final year secondary school students are required to take their final year of education at a military training centre. Some final year students are below the age of 18 and are therefore, in effect, conscripted below the age of 18 years. Other under-18s are reported to have been conscripted during annual conscription "round-ups" or in the course of operations to identify draft evaders.
Estonia	s		18	18	
Ethiopia	s		18	18	
Fiji	s		*no conscription*	*18*	
Finland	r	18	18	18	
France	r	17	18*	17	* Conscription has been suspended.
Gabon	r	18	no conscription	20	
Gambia	s		no conscription	18	

Georgia	a	18 (conscription)	18	18**	** Under a 2010 decree issued by the Georgian Minister of Defence a Cadets' Military Lyceum was established in the city of Kutaisi for boys under the age of 17 years who have completed nine grades of education. It was unclear if pupils in the lyceum were classified as members of the armed forces.
Germany	r	17	18	17	* Conscription has been suspended.
Ghana	s		no conscription	18	
Greece	r	18	19*	18	* Male citizens aged 19 to 45 have an obligation to serve in the armed forces. However, they can be conscripted from 1 January of the year they turn 19 (Communication, Embassy of Greece, London, May 2011). This makes it possible that 18 year olds could be called up for military service.
Grenada	a	19 (police)	n/a*	n/a**	* ** Grenada has no national army.
Guatemala	r	18 (conscription)	18	18**	** According to a communication from the Guatemalan Embassy, London, military schools currently in operation include the *Escuela Politécnica* (for training of career officers – minimum age for entry 17), eight 'Adolfo V. Hall' Institutes (offering vocational training – minimum age for entry 12), and four other skill-specific training centres (*Escuela Técnica Militar de Aviación* (minimum age for entry 15), *Escuela de Comunicaciones y Electrónica del Ejército* (for communications training – minimum age for entry 11 years) and a military music school (minimum age for entry 11 years). According to Article 6 of the *Ley Constitutiva del Ejército*, male cadets (*Caballeros Cadetes*) and male students in military schools and training centres (*Caballeros Alumnos de los Centros de Educación e Instrucción Militar*) are considered to be members of the Guatemalan army (July 2011). It is not clear if this applies to under-18s in all of the military schools referred to above.
Guinea			18*	18	* According to the ILO, national legislation authorises the compulsory recruitment of under-18s. It is not known if conscription is enforced (see General Survey on the fundamental Conventions concerning rights at work in light of the ILO Declaration on Social Justice for a Fair Globalization, 2008, UN Doc. ILC.101/III/1B, 2012).
Guinea-Bissau	s		18*	16 or below**	* Conscription has been suspended. ** Decree 20/83 of 19 July 1983 provides for voluntary recruitment of under-16s with parental consent.

Guyana	a	16	18*	16 or below**	* No conscription in practice. ** There are unconfirmed reports that the minimum voluntary recruitment age has been raised to 18. However, under the versions of the Defence Act available online it remains 16 or lower (14) with parental consent.
Haiti	s		n/a*	n/a**	* ** Haiti has no national army.
Holy See	r	19 (Swiss Guards)	no conscription	19	
Honduras	a	18	no conscription*	18**	* According to the Constitution, in times of war all Hondurans capable of defending or serving the fatherland can be mobilised. No minimum age for mobilisation in these circumstances appears to have been set. ** There are three military academies in Honduras for which the minimum age limit for entry as students is 18 years. However, the minimum age for academies training cadets is thought to be lower (the minimum age for cadets to the air force is 16 and the website for the army academy refers to specific entry criteria for minors). According to a communication sent by the Embassy of Honduras, London, cadets are considered members of the armed forces, and can take part in military or police operations (July 2011).
Hungary	r	18	18*	18	* Conscription not operational in peacetime.
Iceland	r		n/a*	n/a**	* ** Iceland has no national army.
India	r	16	no conscription	17 years and six months for army; 17 for air force; 16 years and six months for Navy**	** According to a communication from the High Commission of India, the minimum recruitment age is 18 years (March 2011). However, ages in this table are those provided on official websites of the three services. It is unclear whether minimum ages are established in law. Recruits envisaging careers as officers can enter the National Defence Academy at 16 and a half. It is unclear if they are regarded as members of the armed forces.
Indonesia	s		*18*	*18*	
Iran (Islamic Republic of)	s		18	16	
Iraq	a	18	no conscription	18	

Ireland	r	17, 16 as apprentices	no conscription	17, 16 as apprentices**	** According to Ireland's 2007 report on implementation of the Optional Protocol, administrative practice has been to reset the minimum entry age for apprentice entrants at the same level as for General Service Recruitment, i.e. a minimum age of 17 years at entry (UN Doc. CRC/C/OPAC//IRL/1, 5 February 2007). ** It was announced in June 2012 that the age of voluntary recruitment to the armed forces would be raised to 18 years. It is not known if this will apply to apprentices.
Israel	r	17	18	17**	** According to information provided by NGOs the calculation of age for voluntary recruitment is based on the Jewish calendar, making it possible that 16 year olds could enlist. However, according to Israel's initial report on implementation of the Optional Protocol, under no circumstances can the enlistment of a person less than 17 years of age take place (UN Doc. CRC/C/OPAC/ISR/1, 15 April 2009).
Italy	r	17	18*	18**	* Conscription suspended. ** Law 226 (2004) regulates voluntary recruitment to the armed forces (and some paramilitaries) and sets 18 as the minimum recruitment age. However, according to Italy's third periodic report to the Committee on the Rights of the Child the minimum age limit of 17 has been set for individuals to take part in competitions to be recruited into the armed forces as warrant officers (except for the Corps of the Carabinieri) or as officers (including the Corps of the Carabinieri). The report noted that this meant that recruitment of some members of the armed forces at 17 years was possible but within the context of a wider review of armed forces personnel the Ministry of Defence was "looking at the possibility of setting at 18 the minimum age for voluntary recruitment" (UN Doc. CRC/C/ITA/3–4, 5 July 2010). Despite the ambiguity of the report, the Committee on the Rights of the Child recommended that Italy revise its declaration under the Optional Protocol to conform with national legislation setting 18 as the minimum age for voluntary recruitment (UN Committee on the Rights of the Child, Consideration of report submitted by Italy, Concluding observations, UN Doc. CRC/C/ITA/CO/3–4, 31 October 2011).
Jamaica	r	17 years and six months	*no conscription*	*17 years and six months*	
Japan	r	18	no conscription	18**	** According to Japan's initial report on implementation of the Optional Protocol, the Government of Japan recruits people who are 18 years old or older as Japan Self-Defense Forces Personnel, with the exception of Youth Cadets who are boys aged between 15 and 17 recruited to the Japan Self-Defense Forces for "educational training" only (UN Doc. CRC/C/OPAC/JPN/1, 18 September 2009).

Jordan	r	16	18	16**	** According to Jordan's third periodic report on implementation of the Convention on the Rights of the Child, persons under 18 years were no longer accepted as volunteers to the armed forces, although a small number of under-18s were reported to be serving in the armed forces at the time (see UN Doc. CRC/C/JOR/3, 2 March 2006). It is not known if the minimum age for recruitment has been raised in law.
Kazakhstan	r	19	18	19**	** Military cadets in intermediate (15–17 years) and higher (17–21) education institutes are classified as "military service personnel". Some cadets studied at institutions for intermediate or higher education run by the Ministry of Defence which are set aside exclusively for the military.
Kenya	r	18	no conscription	no minimum age**	** According to national legislation under-18s may be recruited with the consent of parents, guardians or of the district commissioner. No minimum age has been set in these circumstances.
Kiribati			n/a*	n/a**	* ** Kiribati has no national army.
Korea (Democratic People's Republic of)			*18 (unclear)**	*16 or 17 (unclear)*	* According to its third and fourth periodic report to the Committee on the Rights of the Child, military service is on a voluntary basis and there is no system of "forced conscription" (see UN Doc. CRC/C/PRK/4, 15 January 2008). However, according to other sources conscription is practised.
Korea (Republic of)	r	18	19 or 20	18	
Kuwait	a	18	21*	18	* Conscription suspended. According to the ILO, the minimum age at which an individual can be appointed to serve in the army is 21 years (see General Survey on the fundamental Conventions concerning rights at work in light of the ILO Declaration on Social Justice for a Fair Globalization, 2008, UN Doc. ILC.101/III/1B, 2012).
Kyrgyzstan	a	18	18	18**	** Boys can enter the Higher Military Academy at the age of 16–17 and were classified in law as national servicemen (cadets).
Lao People's Democratic Republic	a	18	*18*	*18*	
Latvia	r	18	19*	18	* Conscription not enforced.
Lebanon	s		no conscription	17	
Lesotho	r	18	no conscription	18	

Liberia	s		no conscription	18	
Libyan Arab Jamahiriya	a	18	18*	18	* A bill is reported to have been drafted to amend the Mobilization Act No. 21 of 1991 which permits the deployment of 17 year olds in hostilities. The bill would raise the age to 18. It is not known if it has been adopted.
Liechtenstein	r		n/a*	n/a**	* ** Liechtenstein has no national army. However, the Committee on the Rights of the Child has raised concern that, in the absence of an explicit prohibition, under-18s could be mobilised in times of war (see UN Doc. CRC/C/OPAC/LIE/CO/1, 4 March 2010).
Lithuania	r	18	19*	18**	* Conscription suspended. However, a Ministry of National Defence website indicated that 90 conscripts were still serving with the armed forces in August 2011.
Luxembourg	r	17	no conscription	18**	** The minimum voluntary recruitment age was raised to 18 years in 2007. It has not yet amended its declaration under the Optional Protocol to reflect this.
Macedonia (former Yugoslav Republic of)	r	18	*19**	*18*	* *Conscription abolished.*
Madagascar	r	18	no conscription	18	
Malawi	r	18	no conscription*	18	* In case of public emergency every citizen between the ages of 18 and 60 can be called for national service under the National Service Act.
Malaysia	a	17 years and six months	*no conscription*	*17 years and six months*	
Maldives	r	18	*no conscription*	*18*	
Mali	r	18	18	18	
Malta	r	17 years and six months	no conscription	17 years and six months**	** According to Malta's declaration under the Optional Protocol persons below 18 years have not been recruited to the armed forces since 1970; persons under the age of 17 and a half can be recruited for training under the Junior Leaders Scheme but no such recruitment has taken place since 1970.
Marshall Islands			n/a*	n/a**	* ** The Marshall Islands has no national army.

Mauritania			no conscription	16**	** The minimum voluntary recruitment age is 18 years under Act No. 64.130 of 14 July 1964. Enlistment of individuals between the ages of 16 and 18 is permitted at the discretion of the Minister of Defence and with parental consent (see Written replies by the government of Mauritania with consideration to its initial report under the Optional Protocol, UN Doc. CRC/C/MRT/Q/2/Add.1, 22 April 2009).
Mauritius	r	18	*n/a*	*18*	
Mexico	r	18, 16 for training in signals units as technicians or if early enlistment is requested	18	16**	** According to Mexico's declaration under the Optional Protocol, 16 year olds may enlist in signals units for training; 16 year olds may also be accepted for early enlistment if they wish to leave the country at the time when they would be required by law to undertake military service or if they are obliged to request early enlistment because of their studies. **Children may enrol in military schools from the age of 15 and are considered members of the armed forces.
Micronesia (Federated States of)	s		n/a	n/a	* ** Micronesia has no national army.
Moldova (Republic of)	r	18 (conscription)	18	18	
Monaco	r	21 (Prince's Guard & Fire Brigade)	n/a*	n/a**	* ** Monaco has no national army.
Mongolia	r	18 (conscription)	18	18	
Montenegro	Succes-sion	18	no conscription*	18	* No conscription in peacetime. In times of war or emergency conscription starts at the beginning of the calendar year that a conscript turns 18 (Communication from Ministry of Defence, June 2011). This makes it possible that 17 year olds could be conscripted during a war or emergency. In its concluding observations on Montenegro's initial report on implementation of the Optional Protocol, the Committee on the Rights of the Child expressed concern that legislation does not explicitly prohibit persons under the age of 18 from joining the armed forces in all circumstances, including in a state of war and state of martial law (see UN Doc. CRC/C/OPAC/MNE/CO/1, 1 October 2010).
Morocco	r	18	*no conscription*	*18**	** 20 according to some sources.

Mozambique	a	18	18*	18**	* ** According to Mozambique's declaration under the Optional Protocol, the age of military service can be modified in times of war. According to the ILO, national legislation permits under-18s to be compulsorily recruited in war (see General Survey on the fundamental Conventions concerning rights at work in light of the ILO Declaration on Social Justice for a Fair Globalization, 2008, UN Doc. ILC.101/III/1B, 2012).
Myanmar			no conscription*	18	* The 2010 People's Militia Act reintroduced conscription with a minimum age of 18 years but the law has not entered into force.
Namibia	r	18	no conscription	18	
Nauru	s		n/a*	n/a**	* ** Nauru has no national army.
Nepal	r	18	no conscription	18	
Netherlands	r	17	no conscription	17	
New Zealand	r	17	no conscription	17	
Nicaragua	a	18	no conscription	18	
Niger	a	18	Not specified in law*	Not specified in law**	* According to the ILO national legislation authorises the compulsory recruitment of under-18s (see General Survey on the fundamental Conventions concerning rights at work in light of the ILO Declaration on Social Justice for a Fair Globalization, 2008, UN Doc. ILC.101/III/1B, 2012). It is not known if conscription is enforced. * ** The Committee on the Rights of the Child raised concern in 2009 that the minimum age of 18 years for compulsory or voluntary recruitment is not specified in law. It is not known if national legislation has since been passed or amended to reflect its binding declaration made at the time of accession to the Optional Protocol in March 2012 (see UN Committee on the Rights of the Child, Consideration of report submitted by Niger, Concluding observations, UN Doc. CRC/C/NER/CO/2, 18 June 2009).
Nigeria	s		*no conscription*	18	
Niue			n/a	n/a	* ** Niue has no national army.

Norway	r	18	18*	18**	* Compulsory military service for men can take place from the year they turn 19. During war or under threat of war the King is authorised to decide that men can enter compulsory military service from 18. ** According to a communication from the Ministry of Defence, "Men applying for military schools can be regarded as a conscript from the time of school enrolment, but no earlier than January 1 of the year they turn 17 years" (June 2011).
Occupied Palestinian Territory			*no conscription*	18	
Oman	a	18	no conscription	18	
Pakistan	s		no conscription	16**	** According to Pakistan's third and fourth periodic report to the Committee on the Rights of the Child the minimum voluntary recruitment age is 18 years with the possibility of beginning two years earlier for training (UN Doc. CRC/C/PAK/3–4, 19 March 2009). However, according to the official website of the air force, aero-technicians can be recruited from 15 years.
Palau			n/a*	n/a**	* ** Palau has no national army.
Panama	r	18 (National Police, National Air and Maritime Services and Institutional Protection Service)	n/a*	n/a**	* ** Panama has no national army.
Papua New Guinea			*no conscription*	16	
Paraguay	r	18	18	18**	** Children under the age of 18 years can attend military schools. It is unclear whether they are classified as members of the armed forces.
Peru	r	18	no conscription	18**	** Children may enrol in military schools from the age of 15 and are then considered members of the armed forces (Communication from Embassy of Peru, London, June 2011).
Philippines	r	18 except for training	no conscription	17	
Poland	r	17	18	17 or 18**	** In 2009, the Committee on the Rights of the Child welcomed Poland's intention to raise the minimum age for voluntary recruitment to 18 years through a draft law amending the Act of 21 November 1967 on the universal duty to defend the Republic of Poland (UN Doc. CRC/C/OPAC/POL/CO/1, 22 October 2009). It is not known if the legislation has since been adopted.

Portugal	r	18	no conscription*	18	* No conscription in peacetime. Conscription or mobilisation is provided for from 18 years if the fundamental needs of the armed forces cannot be met through contract or volunteer recruitment (Communication from Embassy of Portugal, London, June 2011).
Qatar	a	18	no conscription	18	
Romania	r	18	20*	18	* Conscription was suspended in 2007 but according to Romania's declaration under the Optional Protocol military service is compulsory for Romanian male citizens who have reached the age of 20, except in case of war or upon request, during peacetime, when they may be recruited after the age of 18.
Russian Federation	r	18, 16 as military school students	18	18**	** Children may enrol in military schools from the age of 16 where they are classified as members of the armed forces.
Rwanda	a	18	18	18	
Saint Kitts and Nevis			*no conscription*	*18*	
Saint Lucia	s		n/a*	n/a**	* ** Saint Lucia has no national army.
Saint Vincent and Grenadines	r	19 (police)	*n/a**	*n/a***	* ** Saint Vincent and Grenadines has no national army.
Samoa			n/a*	n/a**	* ** Samoa has no national army.
San Marino	r	18	no conscription*	18	* According to San Marino's declaration under the Optional Protocol there is no compulsory military service but national legislation provides that, in the exceptional circumstances of a general mobilisation, all San Marino citizens from 16 to 60 years of age may be called up to serve in the military. According to the declaration, this provision represents a "historical heritage" and such circumstances have never arisen.
Sao Tome & Principe			*18*	*17*	
Saudi Arabia	a	17	*no conscription*	*17*	
Senegal	r	20 (for conscription and to enter schools for officers and sub-officers)	20	*18*	

Serbia	r	17	18*	18**	* ** According to Serbia's declaration under the Optional Protocol, "a person of military age may only exceptionally be recruited in the calendar year in which he turns seventeen, at his own request, or during a state of war by order of the President of the Federal Republic of Yugoslavia". However, a 2009 amendment to national legislation prohibited persons under the age of 18 from joining the armed forces in all circumstances. The Committee on the Rights of the Child subsequently recommended that Serbia revise its declaration to reflect this legislation (UN Committee on the Rights of the Child, Consideration of report submitted by Serbia, Concluding observations, UN Doc. CRC/C/OPAC/SRB/CO/1, 11 June 2010).
Seychelles	r	Under-18 with parental consent.	no conscription	18, younger with parental consent**	** Unclear if a minimum age has been set for those recruited with parental consent.
Sierra Leone	r	18	no conscription	18	
Singapore	r	16 years and six months.	18	16 years and six months	
Slovakia	r	18	18*	18	** No conscription in peacetime
Slovenia	r	18	no conscription	18	
Solomon Islands	s		n/a*	n/a**	* ** The Solomon Islands has no national army.
Somalia	s		18*	18**	* ** In July 2011, the Transitional Federal Government issued General Order No. 1 which underlined that recruitment and use of children by members of the Somali National Security Forces was a violation of national law and the Code of Conduct of the armed forces.
South Africa	r	18	*no conscription*	*18*	
South Sudan			no data*	no data**	** The revised action plan on the release of all children associated with armed forces in South Sudan agreed between the Sudan People's Liberation Army (SPLA) and the UN on 12 March 2012 committed the Government of the Republic of South Sudan to ensure that there are no children within the ranks of the SPLA (see Report of the Secretary-General on South Sudan, UN Doc. S/2012/486, 26 June 2012).
Spain	r	18	no conscription	18	
Sri Lanka	r	18	no conscription	18	
Sudan	r	18	18	18	

Suriname	s		no conscription	18**	** Unconfirmed
Swaziland			18*	18	* Conscription not enforced
Sweden	r	18	18*	18	* Conscription not enforced, but may be introduced if required. In these circumstances registration is at 18 years and mobilisation no sooner than the calendar year in which an individual turns 19 years (Communication from Ministry of Defence, May 2011).
Switzerland	r	18	19	18	
Syrian Arab Republic	a	18	*18*	*18*	
Taiwan			18	18	
Tajikistan	a	18	18*	18**	* Males eligible for conscription are required to do compulsory military training between the ages of 16 and 55. ** A 2010 amendment to the Law on Universal Military Obligation and Military Service reclassified cadets and students in military schools as "voluntary military personnel". Children can enrol in military schools from at least the age of 15 years and possibly younger.
Tanzania (United Republic of)	a	18	no conscription	18**	** Tanzania's Defence Force Regulations prohibit the recruitment of persons "apparently" below 18 years (Communication from Tanzanian Ministry of Defence, May 2011). According to Tanzania's initial report to the Committee on the Rights of the Child on implementation of the Optional Protocol in 2007, under-18s may be recruited in exceptional circumstances, specifically with parental consent. It reported that there were no under-18s in the armed forces at the time (see UN Doc CRC/C/OPAC/TZA/1, 19 October 2007). It is not known if this remains the case.
Thailand	a	21 (conscription)	21*	18	* According to its declaration under the Optional Protocol, Thai men reaching the age of 18 have a duty to register on the inactive military personnel list but become "active" only at the age of 21. In times of war or national crisis, inactive military personnel (men aged over 18) may be recruited to participate in the armed forces.
Timor-Leste	a	18	*no conscription*	*18*	
Togo	r	18	18*	18	* According to its declaration under the Optional Protocol, national military service (i.e. compulsory military service) does not exist, but some sources reported that conscription was in force on a "selective basis" for a two-year term.
Tonga			no conscription	16	

Trinidad & Tobago			no conscription	16**	** According to a communication from the Ministry of National Security, the Defence Act (Chapter 14:01 Section 19) was being reviewed and one of the proposed amendments was the removal of Section 19(b) under which 16–18 year olds may enlist with parental consent, making 18 the minimum age for voluntary recruitment without exception (July 2011).
Tunisia	r	18	*20*	*18*	
Turkey	r	18	21*	18**	* Conscripts are called to register at 20 and enter service at 21 (Communication from Ministry of Defence Recruiting Department, June 2011). According to its declaration under the Optional Protocol in cases of mobilisation and state of emergency, individuals who are liable for military service may be recruited at the age of 19. However, under the National Defence Service Law 3634, 15–18 year olds may be deployed in civil defence forces in the event of a national emergency (see UN Committee on the Rights of the Child, Consideration of report submitted by Turkey, Concluding observations, UN Doc. CRC/C/OPAC/TUR/CO/1, 29 October 2009). ** Voluntary enlistment not applied in practice.
Turkmenistan	a	17	18	20**	** The Law on Military Duty and Military Service of October 2010 raised the minimum voluntary recruitment age from 17 to 20 years. Its declaration under the Optional Protocol has not yet been amended to reflect this. However, children may enrol in military schools from the age of 15 where they are classified as military service personnel.
Tuvalu			*n/a**	*n/a***	* ** Tuvalu has no national army.
Uganda	a	18	no conscription	18	
Ukraine	r	19	18	18**	** The minimum age for voluntary recruitment under the Law on Military Duty and Military Service is 18 years; 17 year olds can enrol in military schools where they are classified as members of the armed forces (Communication from Embassy of Ukraine, London, July 2011).
United Arab Emirates			*no conscription*	*18 for officers, unclear for other ranks*	
United Kingdom	r	16	no conscription	16	
United States of America	r	17	no conscription	17	
Uruguay	r	18	no conscription	18	

Uzbekistan	a	18	18	18**	** Citizens aged 17 to 21 can enrol in higher military education institutes or the educational establishments of government ministries, state committees and departments, Students are considered to be on military service as cadets if officer rank, or as trainees if not (see initial report of Uzbekistan to the Committee on the Rights of the Child on implementation of the Optional Protocol, UN Doc. CRC/C/OPAC/UZB/1, 26 January 2012). According to a Communication from the Embassy of the Republic of Uzbekistan (May 2011) those who study in military-academic lyceums are not classified as members of the armed forces, but this is thought to apply to military lyceums only and not to higher military education institutes.
Vanuatu	r	18	n/a*	n/a**	* ** Vanuatu has no national army.
Venezuela	r	18	18	18	
Viet Nam	r	18 or 17 as volunteers in military schools	18*	18 or 17 in military schools**	* The possibility of mobilising under-18s exists as, according Viet Nam's Optional Protocol declaration, under-18s, while usually prohibited from involvement in hostilities, may be mobilised if "…there is an urgent need for safeguarding national independence, sovereignty, unity and territorial integrity". ** Under the Military Service Law, 17-year-old male citizens may attend military schools where, according to Viet Nam's initial report on implementation of the Optional Protocol in 2005, they are classified as servicemen on active service (see UN Doc. CRC/C/OPAC/VNM/1, 12 December 2005).
Yemen	a	18	no conscription	18	
Zambia	s		no conscription	16	
Zimbabwe			*18*	*18 or 16***	** There was contradictory information in Zimbabwe's initial report to the Committee on the Rights of the Child in 1995. It stated on the one hand that the direct recruitment of children under 18 years is prohibited by the 1979 National Service Act, but stated elsewhere that the Act provides for 16 as the lower age limit for recruitment into regular national service and 18 years for emergency national service (UN Doc. CRC/C/3/Add.35).

This report is published to mark the tenth anniversary year of the entry into force of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. It examines the record of states in protecting children from use in hostilities by their own forces and by state-allied armed groups. It finds that, while governments' commitment to ending child soldier use is high, the gap between commitment and practice remains wide. Research for the report shows that child soldiers have been used in armed conflicts by 20 states since 2010, and that children are at risk of military use in many more.

The report argues that ending child soldier use by states is within reach but that achieving it requires improved analysis of "risk factors", and greater investment in reducing these risks, before the military use of girls and boys becomes a fact. Real prevention means tackling risk where it begins – with the recruitment of under-18s. A global ban on the military recruitment of any person below the age of 18 years – long overdue – must be at the heart of prevention strategies, but to be meaningful it must be backed by enforcement measures that are applied to national armies and armed groups supported by states.

The report contains detailed analysis of the laws, policies and practices of over 100 "conflict" and "non-conflict" states providing examples of good practice and showing where flaws in protection put children at risk. It also shows how states can do more to end child soldier use globally via policies and practices on arms transfers and military assistance, and in the design of security sector reform programs. On the basis of this analysis a "10-Point Checklist" is included to assist states and other stakeholders in assessing risk and identifying the legal and practical measures needed to end child soldier use by government forces and state-allied armed groups.

Child Soldiers International is a human rights research and advocacy organisation. It works to end all forms of military recruitment or the use in hostilities, in any capacity, of any person below the age of 18 by state armed forces or non-state armed groups, as well as other human rights abuses resulting from their recruitment or use. It advocates the release of unlawfully recruited children, promotes their successful reintegration into civilian life, and calls for accountability for those who recruit and use them.

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