

The Girl Child and Armed Conflict: Recognizing and Addressing Grave Violations of Girls' Human Rights

I. Introduction

1. During armed conflict, girls are subject to widespread and, at times, systematic forms of human rights violations that have mental, emotional, spiritual, physical and material repercussions. These violations include illegal detention with or without family members, abduction and forced removal from families and homes, disappearances, torture and other inhuman treatment, amputation and mutilation, forced recruitment into fighting forces and groups, slavery, sexual exploitation, increased exposure to HIV/AIDS, and a wide range of physical and sexual violations, including rape, enforced pregnancy, enforced prostitution, forced marriage and forced child-bearing. There is urgent need for better documentation, monitoring and reporting on the extreme suffering that armed conflict inflicts on girls, as well as on the many roles girls play during conflict and its aftermath. Clear information and response mechanisms are needed for the purpose of strengthening and developing policy and programs to prevent and or address these grave rights violations.

2. This paper documents and analyzes grave human rights violations girls endure during situations of armed conflict and offers recommendations on preventing and or addressing those harms. The paper begins by offering a concise overview of current trends in armed conflict and the impact of armed conflict on children. It discusses existing international initiatives that identify grave and systematic violations against girls during armed conflict and reviews the most pertinent international legal standards relating to these violations. To better understand the gender dimensions, the paper describes and analyzes the experiences of girls during armed conflicts, noting gendered patterns to the grave rights violations committed against them. The paper offers examples of best practices to address these violations. The paper concludes with concrete recommendations to governments, the United Nations and NGOs.

II. Overview of Armed Conflicts and the Impact on Children

3. Since 1990, there have been over 60 armed conflicts in 48 locations, and with the exception of four of these conflicts, all were interstate conflicts. Nonetheless, all these armed conflicts were directly influenced by external factors and actors, and the majority of them included cross-border activity of neighboring states through the movement of rebel forces and refugees, and regional illicit resource and weapons markets. Of the 60 armed conflicts, more than 1,000 conflict-related fatalities per year were recorded in 57 of them. Nearly all of these conflicts have lasted eight years or more. In 2006, there were 17 major on-going armed conflicts, representing a decline in the total number of armed conflicts since 1999.

4. A significant change in the past ten years in armed conflict is the increased presence and role of armed opposition groups and armed proxies which have proven more difficult for states to combat than traditional state-to-state confrontations. Nation states and the international community struggle to prevent armed groups and their networks from targeting and attacking civilian populations and thus far have largely failed to hold them accountable for grave rights violations against civilians.

5. Currently there are over 30 situations of concern where the rights of children are being violated. In the last decade, 2 million children have been killed in situations of armed conflict, 6 million children have been permanently disabled or injured, over 14 million children have been displaced, and over 1 million have been orphaned and separated from their parents. Over 250,000 children are associated with fighting forces and groups. And every year, 8,000 to 10,000 children are killed or maimed by landmines. The nature and methods of armed conflict means that the fighting takes place in civilian communities, villages, fields and homes, thus sharply increasing children's risk of harm. Not only many children are killed by weapons, many more die from the catastrophic impact the conflict has on the communities' infrastructure (often already weak to begin with) and families' access to food, health care and their ability to maintain their livelihoods.

6. During armed conflict, children are greatly affected by what happens to the adults in their lives. As teachers are targeted and killed schools close down, as health care workers are killed or flee, clinics close their doors or provide only rudimentary services. Teachers and health care and social workers are a frontline of defense for protecting children from the ravages of armed conflict, when they are not there children are increasingly at risk. Additionally, the killing, death, disappearance, detention or flight of parents and caregivers results in hundreds-of-thousands of single parent households and tens-of-thousands of street-children, orphans and child-headed households, some headed by children as young as eight years of age.

7. Significantly, while it is true that girls and boys have their rights violated during armed conflict, and this paper focuses on grave violations of girls' rights, it is incorrect to reduce children only to the role of passive victim. In all conflicts, children can take, and some choose to take, an active role in supporting violence. Children make calculated decisions during armed conflict about how to access food, medicine, and best ways to keep themselves and their family members safe. Sometimes the best way to do this is to support or join various political parties, armed groups or gangs. Beyond the role of children who take up arms, other children have come to believe in the logic of violence when confronted with unjust and violent settings.⁹ Hence, one should not underestimate the potentially pervasive harmful effect of armed conflict on children's sense of 'security' and 'justice' in periods of so-called peace.

8. At the same time, many more children play a primary role in maintaining the livelihoods of their families. At times these activities put children at great risk and are detrimental to their own education and development. Children also take on additional responsibility to keep themselves, their families and their families' assets safe. Consequently, children must be understood and engaged as thoughtful, insightful and active agents who shape their own lives and the communities in which they live and work.

III. An Analysis of the Most Recurrent Forms of Harm Girls Endure during Situations of Armed Conflict

9. This paper addresses the following grave abuses against girls during situations of armed conflict: 1) killing or maiming; 2) using, recruiting, conscripting or enlisting girls in

armed forces and groups; 3) rape or other grave sexual violence against girls; 4) sexual exploitation; 5) abduction; 6) forced marriage; 7) increasing girls' exposure to HIV/AIDS. The international community has recognized the severity of these violations against girls and core components of all of these violations (with the exceptions of sexual exploitation and the spread of HIV/AIDS) are defined within the Rome Statute as constituting crimes against humanity and war crimes.¹⁰

Killing or Maiming of Girls

10. Girls receive protection from both the general provisions of international humanitarian law¹¹ applicable to all civilians as well as the indirect benefit of those special provisions protecting pregnant women and mothers with young children. In addition, girls benefit from the specific provisions of international humanitarian law that deal with child protection during armed conflict. State and non-state responsibilities to protect children's rights as called for within the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict is another area of law affording a number of rights for children in armed conflict.

11. Notwithstanding these laws, extreme forms of violence occur against girls during situations of armed conflict. Girls are not spared, as many armed forces and groups willfully kill and maim girls. Organizations such as Human Rights Watch and Amnesty International have repeatedly documented cases of government and opposition armed combatants shooting, stabbing, mutilating, carving, amputating and burning girls alive. For example in Nepal, girls accused of supporting the Communist Part of Nepal-Maoists (CPN-M) have been killed by security forces. At the same time, CPN-M is also involved in killing and maiming girls.¹² Numerous girls were killed or maimed during air bombings and other military operations carried out by Coalition/multinational forces and Iraqi forces. Girls are also killed and maimed by landmines and unexploded ordnance by fighting forces. For example, in Baghdad alone, the United Nations reports over 800 hazardous sites which contain cluster bombs and caches of dumped ammunition.¹³

Using, Recruiting, Conscripting or Enlisting Girls in Armed Forces and Groups

12. The use, recruitment, conscription or enlistment of children under 15 years of age is prohibited under international law. Most notably, the Additional Protocols to the Geneva Conventions (1977), the UN Convention on the Rights of the Child (1989), the Rome Statute for the International Criminal Court (1998), and the Worst Forms of Child Labour Convention (no. 182) (1999). The Optional Protocol on the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (2000) has set an acceptable standard for the minimum age for active participation in armed conflict at 18 years. The Optional Protocol prohibits non-state forces from using, recruiting or enlisting volunteers of any person under 18 years of age. In Africa, the continent with the highest number of children associated directly with fighting forces, the African Charter on the Rights and Welfare of the Child (1990), which considers children to be all persons under 18 years, obligates states to take all necessary measures to prevent the use of children in armed conflict and refrain from recruiting children (Art. 22).

13. While international law clearly prohibits the use of girls and boys in hostilities, their use by armed forces and groups is widespread. Since 1990, girls have participated in armed conflict in over 58 countries.¹⁴ In the last five years, children have been recruited, conscripted, enlisted and used in active conflict in 28 countries.¹⁵ In all of these countries, boys and girls, often in large numbers, were forcibly recruited. Girls are most often present in armed opposition groups, paramilitaries and militias, but they are also used by government forces. Though exact numbers are impossible to know, it is believed that the number of children in armed forces and groups is in the hundreds of thousands. Worldwide estimates suggest girls may account for between 10 to 30 percent of children in fighting forces.¹⁶

14. Recruitment is often carried out with surprisingly nuanced and careful attention to the gender of the recruit and her or his family. To illustrate, in the hill villages of Nepal, Communist Party of Nepal-Maoists (CPN-M) specifically target adolescent girls and their mothers for recruitment (30 percent of their armed forces are believed to be female). Various historical and economic conditions, coupled with increased police and state violence against men and adolescent boys in the communities, have resulted in many males leaving the hill villages for the majority of the year to search for employment and safer living conditions. This leaves the women, girls and younger male children behind to carry out the majority of agricultural labor. The CPN-M forces come into the hill villages and assist the women and girls with the heavy work of tilling their fields for planting—a role their husbands, brothers, and older sons would have previously done—and the CPN-M use this as a means to build good will among the village women and their daughters, encouraging them to support and join their movement. At the same time, in the rural schools, the CPN-M provide books which tell the stories of heroic female fighters throughout the history of Nepal, stories aimed at enticing the adolescent girls in the schools to join their forces.¹⁷

15. Boys are also targeted using gender, sometimes in ways that are intricately tied to the sexual abuse of girls. For example, in Sierra Leone, the promise of sexual access to women and girls proved an important incentive and nearly a quarter of the male fighters from the rebel Revolutionary United Force that passed through disarmament and demobilization said they received “wives” (i.e., captive females) as rewards after military operations.¹⁸

16. Though a contested concept, children do join armed forces and groups for reasons of protection, access to food, shelter and medicine, revenge, and religious and political beliefs.¹⁹ Motivations for joining are often gendered. At times, girls join in an attempt to provide themselves with protection from violations by state forces or other armed groups, to seek protection against unwanted marriages or sexual abuse within their home, to take revenge against attackers, to increase their own power as females, or to expand their experiences outside the rigid gender dimensions of their societies and cultures. Often there are several overlapping reasons as to why girls join.

17. Girls and boys who are forcibly conscripted or who are captives often suffer similar mistreatment in terms of being held against their will, being forced to witness or participate in killings, torture and beatings, being forced to participate in taboo practices such as singing and dancing while ‘enemies’ are killed, being denied food and water, and a variety of punishments

doled out by their commanders. Yet there are important gender differences in their experiences as well. During their time in captivity, adolescent boys are forced to perform a variety of roles, including fighters, cooks, porters, messengers, medics, spies, lookouts, raiders, and domestic and agricultural labor. They are more likely to be sent into heavy fighting. Adolescent girls are abducted and forced to serve these same roles. However, girls are also forced to serve as sexual slaves to numerous males in forces, or, they may be given to one male for his exclusive use as a captive "wife". Adolescent girls are also forced to provide the majority of domestic and agricultural labor that sustains the fighting forces. Rates of abduction in some conflicts are extremely high. For example, a recent representative study of the three most war affected districts in Northern Uganda estimates that a sixth of all female youth and a third of all male youth between the ages of 14-30 have been abducted at one point by the rebel Lord's Resistance Army (LRA).²⁰

18. Many girls associated with fighting forces die as a result of their experiences within those fighting forces, although death rates for children in most conflicts remain unknown. A rare study into mortality rates of captives in the rebel LRA of Uganda found that 1/5 of all abductees are dead or could be presumed dead.²¹

19. Information regarding children associated with fighting forces finds that those who return from the forces have a wide range of experiences as they attempt to reintegrate. Their experiences can range from being physically disabled or rejected in their communities to having severe mental problems. Others find ability to cope well mentally and physically and are treated well by their families, peers and community. Girls, especially those that return with children, appear to have higher rates of rejection by community members and more problems reintegrating than their male counterparts. In addition, girls rarely gain access to formal demobilization, disarmament and reintegration (DDR) programmes. When they do have access to these programs their priorities and special needs are poorly provided for.²²

20. The majority of studies find that girls formerly associated with fighting forces prioritize access to quality education (in some cases accelerated education) access to education for their children when they emerge from fighting forces as mothers, vocational skills training, access to physical and reproductive health care, and access to shelter.

Rape or Other Grave Sexual Violence against Girls

21. Girls are subjected to sexual and gender-based violations during armed conflict. The crime of rape is defined by the ICC's Rome Statute as a war crime and a crime against humanity.²⁴ In addition to rape, the Rome Statute similarly defines sexual slavery, enforced prostitution and forced pregnancy as war crimes and crimes against humanity. International law has developed substantially over the past 10 years within the ad hoc international tribunals established to handle crimes committed during armed conflict. Two of these, the tribunals in Rwanda (ICTR) and the former Yugoslavia (ICTY) have brought increased attention to the systematic use of sexual and gender-based crimes against civilian populations. The ICTR, for example, has successfully convicted perpetrators of rape and sexual crimes as elements of genocide. In the ICTY, historic precedents were set when the court recognized rape as a

violation of the laws and customs of war and as a basis for more under the Geneva Conventions.

22. Sexual violence includes both physical and psychological attacks directed at a person's sexual characteristics such as forcing a person to strip naked publicly, genital mutilation, or slicing off a female's breasts.²⁵ For example, during the genocide in Rwanda, girls were sexually mutilated after being subjected to rape including gang-rape. In Sierra Leone, girls who tried to escape rebel captivity were carved with the rebel name "RUF" across their breasts.

23. Rape is defined as the insertion, under conditions of force, coercion or duress, of any object, including but not limited to a penis, into a victim's vagina or anus; or the insertion, under conditions of force, coercion or duress, of a penis into the mouth of the victim. Rape is defined in gender-neutral terms, as both females and males are victims of rape. Rape has been used to terrorize and control communities and individuals in many armed conflicts. During the war in the former Yugoslavia (particularly in Bosnia-Herzegovina), the systematic rape of girls and women as a weapon of war played an integral part in the war strategy. In Darfur, rape of girls and women by militias and, to a lesser extent, rebel forces is systematic, widespread and used to displace, punish and terrorize populations.²⁶

24. Sexual slavery encompasses most, if not all, forms of enforced prostitution. Sexual slavery is used as an adjective to describe a form of slavery, not to denote a separate crime. In all respects and in all circumstances, sexual slavery is prohibited. Girls are often abducted for sexual and other purposes by armed groups and forces. The Special Rapporteur on systematic rape, sexual slavery and slavery-like practices during armed conflict and the Special Rapporteur on violence against women have drawn attention to the human rights violations, including sexual slavery, which are perpetrated against girls in times of armed conflict.²⁷

25. Forced pregnancy is defined as the unlawful confinement of a woman to forcibly make her pregnant. During the wars in former Yugoslavia girls were confined, raped and held captive until the possibility of abortion was no longer a viable option for the victims.²⁸ Girls abducted by rebel forces in Northern Uganda have also been subjected to forced pregnancy, with those who try to prevent pregnancy being beaten or killed.

26. Enforced prostitution, included in some international and humanitarian conventions, is insufficiently understood as compared to other sexual crimes. It generally refers to conditions of control by one person and coercion into sexual activity by another. The crime was first recognized as a war crime during World War II with the use of "comfort women" by Japanese soldiers.

Sexual Exploitation of Girls

27. Sexual exploitation is any abuse of a position of vulnerability, differential power, or trust for sexual purposes; this includes profiting monetarily, socially or politically from the sexual exploitation of another.²⁹ Sexual exploitation is a form of gender-based violence and is widespread in conflict zones. Given increased rates of poverty and scarcity of goods, girls, at

times pressured by their families, can be forced to seek sexually exploitative alliances with armed forces and groups, including peacekeepers, humanitarian personnel, government officials and other local power holders. Girls engage in these relationships to help ensure their safety and access to materials to meet their basic needs. In such cases, persons who are mandated and obligated to protect vulnerable populations abuse their power and violate others' rights with impunity.

28. Sexual exploitation of girls is exacerbated in situations where there are few opportunities for displaced or refugee populations to engage in livelihoods that meet basic needs. In such cases, commercial and exploitative sex may be among the few options girls have to generate income or acquire goods to support themselves or assist their families' survival. Sexual exploitation is also rife in situations where girls are coming from an environment where gender-based violence and beatings of girls and women is frequent and where community structures play an active role in violating girls' and women's rights. Girls are at high risk of sexual exploitation in situations where the social structures and networks that protected girls are strained or no longer at all function, and where justice and policing mechanisms are unable to fill the gaps that are colluding in the violence.³⁸

29. In Colombia, young girls gave themselves or were given by their families to paramilitary forces in order to try stave off violence against their families. In Liberia, girls as young as 10 years old were sexually exploited by soldiers.³¹ In the crushing poverty caused by the conflict in Northern Uganda, some soldiers and militia have a number of girls in different internally displaced camps who they sexual exploit in exchange for giving the girls money to buy food and other basic necessities. Girls who are refugees and asylum seekers are at times sexually exploited by border guards, police, military, camp and government officials as they seek safe passage or the necessary papers to help them seek refuge.

30. Allegations and reports of the sexual exploitation of girls by United Nations peacekeeping and humanitarian personnel have increased over the last three years.³² Examples of sexual exploitation of girls include over 150 cases of sexual exploitation and abuse by United Nations peacekeeping and humanitarian personnel in the Democratic Republic of Congo (which are believed to represent a substantial fraction of the level of sexual exploiting occurring within the peacekeeping mission there)³³ and the participation of United Nations military, police and humanitarian personnel in the trafficking and sexual exploitation of girls in Bosnia-Herzegovina and Kosovo.³⁴ Importantly, the United Nations Secretary-General now includes reporting on issues regarding sexual exploitation by United Nations peacekeeping and humanitarian personnel in his yearly reports to the Security Council on Children and Armed Conflict.

Abduction of Girls

31. Abduction of girls during situations of armed conflict occurs primarily for two purposes: their use in fighting forces and groups, and for physical and sexual labor.

32. This paper outlined above the legal prohibitions against the use of children by fighting forces and groups. Girls abducted by fighting forces are often subjected to a number

of rights violations, including being forced to kill (sometimes family or community members), or participate in other taboo violations as a means to break their link with their community and hence lessen their desire to escape and return. Girls who try to escape or who refuse orders are severely beaten, tortured or killed, often by other captive children forced to commit these atrocities. Depending on their roles and gender, children have different experiences during captivity. Girls may be subjected to sexual violations and given to male fighters or commanders as forced wives (see Forced Marriages as part of efforts to destabilize and terrorize communities, armed opposition groups and militaries abduct and rape girls as young as five years old, as reported in Colombia³⁵).

33. In recent years the use of domestic criminal law and international legal cooperation to prevent and combat trafficking in women and children, including in conflict zones, has been a major focus of effort. Victims are often refugees or economic migrants whose desire to flee unfavorable conditions are then exploited by organized criminal groups. Building upon earlier efforts,³⁶ in 2000 the United Nations General Assembly, in its resolution 55/25 (2000), adopted the United Nations Convention against Transnational Organized Crime, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the Trafficking Protocol), and the Protocol against the Smuggling of Migrants by Land, Sea and Air (the Migrants Protocol).³⁷ The Trafficking Protocol requires States Parties to criminalize trafficking in persons, makes provision for the assistance and protection of trafficking victims, establishes preventive measures and prescribes rights, obligations and responsibilities with respect to refugees. The Convention makes provision for investigative cooperation, mutual legal assistance, extradition and other general matters in trafficking cases. The Convention supports efforts to combat transnational trafficking. In addition, the Elements of Crimes Annex of the Statute of the ICC includes in the crime of enslavement, "trafficking, in particular of women and children." (Art. 7(2)(c)). In 2003, the UN Commission on Human Rights adopted the first resolution on the abduction of children in Africa calling for increased protection of refugee and displaced children to prevent their abduction by various fighting factions, increased and enhanced regional and international efforts to combat networks of abduction and child trafficking, and the release of all children taken by armed groups.³⁸

34. Girls in countries experiencing armed conflict are particularly vulnerable to abduction and human trafficking. The United States State Department's 2005 report on human trafficking estimates between 600,000 to 800,000 people are trafficked across international borders in a process that nets several billion dollars in profit to the criminal networks involved.³⁹ Systems of pre-war gender inequality, war economies, criminal syndicates, and the destruction and destabilization of livelihoods combine to place girls in particular at high-risk to trafficking. Trafficking in human beings involves deception, coercion, forced and violent sex, sexual exploitation and enforced prostitution, instability, disintegrating social networks, and breakdown of law and order in receiving and transit countries, which already suffer economic hardship and poverty, foster trafficking. In some cases, due to inefficiency, laxity and often involvement of the police, as well as the tacit support of military personnel, traffickers function in those countries where they do not fear arrest, prosecution or conviction. Trafficked girls face severely compromised physical and mental health, in particular regarding their reproductive health due to rape, sexual abuse, sexually transmitted diseases, including HIV/AIDS, trauma and unwanted pregnancies.⁴⁰

35. Forced cross-border migration due to internal armed conflict is connected to the abduction and exploitation of women and girls into forced labor. For example, girls are trafficked within and across borders to sexually service combatants. In some cases of international trafficking, girls are sold and subsequently brought into camps of rebels or soldiers. International military interventions also act as a magnet for the exploitation of abducted girls and, to a lesser extent, boys. For example, with the conflict in the Balkans, Kosovo, in particular, became a hub for international traffickers who used routes to smuggle weapons and fighters during the war to move legal weapons, drugs, and "human goods," including young girls taken from orphanages and forced to serve in brothels.⁴¹

36. Girls are also abducted and trafficked to perform labor for the armed forces and groups within conflict zones. Girls are abducted and taken to service the fighting forces through cooking, cleaning, maintaining the camps and providing forced sexual services. In addition to providing labor to support fighting forces, girls are forced to provide labor in illicit commercial operations, including mineral mines, rubber plantations, and logging operations, where they cut down valuable timber, or act as human mules carrying weapons, gems, drugs, timber and other goods.⁴³

37. In countries directly affected by war, girls may be lured by offers of protection and access to safety zones. For example, Colombian girls trying to flee from the conflict in their communities are increasingly appearing in the brothels of neighboring Ecuador having been tricked, abducted and stripped of their identity papers by traffickers.⁴⁴ In other war affected areas, trafficking of girls for sexual purposes is a thriving business. For example, girls are purchased from within Afghanistan and trafficked through Pakistan for destinations in the Gulf, Iran, and elsewhere to be wives or prostitutes. Girls most likely to be trafficked for sexual purposes are those from tribal groups and ethnic minorities, stateless persons and refugees.⁴⁵

38. Importantly, as the crimes of abduction for the purposes of forced recruitment and forced labor make clear, forms of exploitation of girls during times of conflict deserve the same consideration as those of boys. We have seen some forms of exploitation of girls have been conceptualized as either not happening to girls (e.g., recruitment for combat) or being more private (e.g., forced domestic or sexual labor) and thus rendered politically irrelevant and thus less likely to be taken up for policy and programming action. Consequently, a gender analysis of such crimes is essential for those looking to address rights violations against children during armed conflict.

Forced Marriage

39. The practice during armed conflict of armed groups and forces abducting girls and young women and forcibly marrying them, as well as pressuring parents to give their daughters to them as forced wives in exchange for security is widespread.⁴⁶ Because forced marriage has only recently been charged with in an international court as a crime, this paper provides a concise overview of how the elements of this crime are developing within recent jurisprudence. This review also enables a more detailed understanding of the kinds of violations suffered by girls subjected to forced marriage during situations of armed conflict.

40. The Trial Chamber for the Ad Hoc International Criminal Tribunal for the Former Yugoslavia (ITCY) in *Prosecutor v. Kvočka et al.* was the first to recognize forced marriage as a prosecutable crime during periods of armed conflict.⁴⁷ The Office of the Prosecutor (OTP) of the Special Court for Sierra Leone (SCSL) presented the first explicit arguments regarding the crime of forced marriage, charging it as a crime against humanity.⁴⁸ There are a number of elements that the OTP of the SCSL is drawing on in arguing the crime of forced marriage. This includes sexual slavery which is carried in a marital-like union where the girl or woman is labeled as a wife, but in which the marital status is imposed by threat and or force. In addition, the OTP highlights the diminished capacity for the victim to leave the perpetrator-captor husband, which could include for reasons of forced impregnation; forced child-bearing; physical restraint or markings that identify the victim as belonging to a particular group or captor; strong feelings of culpability on the part of the victim if she was forced to commit atrocities; and the fear of inability to reintegrate due to stigma and abuse by community members because of her past association with fighting force. The OTP is also stressing that in the aftermath of the conflict, the victim may continue to be linked to the perpetrator to a greater extent than would a survivor of sexual slavery, due in part to the imposed status as “wife”. Such imposed status may possibly prevent her from remarrying or it may play a key role in her family or community refusing to accept her back.⁴⁹

41. Significantly, several elements of forced marriage are crimes codified within international law, most notably in the Rome Statute, including rape, enslavement, torture and forced pregnancy.⁵⁰ There is legal precedent for cases of forced marriage to include elements of sexually violent crimes, humiliating degrading treatment, rape, forced domestic and sexual services, coercion, inhuman treatment and torture. In regard to the psychological and physical characteristics of forced marriage, there is precedent to argue that the crime of forced marriage constitutes torture. Notably, the *Yesu* case of the Ad Hoc International Criminal Tribunal for Rwanda (ICTR) determined that torture can be committed when family members are forced to watch the execution of family members, as is often the case in situations of abduction by armed groups for purposes of forced marriage, whereby girls and young women are forced to watch the execution of family members trying to prevent their abduction. The girls and young women are then forcibly married to members of the fighting forces, at times even to the men who executed their family members.

42. Forced marriages of girls and young women by armed opposition groups have been documented in recent armed conflicts in Sierra Leone (1991-2001), Liberia (1990-2003), Uganda (1986-present), the Democratic Republic of Congo (1998-present), Algeria (1994-present), Kashmir (1990-present) and elsewhere. In Algeria and Kashmir, armed opposition groups have abducted girls and women with impunity and no cases to date have been brought to national or local courts. Forced marriages have also been committed by state armed forces. For example, from 1980-2000, Indonesian security forces in East Timor forcibly married Timorese girls and young women and forced others into prostitution.⁵² Prior to 2001, Taliban fighters in Afghanistan made death threats against families to handover their girls and young women and forced the families to complete marriage contracts.⁵³ Today in Afghanistan, armed opium dealers and *jihadi* commanders are forcibly marrying girls and young women.⁵⁴

Perhaps nowhere have there been more instances of abduction and forced marriage into armed groups, nor have captives been held for such durations, than in Northern Uganda.

43. The violations experienced by girls and young women subjected to forced marriages are often severe and long-lasting and encompass a number of psychological, emotional, physical, social, economic and cultural elements. Among these elements are forced pregnancy, child-bearing and the raising of children born of rape in societies where those children are often rejected and physically abused (including the withholding of food and medicines) by extended family members and community members. These young mothers report that because they are often cut out of family and social networks, they struggle to provide education, food and health care to their children born due to forced marriage. Many of these young mothers have lost many years of education and lack the skills needed to pursue livelihoods, which are exacerbated due to the stigma they face from past experiences and their exclusion from social networks.

Girls and the Spread of HIV/AIDS

44. Over two million children under 15 years of age are infected with HIV or are living with AIDS. Worldwide, over 15 million children have lost one or both of their parents to HIV/AIDS, the majority of them in sub-Saharan Africa. The face of the HIV/AIDS epidemic is increasingly young and female. The number of young women infected with HIV is likely to rise given their greater risk of infection due to biological and social factors. In Africa, girls and young women are three times more likely than their male counterparts to be infected. Additionally, girls and young women are disproportionately burdened with the care of HIV/AIDS infected persons and orphans.⁵⁵

45. Armed conflict breaks down social structures, community protection networks and legal protections mechanisms and fosters an environment where sexual violations and exploitation increase. In situations where sexual exploitation exists, sexual relations can become increasingly violent, the number of partners can increase and girls become sexually active at younger ages. Taboos surrounding incest and underage sex may be harder to monitor and enforce as people are displaced and focus of their energy on meeting basic needs and their own family's security. Occurrences of rape, sexual slavery, trafficking and forced marriages also increase with more and younger girls subject to these violations. All these factors combine for the spread of HIV/AIDS, with girls in particular at high risk.⁵⁶ In addition, the presence of military personnel who have HIV/AIDS infection rates three to four times higher than civilian population⁵⁷ means that girls within war affected communities are at greater risk of exposure to the disease than they were previously.

46. HIV/AIDS destroys families due to the death of parents or caregivers. Significantly, 13 of the 17 countries with over 100,000 children orphaned by AIDS are either experiencing armed conflict or are on the brink of an emergency situation.⁵⁸ Female headed households, some of them infected by their now deceased husband or sexual partner, struggle to provide food and shelter for their children. In some cases girls are pulled out of school due to lack of resources or the need for them to engage in livelihoods to help support their families. When parents or caregivers die, girls may have to take the role as head of household. Girl heads of

households often experience high levels of sexual abuse and exploitation as they try and provide for their siblings, thus increasing their risk of exposure to HIV/AIDS.⁵⁹ Notably, in most war affected areas, testing and treatment of HIV/AIDS affected children is non-existent.

IV. Best Practices

47. It should be recognized from the outset that there are few documented good practices regarding the prevention of grave rights violations against girls (or boys) once a conflict breaks out. The best practices named above often represent specific examples that worked well in a particular area but which have not been adapted for widespread implementation. The lack of wider implementation is often because the factors that enabled these practices to succeed in one location are not present in other countries experiencing similar situations. As a result, it is clear that much more needs to be done to both prevent and address grave violations against children.

48. **The creation of the posts and deployment of child protection officers** (in situations without United Nations peacekeeping operations) **and child protection advisors** (in situations with United Nations peacekeeping operations) **and the inclusion of child protection within the mandates of United Nations peacekeeping operations** have in many cases significantly improved the United Nations' assessment and response to children affected by armed conflict.

49. **The United Nations Security Council** has stepped up its involvement on prioritizing and addressing issues of girls and boys in armed conflict by passing a number of important resolutions. SCR 1261 (1999) highlights protecting children from sexual abuse, acknowledging links between small arms proliferation and continued conflict, and the inclusion of children in DDR. SCR 1314 (2000) emphasized protection of displaced and refugee populations and introduced child protection into UN peacekeeping mandates. SCR 1325 (2000) recognizes the human rights of girls and their right to protection, especially from gender-based and sexual violence, the special needs of girls in post-conflict situations, and the necessity to take girls rights and need into account in designing peace agreements, refugee and IDP camps and DDR programs. SCR 1379 (2001) called for naming of all countries in which abduction and forced recruitment of children is occurring. SCR 1460 (2003) requested that the Secretary-General update the Security Council regarding the progress made by parties previously named within SCR 1379 in preventing the abduction and use of children in fighting forces and to develop specific proposals for more effective monitoring and reporting on the application and adherence of international norms on children and armed conflict. This resolution also requested the Secretary-General to include the protection of children in armed conflict in his country-specific reports. SCR 1539 (2004) called for an era of enforcement and implementation and requested that the Secretary-General set up a system of monitoring and reporting on grave violations of children's rights. SCR 1612 (2005) names six grave rights violations against children during armed conflict that will be monitored by UN agencies and reported on to the Security Council to help the Council's efforts to improve compliance with international standards regarding children's human rights. In his follow-up report, the Secretary-General (S/2005/72), proposed a **detailed plan for the implementation of a comprehensive Monitoring and Reporting Mechanism to document six grave abuses**

committed against children which is now being put into place. Finally, in SCR 1612, members of the **Security Council committed themselves to form a high-level Working Group** (consisting of all Security Council members) to address issues regarding children and armed conflict.

50. A number of important **international initiatives by civil society** have been undertaken to prevent, document, expose, and redress rights violations against girls in situations of armed conflict. At the **international level, frontline NGOs** in these efforts include the Coalition to Stop the Use of Child Soldiers, Human Rights Watch, the International Fellowship of Reconciliation Women Peacemakers Programme, Urgent Action Fund for Women's Human Rights, the Women's Commission for Refugee Women and Children, and Women Living Under Muslim Laws, among others. At the **national level, frontline civil society groups** working on issues of girls' rights violations and protection during armed conflict include the Association of War Affected Women, Sri Lanka, the Concerned Parents Association, Uganda, the Forum for African Women Educationalists, Sierra Leone, Organization of Women's Freedom in Africa and PROFEM, Rwanda, among others.

51. To counter **abduction and using, recruiting, conscripting or enlisting girls in armed forces and groups**, a number of efforts are being undertaken, including dialogue by local leaders and international humanitarian officials with commanders of fighting forces and groups. These initiatives are aimed at getting them to refrain from using children and to understand the consequences on non-compliance with the international norms regulating recruitment. They are also aimed at building schools, developing health care facilities, providing emergency feeding programs, providing shelter, and deploying protection units to physically protect communities and their children. In Sierra Leone's reintegration programming for girls, UNICEF worked with implementing partners to provide educational opportunities to girls formerly associated with fighting forces. These programs combined classroom and vocational training with child-care and feeding programming so that girls with infants could attend while their children were nearby in a positive, safe environment. Importantly, schools that received formerly **trapped** children were "rewarded" with additional supplies and books that benefited all students in the community, thereby avoiding the appearance that only formerly captive children received educational assistance. Additionally, accelerated schooling helped older girls gain literacy and math skills that they missed due to the length of time spent in fighting forces.

52. In efforts to address **rape and other grave sexual violence against girls**, in Sudan, UNHCR found and reported that fully two thirds of the Sudanese women refugees who were being treated in a regional hospital in Chad had been raped. The youngest victim was only ten years old. UNFPA and UNHCR are now supporting the hospital to treat women suffering from fistula, which is caused by obstructed labour after extreme sexual violence. Because women are too ashamed to report rape and seek assistance, UNHCR has been working to establish a referral system that coordinates medical and legal assistance.⁶⁰ In Burundi, UNHCR provides firewood and has installed mills within camps where girls and women were being raped when they left the camp parameters to collect firewood. Camp security forces now include women. In addition, over 70 older refugee women were appointed to serve as "volunteer mothers" to identify, assist and care for young rape victims. They have, in turn, recruited older men to act

as “volunteer fathers”, recognizing that men play a key role when it comes to preventing sexual violence.⁶¹

53. In **addressing sexual exploitation**, UNICEF has worked with local communities in some conflict areas to develop community monitoring and reporting system for sexual exploitation and child abuse for both camp and non-camp populations. UNICEF has also produced training materials for its staff and partners on the prevention of sexual abuse and exploitation and training is ongoing in several regions, including South and West Africa. Additionally, in 2002, following allegations of sexual abuse and exploitation by aid workers and peacekeepers, UNICEF became co-chair of IASC Task Force on Protection from Sexual Abuse and Exploitation in Humanitarian Crises. The Task Force has received a committed and coordinated response from the humanitarian community to prevent and address sexual abuse and exploitation. Among the measures included in the Task Force Plan of Action is the requirement that a set of six core principles be incorporated into all IASC codes of conduct, including a principle prohibiting sexual activity with persons under the age of 18, regardless of the age of majority or age of consent locally. This code of conduct now applies to all United Nations peacekeeping and humanitarian personnel. The Task Force has also called for greater transparency and accountability in the delivery of humanitarian assistance. It is playing a lead role in developing mechanisms to prevent abuse and to ensure accountability. In Colombia, displaced girls are three times more likely than their peers to become pregnant before age 15. UNFPA and its partners have adopted innovative approaches to reaching these young people: projects that draw on artistic expression by adolescents as a release and remedy for the violence in their lives. The programs use drama, role playing, music and dance to encourage adolescents to recount the trauma they have experienced. Health providers visit twice a week to talk about reproductive health and prevention and offer services. Participants in the program have acquired the tools to challenge harmful aspects of gender relations, resist peer pressure and address sexual violence. They received information and services to prevent disease and ensure maternal safety. The project has raised the self-esteem of displaced adolescents and given them a sense of control over their lives.⁶²

54. Regarding **forced marriage during situations of armed conflict**, the Office of the Prosecutor (OTP) to the Special Court for Sierra Leone set an important precedent when it included charges of forced marriage in addition to charges of recruitment of children into fighting forces. The OTP concluded during its investigations of crimes that the perpetration of forced marriage was systematic and widespread by itself an indictable offense which more accurately reflects the treatment and suppression of girls by fighting forces than the singular crimes of rape and enslavement do not reflect. The OTP's indictments could help further develop international prohibitions against the abuse and exploitation of girls during situations of armed conflict.

55. To help address the issue of **girls' exposure to HIV/AIDS during armed conflict**, UNICEF included HIV/AIDS education in its program for children in Afghanistan who had been separated from their parents or primary caregivers. UNICEF also trained displaced young people as HIV/AIDS educators in Eritrea. The young people traveled from camp to camp, educating their peers in HIV/AIDS awareness and prevention. Recognizing the link between the armed forces and the spread of HIV/AIDS, currently all major peacekeeping operations

have full-time AIDS advisers and smaller missions have AIDS focal points. Over one million AIDS awareness cards in 13 languages, featuring basic information about HIV prevention and condoms, have been distributed among peacekeepers and national security forces. UNAIDS is today assisting 53 Member States with comprehensive programs to address AIDS amongst uniformed services. As part of this work, UNAIDS has signed partnership agreements with 15 Ministries of Defense covering about 1.3 million active uniformed personnel.

IV. Recommendations

56. **The United Nations Security Council and Member States** should act to impose targeted measures against governments and groups found to systematically carry out any of the six grave rights violations named in SCR 1612. Targeted measures could include travel restrictions on government and rebel leaders guilty of recruiting child soldiers; imposition of arms embargoes; a ban on military assistance; restrictions on the flow of financial resources; and the exclusion of government and insurgent leaders from any governance structures and amnesty provisions. The Security Council Working Group on War Affected Children should request that rights violations against girls should be specified in reports and trend analyses. The current practice of naming only those governments and forces who carry out recruitment and use of child soldiers in the Secretary-General's annual report on Children and Armed Conflict should be expanded to include naming those countries found to systematically engage in any of the six grave rights violations. Measures to monitor and report on the violations named in SCR 1612 must be backed with action on the part of the Security Council and Member States, as well as United Nations agencies and their partners on the ground.

57. **Governments** should provide adequate support to agencies tasked with monitoring and reporting on the six grave rights violations named in SCR 1612 to enable them to sufficiently and efficiently perform their tasks. Currently, agencies are unable to adequately meet the monitoring and reporting mechanisms due to lack of personnel, resources and adequate monitoring systems. Governments should ensure that monitoring and reporting on grave rights violations information on the ground to prevent and address these violations against girls and boys.

58. **Governments** should bring national legislation in line with international norms regarding the rights of women and girls and prohibitions against: 1) the killing or maiming of girls; 2) using, recruiting, conscripting or enlisting girls in armed forces and groups; 3) rape or other grave sexual violence against girls; 4) abduction of girls; 5) attacks against schools or hospitals; 6) denial of humanitarian access; 7) sexual exploitation of girls; and 8) forced marriage during situations of armed conflict. Governments and their partners should ensure that national and local courts are functional and available to girls and their families. They should support training on children's human rights and women's human rights for police, judges and prosecutors, especially surrounding issues of rape and other forms of sexual and physical violence. They should establish monitoring and accountability mechanisms to ensure that these groups are responsive to violations of girls' rights in the form of rape and other sexual and physical violence. They should provide funding to establish and support services that support women and girls who have been raped, including medical care, counseling and legal assistance.

59. **Heads of peacekeeping missions, government military and security forces, and humanitarian agencies** should establish clear monitoring and accountability mechanisms to ensure that members of their operations do not participate in or condone the sexual exploitation and abuse of girls or boys and that where violations occur swift and strong action is taken. **Officers within peacekeeping operations and government military and security forces, and managers within humanitarian agencies** should be responsible to ensure that there are proper mechanisms to prevent and respond to sexual exploitation and abuse. These forces and agencies must make every effort to create an environment where sexual exploitation and abuse are not tolerated and where violations are quickly investigated and acted upon.

60. **UNICEF and its partners** should develop mechanisms to more systematically and thoroughly gather information from child protection officers in the field. Of primary urgency is the need to develop mechanisms to systematically carry out detailed and thorough de-briefing of child protection officers after they finish their assignments and before they move to new postings. In particular, a database that houses qualitative and quantitative data should be created that would enable UNICEF to manage, quickly access and share the data gleaned from these officers to assess policy, programming and topical lessons learned best practices, and to shape present and future efforts. **Governments** should financially support the development of these mechanisms.

61. **Governments, the United Nations, NGOs and their partners** should continue to develop and support policy and programs that provide war-affected girls and their children with access to quality education and training in technical skills that will enable them to pursue productive and sustainable livelihoods. These groups should also increase support for war-affected girls' (and, where applicable, the children's) access to medical care, including reproductive health care, and HIV/AIDS awareness, prevention, testing and treatment. In addition they should support programs that ensure that girls have access to information about their rights and how to put those rights into practice, including through access to justice systems.

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² UNICEF, *The State of the World's Children 2006: Excluded and Invisible*, New York, 2006, p. 14.

³ The Convention on the Rights of the Child defines a child as "below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier." See United Nations Convention on the Rights of the Child (1989), Article 1.

⁴ The term *armed conflict* is used here to describe varying degrees of conflict intensity. A precise definition of the term is not provided in any treaty body, see Final Report of the Special Rapporteur, Terrorism and Human Rights. UN Sub-Commission on the Promotion and Protection of Human Rights. Final Report of the Special Rapporteur, Kalliopi K. Koufa, E.CN.4/Sub.2/2004/40, 25 June 2004, p. 8.

⁵ SIPRI, *SIPRI Yearbook 2005: Arms, Disarmament, and International Security*, Oxford University Press: Oxford, 2005.

⁶ For a description of how these networks function, see Mark Duffield "War as Network Enterprise: The New Security Terrain and Its Implications" *Cultural Values* Volume 6 (2002) pp. 153-165.

⁷ *Report of the Special Representative of the Secretary-General for Children and Armed Conflict*, United

Nations doc. A/60/335, 7 September 2005.

⁸ See for example Mats Utas, "Fluid Research Fields: Studying Ex-Combatant Youth in the Aftermath of the Liberian Civil War," in Jo Boyden and Joanna de Berry eds *Children and Youth on the Front Line: Ethnography, Armed Conflict and Displacement*, Berghahn Books: New York & Oxford, 2004, pp. 209-236.

⁹ Krisjan Rae Olson, "Children in the Grey Spaces Between War and Peace: The Uncertain Truth of Memory Acts," in Jo Boyden and Joanna de Berry eds *Children and Youth on the Front Line: Ethnography, Armed Conflict and Displacement*, Berghahn Books: New York & Oxford, 2004, pp. 145-166.

¹⁰ The following are the Elements of Crimes of crimes against humanity and or war crimes (PCNICC/2000/1/Add.2) within the Rome Statute for the International Criminal Court (1998): Killing of children, Arts. 7(1)(a), 7(1)(b), 8(a)(i), 8(2)(b)(xi), 8(2)(c)(i)-1, 8(2)(e)(ix), or maiming of children, Arts. 8(2)(b)(x)-1, 8(2)(b)(x), 8(2)(c)(i)-2, 8(2)(e)(ix), 8(2)(e)(xi)-1; Using, recruiting, conscripting or enlisting children in armed forces and groups, Arts. 8(2)(b)(xxvi), 8(2)(e)(vii); Attacks against schools or hospitals, Arts. 8(2)(b)(ii), 8(2)(b)(iii), 8(2)(b)(ix), 8(2)(e)(iii), 8(2)(e)(iv) Rape, Arts. 7(1)(g)-1, 8(2)(b)(xxii)-1, 8(2)(e)(vi)-1, or other grave sexual violence against children, Arts. 7(1)(g)-6, 8(2)(b)(xxii)-6, 8(2)(e)(vi)-6, including sexual slavery, Arts. 7(1)(g)-2, 8(2)(b)(xxii)-2, 8(2)(e)(vi)-2 enforced prostitution, Arts 7(1)(g)-3, 8(2)(b)(xxii)-3, 8(2)(e)(vi)-3, and forced pregnancy, Arts. 7(1)(g)-4, 8(2)(b)(xxii)-4, 8(2)(e)(vi)-4; Abduction of children, Arts. 7(1)(i), 7(1)(k); Forced marriage, Arts. 7(1)(g)-6, 8(2)(b)(xxii)-6, 8(2)(e)(vi)-6; Imprisonment or other severe deprivation of liberty, Art. 7(1)(e), or unlawful confinement Art. 8(2)(a)(vii)-2; Torture, Arts. 7(1)(f), 8(2)(a)(ii)-1, 8(2)(c)(i)-4.

¹¹ Unlike human rights law, international humanitarian law contains no definition of children. Consequently, it is necessary to determine the **partage** limitation from the provision in question.

¹² *Report of the Secretary-General on Children and Armed Conflict*, United Nations doc. A/59/695-S/2005/72.

¹³ Ibid.

¹⁴ Susan McKay and Dyan Mazurana, *Where Are the Girls? Girls in Fighting Forces in Northern Uganda, Sierra Leone, and Mozambique: Their Lives During and After War*, Rights & Democracy, Montreal, 2004.

¹⁵ **In Africa:** Angola, Burundi, Central African Republic, Côte d'Ivoire, Chad, Congo, Democratic Republic Congo, Republic of Guinea, Liberia, Rwanda, Sierra Leone, Somalia, Uganda, **Americas and the Caribbean:** Colombia. **In Asia/Pacific:** Afghanistan, India, Indonesia, Myanmar (Burma), Philippines, Nepal, Sri Lanka. **In Europe and Eurasia:** Russia. **In the Middle East and North Africa:** Israel/occupied Palestinian Territories, Iran, Iraq, Sudan, Yemen, see Coalition to Stop the Use of Child Soldiers, *Child Soldiers Global Report 2004*, Author: London, 2004.

¹⁶ See Coalition to Stop the Use of Child Soldiers, *Child Soldiers Global Report 2004*; Susan McKay and Dyan Mazurana *Where are the Girls?*.

¹⁷ Shobha Guatam, Amrita Banskota and Rita Manchanda, "Where there are No Men: Women in the Maoist Insurgency in Nepal," *Women, War and Peace in South Asia*, Sage Press: New Delhi, 2001, pp. 215-248.

¹⁸ Macartan Humphreys and Jeremy Weinstein, *What the Fighters Say: A Survey of Ex-Combatants in Sierra Leone, June –August 2003, Interim Report*, PRIDE: Freetown Sierra Leone, 2004, p. 27.

¹⁹ Many child protection advocates contend that given their limited options, it is incorrect to say that children 'willingly' join armed groups.

²⁰ Christopher Blattman, Jeanne Annan and Roger Hootman, *Executive Summary of Final Report on the Survey of War Affected Youth: Phase I*, 2006, available at www.sway-uganda.org

²¹ Christopher Blattman, *The Logic of Forcible Recruitment and Child Soldiering: Evidence from Northern Uganda*, unpublished PhD dissertation.

²² Susan McKay and Dyan Mazurana, *Where Are the Girls?*; Christopher Carlson, Dyan Mazurana, Elizabeth Stites and Godfrey Orach Otobi, "Young Men, Forced Marriage and Children Born in Captivity within the Lord's Resistance Army in Northern Uganda," *Disasters: The Journal of Disasters Studies, Policy and Management*, forthcoming; Susan McKay, Mary Burman, Maria Gonsalves and M. Worthen, "Girls Formerly Associated with Fighting Foes and Their Children: Returned and Neglected." *Child Soldiers Newsletter*, Coalition to Stop the Use of Child Soldiers: London, January 2006; Beth Verhey, *Reaching the Girls: Study on Girls Associated with Armed Forces and Groups in the Democratic Republic of Congo*, UK: Save the Children and the NGO Group: CARE, IFESH and IRC, 2004.

²³ Office of the Special Representative on children and armed conflict (<http://www.un.org/special-rep/children-armed-conflict/English/GirlsinWar.html>); Dyan Mazurana, *Women in Armed Opposition Groups in Africa and the Promotion of International Humanitarian and Human Rights Law*, Geneva Call and the Program for the Study of International Organization(s), University of Geneva: Geneva, 2006; Emily Schroder, *Gender Desk Study*, World Bank, 2005; UNIFEM, *Standard Operating Procedures on DDR*, Author: New York, October 2004.

²⁴ See Rome Statute, Art 7(1)(g), Art 8(2)(b)(xxii).

²⁵ *Systematic rape, sexual slavery and slavery-like practices during armed conflict*, Final report submitted by Ms. Gay J. McDougall, Special Rapporteur (E/CN.4/Sub.2/1998/23), June 1998.

²⁶ Tara Gingerich and Jennifer Leaning, *The Use of Rape as a Weapon of War in the Conflict in Darfur, Sudan*, Cambridge: Physicians for Human Rights, 2004.

²⁷ Office of the Special Representative on children and armed conflict (<http://www.un.org/special-rep/children-armed-conflict/English/GirlsinWar.html>)

²⁸ Alexandra Stiglmayer, ed., *Mass Rape: The War against Women in Bosnia-Herzegovina*, Lincoln, University of Nebraska Press, 1994.

²⁹ United Nations Inter-Agency Standing Committee, *Report of the Task Force on Protection from Sexual Exploitation and Abuse in Humanitarian Crises*, United Nations, New York, 2002.

³⁰ Ibid.

³¹ UNICEF, *Impact of Armed Conflict on the Sexual Exploitation of Children*, New York: Unicef, 2001.

³² *Report of the Secretary-General on Children and Armed Conflict*, United Nations doc. A/59/695-S/2005/72.

³³ United Nations, *Comprehensive Review of Peacekeeping Operations and All Their Aspects*, A/59/710; Watchlist on Children and Armed Conflict, *Struggling to Survive: Children in Armed Conflict in the Democratic Republic of Congo*, April 2006.

³⁴ Martina Vandenberg, "Peacekeeping, Alphabet Soup, and Violence against Women in the Balkans," in Dyan Mazurana, Angela Raven-Roberts, and Jane Parpart (eds.), *Gender, Conflict, and Peacekeeping*, Rowman & Littlefield: Oxford & Boulder, 2004; United Nations Mission in Bosnia and Herzegovina (UNMIBH) Legal and Human Rights offices and the United Nations Office of the High Commissioner for Human Rights in Bosnia-Herzegovina (UNHCHR in BiH), *Report on Joint Trafficking Project of UNMIBH/OHCHR*, Sarajevo, UNMIBH/OHCHR, 2000.

³⁵ Watchlist on Children and Armed Conflict, *Colombia's War on Children*, 2004, <http://www.watchlist.org/reports/colombia.php>.

³⁶ Other key international conventions include the Convention on the Elimination of all Forms of Discrimination against Women (A/RES/34/180), which requires State Parties to take all appropriate measures to suppress all forms of traffic in women and exploitation of prostitution of women (Art. 6); the Convention of the Rights of the Child (A/RES/44/25), which obliges State Parties to undertake to protect the child from all forms of sexual exploitation and sexual abuse (Art. 34) and to 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 (Art. 35); the Optional Protocol to the Convention of the Rights of the Child on sale of children, child prostitution and child pornography (A/RES/54/263); the International Labour Organization's C182 Worst Forms of Child Labour Convention, which requires each member to take immediate and effective measures to secure the abolition and elimination of the worst forms of child labour (Art. 1). The worst forms of child labour include all forms of slavery or practices, similar to slavery, such as the sale and trafficking of children (Art. 3(a)), as well as the use, procuring or offering of a child for prostitution, for the production of pornography or pornographic performances (Art. 3(b)).

³⁷ Article 3(a) of the Trafficking Protocol defines trafficking in persons as, "the recruitment, transportation, transfer, harbouring or receipt of persons by means of the threat or use of force or other forms of coercion, or abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments of benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs."

³⁸ United Nations Commission on Human Rights Resolution 2003/85.

³⁹ United States Department of State, *Trafficking in Persons Report: June 2005*, Author: Washington DC, 2005.

⁴⁰ United Nations Doc. E/CN.4/2000/68.

⁴¹ IOM, "Anti-Trafficking Program in Kosovo – through prevention, awareness raising, capacity building and facilitation," n.d.; United Nations Mission in Bosnia and Herzegovina (UNMIBH) Legal and Human Rights offices and the United Nations Office of the High Commissioner for Human Rights in Bosnia-Herzegovina (UNHCHR in BiH) *Report on Joint Trafficking Project of UNMIBH/OHCHR*, Sarajevo, UNMIBH/OHCHR, 2000.

⁴² Dyan Mazurana, "Gender and the Causes and Consequences of Armed Conflict," in Dyan Mazurana, Angela Raven-Roberts, and Jane Parpart (eds.), *Gender, Conflict, and Peacekeeping*, Rowman & Littlefield: Oxford & Boulder, 2005.

⁴³ Ibid.; GTZ, *Armed Conflict and Trafficking in Women*, Author: Eschborn, 2004.

⁴⁴ Watchlist *Colombia's War on Children*.

⁴⁵ Watchlist, *Afghanistan Update*, 2001, http://www.watchlist.org/report/afghanistan.report_update.pdf

⁴⁶ Khristopher Carlson, *Forced Marriage during Armed Conflict in Northern Uganda: An Analysis of Applicable International, National and Customary Law*, Dissertation for an LL.M. in Human Rights Law, University of Essex, 2005.

⁴⁷ *Prosecutor v. Kvočka*.

⁴⁸ The report of the Special Rapporteur for Systemic Rape, Sexual Slavery, and Slavery-Like Practices during Armed Conflict drew out the layered components of forced marriage as it relates to sexual violence, see UN Doc. E/CN.4/Sub.2/1998/13. However, the Special Rapporteur's analysis fell short of considering the multi-layered components of non-sex specific violence within the crime of forced marriage, see para. 45.

⁴⁹ Interview, Melissa Pack, Prosecutor, SCSL, personal communication with Khristopher Carlson, 1 April 2005; Personal Communication, David Crane, Chief Prosecutor of the SCSL, 17 March 2005; Kendall and Staggs, (April 2005); Stephens (2004). At present, the cases involving the AFRC and the RUF are on-going. The earliest any ruling will be made regarding forced marriages as a crime against humanity in the SCSL will be in late 2006.

⁵⁰ See Rome Statute, Arts. 7(1)(f), 7(1)(g) and 7(2).

⁵¹ See *Prosecutor v. Akayesu*, para. 597, 687.

⁵² *Further Promotion and Encouragement of Human Rights and Fundamental Freedoms, Including the Question of the Programme and Methods of Work of the Commission*, Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, submitted in accordance with Commission resolution 1997/44 E/CN.4/1998/54.

⁵³ Commission on Human Rights, Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, submitted in accordance with Commission on Human Rights res. 2000/45, Violence against women perpetrated and/or condoned by the State during times of armed conflict (1997-2000), Doc. E/CN.4/2001/73., para. 70; Coalition to Stop the Use of Child Soldiers, *Global Report 2001*, Author: London, 2001.

⁵⁴ Dyan Mazurana, Elizabeth Stites, and Neamat Nojumi, *Human Security and Livelihoods of Rural Afghans, 2002-2003*. Feinstein International Famine Center at Tufts University & United States Agency for International Development: Medford MA & Washington DC, 2004.

⁵⁵ *Report of the Secretary-General Follow-up to the United Nations Special Session on Children*, United Nations doc. A/59/72, 17 August 2004.

⁵⁶ Unicef, *Impact of Armed Conflict on the Sexual Exploitation of Children*.

⁵⁷ *Report of the Secretary-General Follow-up to the United Nations Special Session on Children*, United Nations doc. A/59/72, 17 August 2004.

⁵⁸ Unicef, *HIV/AIDS and Children: AIDS and Armed Conflict*, accessed September 10, 2006, http://www.unicef.org/aids/index_armedconflict.html

⁵⁹ United Nations, *Women, Peace and Security: Study of the United Nations Secretary-General as Pursuant Security Council Resolution 1325*, New York: United Nations, 2002.

⁶⁰ Refugees International, "Chad: Strengthen Response to Gender-Based Violence." Press release. Washington, D. C.: Refugees International, web site www.refugeesinternational.org/content/article/detail/5654/

⁶¹ UNHCR., 30 March 2004, "Feature: UNHCR, Refugees Work Together to Prevent Rape," UNHCR News Story, Geneva: UNHCR, Web site www.unhcr.org/cgi-

bin/teXis/vtx/news/opendoc.htm?tbl=NEWS&page=home&id=40697ab57

⁶² UNFPA, *Colombia*, website <http://colombia.unfpa.org/proyectos/belgianproj.htm>

⁶³ UNICEF, "Children, Armed Conflict and HIV/AIDS," Author: New York, 2003.

⁶⁴ UNAIDS, "Peacekeeping Operations and Uniformed Services",
<http://www.unaids.org/en/media/press+releases.asp>