



# Children and Armed Conflict

International Standards for Action

**Based on an initiative of the Human Security Network and the  
United Nations Special Representative of the Secretary-General  
for Children and Armed Conflict**

## Preface

When adults go to war, it is the children who are affected the most and bear the scars through out their life cycle. To protect children from the impact of armed conflict, the United Nations created the mandate of the Special Representative of the Secretary General in 1996. Since then the protection, rights and well being of children affected by armed conflict have come to occupy an important priority in the political agenda of the international community and a considerable body of international norms and standards has progressively evolved providing a framework for their protection.

The Convention on the Rights of the Child, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, the Geneva Convention, 1949, and the 1977 Protocols Additional to the Geneva Convention, the International Labour Office (ILO) Convention 182 on the Elimination of the Worst Forms of Child Labour, the Rome Statute of the International Criminal Court, as well as Security Council resolutions 1261(1999), 1314(2000), 1379(2001) and 1460(2003) have today come to provide a strong and significant body of norms and standards for the protection of children from the impact of armed conflict

However, important challenges remain. Secretary-General Kofi Annan, in his most recent Report on Children and Armed Conflict to the Security Council, stated that the most important challenge today is in bringing about an "era of application" of these international norms and standards. Their implementation on the ground is crucial for the success of the international community's efforts in protecting children from the impact of armed conflict. The key to effective implementation is wide dissemination of these norms and standards as well as systematic monitoring and reporting on their compliance by parties to conflict.

This compendium brings together relevant treaties and instruments on the protection of children affected by armed conflict rendering easier dissemination as well as providing the reference point for a more systematic monitoring and reporting. I am pleased with the close collaboration of my Office with the Austrian Foreign Ministry as the Chair of the Human Security Network in producing this compendium. I am confident that it would be a valuable tool for practitioners, policy makers, academics, researchers and all those involved in the protection of children affected by armed conflict.

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Special Representative of the  
Secretary-General for children and armed conflict

United Nations  
New York  
22 April 2003

## Foreword

As Chair of the Human Security Network I designated Children Affected by Armed Conflict and Human Rights Education as priority themes for the period of 2002/2003.

Human rights of children have become universal standards over the last years. On 12 February 2003 we celebrated the first anniversary 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, a cornerstone of international action for the protection of human rights of children. Implementation, though, still needs improvement in many respects.

In order to provide a successful tool for facilitating application I launched the initiative of compiling child rights standards for the use by field personnel in my capacity as Chair of the Human Security Network together with the Special Representative of the Secretary General for Children and Armed Conflict Olara A. Otunnu.

'Bridging the gap' - between commitment and action, between programmatic approach and systematic implementation on the ground - has also been the driving force of the Human Security Network in building a Support Strategy for Children Affected by Armed Conflict and a Child Rights Training Curriculum in preparation of the Human Security Network Ministerial Meeting under my Chair in Graz in May 2003.

Today, putting human rights at the heart of conflict resolution and post conflict rehabilitation is more important than ever. Recent armed conflicts in our world of today remind us of the necessity to apply the internationally accepted standards and instruments. Austria addressed this challenge on behalf of the Human Security Network also before the Security Council.

It must never be the children who have to carry the burden of armed conflict. We have to help where help is most urgently needed. We shall best help the children by safeguarding their rights, particularly in situations of conflict.

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Austrian Minister for Foreign Affairs

Vienna  
22 April 2003

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## Introductory Note

This pocket edition is a compact compilation of the most frequently used international norms and standards in the field of children affected by armed conflict intended for use in international fora as well as by practitioners on the ground. Apart from the core instruments, this pocket edition contains excerpts of relevant international legal instruments. Other important international standards and guidelines that serve to support the protection of children in armed conflict such as the Mine Ban Treaty or regional instruments are not included in this compilation

Full text versions of norms and standards can be found in [www.un.org/ children/conflict](http://www.un.org/children/conflict)

## Part One - Rights of the Child

### Convention on the Rights of the Child

*General Assembly Resolution 44/25 (1989), Annex  
Entry into force: 2 September 1990*

#### PREAMBLE

The States Parties to the present Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,

Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity,

Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children, '

Bearing in mind that, as indicated in the Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth",

Recalling the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally; the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) ; and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict,

Recognizing that, in all countries in the world, there are children living in exceptionally difficult conditions, and that such children need special consideration,

Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child,

Recognizing the importance of international co-operation for improving the living conditions of children in every country, in particular in the developing countries,

Have agreed as follows:

## PART I

### Article 1

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

### Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

### Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

### Article 4

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

### Article 5

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

### Article 6

1. States Parties recognize that every child has the inherent right to life.

2. States Parties shall ensure to the maximum extent possible the survival and development 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 and, as far as possible, the right to know and be cared for by his or her parents.

2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

#### Article 8

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.

2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

#### Article 9

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.

2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.

3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests. 4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

#### Article 10

1. In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.

2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 1, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (order public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

#### Article 11

1. States Parties shall take measures to combat the illicit transfer and non-return of children abroad.

2. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Article 13

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.
2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
  - (a) For respect of the rights or reputations of others; or
  - (b) For the protection of national security or of public order (ordre public), or of public health or morals.

Article 14

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.
2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

Article 15

1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.
2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 16

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.
2. The child has the right to the protection of the law against such interference or attacks.

Article 17

- States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health. To this end, States Parties shall:
- (a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;
  - (b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;
  - (c) Encourage the production and dissemination of children's books;
  - (d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;
  - (e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.



#### Article 18

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.

2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.

3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.

#### Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

#### Article 20

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.

2. States Parties shall in accordance with their national laws ensure alternative care for such a child.

3. Such care could include, *inter alia*, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

#### Article 21

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

(a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;

(b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin; (c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;

(d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;

(e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

#### Article 22

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

#### Article 23

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child. 3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development

4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

#### Article 24

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

(a) To diminish infant and child mortality;

(b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;

(c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;

(d) To ensure appropriate pre-natal and post-natal health care for mothers;

(e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;

(f) To develop preventive health care, guidance for parents and family planning education and services.

3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

#### Article 25

States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

#### Article 26

1. States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.

2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

#### Article 27

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.

3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.

4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

#### Article 28

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

(a) Make primary education compulsory and available free to all;

(b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;

(c) Make higher education accessible to all on the basis of capacity by every appropriate means;

(d) Make educational and vocational information and guidance available and accessible to all children;

(e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

#### Article 29

1. States Parties agree that the education of the child shall be directed to:

(a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;

(b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;

(c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;

(d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;

(e) The development of respect for the natural environment.

2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

#### Article 30

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

#### Article 31

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.

2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

#### Article 32

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular: (a) Provide for a minimum age or minimum ages for admission to employment;

(b) Provide for appropriate regulation of the hours and conditions of employment;

(c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

#### Article 33

States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

#### Article 34

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

(a) The inducement or coercion of a child to engage in any unlawful sexual activity;

(b) The exploitative use of children in prostitution or other unlawful sexual practices;

(c) The exploitative use of children in pornographic performances and materials.

#### Article 35

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

#### Article 36

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

#### Article 37

States Parties shall ensure that:

(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;

(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;

(c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;

(d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

#### Article 38

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.

2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.

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

4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

#### Article 39

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

#### Article 40

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:

(a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;

(b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:

(i) To be presumed innocent until proven guilty according to law;

(ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;

(iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;

(iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;

(v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;

(vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;

(vii) To have his or her privacy fully respected at all stages of the proceedings. 3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:

(a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;

(b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.

4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

#### Article 41

Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in:

(a) The law of a State party; or

(b) International law in force for that State.

## PART II

#### Article 42

States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

#### Article 43

1. For the purpose of examining the progress made by States Parties in achieving the realization of the obligations undertaken in the present Convention, there shall be established a Committee on the Rights of the Child, which shall carry out the functions hereinafter provided.

2. The Committee shall consist of ten experts of high moral standing and recognized competence in the field covered by this Convention. The members of the Committee shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution, as well as to the principal legal systems.

3. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.

4. The initial election to the Committee shall be held no later than six months after the date of the entry into force of the present Convention and thereafter every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to States Par-

ties inviting them to submit their nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating States Parties which have nominated them, and shall submit it to the States Parties to the present Convention.

5. The elections shall be held at meetings of States Parties convened by the Secretary-General at United Nations Headquarters. At those meetings, for which two thirds of States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

6. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. The term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the Chairman of the meeting.

7. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party which nominated the member shall appoint another expert from among its nationals to serve for the remainder of the term, subject to the approval of the Committee.

8. The Committee shall establish its own rules of procedure.

9. The Committee shall elect its officers for a period of two years.

10. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee. The Committee shall normally meet annually. The duration of the meetings of the Committee shall be determined, and reviewed, if necessary, by a meeting of the States Parties to the present Convention, subject to the approval of the General Assembly.

11. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

12. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide.

#### Article 44

1. States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights:

(a) Within two years of the entry into force of the Convention for the State Party concerned;

(b) Thereafter every five years.

2. Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.

3. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1 (b) of the present article, repeat basic information previously provided.

4. The Committee may request from States Parties further information relevant to the implementation of the Convention.

5. The Committee shall submit to the General Assembly, through the Economic and Social Council, every two years, reports on its activities.

6. States Parties shall make their reports widely available to the public in their own countries.

#### Article 45

In order to foster the effective implementation of the Convention and to encourage international co-operation in the field covered by the Convention:

(a) The specialized agencies, the United Nations Children's Fund, and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the

present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies, the United Nations Children's Fund and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite the specialized agencies, the United Nations Children's Fund, and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;

(b) The Committee shall transmit, as it may consider appropriate, to the specialized agencies, the United Nations Children's Fund and other competent bodies, any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance, along with the Committee's observations and suggestions, if any, on these requests or indications;

(c) The Committee may recommend to the General Assembly to request the Secretary-General to undertake on its behalf studies on specific issues relating to the rights of the child;

(d) The Committee may make suggestions and general recommendations based on information received pursuant to articles 44 and 45 of the present Convention. Such suggestions and general recommendations shall be transmitted to any State Party concerned and reported to the General Assembly, together with comments, if any, from States Parties.

### PART III

#### Article 46

The present Convention shall be open for signature by all States.

#### Article 47

The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

#### Article 48

The present Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

#### Article 49

1. The present Convention shall enter into force on the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. For each State ratifying or acceding to the Convention after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

#### Article 50

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 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 of the United Nations 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 which have accepted it, other States Parties still being bound by the provisions of the present Convention and any earlier amendments which they have accepted.

#### Article 51

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.



3. Reservations may be withdrawn at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall then inform all States. Such notification shall take effect on the date on which it is received by the Secretary-General

Article 52

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

Article 53

The Secretary-General of the United Nations is designated as the depositary of the present Convention.

Article 54

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

In witness whereof the undersigned plenipotentiaries, being duly authorized thereto by their respective governments, have signed the present Convention.

## **Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict**

*General Assembly Resolution 54/263 (2000), Annex I*  
*Entry into force: 12 February 2002*

The General Assembly,

Recalling all its previous resolutions on the rights of the child topic, and in particular its resolution 54/149 of 17 December 1999, in which it strongly supported the work of the open-ended inter-sessional working groups and urged them to finalize their work before the tenth anniversary of the entry into force of the Convention on the Rights of the Child,

Expressing its appreciation to the Commission on Human Rights for having finalized the texts of the two optional protocols to the Convention on the Rights of the Child, on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography,

Conscious of the tenth anniversaries, in the year 2000, of the World Summit for Children and the entry into force of the Convention on the Rights of the Child and of the symbolic and practical importance of the adoption of the two optional protocols to the Convention on the Rights of the Child before the special session of the General Assembly for the follow-up to the World Summit for Children, to be convened in 2001,

Adhering to the principle that the best interests of the child are to be a primary consideration in all actions concerning children,

Reaffirming its commitment to strive for the promotion and protection of the rights of the child in all avenues of life,

Recognizing that the adoption and implementation of the two optional protocols will make a substantial contribution to the promotion and protection of the rights of the child,

1. Adopts and opens for signature, ratification and accession the two optional protocols to the Convention on the Rights of the Child,<sup>1</sup> on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography, the texts of which are annexed to the present resolution;

2. Invites all States that have signed, ratified or acceded to the Convention on the Rights of the Child to sign and ratify or accede to the annexed optional protocols as soon as possible in order to facilitate their early entry into force;

3. Decides that the two optional protocols to the Convention on the Rights of the Child will be opened for signature at the special session of the General Assembly, entitled "Women 2000: gender equality, development and peace for the twenty-first century", to be convened from 5 to 9 June 2000 in New York, and thereafter at United Nations Headquarters, at the special session of the General Assembly, entitled "World Summit for Social Development and beyond: achieving social development for all in a globalizing

world", to be convened from 26 to 30 June 2000 in Geneva, and at the Millennium Summit of the United Nations, to be convened from 6 to 8 September 2000 in New York;

4. Requests the Secretary-General to include information on the status of the two optional protocols in his regular report to the General Assembly on the status of the Convention on the Rights of the Child.

#### Annex I

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

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 this 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 generally having a significant presence of children, such as schools and hospitals,

Noting the adoption of the Statute of the International Criminal Court, in particular, its inclusion 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 raising 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 under 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 this 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 this 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 this 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 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 18 are entitled to special protection.

2. Each State Party shall deposit a binding declaration upon ratification of or accession to this 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. States Parties that permit voluntary recruitment into their national armed forces under the age of 18 shall maintain safeguards to ensure, as a minimum, that:

- (a) Such recruitment is genuinely voluntary;
- (b) Such recruitment is done 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 under this Protocol 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 this 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 this Protocol are demobilized or otherwise released from service. States Parties shall, when necessary, accord to these 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 to the Protocol and in the rehabilitation and social reintegration of persons who are victims of acts contrary to this Protocol, including through technical cooperation and financial assistance. Such assistance and cooperation will be undertaken in consultation with concerned States Parties and 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 submit, within two years following the entry into force of the Protocol for that State Party, 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 they submit 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 this 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 13.

**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 present 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 Conven-

tion 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 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 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 of the United Nations 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 that 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.

## **Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography**

*General Assembly Resolution 54/263 (2000), Annex II  
entry into force: 18 January 2002*

...

#### **Annex II**

Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

The States Parties to the present Protocol,

Considering that, in order further to achieve the purposes of the Convention on the Rights of the Child and the implementation of its provisions, especially articles 1, 11, 21, 32, 33, 34, 35 and 36, it would be appropriate to extend the measures that States Parties should undertake in order to guarantee the protection of the child from the sale of children, child prostitution and child pornography,

Considering also that the Convention on the Rights of the Child recognizes the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development,

Gravely concerned at the significant and increasing international traffic of children for the purpose of the sale of children, child prostitution and child pornography,

Deeply concerned at the widespread and continuing practice of sex tourism, to which children are especially vulnerable, as it directly promotes the sale of children, child prostitution and child pornography,

Recognizing that a number of particularly vulnerable groups, including girl children, are at greater risk of sexual exploitation, and that girl children are disproportionately represented among the sexually exploited,

Concerned about the growing availability of child pornography on the Internet and other evolving technologies, and recalling the International Conference on Combating Child Pornography on the Internet (Vienna, 1999) and, in particular, its conclusion calling for the worldwide criminalization of the production, distribution, exportation, transmission, importation, intentional possession and advertising of child pornography, and stressing the importance of closer cooperation and partnership between Governments and the Internet industry,

Believing that the elimination of the sale of children, child prostitution and child pornography will be facilitated by adopting a holistic approach, addressing the contributing factors, including underdevelopment, poverty, economic disparities, inequitable socio-economic structure, dysfunctioning families, lack of education, urban-rural migration, gender discrimination, irresponsible adult sexual behaviour, harmful traditional practices, armed conflicts and trafficking of children,

Believing that efforts to raise public awareness are needed to reduce consumer demand for the sale of children, child prostitution and child pornography, and also believing in the importance of strengthening global partnership among all actors and of improving law enforcement at the national level,

Noting the provisions of international legal instruments relevant to the protection of children, including the Hague Convention on the Protection of Children and Cooperation with Respect to Inter-Country Adoption, the Hague Convention on the Civil Aspects of International Child Abduction, the Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children, and International Labour Organization Convention No. 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour,

Encouraged by the overwhelming support for the Convention on the Rights of the Child, demonstrating the widespread commitment that exists for the promotion and protection of the rights of the child,

Recognizing the importance of the implementation of the provisions of the Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography and the Declaration and Agenda for Action adopted at the World Congress against Commercial Sexual Exploitation of Children, held at Stockholm from 27 to 31 August 1996,<sup>4</sup> and the other relevant decisions and recommendations of pertinent international bodies,

Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child,

Have agreed as follows:

**Article 1**

States Parties shall prohibit the sale of children, child prostitution and child pornography as provided for by the present Protocol.

**Article 2**

For the purpose of the present Protocol:

- (a) Sale of children means any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration;
- (b) Child prostitution means the use of a child in sexual activities for remuneration or any other form of consideration;
- (c) Child pornography means any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes.

**Article 3**

1. Each State Party shall ensure that, as a minimum, the following acts and activities are fully covered under its criminal or penal law, whether these offences are committed domestically or transnationally or on an individual or organized basis:

- (a) In the context of sale of children as defined in article 2:

- (i) The offering, delivering or accepting, by whatever means, a child for the purpose of:
    - a. Sexual exploitation of the child;
    - b. Transfer of organs of the child for profit;
    - c. Engagement of the child in forced labour;
  - (ii) Improperly inducing consent, as an intermediary, for the adoption of a child in violation of applicable international legal instruments on adoption;
- (b) Offering, obtaining, procuring or providing a child for child prostitution, as defined in article 2;
  - (c) Producing, distributing, disseminating, importing, exporting, offering, selling or possessing for the above purposes child pornography as defined in article 2.
2. Subject to the provisions of a State Party's national law, the same shall apply to an attempt to commit any of these acts and to complicity or participation in any of these acts.
  3. Each State Party shall make these offences punishable by appropriate penalties that take into account their grave nature.
  4. Subject to the provisions of its national law, each State Party shall take measures, where appropriate, to establish the liability of legal persons for offences established in paragraph 1 of the present article. Subject to the legal principles of the State Party, this liability of legal persons may be criminal, civil or administrative.
  5. States Parties shall take all appropriate legal and administrative measures to ensure that all persons involved in the adoption of a child act in conformity with applicable international legal instruments.

#### **Article 4**

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 3, paragraph 1, when the offences are committed in its territory or on board a ship or aircraft registered in that State.
2. Each State Party may take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 3, paragraph 1, in the following cases:
  - (a) When the alleged offender is a national of that State or a person who has his habitual residence in its territory;
  - (b) When the victim is a national of that State.
3. Each State Party shall also take such measures as may be necessary to establish its jurisdiction over the above-mentioned offences when the alleged offender is present in its territory and it does not extradite him or her to another State Party on the ground that the offence has been committed by one of its nationals.
4. This Protocol does not exclude any criminal jurisdiction exercised in accordance with internal law.

#### **Article 5**

1. The offences referred to in article 3, paragraph 1, shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties and shall be included as extraditable offences in every extradition treaty subsequently concluded between them, in accordance with the conditions set forth in those treaties.
2. If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Protocol as a legal basis for extradition in respect of such offences. Extradition shall be subject to the conditions provided by the law of the requested State.
3. States Parties that do not make extradition conditional on the existence of a treaty shall recognize such offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.

4. Such offences shall be treated, for the purpose of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories of the States required to establish their jurisdiction in accordance with article 4.

5. If an extradition request is made with respect to an offence described in article 3, paragraph 1, and if the requested State Party does not or will not extradite on the basis of the nationality of the offender, that State shall take suitable measures to submit the case to its competent authorities for the purpose of prosecution.

#### **Article 6**

1. States Parties shall afford one another the greatest measure of assistance in connection with investigations or criminal or extradition proceedings brought in respect of the offences set forth in article 3, paragraph 1, including assistance in obtaining evidence at their disposal necessary for the proceedings.

2. States Parties shall carry out their obligations under paragraph 1 of the present article in conformity with any treaties or other arrangements on mutual legal assistance that may exist between them. In the absence of such treaties or arrangements, States Parties shall afford one another assistance in accordance with their domestic law.

#### **Article 7**

States Parties shall, subject to the provisions of their national law:

(a) Take measures to provide for the seizure and confiscation, as appropriate, of:

(i) Goods such as materials, assets and other instrumentalities used to commit or facilitate offences under the present protocol;

(ii) Proceeds derived from such offences;

(b) Execute requests from another State Party for seizure or confiscation of goods or proceeds referred to in subparagraph (a) (i);

(c) Take measures aimed at closing, on a temporary or definitive basis, premises used to commit such offences.

#### **Article 8**

1. States Parties shall adopt appropriate measures to protect the rights and interests of child victims of the practices prohibited under the present Protocol at all stages of the criminal justice process, in particular by:

(a) Recognizing the vulnerability of child victims and adapting procedures to recognize their special needs, including their special needs as witnesses;

(b) Informing child victims of their rights, their role and the scope, timing and progress of the proceedings and of the disposition of their cases;

(c) Allowing the views, needs and concerns of child victims to be presented and considered in proceedings where their personal interests are affected, in a manner consistent with the procedural rules of national law;

(d) Providing appropriate support services to child victims throughout the legal process;

(e) Protecting, as appropriate, the privacy and identity of child victims and taking measures in accordance with national law to avoid the inappropriate dissemination of information that could lead to the identification of child victims;

(f) Providing, in appropriate cases, for the safety of child victims, as well as that of their families and witnesses on their behalf, from intimidation and retaliation;

(g) Avoiding unnecessary delay in the disposition of cases and the execution of orders or decrees granting compensation to child victims.

2. States Parties shall ensure that uncertainty as to the actual age of the victim shall not prevent the initiation of criminal investigations, including investigations aimed at establishing the age of the victim.



3. States Parties shall ensure that, in the treatment by the criminal justice system of children who are victims of the offences described in the present Protocol, the best interest of the child shall be a primary consideration.

4. States Parties shall take measures to ensure appropriate training, in particular legal and psychological training, for the persons who work with victims of the offences prohibited under the present Protocol.

5. States Parties shall, in appropriate cases, adopt measures in order to protect the safety and integrity of those persons and/or organizations involved in the prevention and/or protection and rehabilitation of victims of such offences.

6. Nothing in the present article shall be construed as prejudicial to or inconsistent with the rights of the accused to a fair and impartial trial.

#### **Article 9**

1. States Parties shall adopt or strengthen, implement and disseminate laws, administrative measures, social policies and programmes to prevent the offences referred to in the present Protocol. Particular attention shall be given to protect children who are especially vulnerable to these practices.

2. States Parties shall promote awareness in the public at large, including children, through information by all appropriate means, education and training, about the preventive measures and harmful effects of the offences referred to in the present Protocol. In fulfilling their obligations under this article, States Parties shall encourage the participation of the community and, in particular, children and child victims, in such information and education and training programmes, including at the international level.

3. States Parties shall take all feasible measures with the aim of ensuring all appropriate assistance to victims of such offences, including their full social reintegration and their full physical and psychological recovery.

4. States Parties shall ensure that all child victims of the offences described in the present Protocol have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible.

5. States Parties shall take appropriate measures aimed at effectively prohibiting the production and dissemination of material advertising the offences described in the present Protocol.

#### **Article 10**

1. States Parties shall take all necessary steps to strengthen international cooperation by multilateral, regional and bilateral arrangements for the prevention, detection, investigation, prosecution and punishment of those responsible for acts involving the sale of children, child prostitution, child pornography and child sex tourism. States Parties shall also promote international cooperation and coordination between their authorities, national and international non-governmental organizations and international organizations.

2. States Parties shall promote international cooperation to assist child victims in their physical and psychological recovery, social reintegration and repatriation.

3. States Parties shall promote the strengthening of international cooperation in order to address the root causes, such as poverty and underdevelopment, contributing to the vulnerability of children to the sale of children, child prostitution, child pornography and child sex tourism.

4. States Parties in a position to do so shall provide financial, technical or other assistance through existing multilateral, regional, bilateral or other programmes.

#### **Article 11**

Nothing in the present Protocol shall affect any provisions that are more conducive to the realization of the rights of the child and that may be contained in:

(a) The law of a State Party;

(b) International law in force for that State.

#### **Article 12**

1. Each State Party shall submit, within two years following the entry into force of the Protocol for that State Party, 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.

2. Following the submission of the comprehensive report, each State Party shall include in the reports they submit 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 this Protocol.

#### **Article 13**

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 that is a party to the Convention or has signed it. Instruments of ratification or accession shall be deposited with the Secretary-General of the United Nations.

#### **Article 14**

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 present Protocol shall enter into force one month after the date of the deposit of its own instrument of ratification or accession.

#### **Article 15**

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 of the United Nations.

2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under this Protocol in regard to any offence 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 prior to the date on which the denunciation becomes effective.

#### **Article 16**

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 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 of the United Nations 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 that they have accepted.

#### **Article 17**

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.

## **African Charter on the Rights and Welfare of the Child**

The Charter prohibits the recruitment or direct participation in hostilities or internatl strife of anyone under the age of 18.

*OAU Doc. CAB/LEG/24.9/49 (1990)*  
*entry into force: 29 November 1999*

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### **Article 22: Armed Conflicts**

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

### **Article 23: Refugee Children**

1. States Parties to the present Charter shall take all appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law shall, whether unaccompanied or accompanied by parents, legal guardians or close relatives, receive appropriate protection and humanitarian assistance in the enjoyment of the rights set out in this Charter and other international human rights and humanitarian instruments to which the States are Parties.
2. States Parties shall undertake to cooperate with existing international organizations which protect and assist refugees in their efforts to protect and assist such a child and to trace the parents or other close relatives or an unaccompanied refugee child in order to obtain information necessary for reunification with the family.
3. Where no parents, legal guardians or close relatives can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his family environment for any reason.
4. The provisions of this Article apply mutatis mulandis to internally displaced children whether through natural disaster, internal armed conflicts, civil strife, breakdown of economic and social order or howsoever caused.

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### **Article 29: Sale, Trafficking and Abduction**

States Parties to the present Charter shall take appropriate measures to prevent:

- (a) the abduction, the sale of, or traffick in children for any purpose or in any form, by any person including parents or legal guardians of the child;
- (b) the use of children in all forms of begging.

### **Article 30: Children of Imprisoned Mothers**

1. States Parties to the present Charter shall undertake to provide special treatment to expectant mothers and to mothers of infants and young children who have been accused or found guilty of infringing the penal law and shall in particular:
  - (a) ensure that a non-custodial sentence will always be first considered when sentencing such mothers;
  - (b) establish and promote measures alternative to institutional confinement for the treatment of such mothers;
  - (c) establish special alternative institutions for holding such mothers;
  - (d) ensure that a mother shall not be imprisoned with her child;

- (e) ensure that a death sentence shall not be imposed on such mothers;
- (f) the essential aim of the penitentiary system will be the reformation, the integration of the mother to the family and social rehabilitation.

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## **Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour**

ILO Convention 182 of 1999 prohibits the forced or compulsory recruitment of children under 18 for use in armed conflict.

*ILO Convention No. 182 (1999),  
entry into force: 19 November 2000*

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### **Article 1**

Each Member which ratifies this Convention shall take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency.

### **Article 2**

For the purposes of this Convention, the term child shall apply to all persons under the age of 18.

### **Article 3**

For the purposes of this Convention, the term the worst forms of child labour comprises:

- (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
- (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

...

### **Article 6**

1. Each Member shall design and implement programmes of action to eliminate as a priority the worst forms of child labour.
2. Such programmes of action shall be designed and implemented in consultation with relevant government institutions and employers' and workers' organizations, taking into consideration the views of other concerned groups as appropriate.

### **Article 7**

1. Each Member shall take all necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to this Convention including the provision and application of penal sanctions or, as appropriate, other sanctions.
2. Each Member shall, taking into account the importance of education in eliminating child labour, take effective and time-bound measures to:
  - (a) prevent the engagement of children in the worst forms of child labour;
  - (b) provide the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration;
  - (c) ensure access to free basic education, and, wherever possible and appropriate, vocational training, for all children removed from the worst forms of child labour;
  - (d) identify and reach out to children at special risk; and
  - (e) take account of the special situation of girls.
3. Each Member shall designate the competent authority responsible for the implementation of the provisions giving effect to this Convention.

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## Part Two - International Humanitarian Law, Refugees and IDPs

The full citation of the text can be found: <http://www.icrc.org>

[excerpt from ICRC information Kit "Children and War"]: The Geneva Convention of 1949 and their two Additional Protocols of 1977 limit the methods of conducting military operations and oblige belligerents to spare persons who do not participate in hostilities. The provisions of international humanitarian law (and of international law applicable to armed conflict in general) to which reference is made specifically concern children. Provisions relating indirectly to children, such as those relating to family unity, education, expectant mothers and mothers of young children, are also mentioned.

In addition to this special protection, children also enjoy the general protection granted to civilians.

Despite the fact that it is prohibited to recruit children and involve them in hostilities, there are cases where they do nevertheless take part in conflict. They then lose the general protection granted to civilians. They also lose the special protection enjoyed by children, but they retain the protection guaranteed by Article 77 of Protocol I and Article 4 of Protocol II additional to the Geneva Conventions. (These two articles apply to children, whether or not they take part in hostilities.) If they are prisoners of war, Articles 16 and 49 of Geneva Convention III apply to them.

The Third and Fourth Geneva Conventions and Additional Protocol I apply only to international armed conflicts. Additional Protocol II applies to non- international armed conflicts.

With regard to the Fourth Geneva Convention, the field of application of each part and each section is mentioned specifically. Articles 14 to 26 apply to the entire populations of the States party to an armed conflict, whereas Articles 27 ff. apply only to "protected persons", that is to say, to persons who are in the power of a State party to a conflict – including an occupying power – of which they are not nationals.

### Geneva Convention relative to the Treatment of Prisoners of War

*entry into force: 21 October 1950*

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#### **Article 16: Equal treatment**

Prisoners of war must be treated alike by the detaining power, subject to any privileged treatment which may be accorded to them by reason of their age, amongst other criteria.

#### **Article 49: Labour of prisoners of war**

The detaining power may utilize the labour of prisoners of war who are physically fit, taking into account their age, amongst other criteria.

...

## Geneva Convention relative to the Protection of Civilian Persons in Time of War

*entry into force: 21 October 1950.*

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### PART II: GENERAL PROTECTION OF THE CIVILIAN POPULATION AGAINST CERTAIN CONSEQUENCES OF WAR

#### **Article 14: Hospital and safety zones and localities**

In time of peace, the High Contracting Parties and, after the outbreak of hostilities, the belligerents, may establish hospital and safety zones and localities with a view to protecting from the effects of war, wounded, sick and aged persons, children under 15, expectant mothers and mothers of children under 7.

The ICRC is invited to facilitate the establishment of these zones.

#### **Article 16: General protection**

Expectant mothers must be the object of particular protection and respect.

#### **Article 17: Evacuation**

The parties to the conflict must endeavour to conclude local agreements for the removal from besieged or encircled areas, of wounded, sick, infirm, and aged persons, children and maternity cases, and for the passage of medical personnel and medical equipment on their way to such areas.

#### **Article 18: Protection of hospitals**

Civilian hospitals organized to give care to maternity cases, inter alia, may under no circumstances be the object of attack.

#### **Article 21: Land and sea convoys**

Land and sea convoys conveying maternity cases, inter alia, must be respected and protected in the same manner as the hospitals provided for in Article 18.

#### **Article 22: Air convoys**

Aircraft exclusively employed for the removal of maternity cases, inter alia, may not be attacked, but must be respected while flying at heights, times and on routes specifically agreed upon between all the parties to the conflict concerned.

#### **Article 23: Consignments of medical and hospital stores, food and clothing**

The High Contracting Parties must permit the free passage of all consignments of essential foodstuffs, clothing and tonics intended for children under 15, expectant mothers or maternity cases.

The High Contracting Parties may, however, stipulate conditions to prevent the consignments from being diverted from their destination or a definite advantage from accruing to the military efforts or economy of the enemy through the substitution of those consignments.

#### **Article 24: Special measures for the benefit of children**

The parties to the conflict must take the necessary measures to ensure that children under 15, who are orphaned or are separated from their families as a result of the war, are not left to their own resources, and that their maintenance, the exercise of their religion and their education are facilitated in all circumstances. Their education must, as far as possible, be entrusted to persons of a similar cultural tradition. The parties to the conflict must facilitate the reception of such children in a neutral country for the duration of the conflict.

They must, furthermore, endeavour to arrange for all children under 12 to be identified by the wearing of identity discs, or by some other means.

#### **Article 25: Family news**

All persons in the territory of a party to the conflict, or in a territory occupied by it, must be enabled to give news of a strictly personal nature to members of their families, wherever they may be, and to receive news from them.

The parties to the conflict concerned may request the assistance of the Central Agency provided for in Article 140.

#### **Article 26: Dispersed families**

Each party to the conflict must facilitate enquiries made by members of families dispersed owing to the war, with the object of renewing contact with one another and of meeting, if possible. It must encourage, in particular, the work of organizations engaged on this task.

## PART III: STATUS AND TREATMENT OF PROTECTED PERSONS

### Section I: PROVISIONS COMMON TO THE TERRITORIES OF THE PARTIES TO THE CONFLICT AND TO OCCUPIED TERRITORIES

#### **Article 27: General provisions**

Protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs.

### Section II: ALIENS IN THE TERRITORY OF A PARTY TO THE CONFLICT

#### **Article 38: Non- repatriated persons**

Aliens in the territory of a party to the conflict who have not been repatriated enjoy minimum protection. Children under 15 years, pregnant women and mothers of children under seven years must benefit by any preferential treatment to the same extent as the nationals of the State concerned.

### Section III: OCCUPIED TERRITORIES

#### **Article 49: Deportations, transfers, evacuations**

When undertaking transfers or evacuations (which are authorized only if the security of the population or imperative military reasons so demand), the occupying power must ensure that members of the same family are not separated.

#### **Article 50: Children**

The occupying power must facilitate the proper working of all institutions devoted to the care and education of children.

It must take all necessary steps to facilitate the identification of children and the registration of their parentage and for their maintenance and education, if possible by persons of their own nationality, language and religion.

The occupying power may not, under any circumstances, change their personal status or enrol them on training courses or in organizations under its authority. It must not hinder the application of any preferential measures which may have been adopted prior to the occupation in favour of children under 15 years, expectant mothers, and mothers of children under seven years (in regard to food, medical care and protection against the effects of war).

The official Information Bureau (Article 136) is responsible for identifying children who are orphaned or separated from their families and for recording this information.

#### **Article 51: Enlistment, labour**

The occupying power may compel protected persons to work if they are over 18 years of age, under specific conditions.

#### **Article 68: Death penalty**

The occupying power may only apply the death penalty in specific cases. At all events, however, the death penalty may not be pronounced on a protected person who was under 18 years of age at the time of the offence.

#### **Article 76: Treatment of detainees**

In the treatment of protected persons who are accused or have been convicted of offences proper regard must be paid to the special treatment due to minors.

### Section IV: REGULATIONS FOR THE TREATMENT OF INTERNEES

#### **Article 81: Maintenance**

The detaining power must provide for the support of those dependent on the internees, if such dependants are without adequate means of support or are unable to earn a living.

#### **Article 82: Grouping of internees**

Members of the same family, and in particular parents and children, must be lodged together in the same place of internment, except when separation is necessitated for reasons of employment or health or for the application of disciplinary sanctions), and, wherever possible, must be given separate accommodation from other internees. They must also be given the facilities needed for leading a proper family life.

Children who are left at liberty without parental care may be interned with their parents if the latter so request.

**Article 85: Accommodation, hygiene**

Internees must have suitable bedding and sufficient blankets, account being taken of their age, amongst other criteria.

**Article 89: Food**

Expectant and nursing mothers and children under 15 years of age must be given additional food, in proportion to their physiological needs.

**Article 91: Medical attention**

Maternity cases must be admitted to any institution where adequate treatment can be given and must receive care not inferior to that provided for the general population.

**Article 94: Recreational pursuits, education, sports**

The education of children and young people must be ensured; they must be allowed to attend schools either within the place of internment or outside.

Special playgrounds must be reserved for children and young people so that they can engage in physical exercise, sports and outdoor games.

**Article 119: Disciplinary sanctions**

The disciplinary punishments applicable to internees must take account of their age, amongst other criteria.

**Article 127: Transfer of internees**

Maternity cases must not be transferred if the journey would be seriously detrimental to their health, unless their safety imperatively so demands.

**Article 132: Release, repatriation and accommodation in neutral countries**

The parties to the conflict must endeavour, during the course of hostilities, to conclude agreements for the release, repatriation, return to places of residence or the hospitalization in a neutral country of certain classes of internees, in particular children, pregnant women and mothers with infants and young children.

Section V: INFORMATION BUREAUX AND CENTRAL AGENCY

**Article 136 to 140: Official Information Bureaux and Central Agency**

Each of the parties to the conflict must establish an official Information Bureau responsible for receiving and forwarding information in respect of the protected persons who are in its power. One of the tasks of the Bureau must be to notify the families of these persons and to identify children who are orphaned or have been separated from their families (Article 50).

A Central Information Agency for protected persons, in particular for internees, must be created in a neutral country. The International Committee of the Red Cross will offer to organize the Agency. The function of the Agency is to collect all information on protected persons and to forward it to the respective countries concerned. One of its tasks is to forward family news (Article 25).

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**Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I)**

*entry into force: 7 December 1978*

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**Article 8: Terminology**

The terms "wounded" and "sick" also cover expectant mothers, maternity cases and new-born babies. Articles 10 to 20 of Protocol I and Geneva Conventions grant special protection to the wounded and the sick. Article 10 of the Protocol extends this protection to civilians.

**Article 52: General protection of civilian objects**



Civilian objects must not be the object of attack or of reprisals. Civilian objects are all objects which are not military objectives, that is to say, objects which do not make an effective contribution to military action. In the event of doubt, schools are presumed not to be military objectives.

**Article 70: Relief actions**

In the distribution of relief consignments, priority must be given to children, expectant mothers, maternity cases and nursing mothers, amongst other persons.

**Article 74: Reunion of dispersed families**

The High Contracting Parties and the parties to the conflict must facilitate in every possible way the reunification of families dispersed as a result of armed conflicts.

They must encourage the work of the humanitarian organizations engaged in this task.

**Article 75: Fundamental guarantees**

Women whose liberty has been restricted for reasons related to the armed conflict must be held in quarters separated from men's quarters. Nevertheless, in cases where families are detained or interned, they must, whenever possible, be held in the same place and accommodated as family units.

**Article 76: Protection of women**

The cases of pregnant women and mothers having dependent infants who are arrested, detained or interned for reasons related to the armed conflict, must be considered with the utmost priority.

**Article 77: Protection of children**

Children must be the object of special respect and must be protected against any form of indecent assault. The parties to the conflict must provide them with the care and aid they require, whether because of their age or for any other reason.

The parties to the conflict must take all feasible measures in order that children who have not attained the age of 15 years do not take a direct part in hostilities and, in particular, they must refrain from recruiting them into their armed forces. In recruiting among those persons who have attained the age of 15 years but who have not attained the age of 18 years the parties to the conflict must endeavour to give priority to those who are oldest.

If, in exceptional cases, children who have not attained the age of 15 years nevertheless take direct part in hostilities and fall into the power of an adverse party, they continue to benefit from the special protection accorded by international humanitarian law, whether or not they are prisoners of war.

If arrested, detained or interned for reasons related to the armed conflict, children must be held in quarters separate from the quarters of adults, except where families are accommodated as family units.

The death penalty for an offence related to the armed conflict must not be executed on persons who had not attained the age of 18 years at the time the offence was committed.

**Article 78: Evacuation of children**

No party to the conflict may arrange for the evacuation of children, other than its own nationals, to a foreign country. There is one exception, however: in cases where the evacuation has become necessary for compelling reasons of the health or safety of the children.

Where the parents or legal guardians can be found, their written consent to such evacuation is required, and the children's education must be provided.

With a view to facilitating the return to their families and country of children thus evacuated, the authorities concerned must establish for each child a card with photographs, which they must send to the Central Tracing Agency of the ICRC. (The article contains a list of the information to be stated on the card.)

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## **Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)**

*entry into force: 7 December 1978*

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**Article 4: Fundamental guarantees**

Children must be provided with the care and aid they require. In particular:

(a) they must receive an education , including religious and moral education;

- (b) all appropriate steps must be taken to facilitate the reunification of families temporarily separated;
- (c) children who have not attained the age of 15 years must neither be recruited into the armed forces or groups nor allowed to take part in hostilities;
- (d) the special protection provided by international humanitarian law to children who have not attained the age of 15 years remains applicable to them if they take a direct part in hostilities;
- (e) measures must be taken, if necessary and whenever possible with the consent of their parents or persons who are responsible for their care, to remove children temporarily from the area in which hostilities are taking place to a safer area within the country.

**Article 5: Persons whose liberty has been restricted**

Women must be held in quarters separated from those of men, except when men and women of a family are accommodated together.

**Article 6: Penal prosecutions**

Persons prosecuted for a criminal offence related to the armed conflict enjoy minimum protection. In particular, the death penalty must not be pronounced on persons who were under the age of 18 years at the time of the offence, and must not be carried out on pregnant women or mothers of young children.

## Convention relating to the Status of Refugees

*entry into force: 22 April 1954*

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### CHAPTER I

#### GENERAL PROVISIONS

**Article 4. - Religion**

The Contracting States shall accord to refugees within their territories treatment at least as favourable as that accorded to their nationals with respect to freedom to practise their religion and freedom as regards the religious education of their children.

### CHAPTER III

#### GAINFUL EMPLOYMENT

**Article 17. - Wage-earning employment**

1. The Contracting States shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country in the same circumstances, as regards the right to engage in wage-earning employment.

2. In any case, restrictive measures imposed on aliens or the employment of aliens for the protection of the national labour market shall not be applied to a refugee who was already exempt from them at the date of entry into force of this Convention for the Contracting State concerned, or who fulfils one of the following conditions:

- (a) He has completed three years' residence in the country;
- (b) He has a spouse possessing the nationality of the country of residence. A refugee may not invoke the benefit of this provision if he has abandoned his spouse;
- (c) He has one or more children possessing the nationality of the country of residence.

### CHAPTER IV

#### WELFARE

**Article 20. - Rationing**

Where a rationing system exists, which applies to the population at large and regulates the general distribution of products in short supply, refugees shall be accorded the same treatment as nationals.

**Article 21. - Housing**

As regards housing, the Contracting States, in so far as the matter is regulated by laws or regulations or is subject to the control of public authorities, shall accord to refugees lawfully staying in their territory

treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.

**Article 22. - Public education**

1. The Contracting States shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education.

2. The Contracting States shall accord to refugees treatment as favourable as possible, and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, with respect to education other than elementary education and, in particular, as regards access to studies, the recognition of foreign school certificates, diplomas and degrees, the remission of fees and charges and the award of scholarships.

**Article 23. - Public relief**

The Contracting States shall accord to refugees lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals.

## Guiding Principles on Internal Displacement

The Guiding Principles provide a comprehensive normative framework for the protection and assistance of IDPs, Displaced children are accorded special protection from forced labour (principle 11), protection from recruitment and participation in hostilities (principle 13), and education (principle 23).

*Addendum to the Report of the Representative of the Secretary-General, Mr. Francis M. Deng, submitted pursuant to Commission resolution 1997/39, UN Doc. E/CN.4/1998/53/Add.2, 11 February 1998*

### Introductory note to the Guiding Principles

1. Internal displacement, affecting some 25 million people worldwide, has become increasingly recognized as one of the most tragic phenomena of the contemporary world. Often the consequence of traumatic experiences with violent conflicts, gross violations of human rights and related causes in which discrimination features significantly, displacement nearly always generates conditions of severe hardship and suffering for the affected populations. It breaks up families, cuts social and cultural ties, terminates dependable employment relationships, disrupts educational opportunities, denies access to such vital necessities as food, shelter and medicine, and exposes innocent persons to such acts of violence as attacks on camps, disappearances and rape. Whether they cluster in camps, escape into the countryside to hide from potential sources of persecution and violence or submerge into the community of the equally poor and dispossessed, the internally displaced are among the most vulnerable populations, desperately in need of protection and assistance.

2. In recent years, the international community has become increasingly aware of the plight of the internally displaced and is taking steps to address their needs. In 1992, at the request of the Commission on Human Rights, the Secretary-General of the United Nations appointed a Representative on internally displaced persons to study the causes and consequences of internal displacement, the status of the internally displaced in international law, the extent of the coverage accorded them within existing international institutional arrangements and ways in which their protection and assistance could be improved, including through dialogue with Governments and other pertinent actors.

3. Accordingly, the Representative of the Secretary-General has focused the activities of his mandate on developing appropriate normative and institutional frameworks for the protection and assistance of the internally displaced, undertaking country missions in an ongoing dialogue with Governments and others concerned, and promoting a systemic international response to the plight of internally displaced populations.

4. Since the United Nations initially drew international attention to the crisis of internal displacement, many organizations, intergovernmental and non-governmental, have broadened their mandates or scope of activities to address more effectively the needs of the internally displaced. Governments have become more responsive by acknowledging their primary responsibility of protecting and assisting affected populations under their control, and when they cannot discharge that responsibility for lack of capacity, they are becoming less reticent to seek assistance from the international community. On the other hand, it is fair to say that the international community is more inclined than it is prepared, both normatively and institutionally, to respond effectively to the phenomenon of internal displacement.

5. One area in which the mandate of the Secretary-General's Representative has made significant progress has been in the development of a normative framework relating to all aspects of internal dis-

placement. Working in close collaboration with a team of international legal experts, the Representative prepared a "Compilation and Analysis of Legal Norms" relevant to the needs and rights of the internally displaced and to the corresponding duties and obligations of States and the international community for their protection and assistance. The Compilation and Analysis was submitted to the Commission on Human Rights by the Representative of the Secretary-General in 1996 (E/CN.4/1996/52/Add.2).

6. It is important to note that the Office of the United Nations High Commissioner for Refugees (UNHCR) has developed a manual, based on the Compilation and Analysis, for the practical use of its staff, especially in field operations. There are also indications that other organizations and agencies will follow the example of UNHCR in making use of the document.

7. The Compilation and Analysis examines international human rights law, humanitarian law, and refugee law by analogy, and concludes that while existing law provides substantial coverage for the internally displaced, there are significant areas in which it fails to provide an adequate basis for their protection and assistance. Besides, the provisions of existing law are dispersed in a wide variety of international instruments which make them too diffused and unfocused to be effective in providing adequate protection and assistance for the internally displaced.

8. In response to the Compilation and Analysis and to remedy the deficiencies in existing law, the Commission on Human Rights and the General Assembly requested the Representative of the Secretary-General to prepare an appropriate framework for the protection and assistance of the internally displaced (see resolutions 50/195 of 22 December 1995 and 1996/52 of 19 April 1996, respectively). Accordingly, and in continued collaboration with the team of experts that had prepared the Compilation and Analysis, the drafting of guiding principles was undertaken. The Commission on Human Rights, at its fifty-third session in April 1997, adopted resolution 1997/39 in which it took note of the preparations for guiding principles and requested the Representative to report thereon to the Commission at its fifty-fourth session. The Guiding Principles on Internal Displacement, completed in 1998, are annexed to the present document.

9. The purpose of the Guiding Principles is to address the specific needs of internally displaced persons worldwide by identifying rights and guarantees relevant to their protection. The Principles reflect and are consistent with international human rights law and international humanitarian law. They restate the relevant principles applicable to the internally displaced, which are now widely spread out in existing instruments, clarify any grey areas that might exist, and address the gaps identified in the Compilation and Analysis. They apply to the different phases of displacement, providing protection against arbitrary displacement, access to protection and assistance during displacement and guarantees during return or alternative settlement and reintegration.

10. The Principles are intended to provide guidance to the Representative in carrying out his mandate; to States when faced with the phenomenon of displacement; to all other authorities, groups and persons in their relations with internally displaced persons; and to intergovernmental and non-governmental organizations when addressing internal displacement.

11. The Guiding Principles will enable the Representative to monitor more effectively situations of displacement and to dialogue with Governments and all pertinent actors on behalf of the internally displaced; to invite States to apply the Principles in providing protection, assistance, reintegration and development support for them; and to mobilize response by international agencies, regional intergovernmental and non-governmental organizations on the basis of the Principles. The Guiding Principles are therefore intended to be a persuasive statement that should provide not only practical guidance, but also an instrument for public policy education and consciousness-raising. By the same token, they have the potential to perform a preventive function in the urgently needed response to the global crisis of internal displacement.

12. The preparation of the Guiding Principles has benefited from the work, experience and support of many institutions and individuals. In addition to the legal team cited above, many experts from international humanitarian and development organizations, the Office of the United Nations High Commissioner for Human Rights, regional bodies, scholarly institutions, non-governmental organizations and the legal community have made valuable contributions. Appreciation in particular is owed to the Centre for Human Rights and Humanitarian Law of the Washington College of Law of American University, and also to the American Society of International Law, the Faculty of Law of the University of Bern, the Ludwig Boltzmann Institute of Human Rights of the University of Vienna and the International Human Rights Law Group.

13. Support for the development of the Principles was gratefully received from The Ford Foundation, the Jacob Blaustein Institute for the Advancement of Human Rights, the European Human Rights Foundation, the Hauser Foundation, and the John D. and Catherine T. MacArthur Foundation.

14. The development of the Principles also benefited from the Brookings Institution-Refugee Policy Group Project on Internal Displacement, which received generous support from many sources, including the Governments of the Netherlands, Norway and Sweden, and the McKnight Foundation.

15. The Government of Austria hosted an expert consultation in Vienna in January 1998, for the purpose of finalizing the Guiding Principles, which is most gratefully acknowledged.

Annex

## GUIDING PRINCIPLES ON INTERNAL DISPLACEMENT

### INTRODUCTION: SCOPE AND PURPOSE

1. These Guiding Principles address the specific needs of internally displaced persons worldwide. They identify rights and guarantees relevant to the protection of persons from forced displacement and to their protection and assistance during displacement as well as during return or resettlement and reintegration.

2. For the purposes of these Principles, internally displaced persons are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.

3. These Principles reflect and are consistent with international human rights law and international humanitarian law. They provide guidance to:

- (a) The Representative of the Secretary-General on internally displaced persons in carrying out his mandate;
- (b) States when faced with the phenomenon of internal displacement;
- (c) All other authorities, groups and persons in their relations with internally displaced persons; and
- (d) Intergovernmental and non-governmental organizations when addressing internal displacement.

4. These Guiding Principles should be disseminated and applied as widely as possible.

### SECTION I - GENERAL PRINCIPLES

#### Principle 1

1. Internally displaced persons shall enjoy, in full equality, the same rights and freedoms under international and domestic law as do other persons in their country. They shall not be discriminated against in the enjoyment of any rights and freedoms on the ground that they are internally displaced.

2. These Principles are without prejudice to individual criminal responsibility under international law, in particular relating to genocide, crimes against humanity and war crimes.

#### Principle 2

1. These Principles shall be observed by all authorities, groups and persons irrespective of their legal status and applied without any adverse distinction. The observance of these Principles shall not affect the legal status of any authorities, groups or persons involved.

2. These Principles shall not be interpreted as restricting, modifying or impairing the provisions of any international human rights or international humanitarian law instrument or rights granted to persons under domestic law. In particular, these Principles are without prejudice to the right to seek and enjoy asylum in other countries.

#### Principle 3

1. National authorities have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction.

2. Internally displaced persons have the right to request and to receive protection and humanitarian assistance from these authorities. They shall not be persecuted or punished for making such a request.

#### Principle 4

1. These Principles shall be applied without discrimination of any kind, such as race, colour, sex, language, religion or belief, political or other opinion, national, ethnic or social origin, legal or social status, age, disability, property, birth, or on any other similar criteria.

2. Certain internally displaced persons, such as children, especially unaccompanied minors, expectant mothers, mothers with young children, female heads of household, persons with disabilities and elderly persons, shall be entitled to protection and assistance required by their condition and to treatment which takes into account their special needs.

## SECTION II - PRINCIPLES RELATING TO PROTECTION FROM DISPLACEMENT

### Principle 5

All authorities and international actors shall respect and ensure respect for their obligations under international law, including human rights and humanitarian law, in all circumstances, so as to prevent and avoid conditions that might lead to displacement of persons.

### Principle 6

1. Every human being shall have the right to be protected against being arbitrarily displaced from his or her home or place of habitual residence.

2. The prohibition of arbitrary displacement includes displacement:

(a) When it is based on policies of apartheid, "ethnic cleansing" or similar practices aimed at/or resulting in altering the ethnic, religious or racial composition of the affected population;

(b) In situations of armed conflict, unless the security of the civilians involved or imperative military reasons so demand;

(c) In cases of large-scale development projects, which are not justified by compelling and overriding public interests;

(d) In cases of disasters, unless the safety and health of those affected requires their evacuation; and

(e) When it is used as a collective punishment.

3. Displacement shall last no longer than required by the circumstances.

### Principle 7

1. Prior to any decision requiring the displacement of persons, the authorities concerned shall ensure that all feasible alternatives are explored in order to avoid displacement altogether. Where no alternatives exist, all measures shall be taken to minimize displacement and its adverse effects.

2. The authorities undertaking such displacement shall ensure, to the greatest practicable extent, that proper accommodation is provided to the displaced persons, that such displacements are effected in satisfactory conditions of safety, nutrition, health and hygiene, and that members of the same family are not separated.

3. If displacement occurs in situations other than during the emergency stages of armed conflicts and disasters, the following guarantees shall be complied with:

(a) A specific decision shall be taken by a State authority empowered by law to order such measures;

(b) Adequate measures shall be taken to guarantee to those to be displaced full information on the reasons and procedures for their displacement and, where applicable, on compensation and relocation;

(c) The free and informed consent of those to be displaced shall be sought;

(d) The authorities concerned shall endeavour to involve those affected, particularly women, in the planning and management of their relocation;

(e) Law enforcement measures, where required, shall be carried out by competent legal authorities; and

(f) The right to an effective remedy, including the review of such decisions by appropriate judicial authorities, shall be respected.

### Principle 8

Displacement shall not be carried out in a manner that violates the rights to life, dignity, liberty and security of those affected.

Principle 9

States are under a particular obligation to protect against the displacement of indigenous peoples, minorities, peasants, pastoralists and other groups with a special dependency on and attachment to their lands.

SECTION III - PRINCIPLES RELATING TO PROTECTION DURING DISPLACEMENT

Principle 10

1. Every human being has the inherent right to life which shall be protected by law. No one shall be arbitrarily deprived of his or her life. Internally displaced persons shall be protected in particular against:

- (a) Genocide;
- (b) Murder;
- (c) Summary or arbitrary executions; and
- (d) Enforced disappearances, including abduction or unacknowledged detention, threatening or resulting in death.

Threats and incitement to commit any of the foregoing acts shall be prohibited.

2. Attacks or other acts of violence against internally displaced persons who do not or no longer participate in hostilities are prohibited in all circumstances. Internally displaced persons shall be protected, in particular, against:

- (a) Direct or indiscriminate attacks or other acts of violence, including the creation of areas wherein attacks on civilians are permitted;
- (b) Starvation as a method of combat;
- (c) Their use to shield military objectives from attack or to shield, favour or impede military operations;
- (d) Attacks against their camps or settlements; and
- (e) The use of anti-personnel landmines.

Principle 11

1. Every human being has the right to dignity and physical, mental and moral integrity.

2. Internally displaced persons, whether or not their liberty has been restricted, shall be protected in particular against:

- (a) Rape, mutilation, torture, cruel, inhuman or degrading treatment or punishment, and other outrages upon personal dignity, such as acts of gender-specific violence, forced prostitution and any form of indecent assault;
- (b) Slavery or any contemporary form of slavery, such as sale into marriage, sexual exploitation, or forced labour of children; and
- (c) Acts of violence intended to spread terror among internally displaced persons.

Threats and incitement to commit any of the foregoing acts shall be prohibited.

Principle 12

1. Every human being has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention.

2. To give effect to this right for internally displaced persons, they shall not be interned in or confined to a camp. If in exceptional circumstances such internment or confinement is absolutely necessary, it shall not last longer than required by the circumstances.

3. Internally displaced persons shall be protected from discriminatory arrest and detention as a result of their displacement.

4. In no case shall internally displaced persons be taken hostage.

Principle 13

1. In no circumstances shall displaced children be recruited nor be required or permitted to take part in hostilities.

2. Internally displaced persons shall be protected against discriminatory practices of recruitment into any armed forces or groups as a result of their displacement. In particular any cruel, inhuman or degrading practices that compel compliance or punish non-compliance with recruitment are prohibited in all circumstances.

Principle 14

1. Every internally displaced person has the right to liberty of movement and freedom to choose his or her residence.

2. In particular, internally displaced persons have the right to move freely in and out of camps or other settlements.

Principle 15

Internally displaced persons have:

(a) The right to seek safety in another part of the country;

(b) The right to leave their country;

(c) The right to seek asylum in another country; and

(d) The right to be protected against forcible return to or resettlement in any place where their life, safety, liberty and/or health would be at risk.

Principle 16

1. All internally displaced persons have the right to know the fate and whereabouts of missing relatives.

2. The authorities concerned shall endeavour to establish the fate and whereabouts of internally displaced persons reported missing, and cooperate with relevant international organizations engaged in this task. They shall inform the next of kin on the progress of the investigation and notify them of any result.

3. The authorities concerned shall endeavour to collect and identify the mortal remains of those deceased, prevent their despoliation or mutilation, and facilitate the return of those remains to the next of kin or dispose of them respectfully.

4. Grave sites of internally displaced persons should be protected and respected in all circumstances. Internally displaced persons should have the right of access to the grave sites of their deceased relatives.

Principle 17

1. Every human being has the right to respect of his or her family life.

2. To give effect to this right for internally displaced persons, family members who wish to remain together shall be allowed to do so.

3. Families which are separated by displacement should be reunited as quickly as possible. All appropriate steps shall be taken to expedite the reunion of such families, particularly when children are involved. The responsible authorities shall facilitate inquiries made by family members and encourage and cooperate with the work of humanitarian organizations engaged in the task of family reunification.

4. Members of internally displaced families whose personal liberty has been restricted by internment or confinement in camps shall have the right to remain together.

Principle 18

1. All internally displaced persons have the right to an adequate standard of living.

2. At the minimum, regardless of the circumstances, and without discrimination, competent authorities shall provide internally displaced persons with and ensure safe access to:



- (a) Essential food and potable water;
- (b) Basic shelter and housing;
- (c) Appropriate clothing; and
- (d) Essential medical services and sanitation.

3. Special efforts should be made to ensure the full participation of women in the planning and distribution of these basic supplies.

#### Principle 19

1. All wounded and sick internally displaced persons as well as those with disabilities shall receive to the fullest extent practicable and with the least possible delay, the medical care and attention they require, without distinction on any grounds other than medical ones. When necessary, internally displaced persons shall have access to psychological and social services.

2. Special attention should be paid to the health needs of women, including access to female health care providers and services, such as reproductive health care, as well as appropriate counselling for victims of sexual and other abuses.

3. Special attention should also be given to the prevention of contagious and infectious diseases, including AIDS, among internally displaced persons.

#### Principle 20

1. Every human being has the right to recognition everywhere as a person before the law.

2. To give effect to this right for internally displaced persons, the authorities concerned shall issue to them all documents necessary for the enjoyment and exercise of their legal rights, such as passports, personal identification documents, birth certificates and marriage certificates. In particular, the authorities shall facilitate the issuance of new documents or the replacement of documents lost in the course of displacement, without imposing unreasonable conditions, such as requiring the return to one's area of habitual residence in order to obtain these or other required documents.

3. Women and men shall have equal rights to obtain such necessary documents and shall have the right to have such documentation issued in their own names.

#### Principle 21

1. No one shall be arbitrarily deprived of property and possessions.

2. The property and possessions of internally displaced persons shall in all circumstances be protected, in particular, against the following acts:

- (a) Pillage;
- (b) Direct or indiscriminate attacks or other acts of violence;
- (c) Being used to shield military operations or objectives;
- (d) Being made the object of reprisal; and
- (e) Being destroyed or appropriated as a form of collective punishment.

3. Property and possessions left behind by internally displaced persons should be protected against destruction and arbitrary and illegal appropriation, occupation or use.

#### Principle 22

1. Internally displaced persons, whether or not they are living in camps, shall not be discriminated against as a result of their displacement in the enjoyment of the following rights:

- (a) The rights to freedom of thought, conscience, religion or belief, opinion and expression;
- (b) The right to seek freely opportunities for employment and to participate in economic activities;
- (c) The right to associate freely and participate equally in community affairs;

(d) The right to vote and to participate in governmental and public affairs, including the right to have access to the means necessary to exercise this right; and

(e) The right to communicate in a language they understand.

#### Principle 23

1. Every human being has the right to education.

2. To give effect to this right for internally displaced persons, the authorities concerned shall ensure that such persons, in particular displaced children, receive education which shall be free and compulsory at the primary level. Education should respect their cultural identity, language and religion.

3. Special efforts should be made to ensure the full and equal participation of women and girls in educational programmes.

4. Education and training facilities shall be made available to internally displaced persons, in particular adolescents and women, whether or not living in camps, as soon as conditions permit.

### SECTION IV - PRINCIPLES RELATING TO HUMANITARIAN ASSISTANCE

Principle 241. All humanitarian assistance shall be carried out in accordance with the principles of humanity and impartiality and without discrimination.

2. Humanitarian assistance to internally displaced persons shall not be diverted, in particular for political or military reasons.

#### Principle 25

1. The primary duty and responsibility for providing humanitarian assistance to internally displaced persons lies with national authorities.

2. International humanitarian organizations and other appropriate actors have the right to offer their services in support of the internally displaced. Such an offer shall not be regarded as an unfriendly act or an interference in a State's internal affairs and shall be considered in good faith. Consent thereto shall not be arbitrarily withheld, particularly when authorities concerned are unable or unwilling to provide the required humanitarian assistance.

3. All authorities concerned shall grant and facilitate the free passage of humanitarian assistance and grant persons engaged in the provision of such assistance rapid and unimpeded access to the internally displaced.

#### Principle 26

Persons engaged in humanitarian assistance, their transport and supplies shall be respected and protected. They shall not be the object of attack or other acts of violence.

#### Principle 27

1. International humanitarian organizations and other appropriate actors when providing assistance should give due regard to the protection needs and human rights of internally displaced persons and take appropriate measures in this regard. In so doing, these organizations and actors should respect relevant international standards and codes of conduct.

2. The preceding paragraph is without prejudice to the protection responsibilities of international organizations mandated for this purpose, whose services may be offered or requested by States.

### SECTION V - PRINCIPLES RELATING TO RETURN, RESETTLEMENT AND REINTEGRATION

#### Principle 28

1. Competent authorities have the primary duty and responsibility to establish conditions, as well as provide the means, which allow internally displaced persons to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country. Such authorities shall endeavour to facilitate the reintegration of returned or resettled internally displaced persons.

2. Special efforts should be made to ensure the full participation of internally displaced persons in the planning and management of their return or resettlement and reintegration.

#### Principle 29

1. Internally displaced persons who have returned to their homes or places of habitual residence or who have resettled in another part of the country shall not be discriminated against as a result of their having been displaced. They shall have the right to participate fully and equally in public affairs at all levels and have equal access to public services.

2. Competent authorities have the duty and responsibility to assist returned and/or resettled internally displaced persons to recover, to the extent possible, their property and possessions which they left behind or were dispossessed of upon their displacement. When recovery of such property and possessions is not possible, competent authorities shall provide or assist these persons in obtaining appropriate compensation or another form of just reparation.

#### Principle 30

All authorities concerned shall grant and facilitate for international humanitarian organizations and other appropriate actors, in the exercise of their respective mandates, rapid and unimpeded access to internally displaced persons to assist in their return or resettlement and reintegration.

## Part Three - International Criminal Law

### Rome Statute of the International Criminal Court

The Statute made the conscription, enlistment or use in hostilities of children under 15 by national armed forces or armed groups a war crime.

*entry into force: 1 July 2002*

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#### Article 5

Crimes within the jurisdiction of the Court

1. The jurisdiction of the Court shall be limited to the most serious crimes of concern to the international community as a whole. The Court has jurisdiction in accordance with this Statute with respect to the following crimes:

- (a) The crime of genocide;
- (b) Crimes against humanity;
- (c) War crimes;
- (d) The crime of aggression.

2. The Court shall exercise jurisdiction over the crime of aggression once a provision is adopted in accordance with articles 121 and 123 defining the crime and setting out the conditions under which the Court shall exercise jurisdiction with respect to this crime. Such a provision shall be consistent with the relevant provisions of the Charter of the United Nations.

#### Article 6

Genocide

For the purpose of this Statute, "genocide" means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.

#### Article 7

Crimes against humanity

1. For the purpose of this Statute, "crime against humanity" means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

- (a) Murder;
- (b) Extermination;
- (c) Enslavement;

- (d) Deportation or forcible transfer of population;
- (e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
- (f) Torture;
- (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
- (h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;
- (i) Enforced disappearance of persons;
- (j) The crime of apartheid;
- (k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

2. For the purpose of paragraph 1:

- (a) "Attack directed against any civilian population" means a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack;
- (b) "Extermination" includes the intentional infliction of conditions of life, inter alia the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population;
- (c) "Enslavement" means the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children;
- (d) "Deportation or forcible transfer of population" means forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law;
- (e) "Torture" means the intentional infliction of severe pain or suffering, whether physical or mental, upon a person in the custody or under the control of the accused; except that torture shall not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions;
- (f) "Forced pregnancy" means the unlawful confinement, of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law. This definition shall not in any way be interpreted as affecting national laws relating to pregnancy;
- (g) "Persecution" means the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity;
- (h) "The crime of apartheid" means inhumane acts of a character similar to those referred to in paragraph 1, committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime;
- (i) "Enforced disappearance of persons" means the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time.

3. For the purpose of this Statute, it is understood that the term "gender" refers to the two sexes, male and female, within the context of society. The term "gender" does not indicate any meaning different from the above.

**Article 8**

## War crimes

1. The Court shall have jurisdiction in respect of war crimes in particular when committed as a part of a plan or policy or as part of a large-scale commission of such crimes.

2. For the purpose of this Statute, "war crimes" means:

(a) Grave breaches of the Geneva Conventions of 12 August 1949, namely, any of the following acts against persons or property protected under the provisions of the relevant Geneva Convention:

(i) Wilful killing;

(ii) Torture or inhuman treatment, including biological experiments;

(iii) Wilfully causing great suffering, or serious injury to body or health;

(iv) Extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly;

(v) Compelling a prisoner of war or other protected person to serve in the forces of a hostile Power;

(vi) Wilfully depriving a prisoner of war or other protected person of the rights of fair and regular trial;

(vii) Unlawful deportation or transfer or unlawful confinement;

(viii) Taking of hostages.

(b) Other serious violations of the laws and customs applicable in international armed conflict, within the established framework of international law, namely, any of the following acts:

(i) Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;

(ii) Intentionally directing attacks against civilian objects, that is, objects which are not military objectives;

(iii) Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;

(iv) Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated;

(v) Attacking or bombarding, by whatever means, towns, villages, dwellings or buildings which are undefended and which are not military objectives;

(vi) Killing or wounding a combatant who, having laid down his arms or having no longer means of defence, has surrendered at discretion;

(vii) Making improper use of a flag of truce, of the flag or of the military insignia and uniform of the enemy or of the United Nations, as well as of the distinctive emblems of the Geneva Conventions, resulting in death or serious personal injury;

(viii) The transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory;

(ix) Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives;

(x) Subjecting persons who are in the power of an adverse party to physical mutilation or to medical or scientific experiments of any kind which are neither justified by the medical, dental or hospital treatment

of the person concerned nor carried out in his or her interest, and which cause death to or seriously endanger the health of such person or persons;

- (xi) Killing or wounding treacherously individuals belonging to the hostile nation or army;
  - (xii) Declaring that no quarter will be given;
  - (xiii) Destroying or seizing the enemy's property unless such destruction or seizure be imperatively demanded by the necessities of war;
  - (xiv) Declaring abolished, suspended or inadmissible in a court of law the rights and actions of the nationals of the hostile party;
  - (xv) Compelling the nationals of the hostile party to take part in the operations of war directed against their own country, even if they were in the belligerent's service before the commencement of the war;
  - (xvi) Pillaging a town or place, even when taken by assault;
  - (xvii) Employing poison or poisoned weapons;
  - (xviii) Employing asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices;
  - (xix) Employing bullets which expand or flatten easily in the human body, such as bullets with a hard envelope which does not entirely cover the core or is pierced with incisions;
  - (xx) Employing weapons, projectiles and material and methods of warfare which are of a nature to cause superfluous injury or unnecessary suffering or which are inherently indiscriminate in violation of the international law of armed conflict, provided that such weapons, projectiles and material and methods of warfare are the subject of a comprehensive prohibition and are included in an annex to this Statute, by an amendment in accordance with the relevant provisions set forth in articles 121 and 123;
  - (xxi) Committing outrages upon personal dignity, in particular humiliating and degrading treatment;
  - (xxii) Committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in article 7, paragraph 2 (f), enforced sterilization, or any other form of sexual violence also constituting a grave breach of the Geneva Conventions;
  - (xxiii) Utilizing the presence of a civilian or other protected person to render certain points, areas or military forces immune from military operations;
  - (xxiv) Intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law;
  - (xxv) Intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including wilfully impeding relief supplies as provided for under the Geneva Conventions;
  - (xxvi) Conscripting or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities.
- (c) In the case of an armed conflict not of an international character, serious violations of article 3 common to the four Geneva Conventions of 12 August 1949, namely, any of the following acts committed against persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention or any other cause:
- (i) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
  - (ii) Committing outrages upon personal dignity, in particular humiliating and degrading treatment;
  - (iii) Taking of hostages;
  - (iv) The passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all judicial guarantees which are generally recognized as indispensable.

(d) Paragraph 2 (c) applies to armed conflicts not of an international character and thus does not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature.

(e) Other serious violations of the laws and customs applicable in armed conflicts not of an international character, within the established framework of international law, namely, any of the following acts:

(i) Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;

(ii) Intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law;

(iii) Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the law of armed conflict;

(iv) Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives;

(v) Pillaging a town or place, even when taken by assault;

(vi) Committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in article 7, paragraph 2 (f), enforced sterilization, and any other form of sexual violence also constituting a serious violation of article 3 common to the four Geneva Conventions;

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

(viii) Ordering the displacement of the civilian population for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand;

(ix) Killing or wounding treacherously a combatant adversary;

(x) Declaring that no quarter will be given;

(xi) Subjecting persons who are in the power of another party to the conflict to physical mutilation or to medical or scientific experiments of any kind which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his or her interest, and which cause death to or seriously endanger the health of such person or persons;

(xii) Destroying or seizing the property of an adversary unless such destruction or seizure be imperatively demanded by the necessities of the conflict;

(f) Paragraph 2 (e) applies to armed conflicts not of an international character and thus does not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature. It applies to armed conflicts that take place in the territory of a State when there is protracted armed conflict between governmental authorities and organized armed groups or between such groups.

3. Nothing in paragraphs 2 (c) and (d) shall affect the responsibility of a Government to maintain or re-establish law and order in the State or to defend the unity and territorial integrity of the State, by all legitimate means.

...



## **Amended Statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991**

*Adopted 25 May 1993 by Security Council Resolution 827, as amended 13 May 1998 by Resolution 1166, as amended 30 November 2000 by Resolution 1329, as amended 17 May 2002 by Resolution 1411*

...

### **Article 1**

Competence of the International Tribunal

The International Tribunal shall have the power to prosecute persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991 in accordance with the provisions of the present Statute.

### **Article 2**

Grave breaches of the Geneva Conventions of 1949

The International Tribunal shall have the power to prosecute persons committing or ordering to be committed grave breaches of the Geneva Conventions of 12 August 1949, namely the following acts against persons or property protected under the provisions of the relevant Geneva Convention:

- (a) wilful killing;
- (b) torture or inhuman treatment, including biological experiments;
- (c) wilfully causing great suffering or serious injury to body or health;
- (d) extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly;
- (e) compelling a prisoner of war or a civilian to serve in the forces of a hostile power;
- (f) wilfully depriving a prisoner of war or a civilian of the rights of fair and regular trial;
- (g) unlawful deportation or transfer or unlawful confinement of a civilian;
- (h) taking civilians as hostages.

### **Article 3**

Violations of the laws or customs of war

The International Tribunal shall have the power to prosecute persons violating the laws or customs of war. Such violations shall include, but not be limited to:

- (a) employment of poisonous weapons or other weapons calculated to cause unnecessary suffering;
- (b) wanton destruction of cities, towns or villages, or devastation not justified by military necessity;
- (c) attack, or bombardment, by whatever means, of undefended towns, villages, dwellings, or buildings;
- (d) seizure of, destruction or wilful damage done to institutions dedicated to religion, charity and education, the arts and sciences, historic monuments and works of art and science;
- (e) plunder of public or private property.

### **Article 4**

Genocide

1. The International Tribunal shall have the power to prosecute persons committing genocide as defined in paragraph 2 of this article or of committing any of the other acts enumerated in paragraph 3 of this article.

2. Genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) killing members of the group;
- (b) causing serious bodily or mental harm to members of the group;

- (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) imposing measures intended to prevent births within the group;
- (e) forcibly transferring children of the group to another group.

3. The following acts shall be punishable:

- (a) genocide;
- (b) conspiracy to commit genocide;
- (c) direct and public incitement to commit genocide;
- (d) attempt to commit genocide;
- (e) complicity in genocide.

**Article 5**

Crimes against humanity

The International Tribunal shall have the power to prosecute persons responsible for the following crimes when committed in armed conflict, whether international or internal in character, and directed against any civilian population:

- (a) murder;
- (b) extermination;
- (c) enslavement;
- (d) deportation;
- (e) imprisonment;
- (f) torture;
- (g) rape;
- (h) persecutions on political, racial and religious grounds;
- (i) other inhumane acts.

## **Statute of the International Criminal Tribunal for Rwanda**

**International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens responsible for genocide and other such violations committed in the territory of neighbouring States, between 1 January 1994 and 31 December 1994**

*Adopted 8 November 1994 by Security Council Resolution 955.*

The Security Council,

Acting under Chapter VII of the Charter of the United Nations,

1. Decides hereby, having received the request of the Government of Rwanda (S/1994/1115), to establish an international tribunal for the sole purpose of prosecuting persons responsible for genocide and other serious violations of international humanitarian law committed in the territory of Rwanda and Rwandan citizens responsible for genocide and other such violations committed in the territory of neighbouring states, between 1 January 1994 and 31 December 1994 and to this end to adopt the Statute of the International Criminal Tribunal for Rwanda annexed hereto;

2. Decides that all States shall cooperate fully with the International Tribunal and its organs in accordance with the present resolution and the Statute of the International Tribunal and that consequently all States shall take any measures necessary under their domestic law to implement the provisions of the present resolution and the Statute, including the obligation of States to comply with requests for assistance or orders issued by a Trial Chamber under Article 28 of the Statute, and requests States to keep the Secretary-General informed of such measures;

3. Considers that the Government of Rwanda should be notified prior to the taking of decisions under articles 26 and 27 of the Statute;

4. Urges States and intergovernmental and non-governmental organisations to contribute funds, equipment and services to the International Tribunal, including the offer of expert personnel;

5. Requests the Secretary-General to implement this resolution urgently and in particular to make practical arrangements for the effective functioning of the International Tribunal, including recommendations to the Council as to possible locations for the seat of the International Tribunal at the earliest time to report periodically to the Council;

6. Decides that the seat of the International Tribunal shall be determined by the Council having regard to considerations of justice and fairness as well as administrative efficiency, including access to witnesses, and economy, and subject to the conclusion of appropriate arrangements between the United Nations and the State of the seat, acceptable to the Council, having regard to the fact that the International Tribunal may meet away from its seat when it considers necessary for the efficient exercise of its functions; and decides that an office will be established and proceedings will be conducted in Rwanda, where feasible and appropriate, subject to the conclusion of similar appropriate arrangements;

7. Decides to consider increasing the number of judges and Trial Chambers of the International Tribunal if it becomes necessary;

8. Decides to remain actively seized of the matter.

### ANNEX

#### Statute of the International Tribunal for Rwanda

Having been established by the Security Council acting under Chapter VII of the Charter of the United Nations, the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens responsible for genocide and other such violations committed in the territory of neighbouring States, between 1 January 1994 and 31 December 1994 (hereinafter referred to as "The

International Tribunal for Rwanda") shall function in accordance with the provisions of the present Statute.

**Article 1: Competence of the International Tribunal for Rwanda**

The International Tribunal for Rwanda shall have the power to prosecute persons responsible for serious violations of international humanitarian law committed in the territory of Rwanda and Rwandan citizens responsible for such violations committed in the territory of neighbouring States between 1 January 1994 and 31 December 1994, in accordance with the provisions of the present Statute.

**Article 2: Genocide**

1. The International Tribunal for Rwanda shall have the power to prosecute persons committing genocide as defined in paragraph 2 of this article or of committing any of the other acts enumerated in paragraph 3 of this article

2. Genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- a) Killing members of the group;
- b) Causing serious bodily or mental harm to members of the group;
- c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- d) Imposing measures intended to prevent births within the group;
- e) Forcibly transferring children of the group to another group.

3. The following acts shall be punishable:

- a) Genocide;
- b) Conspiracy to commit genocide;
- c) Direct and public incitement to commit genocide;
- d) Attempt to commit genocide;
- e) Complicity in genocide.

**Article 3: Crimes against Humanity**

The International Tribunal for Rwanda shall have the power to prosecute persons responsible for the following crimes when committed as part of a widespread or systematic attack against any civilian population on national, political, ethnic, racial or religious grounds:

- a) Murder;
- b) Extermination;
- c) Enslavement;
- d) Deportation;
- e) Imprisonment;
- f) Torture;
- g) Rape;
- h) Persecutions on political, racial and religious grounds;
- i) Other inhumane acts.

**Article 4: Violations of Article 3 common to the Geneva Conventions and of Additional Protocol II**

The International Tribunal for Rwanda shall have the power to prosecute persons committing or ordering to be committed serious violations of Article 3 common to the Geneva Conventions of 12 August 1949 for the Protection of War Victims, and of Additional Protocol II thereto of 8 June 1977. These violations shall include, but shall not be limited to:

- a) Violence to life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment;
- b) Collective punishments;
- c) Taking of hostages;
- d) Acts of terrorism;
- e) Outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault;
- f) Pillage;
- g) The passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all the judicial guarantees which are recognised as indispensable by civilised peoples;
- h) Threats to commit any of the foregoing acts.

## Part Four - Security Council Resolutions

### Security Council Resolution 1261 (1999)

*Adopted by the Security Council at its 4037th meeting, on 25 August 1999*

The Security Council,

Recalling the statements of its President of 29 June 1998 (S/PRST/1998/18), 12 February 1999 (S/PRST/1999/6) and 8 July 1999 (S/PRST/1999/21),

Noting recent efforts to bring to an end the use of children as soldiers in violation of international law, in International Labour Organization Convention No. 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour which prohibits forced or compulsory labour, including the forced or compulsory recruitment of children for use in armed conflict, and in the Rome Statute of the International Criminal Court in which conscripting or enlisting children under the age of fifteen into national armed forces or using them to participate actively in hostilities is characterized as a war crime,

1. Expresses its grave concern at the harmful and widespread impact of armed conflict on children and the long-term consequences this has for durable peace, security and development;
2. Strongly condemns the targeting of children in situations of armed conflict, including killing and maiming, sexual violence, abduction and forced displacement, recruitment and use of children in armed conflict in violation of international law, and attacks on objects protected under international law, including places that usually have a significant presence of children such as schools and hospitals, and calls on all parties concerned to put an end to such practices;
3. Calls upon all parties concerned to comply strictly with their obligations under international law, in particular the Geneva Conventions of 12 August 1949 and the obligations applicable to them under the Additional Protocols thereto of 1977 and the United Nations Convention on the Rights of the Child of 1989, and stresses the responsibility of all States to bring an end to impunity and their obligation to prosecute those responsible for grave breaches of the Geneva Conventions of 12 August 1949;
4. Expresses its support for the ongoing work of the Special Representative of the Secretary-General for Children and Armed Conflict, the United Nations Children's Fund (UNICEF), the United Nations High Commissioner for Refugees (UNHCR), other parts of the United Nations system and other relevant international organizations dealing with children affected by armed conflict, and requests the Secretary-General to continue to develop coordination and coherence among them;
5. Welcomes and encourages efforts by all relevant actors at the national and international level to develop more coherent and effective approaches to the issue of children and armed conflict;
6. Supports the work of the open-ended inter-sessional working group of the Commission on Human Rights on a draft optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, and expresses the hope that it will make further progress with a view to finalizing its work;
7. Urges all parties to armed conflicts to ensure that the protection, welfare and rights of children are taken into account during peace negotiations and throughout the process of consolidating peace in the aftermath of conflict;
8. Calls upon parties to armed conflicts to undertake feasible measures during armed conflicts to minimize the harm suffered by children, such as "days of tranquillity" to allow the delivery of basic necessary services, and further calls upon all parties to armed conflicts to promote, implement and respect such measures;
9. Urges all parties to armed conflicts to abide by concrete commitments made to ensure the protection of children in situations of armed conflict;
10. Urges all parties to armed conflicts to take special measures to protect children, in particular girls, from rape and other forms of sexual abuse and gender-based violence in situations of armed conflict and to take into account the special needs of the girl child throughout armed conflicts and their aftermath, including in the delivery of humanitarian assistance;
11. Calls upon all parties to armed conflicts to ensure the full, safe and unhindered access of humanitarian personnel and the delivery of humanitarian assistance to all children affected by armed conflict;
12. Underscores the importance of the safety, security and freedom of movement of United Nations and associated personnel to the alleviation of the impact of armed conflict on children, and urges all parties to armed conflicts to respect fully the status of United Nations and associated personnel;

13. Urges States and all relevant parts of the United Nations system to intensify their efforts to ensure an end to the recruitment and use of children in armed conflict in violation of international law through political and other efforts, including promotion of the availability of alternatives for children to their participation in armed conflict;
14. Recognizes the deleterious impact of the proliferation of arms, in particular small arms, on the security of civilians, including refugees and other vulnerable populations, particularly children, and, in this regard, recalls resolution 1209 (1998) of 19 November 1998 which, inter alia, stresses the importance of all Member States, and in particular States involved in manufacturing and marketing of weapons, restricting arms transfers which could provoke or prolong armed conflicts or aggravate existing tensions or armed conflicts, and which urges international collaboration in combating illegal arms flows;
15. Urges States and the United Nations system to facilitate the disarmament, demobilization, rehabilitation and reintegration of children used as soldiers in violation of international law, and calls upon, in particular, the Special Representative of the Secretary-General for Children and Armed Conflict, UNICEF, the UNHCR and other relevant agencies of the United Nations system to intensify their efforts in this regard;
16. Undertakes, when taking action aimed at promoting peace and security, to give special attention to the protection, welfare and rights of children, and requests the Secretary-General to include in his reports recommendations in this regard;
17. Reaffirms its readiness when dealing with situations of armed conflict:
- (a) to continue to support the provision of humanitarian assistance to civilian populations in distress, taking into account the particular needs of children including, inter alia, the provision and rehabilitation of medical and educational services to respond to the needs of children, the rehabilitation of children who have been maimed or psychologically traumatized, and child-focused mine clearance and mine-awareness programmes;
  - (b) to continue to support the protection of displaced children including their resettlement by UNHCR and others as appropriate; and
  - (c) whenever adopting measures under Article 41 of the Charter of the United Nations, to give consideration to their impact on children, in order to consider appropriate humanitarian exemptions;
18. Reaffirms also its readiness to consider appropriate responses whenever buildings or sites which usually have a significant presence of children are specifically targeted in situations of armed conflict, in violation of international law;
19. Requests the Secretary-General to ensure that personnel involved in United Nations peacemaking, peacekeeping and peace-building activities have appropriate training on the protection, rights and welfare of children, and urges States and relevant international and regional organizations to ensure that appropriate training is included in their programmes for personnel involved in similar activities;
20. Requests the Secretary-General to submit to the Council by 31 July 2000 a report on the implementation of this resolution, consulting all relevant parts of the United Nations system and taking into account other relevant work;
21. Decides to remain actively seized of the matter.

## **Security Council Resolution 1314 (2000)**

*Adopted by the Security Council at its 4185th meeting, on 11 August 2000*

The Security Council,

Recalling its resolution 1261 (1999) of 28 August 1999, Further recalling its resolutions 1265 (1999) of 17 September 1999, 1296 (2000) of 19 April 2000, 1306 (2000) of 5 July 2000 and the statements of its President of 29 June 1998 (S/PRST/1998/18), 12 February 1999 (S/PRST/1999/6), 8 July 1999 (S/PRST/1999/21), 30 November 1999 (S/PRST/1999/34) and 20 July 2000 (S/PRST/25),

Welcoming the adoption by the General Assembly on 25 May 2000 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict,

Bearing in mind the purposes and principles of the Charter of the United Nations, and the primary responsibility of the Security Council for the maintenance of international peace and security,

Underlining the need for all parties concerned to comply with the provisions of the Charter of the United Nations and with the rules and principles of international law, in particular international humanitarian, human rights and refugee law, and to implement fully the relevant decisions of the Security Council, and recalling the relevant provisions on the protection of children contained in International Labour Organization Convention No. 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, the Rome Statute of the International Criminal Court and the Ottawa Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction,

Noting the regional initiatives on war-affected children, including within the Organization for Security and Cooperation in Europe, the West African Conference on War-Affected Children held in Accra, Ghana, in April 2000, and the forthcoming International Conference on War-Affected Children to be held in Winnipeg, Canada from 10 to 17 September 2000,

Having considered the report of the Secretary-General of 19 July 2000 on the implementation of resolution 1261 (1999) on Children and Armed Conflict (S/2000/712),

1. Reaffirms its strong condemnation of the deliberate targeting of children in situations of armed conflict and the harmful and widespread impact of armed conflict on children, and the long-term consequences this has for durable peace, security and development;
2. Emphasizes the responsibility of all States to put an end to impunity and to prosecute those responsible for genocide, crimes against humanity and war crimes, and, in this regard, stresses the need to exclude these, where feasible, from amnesty provisions and relevant legislation;
3. Urges all parties to armed conflict to respect fully international law applicable to the rights and protection of children in armed conflict, in particular the Geneva Conventions of 1949 and the obligations applicable to them under the Additional Protocols thereto of 1977, the United Nations Convention on the Rights of the Child of 1989 and the Optional Protocol thereto of 25 May 2000, and to bear in mind the relevant provisions of the Rome Statute of the International Criminal Court;
4. Urges Member States in a position to do so to sign and ratify the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict;
5. Expresses support for the ongoing work of the Special Representative of the Secretary-General for Children and Armed Conflict, the United Nations Children's Fund, the United Nations High Commissioner for Refugees, other parts of the United Nations system and other relevant international organizations dealing with children affected by armed conflict;
6. Urges Member States and parties to armed conflict to provide protection and assistance to refugees and internally displaced persons, as appropriate, the vast majority of whom are women and children;
7. Calls upon all parties to armed conflict to ensure the full, safe and unhindered access of humanitarian personnel and the delivery of humanitarian assistance to all children affected by armed conflict;
8. Expresses its grave concern at the linkages between the illicit trade in natural resources and armed conflict, as well as the linkages between the illicit trafficking in small arms and light weapons and armed conflict, which can prolong armed conflict and intensify its impact on children, and in this regard expresses its intention to consider taking appropriate steps, in accordance with the Charter of the United Nations;
9. Notes that the deliberate targeting of civilian populations or other protected persons, including children, and the committing of systematic, flagrant and widespread violations of international humanitarian and human rights law, including that relating to children, in situations of armed conflict may constitute a threat to international peace and security, and in this regard reaffirms its readiness to consider such situations and, where necessary to adopt appropriate steps;
10. Urges all parties to abide by the concrete commitments they have made to the Special Representative of the Secretary-General for Children and Armed Conflict as well as relevant United Nations bodies to ensure the protection of children in situations of armed conflict;
11. Requests parties to armed conflict to include, where appropriate, provisions for the protection of children, including the disarmament, demobilization and reintegration of child combatants, in peace negotiations and in peace agreements and the involvement of children, where possible, in these processes;
12. Reaffirms its readiness to continue to include, where appropriate, child protection advisers in future peacekeeping operations;
13. Underlines the importance of giving consideration to the special needs and particular vulnerabilities of girls affected by armed conflict, including, inter alia, those heading households, orphaned, sexually exploited and used as combatants, and urges that their human rights, protection and welfare be incorporated in the development of policies and programmes, including those for prevention, disarmament, demobilization and reintegration;
14. Reiterates the importance of ensuring that children continue to have access to basic services during the conflict and post-conflict periods, including, inter alia, education and health care;
15. Indicates its willingness, when imposing measures under Article 41 of the Charter of the United Nations, to consider assessing the potential unintended consequences of sanctions on children and to take appropriate steps to minimize such consequences;
16. Welcomes recent initiatives by regional and subregional organizations and arrangements for the protection of children affected by armed conflict, and urges them to:
  - (a) Consider establishing, within their secretariats, child protection units for the development and implementation of policies, activities and advocacy for the benefit of children affected by armed conflict, including children in the design and implementation of such policies and programmes where possible;
  - (b) Consider including child protection staff in their peace and field operations and providing training to members of their peace and field operations on the rights and protection of women and children;
  - (c) Undertake initiatives to curb the cross-border activities deleterious to children in times of armed conflict, such as the cross-border recruitment and abduction of children, the illicit movement of small arms and the illicit trade in natural resources;
  - (d) Allocate resources, as applicable, during policy and programme development for the benefit of children affected by armed conflict;
  - (e) Integrate a gender perspective into all policies, programmes and projects;
  - (f) Consider declaring regional initiatives towards full implementation of the prohibition of the use of child soldiers in violation of international law;

17. Encourages Member States, relevant parts of the United Nations system and regional organizations and arrangements to undertake efforts to obtain the release of children abducted during armed conflict and their family reunification;
18. Urges Member States and relevant parts of the United Nations system to strengthen the capacities of national institutions and local civil society for ensuring the sustainability of local initiatives for the protection of children;
19. Calls on Member States, relevant parts of the United Nations system, and civil society to encourage the involvement of young persons in programmes for peace consolidation and peace-building;
20. Encourages the Secretary-General to continue to include in his written reports to the Council on matters of which the Council is seized, as appropriate, observations relating to the protection of children in armed conflict;
21. Requests the Secretary-General to submit a report to the Security Council on the implementation of this resolution and of resolution 1261 (1999) by 31 July 2001;
22. Decides to remain actively seized of this matter.

## **Security Council Resolution 1379 (2001)**

*Adopted by the Security Council at its 4423rd meeting, on 20 November 2001*

The Security Council,

Recalling its resolution 1314 (2000) of 11 August 2000,  
 Further recalling its resolutions 1261 (1999) of 28 August 1999, 1265 (1999) of 17 September 1999, 1296 (2000) of 19 April 2000, 1306 (2000) of 5 July 2000, 1308 (2000) of 17 July 2000 and 1325 (2000) of 31 October 2000 and the statements of its President of 29 June 1998 (S/PRST/1998/18), 12 February 1999 (S/PRST/1999/6), 8 July 1999 (S/PRST/1999/21), 30 November 1999 (S/PRST/1999/34), 20 July 2000 (S/PRST/2000/25) and of 31 August 2001 (S/PRST/2001/21),  
 Recognizing the harmful and widespread impact of armed conflict on children and the long-term consequences this has for durable peace, security and development,  
 Bearing in mind the purposes and principles of the Charter of the United Nations and recalling the primary responsibility of the Security Council for the maintenance of international peace and security and, in this connection, its commitment to address the impact of armed conflict on children,  
 Underlining the need for all parties concerned to comply with the provisions of the Charter of the United Nations and with international law, in particular those regarding children,  
 Having considered the report of the Secretary-General of 7 September 2001 on the implementation of resolution 1314 (2000) on children and armed conflict,

1. Expresses, accordingly, its determination to give the fullest attention to the question of the protection of children in armed conflict when considering the matters of which it is seized;
2. Expresses its readiness explicitly to include provisions for the protection of children, when considering the mandates of peacekeeping operations, and reaffirms, in this regard, its readiness to continue to include, where appropriate, child protection advisers in peacekeeping operations;
3. Supports the ongoing work of the Secretary-General, the Special Representative of the Secretary-General for Children and Armed Conflict, the United Nations Children's Fund, the Office of the United Nations High Commissioner for Refugees, the Office of the United Nations High Commissioner for Human Rights, other agencies of the United Nations system and other international organizations dealing with children affected by armed conflict;
4. Expresses its intention, where appropriate, to call upon the parties to a conflict to make special arrangements to meet the protection and assistance requirements of women, children and other vulnerable groups, including through the promotion of "days of immunization" and other opportunities for the safe and unhindered delivery of basic necessary services;
5. Underlines the importance of the full, safe and unhindered access of humanitarian personnel and goods and the delivery of humanitarian assistance to all children affected by armed conflict;
6. Expresses its intention to consider taking appropriate steps, in accordance with the Charter of the United Nations, to address the linkages between armed conflict and terrorism, the illicit trade in precious minerals, the illicit trafficking in small arms and light weapons, and other criminal activities, which can prolong armed conflict or intensify its impact on civilian populations, including children;
7. Undertakes to consider, as appropriate when imposing measures under Article 41 of the Charter of the United Nations, the economic and social impact of sanctions on children, with a view to providing appropriate humanitarian exemptions that take account of their specific needs and their vulnerability and to minimize such impact;
8. Calls upon all parties to armed conflict to:
  - (a) Respect fully the relevant provisions of applicable international law relating to the rights and protection of children in armed conflict, in particular the Geneva Conventions of 1949 and the obligations applicable to them under the Additional Protocols thereto of 1977, the United Nations Convention on the Rights of the Child of 1989, the Optional Protocol thereto of 25 May 2000, and the amended Protocol II to the Convention on Prohibition or Restriction on the Use of Certain Conventional Weapons Which May



Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, the International Labour Organization Convention No. 182 on the Elimination of the Worst Forms of Child Labour and the Ottawa Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, and notes the inclusion as a war crime in the Rome Statute of the conscription or enlistment of children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities;

(b) Provide protection and assistance to refugees and internally displaced persons, the majority of whom are women and children, in accordance with applicable international norms and standards;

(c) Take special measures to promote and protect the rights and meet the special needs of girls affected by armed conflict, and to put an end to all forms of violence and exploitation, including sexual violence, particularly rape;

(d) Abide by the concrete commitments they have made to the Special Representative of the Secretary-General for Children and Armed Conflict, as well as relevant United Nations bodies, to ensure the protection of children in situations of armed conflict; 3 S/RES/1379 (2001)

(e) Provide protection of children in peace agreements, including, where appropriate, provisions relating to the disarmament, demobilization, reintegration and rehabilitation of child soldiers and the reunification of families, and to consider, when possible, the views of children in those processes;

9. Urges Member States to:

(a) Put an end to impunity, prosecute those responsible for genocide, crimes against humanity, war crimes, and other egregious crimes perpetrated against children and exclude, where feasible, these crimes from amnesty provisions and relevant legislation, and ensure that post-conflict truth-and-reconciliation processes address serious abuses involving children;

(b) Consider appropriate legal, political, diplomatic, financial and material measures, in accordance with the Charter of the United Nations, in order to ensure that parties to armed conflict respect international norms for the protection of children;

(c) Consider, where appropriate, measures that may be taken to discourage corporate actors, within their jurisdiction, from maintaining commercial relations with parties to armed conflicts that are on the Security Council's agenda, when those parties are violating applicable international law on the protection of children in armed conflict;

(d) Consider measures against corporate actors, individuals and entities under their jurisdiction that engage in illicit trade in natural resources and small arms, in violation of relevant Security Council resolutions and the Charter of the United Nations;

(e) Consider ratifying the Optional Protocol to the Convention on the Rights of the Child on Involvement of Children in Armed Conflict and the International Labour Organization Convention No. 182 on the Elimination of the Worst Forms of Child Labour;

(f) Consider further steps for the protection of children, especially in the context of the International Decade for a Culture of Peace and Non-violence for the Children of the World (2001-2010);

10. Requests the Secretary-General to:

(a) Take the protection of children into account in peacekeeping plans submitted to the Security Council, inter alia, by including, on a case by case basis, child protection staff in peacekeeping and, as appropriate, peace-building operations and strengthening expertise and capacity in the area of human rights, where necessary;

(b) Ensure that all peacekeeping personnel receive and follow appropriate guidance on HIV/AIDS and training in international human rights, humanitarian and refugee law relevant to children;

(c) Continue and intensify, on a case by case basis, monitoring and reporting activities by peacekeeping and peace-building support operations on the situation of children in armed conflict; 4 S/RES/1379 (2001)

11. Requests the agencies, funds and programmes of the United Nations to:

(a) Coordinate their support and assistance to parties to armed conflict in fulfilling their obligations and commitments to children;

(b) Take account of ways of reducing child recruitment that is contrary to accepted international standards when formulating development assistance programmes;

(c) Devote particular attention and adequate resources to the rehabilitation of children affected by armed conflict, particularly their counselling, education and appropriate vocational opportunities, as a preventive measure and as a means of reintegrating them into society;

(d) Ensure that the special needs and particular vulnerabilities of girls affected by armed conflict, including those heading households, orphaned, sexually exploited and used as combatants, are duly taken into account in the design of development assistance programmes, and that adequate resources are allocated to such programmes;

(e) Integrate HIV/AIDS awareness, prevention, care and support into emergency, humanitarian, and post-conflict programmes;

(f) Support the development of local capacity to address post-conflict child rehabilitation and reintegration concerns;

(g) Promote a culture of peace, including through support for peace education programmes and other non-violent approaches to conflict prevention and resolution, in peace-building activities;

12. Encourages the international financial institutions and regional financial and development institutions to:

(a) Devote part of their assistance to rehabilitation and reintegration programmes conducted jointly by agencies, funds, programmes and State parties to conflicts that have taken effective measures to comply with their obligations to protect children in situations of armed conflict, including the demobilization and reintegration of child soldiers, in particular those who have been used in armed conflicts contrary to international law;

(b) Contribute resources for quick-impact projects in conflict zones where peacekeeping operations are deployed or are in the process of deployment;

(c) Support the efforts of the regional organizations engaged in activities for the benefit of children affected by armed conflict, by providing them with financial and technical assistance, as appropriate;

13. Urges regional and subregional organizations and arrangements to:

(a) Consider establishing, within their secretariats, child protection mechanisms for the development and implementation of policies, activities and advocacy for the benefit of children affected by armed conflict, and consider the views of children in the design and implementation of such policies and programmes where possible; 5 S/RES/1379 (2001)

(b) Consider including child protection staff in their peacekeeping and field operations and provide training to members of such operations on the rights and protection of children;

(c) Take steps leading to the elimination of cross-border activities deleterious to children in times of armed conflict, such as the cross-border recruitment and abduction of children, the sale of or traffic in children, attacks on camps and settlements of refugees and internally displaced persons, the illicit trade in precious minerals, the illicit trafficking in small arms and light weapons, and other criminal activities;

(d) Develop and expand regional initiatives to prevent the use of child soldiers in violation of international law and to take appropriate measures to ensure the compliance by parties to armed conflict with obligations to protect children in armed conflict situations;

14. Requests the Secretary-General to continue to include in his written reports to the Council on conflict situations his observations concerning the protection of children and recommendations in this regard;

15. Requests the Secretary-General to submit a report to the Council by 31 October 2002 on the implementation of this resolution and of resolutions 1261 (1999) and 1314 (2000);

16. Requests the Secretary-General to attach to his report a list of parties to armed conflict that recruit or use children in violation of the international obligations applicable to them, in situations that are on the Security Council's agenda or that may be brought to the attention of the Security Council by the Secretary-General, in accordance with Article 99 of the Charter of the United Nations, which in his opinion may threaten the maintenance of international peace and security;

17. Decides to remain actively seized of this matter.

## **Security Council Resolution 1460 (2003)**

*Adopted by the Security Council at its 4695th meeting on 30 January 2003*

The Security Council,

Reaffirming its resolutions 1261 (1999) of 25 August 1999, 1314 (2000) of 11 August 2000 and 1379 (2001) of 20 November 2001, which provide a comprehensive framework for addressing the protection of children affected by armed conflict,

Further recalling its resolutions 1265 (1999) of 17 September 1999, 1296 (2000) of 19 April 2000, 1306 (2000) of 5 July 2000, 1308 (2000) of 17 July 2000, and 1325 (2000) of 31 October 2000, as well as all Statements of its President on children and armed conflict, and taking note of the Secretary-General's report on Women, Peace and Security of 16 October 2002 (S/2002/1154),

Reiterating its primary responsibility for the maintenance of international peace and security and, in this connection, its commitment to address the widespread impact of armed conflict on children,

Underlining the need for all parties concerned to comply with the provisions of the Charter of the United Nations and with international law, in particular those regarding children,

Emphasizing the responsibilities of States to end impunity and to prosecute those responsible for genocide, crimes against humanity, war crimes and other egregious crimes perpetrated against children,

Underlining the importance of the full, safe and unhindered access of humanitarian personnel and goods and the delivery of humanitarian assistance to all children affected by armed conflict,

Welcoming 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,

Noting the fact that the conscription or enlistment of children under the age of 15 into the national armed forces or using them to participate actively in hostilities is classified as a war crime by the Rome Statute of the International Criminal Court, which recently entered into force,

Having considered the report of the Secretary-General of 26 November 2002 on the implementation of, *inter alia*, its resolution 1379 (2001),

1. Supports the Secretary-General's call for "an era of application" of international norms and standards for the protection of children affected by armed conflict;
2. Encourages the agencies, funds and programmes of the United Nations, within their respective mandates, to strengthen their cooperation and their coordination when addressing the protection of children in armed conflict;
3. Calls upon all parties to armed conflict, who are recruiting or using children in violation of the international obligations applicable to them, to immediately halt such recruitment or use of children;
4. Expresses its intention to enter into dialogue, as appropriate, or to support the Secretary-General in entering into dialogue with parties to armed conflict in violation of the international obligations applicable to them on the recruitment or use of children in armed conflict, in order to develop clear and time bound action plans to end this practice;
5. Notes with concern the list annexed to the Secretary-General's report, and calls on the parties identified in this list to provide information on steps they have taken to halt their recruitment or use of children in armed conflict in violation of the international obligations applicable to them, to the Special Representative of the Secretary-General for Children and Armed Conflict, bearing in mind the provisions of paragraph 9 of its resolution 1379 (2001);
6. Expresses, accordingly, its intention to consider taking appropriate steps to further address this issue, in accordance with the Charter of the United Nations and its resolution 1379 (2001), if it deems that insufficient progress is made upon the review of the next Secretary-General's report;
7. Urges Member States, in accordance with the United Nations Programme of Action on Small Arms and Light Weapons to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons, to take effective action through, *inter alia*, conflict resolution and the development and implementation of national legislation, in a manner which is consistent with existing responsibilities of States under relevant international law, to control the illicit trade of small arms to parties in armed conflict that do not respect fully the relevant provisions of applicable international law relating to the rights and protection of children in armed conflict;
8. Calls upon States to respect fully the relevant provisions of applicable international humanitarian law relating to the rights and protection of children in armed conflict, in particular the four Geneva Conventions of 1949, *inter alia*, the Convention relative to the Protection of Civilian Persons in Time of War;
9. Reiterates its determination to continue to include specific provisions for the protection of children in the mandates of United Nations peacekeeping operations, including provisions recommending child protection advisers on a case-by-case basis and training for United Nations and associated personnel on child protection and child rights;
10. Notes with concern all the cases of sexual exploitation and abuse of women and children, especially girls, in humanitarian crisis, including those cases involving humanitarian workers and peacekeepers, and requests contributing countries to incorporate the Six Core Principles of the Inter-Agency Standing Committee on Emergencies into pertinent codes of conduct for peacekeeping personnel and to develop appropriate disciplinary and accountability mechanisms;
11. Requests the agencies, funds and programmes of the United Nations, with support from contributing countries, to implement HIV/AIDS education and offer HIV

testing and counselling services for all United Nations peacekeepers, police and humanitarian personnel;

12. Calls upon all concerned parties to ensure that the protection, rights and well-being of children are integrated into the peace processes, peace agreements and the post-conflict recovery and reconstruction phases;

13. Calls upon Member States and international organizations to ensure that children affected by armed conflict are involved in all disarmament, demobilization and reintegration processes, taking into account the specific needs and capacities of girls, and that the duration of these processes is sufficient for a successful transition to normal life, with a particular emphasis on education, including the monitoring, through, inter alia, schools, of children demobilized in order to prevent re-recruitment;

14. Calls on parties involved in armed conflict to abide by the concrete commitments they have made to the Special Representative of the Secretary-General for Children and Armed Conflict and to cooperate fully with the United Nations system in the implementation of their commitments;

15. Requests the Secretary-General to ensure that in all his reports to the Security Council on country-specific situations, the protection of children in armed conflict is included as a specific aspect of the report;

16. Further requests the Secretary-General to submit a report by 31 October 2003 on the implementation of this resolution and of its resolution 1379 (2001) which would include, inter alia:

(a) Progress made by the parties listed in the Annex of his report in ending the recruitment or use of children in armed conflict in violation of international obligations applicable to them, taking into account the parties to other armed conflicts that recruit or use children which are mentioned in the report in accordance with paragraph 16 of resolution 1379 (2001);

(b) An assessment of violations of rights and abuses of children in armed conflict, including in the context of illicit exploitation and trafficking of natural resources and of illicit trafficking of small arms in conflict zones;

(c) Specific proposals on ways to ensure monitoring and reporting in a more effective and efficient way within the existing United Nations system on the application of the international norms and standards for the protection of children in situations of armed conflict in all its various aspects;

(d) Best practices on integrating the specific needs of children in armed conflict into disarmament, demobilization, rehabilitation and reintegration programmes, including an assessment of child protection advisers in peacekeeping and peace-building support operations, and on negotiations aimed at ending the recruitment or use of children in armed conflict in violation of international obligations applicable to the parties concerned;

17. Decides to remain actively seized of this matter.

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