An Examination of the Legal Framework Concerning the Reintegration of Former Child Soldiers

Madeleine Ahlgren

Spring 2015

RV4460 Law, Advanced Course (C-paper), 15 credits
Examiner: Anna Gustafsson
Supervisor: Tarik Radwan
Abstract

The situation of child soldiers fails to get adequate attention even though it is estimated that there are 250,000 child soldiers around the globe. The purpose of this thesis was to examine the international legal framework that concerns the reintegration of child soldiers. This thesis addressed the question: What is the state duty to reintegrate and rehabilitate child soldiers under international treaty law, and how effective are the enforcement mechanisms? The study was based on a legal dogmatic method, and treaties, the practice of treaty monitoring bodies, case law, doctrine and reports from United Nations bodies and nongovernmental organizations were used in order to answer the research questions. One of the main findings was that there are state duties in international law for the reintegration of child soldiers. Those duties can be found in 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 and the ILO Convention (No. 182) Concerning the Prohibition and Immediate Elimination of the Worst Forms of Child Labour. However, the reintegration duty stemming from the respective legal instruments differ in scope, level of details provided, as well as the applicability of provisions. Another main finding was that the respective treaty monitoring bodies differ in effectiveness and strength. That is due to different mandates in what measures can be taken by the treaty monitoring bodies when states do not comply with their obligations. If child soldiers are left without the fulfilment of their right to rehabilitation and reintegration, they will have difficulties building a life where they can contribute to society. It is therefore essential that states uphold their obligations to reintegrate and rehabilitate former child soldiers.

Key Words: Child Soldiers, Human Rights, Reintegration, Rehabilitation.
# Table of contents

List of abbreviations .................................................................................................................. 1

1 Introduction .............................................................................................................................. 2
   1.1 Background ......................................................................................................................... 2
      1.1.1 The Importance of Reintegration .................................................................................. 2
   1.2 Purpose and Delimitation ................................................................................................... 4
      1.2.1 Definition of Child Soldier ......................................................................................... 5
   1.3 Method and Material .......................................................................................................... 6
   1.4 Disposition ........................................................................................................................ 6

2 An examination of the Convention on the Rights of the Child ................................................. 7
   2.1 Introduction to the CRC and its Compliance Mechanism ................................................... 7
   2.2 The Treaty Provision and its Interpretation ........................................................................ 9
   2.3 Practice of the Committee Regarding Child Soldiers ....................................................... 10
   2.4 Effectiveness ..................................................................................................................... 14

3 An Examination of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict ...................................................... 16
   3.1 Introduction to the OPAC and its Compliance Mechanism .............................................. 16
   3.2 The Treaty Provision and its Interpretation ...................................................................... 17
   3.3 Practice of the Committee Regarding Child Soldiers ...................................................... 18
   3.4 Effectiveness ..................................................................................................................... 21

4 An Examination of the ILO Convention no. 182 ...................................................................... 22
   4.1 Introduction to the ILO Convention no. 182 and its Compliance Mechanism ................ 22
   4.2 The Treaty Provision and its Interpretation ...................................................................... 23
   4.3 Practice of the Committee of Experts Regarding Child Soldiers .................................. 25
   4.4 Effectiveness ..................................................................................................................... 27

5 Comparative Discussion ............................................................................................................ 29
   5.1 Comparison of the Legal Instruments Examined ............................................................. 29
   5.2 Comparison of the Current Legal Framework and the Paris Principles ......................... 31

6 Conclusion ............................................................................................................................... 33

Bibliography ............................................................................................................................... 35
# List of abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>CRC</td>
<td>Convention on the Rights of the Child</td>
</tr>
<tr>
<td>DDR</td>
<td>Demobilization, Disarmament, and Reintegration</td>
</tr>
<tr>
<td>ICC</td>
<td>International Criminal Court</td>
</tr>
<tr>
<td>ICJ</td>
<td>International Court of Justice</td>
</tr>
<tr>
<td>IDP</td>
<td>Internally Displaced Person</td>
</tr>
<tr>
<td>IHRL</td>
<td>International Human Rights Law</td>
</tr>
<tr>
<td>ILO</td>
<td>International Labour Organization</td>
</tr>
<tr>
<td>IPEC</td>
<td>International Programme on the Elimination of Child Labour</td>
</tr>
<tr>
<td>NGO</td>
<td>Nongovernmental Organization</td>
</tr>
<tr>
<td>OPAC</td>
<td>Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict</td>
</tr>
<tr>
<td>SRSG</td>
<td>Special Representative of the Secretary-General</td>
</tr>
<tr>
<td>UN</td>
<td>United Nations</td>
</tr>
<tr>
<td>UNICEF</td>
<td>United Nations Children’s Fund</td>
</tr>
<tr>
<td>UNGA</td>
<td>United Nations General Assembly</td>
</tr>
</tbody>
</table>
1 Introduction

1.1 Background

The situation of child soldiers is a very complex one since child soldiers often are both victims and perpetrators at the same time. Many children have been abducted from their homes and forced to either kill or mangle members of their own family and then forced to join armed groups.\(^1\) If not abducted, children are often recruited either directly in the conflict areas, in refugee camps, or by border trafficking. Some children volunteer to be part of armed groups, often as a response to economic, cultural, social or political pressures.\(^2\) The reason for choosing children, rather than adults, is because children are easier to intimidate and are physically more vulnerable.\(^3\)

There is nothing child-friendly about children caught up in conflict. They are treated as expendable chattel in the prosecution of warfare. They are victimized, abused, and dehumanized. In many instances, the livestock […] are treated with greater deference and care.\(^4\)

If the children survive the hardships, they are often disowned by their communities and seen as outcasts, or they find themselves so far away from home that they never return. Without reintegration or rehabilitation many of these children do not stand a chance, and they grow up to be illiterate and left without the possibility to make an honest living.\(^5\)

As of 2010, it was estimated that there are 250,000 child soldiers around the globe – a figure that varies in accordance with the number of ongoing conflicts in the world.\(^6\) However, the data is not 100 percent reliable due to a high number of unknown cases and different definitions for the term child soldier.\(^7\) Nevertheless, the issue of child soldiers fails to get adequate attention. It is a global problem that the international community should not turn away from, but rather address effectively.\(^8\)

1.1.1 The Importance of Reintegration

According to Leila Zerrougui, the current SRSG for Children and Armed Conflict:

Releasing children found in the ranks of national forces is essential, but they cannot be left on their own to rebuild their lives. Adequate resources must be available for community-based programmes that provide psycho-social assistance and help children build their future through educational and vocational opportunities.

\(^5\) Ibid, 3.
Helping children and their communities is the best way to not only prevent re-recruitment, but also to build peace and stability.9

Studies have shown that children are not capable to act independently or comprehend the rights of others the same way as adults do. Therefore, even though child soldiers often are perpetrators of heinous acts, they should primarily be recognized as victims and states should reintegrate and rehabilitate these children.10

The UN Committee on the Rights of the Child has affirmed that child soldiers, shall primarily be seen as victims of armed conflict. The Committee has further stated that former child soldiers shall receive ‘special protection and assistance measures’, such as rehabilitation.11 In connection to the provisions of the OPAC, the Committee has also acknowledged that child soldiers should be seen as victims, rather than perpetrators.12 The ILO Committee of Experts has also affirmed that child soldiers should be treated as victims, rather than offenders.13 If, however, a reintegration process does not take place, it is plausible that these children will live out, what they have learnt, for the rest of their lives.

Children are particularly vulnerable in times of war and are at risk of being either recruited or coerced to join armed groups. The children that directly or indirectly14 take part in conflict suffer severely, both mentally and physically, due to the trauma and experiences they have been through. After the conflict has been resolved the children are often left without anywhere to go since their families have often been displaced or killed during conflict. Further, the needs of children are often not addressed in peace agreements. Even when DDR programs are implemented, there have not been many structures in place that aim to support former child soldiers. Rather the focus of the DDR programs are mainly on adults. All this leads to former child soldiers not receiving enough support to recover from their trauma, nor the sufficient tools needed to start supporting themselves and rebuilding their lives. The reintegration process is of high importance as the absence of such a process may result in the children returning to the armed groups.15 Some of the children believe it is safer to return to the armed groups, than to live as street kids, refugees, or as displaced children in IDP camps.16

Many former child soldiers suffer from malnourishment, as well as respiratory, and skin infections. They often have been exploited sexually, and are at high risk of drug and alcohol abuse. They have also often been impregnated, contracted sexually transmitted diseases, or have been impaired due to landmines. During the Rwandan genocide, children as young as five years

---

14 Children being messengers, mine testers, cooks or sex slaves are some examples of indirect participation in conflict.
were accused of participating. In addition to the physical trauma, the children often bear psychological trauma caused by rites of passage and manipulation by superiors:

I did not kill anyone for the first four days of my captivity and then, on the fifth day, they said I had to prove I wasn’t scared, they took me back to my village and ordered me to kill my father. At first, I said no, I can’t kill my father, but then they said they’d kill us all and started beating me with a panga [machete]. I took the panga and cut him up. I then saw them do it to my mother. The first night, I was hunted by visions of my father as I tried to sleep. I could only cry silent tears, as the rebels could not know that I regretted what I had done. They do it so that you can’t go back home.

The experiences of and stories told by former child soldiers are horrific; details often send chills down one’s spine. It is however important to read them and realize the value of reintegrating former child soldiers.

By witnessing the worst forms of inhumanity, these children have been robbed of their childhood. It is therefore important to help them reintegrate into their communities, provide them with education or vocational training, as well as help them cope and recover from the psychological and physical injuries inflicted upon them.

1.2 Purpose and Delimitation

The debate on child soldiers often focuses on the issues of accountability of those who have recruited or abducted the children and whether or not child soldiers can be held accountable for the crimes they may have committed. This thesis recognizes that it is possible to prosecute child soldiers; for instance, the ICC does not have jurisdiction over persons that were below the age of 18 when the crime was committed. However, this is generally disfavored. The appropriateness of prosecution is not the focus of this thesis. Regardless, states could have a duty to rehabilitate and reintegrate former child soldiers.

The purpose of this thesis is to provide a different perspective. It focuses on and examines the international legal framework that concerns the reintegration of child soldiers. Therefore, the legal instruments concerning child soldiers that are silent on the reintegration aspect will not be examined.

---

22 For international legal instruments directly relevant to the issue of child soldiers, see e.g. The Rome Statute of the International Criminal Court (adopted 17 July 1998, entered into force 1 July 2002); ILO Convention 138 (adopted 26 June 1973, entered into force 19 June 1976); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) (adopted 8 June 1977, entered into force 7 December 1979); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) (adopted 8 June
This thesis explores the extent to which the CRC\textsuperscript{23}, the OPAC\textsuperscript{24} and ILO Convention 182\textsuperscript{25} provide legal obligations to reintegrate child soldiers. It also examines whether there are weaknesses or gaps in the framework.

It does not examine regional instruments that arguably might address the issue of child soldiers. Further, it does not address whether or not there is a duty in customary international law to reintegrate child soldiers. In so far as there are references made to soft law, it will only be for the purpose of identifying potential areas where the international legal requirements might have room for improvement.

Other ways of improving access to rehabilitation and reintegration, such as DDR programs, that are usually created and adopted during peace negotiations, will not be examined.\textsuperscript{26}

This thesis addresses the question: What is the state duty to reintegrate and rehabilitate child soldiers under international treaty law, and how effective are the enforcement mechanisms?

1.2.1 Definition of Child Soldier

There is no exact legal definition of the term ‘child soldier’ that applies in all contexts.\textsuperscript{27} However, for the purpose of this thesis, a definition will be provided that applies when this thesis discusses the situation of child soldiers.

The Paris Principles is a soft law instrument that was adopted in 2007 at a conference in Paris.\textsuperscript{28} It was developed due to an initiative to gather experience of DDR programs for child soldiers around the world.\textsuperscript{29} The Paris Principles provide a definition of ‘a child associated with an armed force or armed group’:

A child associated with an armed force or armed group refers to any person below 18 years of age who is or who has been recruited or used by an armed force or armed group in any capacity, including but not limited to children, boys and girls,


\textsuperscript{26} Justice for child soldiers as victims is not usually addressed in the peace accords. That is troublesome for several reasons. If the role of child soldiers is overlooked, their interests and needs will be forgotten in the aftermath of the conflict, including their need for and right to reintegration. So far, there has not been a peace agreement that has had components of justice and DDR focusing on child soldiers.


used as fighters, cooks, porters, messengers, spies or for sexual purposes. It does not only refer to a child who is taking or has taken a direct part in hostilities.  

As of 2011, the Paris Principles and its definition had been endorsed by 100 countries, indicating a strong support for this broader definition of who a child soldier is. However, as a soft law instrument, the Paris Principles are not binding. The advantage of this definition is that it does not only apply to those children who, directly take part in conflict by the use of arms, but also to those who are used in other capacities. For the purpose of this thesis, the broad definition provided by the Paris Principles will be used when this thesis discusses the situation of child soldiers.

1.3 Method and Material

This thesis examines the legal framework concerning child soldiers. The thesis is, therefore, based on a legal dogmatic method in order to establish de lege lata, the applicable law, of the chosen topic. In doing this, recognized sources of law will be used. In accordance with article 38 of the ICJ Statute, international conventions will be the material used when establishing the applicable law. Further, this thesis compiles and analyses the practice of the treaty monitoring bodies that correspond to each treaty. No research has been found that surveyed the practice of these treaty monitoring bodies in regards to the reintegration of child soldiers. For that reason, the Concluding Observations of the UN Committee on the Rights of the Child and the Observations of the ILO Committee of Experts for the last three years have been reviewed. Case law has been used with the purpose of establishing the legal significance of what the treaty monitoring bodies are providing. General Comments of the Committee on the Rights of the Child have been examined, since the nature of them is to help states implement the provisions of the Convention and their additional protocols. Doctrine, as well as reports from UN bodies and NGOs have also been considered, and references to soft law has been made.

1.4 Disposition

Chapter I of this thesis has provided a background and an overview as to the situation of child soldiers and has described the importance of reintegration. Chapters II to IV analyze the three legal instruments that make up the current framework on the duty to reintegrate child soldiers. That is done by an examination of the respective treaty provisions, their interpretation as well as by reviewing the practice of their respective treaty monitoring bodies. Chapter V provides a comparison of the three legal instruments and uses soft law as an example of how hard law

---

33 Fredrik Korling & Mauro Zamboni (eds), Juridisk metodlära (Studentlitteratur 2013) 21.
34 United Nations, ‘Statute of the International Court of Justice’ (18 April 1946), article 38.
could develop. Chapter VI makes up the concluding part where the content of this thesis is summarized and conclusions are presented.

2 An examination of the Convention on the Rights of the Child

2.1 Introduction to the CRC and its Compliance Mechanism

The Convention on the Rights of the Child came into force 25 years ago. The main objective of the CRC is to protect children, and the Convention is applicable both during times of peace and armed conflict. During the development of the CRC, the question of what type of protection child victims of armed conflict should have was the most controversial. The CRC is legally binding and was the first instrument of its kind that included civil, cultural, economic, political and social rights for children. It is also the most widely ratified human rights convention. Currently, 195 countries have ratified the CRC; the United States and Somalia have only signed but not ratified it.

The Committee on the Rights of the Child monitors the compliance of states to their obligations under the CRC. State parties are obliged to submit reports to the Committee on a regular basis. The first one is to be submitted within two years after ratification, and thereafter states need to submit reports every five years.

The Committee has provided guidelines as to the format and content of the initial report that shall be sent to the Committee. The guidelines provide that states, inter alia, shall report on what age a child attain majority, as well as provide information on measures taken to implement the provisions of article 39 of the CRC. The Committee has also provided guidelines for the periodic reports that shall be submitted by member states every five years. States shall update the Committee on the progress made, in regards to implementing the Convention and its optional protocols, and make reference to the Committee’s previous recommendations. Among other things, states shall provide updated information on measures taken in regards to article 39.

---

41 Ibid.
43 Ibid, article 44.
44 UN Committee on the Rights of the Child, ‘General Guidelines Regarding the Form and Content of Initial Reports to be Submitted by States Parties under Article 44, Paragraph 1(a), of the Convention’ (30 October 1991) UN Doc CRC/C/5, paras 12, 23.
of the CRC. The Committee then provides Concluding Observations with recommendations that the state parties should implement.  

The Committee’s Rules of Procedure prescribe that the Committee can adopt General Comments. The General Comments are supposed to promote implementation of the treaty and its optional protocols and help member states to fulfil their reporting obligations. There is no General Comment that focuses exclusively on the issue of child soldiers. However, child soldiers or child victims of armed conflict are mentioned in other General Comments.

It is important to determine the legal significance of the Concluding Observations provided by UN Committees. In the case of Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of Congo), the ICJ made some references that indicated the importance of what the UN Committees provide. The Court stated that, even though it is not compelled to interpret the treaty in the same way as the Committee, ‘great weight’ should be given to the interpretation made by the Committee. The reasons for this were, according to the Court, were to attain both clarity and legal security and to keep the ‘essential consistency of international law’. Further, the ICJ stated that it has to ‘take due account of the interpretation of that instrument adopted by

49 Ibid, 664.
the independent bodies which have been specifically created [...] to monitor the sound application of the treaty in question’.  

That great weight is given is an indication that, among other documents, the Concluding Observations are important to ICJ when deciding a case.

2.2 The Treaty Provision and its Interpretation

Article 1 of the CRC provides that ‘a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier’.  

As for the recruitment of children to armed forces, the Convention provides that ‘[s]tates 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’.  

In regards to the reintegration of child victims of armed conflict, article 39 of the Convention provides that:

State 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.  

The provision is applicable to child victims of armed conflict. This raises the question whether child victims of armed conflict includes child soldiers. The Committee has interpreted the prerequisite extensively and provided that child soldiers should, first and foremost, be seen as victims of armed conflict.  

That means that both article 39 of the CRC and what has been stated in General Comment no. 6 applies to child soldiers.

General Comment no. 6 provides that states have an obligation, under article 39 of the CRC, to provide rehabilitation to child victims of armed conflict. Further, it prescribes that states should develop and provide ‘culturally appropriate and gender-sensitive mental health care [...] and qualified psychosocial counselling’.

General Comment no. 6 further states that former child soldiers should receive special protection as well as benefit from assistance measures that focus on, inter alia, rehabilitation.  

Worth noting is that the situation of girls is highlighted, and that particular efforts should be directed towards them, regardless if they were combatants or if they were forced to serve in other capacities.

The wording of General Comment no. 6 indicates that the broad definition of child soldier is being used. That is positive because the broad definition is more comprehensive and includes

---

52 Ibid, article 38(2).
53 Ibid, article 39.
55 Ibid, para 48.
56 Ibid, para 56.
57 Ibid, para 56.
all children that are forced to serve armed groups, regardless of what type of work they do. The Comment provides for a rather holistic approach in regards to reintegration and rehabilitation measures when stating that states need to take into consideration that the measures are to be culturally appropriate and gender-sensitive, as well as providing for the children’s physical and psychological needs.

The wording of both the provision of the CRC as well as General Comment no. 6 is rather broad and general. That has both advantages and disadvantages. It is positive in the way that it allows the states themselves to adapt and adjust their reintegration measures in a way that suits the country’s own context and setting, especially in addressing cultural appropriateness. However, the disadvantage with the general wording is that the provision will be applied differently around the world. Consequently, with unspecific provisions - child soldiers will benefit from different measures depending on where they live.

General Comment no. 13 provides that treatment is one of the things needed for states to fulfil their obligations under article 39 of the CRC. The Comment further expands on aspects that states need to pay attention to: the child’s own opinions, safety and placement. An evaluation also has to be done in regards to assessing what impact the interventions will have on the child’s long-term welfare and development. The interventions should provide the child with access to medical, social, educational, and legal services, and have supportive elements rather than punitive.58

2.3 Practice of the Committee Regarding Child Soldiers

In order to establish what the practice of the Committee is regarding child soldiers, this thesis has examined the 53 Concluding Observations that the Committee adopted during 2012-2014, specifically focusing on what was stated in reference to article 39 of the CRC.59 The Committee

58 UN Committee on the Rights of the Child, ‘General comment No. 13 (2011) The right of the child to freedom from all forms of violence’ (18 April 2011) UN Doc CRC/C/GC/13, para 52.
59 CRC Concluding Observations for: (1) Congo (25 February 2014) UN Doc CRC/C/COD/CO/2-4; (2) Croatia (13 October 2014) UN Doc CRC/C/HRV/CO/3-4; (3) Fiji (13 October 2014) UN Doc CRC/C/FJI/CO/2-4; (4) Holy See (25 February 2014) UN Doc CRC/C/VAT/CO/2; (5) Germany (25 February 2014) UN Doc CRC/C/DEU/CO/3-4; (6) Hungary (14 October 2014) UN Doc CRC/C/HUN/CO/3-5; (7) India (7 July 2014) UN Doc CRC/C/IND/CO/3-4; (8) Indonesia (10 July 2014) UN Doc CRC/C/IDN/CO/3-4; (9) Jordan (8 July 2014) UN Doc CRC/C/JOR/CO/4-5; (10) Kyrgyzstan (7 July 2014) UN Doc CRC/C/KGZ/CO/3-4; (11) Morocco (14 October 2014) UN Doc CRC/C/MAR/CO/3-4; (12) Portugal (25 February 2014) UN Doc CRC/C/PT/CO/3-4; (13) Russian Federation (25 February 2014) UN Doc CRC/C/RUS/CO/4-5; (14) Saint Lucia (8 July 2014) UN Doc CRC/C/LCA/CO/2-4; (15) Republic of Venezuela (13 October 2014) UN Doc CRC/C/VEN/CO/3-5; (16) Yemen (25 February 2014) UN Doc CRC/C/YEM/CO/4; (17) Armenia (8 July 2013) UN Doc CRC/C/ARM/CO/3-4; (18) China (29 October 2013) UN Doc CRC/C/CHN/CO/3-4; (19) Guinea (13 June 2013) UN Doc CRC/C/GIN/CO/2; (20) Guinea-Bissau (8 July 2013) UN Doc CRC/C/GNB/CO/2-4; (21) Guyana (18 June 2013) UN Doc CRC/C/GUY/CO/2; (22) Kuwait (29 October 2013) UN Doc CRC/C/KWT/CO/2; (23) Lithuania (30 October 2013) UN Doc CRC/C/LTU/CO/3-4; (24) Luxembourg (29 October 2013) UN Doc CRC/C/LUX/CO/3-4; (25) Malta (18 June 2013) UN Doc CRC/C/MLT/CO/2; (26) Monaco (29 October 2013) UN Doc CRC/C/MCO/CO/2-3; (27) Sao Tome and Principe (29 October 2013) UN Doc CRC/C/STP/CO/2-4; (28) Slovenia (8 July 2013) UN Doc CRC/C/SVN/CO/3-4; (29) Tuvalu (30 October 2013) UN Doc CRC/C/TUV/CO/1; (30) Uzbekistan (10 July 2013) UN Doc CRC/C/UZB/CO/3-4; (31) Albania (7 December 2012) UN Doc CRC/C/ALB/CO/2-4; (32) Algeria (18 July 2012) UN Doc CRC/C/DZA/CO/3-4; (33) Andorra (3 December 2012) UN Doc CRC/C/AND/CO/2; (34) Australia (28 August 2012) UN Doc CRC/C/AUS/CO/4; (35) Austria (3 December 2012) UN Doc CRC/C/AUT/CO/3-4; (36) Azerbaijan (12 March 2012) UN Doc CRC/C/AZE/CO/3-4; (37) Bosnia and Herzegovina (29 November 2012) UN Doc CRC/C/BIH/CO/2-4; (38) Canada (6 December 2012) UN Doc CRC/C/CAN/CO/3-4; (39) Cook Islands (22 February 2012) UN Doc
has interpreted child victim of armed conflict extensively to include child soldiers. However, in practice, only nine of the 53 Concluding Observations mentioned child soldiers or child victims of armed conflict.\textsuperscript{60} The Committee used the term child soldier or youth combatant in three of the Concluding Observations.\textsuperscript{61} One of the nine Concluding Observations did not provide anything in regards to reintegration or rehabilitation measures. Rather, the focus was on preventative measures to ensure that children will not be used in armed conflicts.\textsuperscript{62}

One of the main findings, however, is that the Concluding Observations indicate that states have a responsibility to rehabilitate and reintegrate former child soldiers that arrive to a state party as refugee or asylum seeking children.\textsuperscript{63}

In its Concluding Observation to Germany, the Committee recommended the State to identify child soldiers or those who are at risk of being recruited as child soldiers. After identifying these children, Germany were to grant them refugee status so that they could be given psychological and social support.\textsuperscript{64} The Committee also recommended to Luxembourg that mechanisms should be in place to identify unaccompanied children that may have been involved in armed conflict. The Committee emphasized that, after states have identified these children, they are in need of protection, and explained that these children should be afforded physical and psychological recovery and reintegration.\textsuperscript{65}

The Committee stated that Myanmar needed to enhance its efforts to reintegrate child soldiers, and that demobilized children should be reunited with their families. It also stated that support for these processes could be sought from UNICEF or other partners.\textsuperscript{66}

\textsuperscript{60} CRC/C/COK/CO/1; (40) Cyprus (24 September 2012) UN Doc CRC/C/CYP/CO/3-4; (41) Greece (13 August 2012) UN Doc CRC/C/GRC/CO/2-3; (42) Iceland (23 January 2012) UN Doc CRC/C/ISL/CO/3-4; (43) Liberia (13 December 2012) UN Doc CRC/C/LBR/CO/2-4; (44) Madagascar (8 March 2012) UN Doc CRC/C/MDG/CO/3-4; (45) Myanmar (14 March 2012) UN Doc CRC/C/MMR/CO/3-4; (46) Namibia (16 October 2012) UN Doc CRC/C/NAM/CO/2-3; (47) Republic of Korea (2 February 2012) UN Doc CRC/C/KOR/CO/3-4; (48) Seychelles (23 January 2012) UN Doc CRC/C/SYC/CO/2-4; (49) Syrian Arab Republic (9 February 2012) UN Doc CRC/C/SYR/CO/3-4; (50) Thailand (17 February 2012) UN Doc CRC/C/THA/CO/3-4; (51) Togo (8 March 2012) UN Doc CRC/C/TGO/CO/3-4; (52) Turkey (20 July 2012) UN Doc CRC/C/TUR/CO/2-3; (53) Vietnam (22 August 2012) UN Doc CRC/C/VNM/CO/3-4.

\textsuperscript{61} CRC Concluding Observations for: (1) Myanmar (14 March 2012) UN Doc CRC/C/MMR/CO/3-4, paras 82, 98; (2) Iceland (23 January 2012) UN Doc CRC/C/ISL/CO/3-4, paras 48-49; (3) Liberia (13 December 2012) UN Doc CRC/C/LBR/CO/2-4, paras 75-76; (4) Luxembourg (29 October 2013) UN Doc CRC/C/LUX/CO/3-4, para 45; (5) Germany (25 February 2014) UN Doc CRC/C/DEU/CO/3-4, para 69; (6) Indonesia (10 July 2014) UN Doc CRC/C/IDN/CO/3-4, para 8; (7) Guinea (13 June 2013) UN Doc CRC/C/GIN/CO/2, para 78; (8) Thailand (17 February 2012) UN Doc CRC/C/THA/CO/3-4, para 85; (9) Venezuela (13 October 2014) UN Doc CRC/C/VEN/CO/3-5, paras 68-69.

\textsuperscript{62} CRC Concluding Observations for: (1) Myanmar (14 March 2012) UN Doc CRC/C/MMR/CO/3-4, para 82; (2) Germany (25 February 2014) UN Doc CRC/C/DEU/CO/3-4, para 69; (3) Guinea (13 June 2013) UN Doc CRC/C/GIN/CO/2, para 78.

\textsuperscript{63} UN Committee on the Rights of the Child, ‘Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Iceland’ (23 January 2012) UN Doc CRC/C/ISL/CO/3-4, paras 48-49.

\textsuperscript{64} CRC Concluding Observations for: (1) Germany (25 February 2014) UN Doc CRC/C/DEU/CO/3-4, para 69; (2) Luxembourg (29 October 2013) UN Doc CRC/C/LUX/CO/3-4, para 45.

\textsuperscript{65} UN Committee on the Rights of the Child, ‘Concluding Observations on the Combined Third and Fourth Periodic Reports of Germany’ (25 February 2014) UN Doc CRC/C/DEU/CO/3-4, para 69.

\textsuperscript{66} UN Committee on the Rights of the Child, ‘Concluding observations on the combined third and fourth periodic reports of Luxembourg, adopted by the Committee at its sixty-fourth session (16 September – 4 October 2013)’ (29 October 2013) UN Doc CRC/C/LUX/CO/3-4, para 45.

\textsuperscript{67} UN Committee on the Rights of the Child, ‘Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Concluding Observations: Myanmar’ (14 March 2012) UN Doc CRC/C/MMR/CO/3-4, paras 82, 98.
Similarly, the Committee was concerned by the lack of programs in place that address the needs of refugee and asylum-seeking children that have been involved in armed conflict in other countries. The Committee therefore recommended Venezuela, in line with article 39 of the CRC, to provide these children with ‘adequate assistance and psychosocial support’.  

Five of the nine Concluding Observations focused on child victims of armed conflict and urged states to develop psychosocial support and assistance to those children who are victims of armed conflict. This could be done with the help of NGOs and international organizations.

Another main finding is that, while the Committee has interpreted child victims extensively to include child soldiers, the practice of the Committee shows that it is rarely employed.

Most of the Concluding Observations were silent on the need of child victims of armed conflict. The Committee did, however, mention the need to implement reintegration measures under article 39 for child victims of, inter alia, sexual exploitation, violence, and abuse. Further, some Concluding Observations only mentioned the need of programs and protective measures for either street children or children in juvenile justice. Ergo, the Committee raised the

---


68 CRC Concluding Observations for: (1) Indonesia (10 July 2014) UN Doc CRC/C/IDN/CO/3-4, para 8; (2) Guinea (13 June 2013) UN Doc CRC/C/GIN/CO/2, para 78; (3) Thailand (17 February 2012) UN Doc CRC/C/THA/CO/3-4, para 85; (4) Liberia (13 December 2012) UN Doc CRC/C/LBR/CO/2-4, paras 75-76; (5) Liberia (13 December 2012) UN Doc CRC/C/LBR/CO/2-4, paras 75-76.


71 CRC Concluding Observations for: (1) India (7 July 2014) UN Doc CRC/C/IND/CO/3-4, para 84; (2) Armenia (8 July 2013) UN Doc CRC/C/ARM/CO/3-4, para 52; (3) Austria (3 December 2012) UN Doc CRC/C/AUT/CO/3-4, para 67; (4) Azerbaijan (12 March 2012) UN Doc CRC/C/AZE/CO/3-4, paras 71-72, 76; (5) Bosnia and Herzegovina (29 November 2012) UN Doc CRC/C/BIH/CO/2-4, paras 71, 77; (6) Turkey (20 July 2012) UN Doc CRC/C/TUR/CO/2-3, para 65.
importance of reintegration under article 39 and provided examples of what measures are needed. However, it was mainly done in connection with child victims of other types of violations. One might argue that the reintegration measures needed for victims of abuse, sexual exploitation and violence applies to victims of armed conflict too. This could be the case. Difficulties arise, however, when attempts are made to implement the same measures for victims of armed conflict, since the need of victims might differ.

That victims of armed conflict are in need of special measures of reintegration and rehabilitation is supported by Prof. Nagle who argues that ‘rehabilitating former child soldiers requires “exhaustive, comprehensive and long-term professional care in a specialized setting”’. That is why it is a problem that the Committee did not address the specific needs that child soldiers and victims of armed conflict have in the majority of its Concluding Observations.

On account of the majority of the Concluding Observations being silent on reintegration and rehabilitation of child victims of armed conflict, there is a risk of the Committee failing to address the important needs of child soldiers and child victims of armed conflict. A key problem with the Committee not addressing child victims of armed conflict, other than their special needs of rehabilitation, is that there are a number of states that have ratified the CRC, but not the OPAC. The provisions of the OPAC are to be developed further in chapter III. Currently, 195 states have ratified the CRC, in contrast only 159 states have ratified the OPAC. This may result in the issue of reintegrating former child soldiers and child victims of armed conflict falling between the cracks.

The wording of the Concluding Observations are rather broad and general, which has both advantages and disadvantages. It is positive in the way that it allows the states themselves to adapt and adjust their reintegration measures in a way that suits their context and setting, especially the cultural context. However, the disadvantage is that it does not provide states with clear guidance as to what is required in order to fulfil their obligations under the CRC. Clear guidance of what is required would further enhance the development of a uniform application of the provision.

In conclusion, on its face, the CRC does not provide protection and reintegration for child soldiers, but the Committee has interpreted the provisions extensively to include child soldiers. However, the practice of the Committee show that the need of child soldiers and child victims of armed conflict are only addressed in a few of the Concluding Observations during the span of three years. However, those Concluding Observations showed that states are to provide physical and psychological recovery for child victims of armed conflict, as well as social support. States should also identify children that have been used as child soldiers or those who are at risk of being used as child soldiers. Consequently, the CRC specifically provides a duty for states to rehabilitate child victims of armed conflict.

---

72 Luz E. Nagle, ‘Child Soldiers and the Duty of Nations to Protect Children from Participation in Armed Conflict’ (2011) 19(1) Cardozo Journal of International and Comparative Law 1, 48. [It was not possible to cite the original source because the quote within the quote was extracted from an interview that Prof. Nagle did with a Dr. Pam Hamilton.]
The Committee’s practice supported a wide interpretation of ‘child victims of armed conflict’ to include child soldiers. As a result child soldiers are entitled to the rehabilitation and reintegration called for in article 39. However, as the research showed, there are 53 Concluding Observations, of which only nine address child victims of armed conflict. Out of these nine Concluding Observations, it is only three that address the reintegration of child soldiers. General Comment no. 6 suggests a broad interpretation of child victim of armed conflict as including child soldiers. Nevertheless, the practice of the Committee in its Concluding Observations does not reflect it as a priority.

2.4 Effectiveness

A main limitation of General Comment no. 6 is that it only applies to children that are outside of their country of origin. That means that it is not applicable for child soldiers who reside in their country of origin. The Committee does recognize that the provisions are relevant for children residing in their country of origin too; however, the Committee only encourages states to make the provisions applicable to children displaced within their own country.75 A way of solving this would be to adopt a General Comment that has a sole focus on the issue of child soldiers and child victims of armed conflict.

It is peculiar that the provisions do not apply to all children and it raises concern: is it only child soldiers residing outside their country of origin that should be seen as victims of armed conflict? Further, does it imply that it is only these children that have the right to be reintegrated and rehabilitated in accordance with article 39 of the CRC and General Comment no. 6? This thesis argues that all child soldiers should be seen as victims of armed conflict, regardless of which country they reside in, and that they should have the right to be reintegrated and rehabilitated. In conjunction with this, and as a way to address the discrepancy, the Committee should adopt a General Comment that has a sole focus on the issue and needs of child soldiers and child victims of armed conflict, regardless of where the children resides. This would enhance the protection and rehabilitation of child soldiers and child victims of armed conflict by providing states with further guidance as to the content and meaning of the provisions.

The Committee on the Rights of the Child monitors and oversees states’ compliance with the CRC.76 However, one main limitation of the Committee is the lack of an ongoing mechanism that can monitor states independently from the reports that the states provide. Another serious weakness is that the Committee is unable to enforce implementation of its recommendations.77 This makes the Committee dependent upon member states own willingness to conform to their obligations.78

In April 2014, the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure entered into force.79 It allows for individual complaints whenever someone claims to be a victim of acts contrary to the CRC. It also allows for an inquiry

---

procedure when there are indications of either grave or systematic violations of the CRC.\textsuperscript{80} However, so far the Communications Protocol has had little significance, since only 17 states have ratified it.\textsuperscript{81}

This thesis argues that the CRC fails to protect all child soldiers due to irregularities of the CRC itself. Article 1 of the CRC provides that a child is someone below 18 years of age, unless the law that governs the child prescribes that the child becomes an adult at a younger age.\textsuperscript{82} Further, article 38(2) of the CRC provides that the age limit for participating in armed conflict is 15 years.\textsuperscript{83} Consequently, the CRC ‘provide[s] for a lower age threshold for protection’ for children that are victims of armed conflict.\textsuperscript{84} This would suggest that child soldiers are not as worthy of protection as other children.\textsuperscript{85}

Consequently, the CRC protects persons below the age of 18, irrespective of where they are from, the color of their skin or what religious beliefs they have – except if they take part in armed conflict. ‘This discrepancy allows a child (who in any other situation would be given any one of the enumerated protections under the CRC) to endure abuse, abduction, and even murder, simply because of their “participation” in armed combat’.\textsuperscript{86}

During the drafting of the CRC, the representative of Colombia asked the Working Group why it was willing to protect children up to 18 years of age – but in the case of armed conflict it would not protect children up to the same age. The Working Group was of the opinion, however, that it was better to adopt a minimum text with consensus, rather than none at all. Consequently, the Working Group found that protecting children up to 15 years of age was the highest level that could be reached in consensus.\textsuperscript{87}

Perhaps the most serious disadvantage of the decision of the Working Group is the fact that studies have shown that many former child soldiers suffer from malnourishment, as well as respiratory and skin infections. They often have been exploited sexually and are at high risk of drug and alcohol abuse. And that they also could have been impregnated, contracted sexually transmitted diseases, or have been impaired due to landmines.\textsuperscript{88} This brutal reality of former child soldiers is not discriminant by age, whether they are nine or sixteen years old. Therefore, this thesis regrets that the Working Group did not adopt a straight 18 policy and argues that equal protection should be afforded to all children under 18 that are victims of armed conflict.


\textsuperscript{83} Ibid, article 38(2).

\textsuperscript{84} Gus Waschefort, International Law and Child Soldiers (Hart Publishing 2015) 90.


\textsuperscript{86} Ibid, 454.


3 An Examination of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict

3.1 Introduction to the OPAC and its Compliance Mechanism

The Committee on the Rights of the Child was created to monitor and oversee states’ compliance with the CRC.\textsuperscript{89} Shortly after its establishment, the Committee proposed that an additional protocol to the CRC should be created in order to strengthen the protection of children in armed conflict.\textsuperscript{90} The OPAC expands on the obligations laid out in the CRC.\textsuperscript{91} It is, however, only binding for those states that choose to ratify it.\textsuperscript{92} Currently there are 159 state parties that have ratified it.\textsuperscript{93}

The Committee monitors and oversees states’ compliance with the OPAC too.\textsuperscript{94} State parties are obliged to submit reports to the Committee on a regular basis. The first one is to be submitted two years after ratification. Thereafter, state parties shall include, in their reports as regards to the CRC, information on the implementation of the OPAC.\textsuperscript{95}

The Committee has provided guidelines to help states know what kind of information is required in the report.\textsuperscript{96} Part IV of the guidelines concerns, \textit{inter alia}, reintegration under article 6(3) of the OPAC. It prescribes that states should provide information on measures taken to implement the provision. States should also inform the Committee on programs in place that deal with the social reintegration of former child soldiers. The focus of the programs should be on reuniting the children with their families, and to provide physical and psychological recovery. Further, states should provide information on remedies in place and what type of reparations the children can seek.\textsuperscript{97}

As stated previously, it is important to determine what legal significance the Concluding Observations provided by UN Committees have. In the case of \textit{Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of Congo)}\textsuperscript{98}, the ICJ made references that indicated the importance of what the UN Committees provide. The Court stated that, even though it is


\textsuperscript{90} UN Committee on the Rights of the Child, ‘Report on the Second Session’ (19 October 1992) UN Doc CRC/C/10, paras 61-77.

\textsuperscript{91} Jennifer R. Silva, ‘Child Soldiers: A Call to the International Community to Protect Children from War’ (2008) 31 (3) Suffolk Transnational Law Review 681, 694.

\textsuperscript{92} Christine Chinkin, ‘Sources’ in Daniel Moeckli, Sangeeta Shah & Sandesh Sivakumaran (eds), \textit{International Human Rights Law} (2nd edn Oxford University Press 2014) 77.


\textsuperscript{95} Ibid, article 8(1), 8(2).

\textsuperscript{96} UN Committee on the Rights of the Child, ‘Revised Guidelines Regarding Initial Reports to be Submitted by State Parties under Article 8, Paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on Involvement of Children in Armed Conflict’ (19 October 2007) UN Doc CRC/C/OPAC/2, 1.

\textsuperscript{97} Ibid, paras 27-28, 32.

not compelled to interpret the treaty in the same way as the Committee, ‘great weight’ should be given to the interpretation made by the Committee. The reasons for this were, according to the Court, to attain both clarity and legal security as well as keeping the ‘essential consistency of international law’. 99 Further, the ICJ stated that it has to ‘take due account of the interpretation of that instrument adopted by the independent bodies which have been specifically created […] to monitor the sound application of the treaty in question’. 100 That great weight is given is an indication that, among other documents, the Concluding Observations are important to ICJ when deciding a case.

3.2 The Treaty Provision and its Interpretation

According to the CRC, the minimum permissible age for direct participation in armed conflict is 15 years of age. 101 The OPAC raises the minimum age of compulsory direct participation to 18 years of age, 102 thus filling the gap in protecting child victims of armed conflict between ages 15-18. However, this gap is only filled in regards to children that are forced to participate in armed conflict or those who are forced to join, or recruited to, armed groups. Consequently, state parties are still allowed to admit children under the age of eighteen, as long as the enlistment is voluntary. 103

In regards to the reintegration of child soldiers, article 6(3) of the OPAC provides that:

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. 104 [Emphasis added]

Worth noting is that the article prescribes reintegration and rehabilitation for demobilized children, regardless if they were recruited or used in hostilities. That is, irrespective of if the children joined voluntarily or if they were abducted and forced to join.

However, the OPAC does not define direct or indirect participation. It is possible to interpret direct participation as something that covers more than just holding a gun, such as other support functions. Examples of these functions could be: ‘scouting, spying, sabotage and acting as decoys, couriers, porters, cooks or assistants at military checkpoints [as well as … the] use of girls for sexual purposes or in forced marriages’. 105

100 Ibid, 664.
103 Ibid, article 3.
104 Ibid, article 6(3).
Who, then is covered by the provision? The wording of article 6(3) of the OPAC suggests that it is those below the age of eighteen who have either been (1) recruited or used by armed groups distinct from the state; or (2) forcibly recruited into a state’s armed force.

Another question is what is the scope of the reintegration measures that states are obliged to implement? Guidance is, inter alia, provided through the Concluding Observations of the Committee.

3.3 Practice of the Committee Regarding Child Soldiers

This thesis has examined the 25 Concluding Observations that the Committee adopted during 2012-2014 in order to establish the practice of the Committee.\(^{106}\) Child Soldiers International\(^{107}\) has recognized that the Concluding Observations of the Committee have created ‘an increased momentum towards developing modalities for protecting children […] as well as providing an insight into […] measures […] many governments must take’ in order to comply with the OPAC.\(^{108}\)

The primary finding of the Concluding Observations is that all member states have an obligation to reintegrate former child soldiers.\(^{109}\) One might think that the obligation to reintegrate child soldiers is only for states directly affected by armed conflict. As a matter of fact, the practice of the Committee shows that countries receiving migrant, refugee or asylum-seeking children have obligations to identify those children who could have been recruited or used in an armed conflict. Following this, states are required to provide measures for the

\(^{106}\) OPAC Concluding Observations for: (1) Holy See (25 Feb 2014) UN Doc CRC/C/OPAC/VAT/CO/1; (2) Hungary (3 Nov 2014) UN Doc CRC/C/OPAC/HUN/CO/1; (3) India (7 July 2014) UN Doc CRC/C/OPAC/IND/CO/1; (4) Jordan (7 July 2014) UN Doc CRC/C/OPAC/JOR/CO/1; (5) Morocco (13 Nov 2014) UN Doc CRC/C/OPAC/MAR/CO/1; (6) Portugal (24 Feb 2014) UN Doc CRC/C/OPAC/PRT/CO/1; (7) Russian Federation (25 February 2014) UN Doc CRC/C/OPAC/RUS/CO/1; (8) Singapore (13 October 2014) UN Doc CRC/C/OPAC/SGP/CO/1; (9) Venezuela (3 November 2014) UN Doc CRC/C/OPAC/VEN/CO/1; (10) Yemen (26 February 2014) UN Doc CRC/C/OPAC/YEM/CO/1; (11) China (29 October 2013) UN Doc CRC/C/OPAC/CHN/CO/1; (12) Paraguay (25 October 2013) UN Doc CRC/C/OPAC/PYG/CO/1; (13) Uzbekistan (8 July 2013) UN Doc CRC/C/OPAC/UZB/CO/1; (14) Burkina Faso (26 June 2013) UN Doc CRC/C/OPAC/BFA/CO/1; (15) United States of America (26 June 2013) UN Doc CRC/C/OPAC/USA/CO/2; (16) Slovakia (26 June 2013) UN Doc CRC/C/OPAC/SVK/CO/1; (17) Albania (6 December 2012) UN Doc CRC/C/OPAC/ALB/CO/1; (18) The Former Yugoslav Republic of Macedonia (4 December 2012) UN Doc CRC/C/OPAC/MKD/CO/1; (19) Greece (20 July 2012) UN Doc CRC/C/OPAC/GRC/CO/1; (20) Azerbaijan (8 March 2012) UN Doc CRC/C/OPAC/AZE/CO/1; (21) Democratic Republic of Congo (7 March 2012) UN Doc CRC/C/OPAC/COD/CO/1; (22) Thailand (21 February 2012) UN Doc CRC/C/OPAC/THA/CO/1.

CRC Concluding Observations for: (23) Slovenia (8 July 2013) UN Doc CRC/C/SVN/CO/3-4; (24) Canada (6 December 2012) UN Doc CRC/C/CAN/CO/3-4; (25) Malta (18 June 2013) UN Doc CRC/C/MLT/CO/2. [These three Concluding Observations are based on combined state reports on the implementation of both the CRC and the OPAC.]

\(^{107}\) Previously known as The Coalition to Stop the Use of Child Soldiers.


physical and psychological recovery of these children. That stems from the wording ‘within their jurisdiction’ of article 6(3) of the OPAC.

Slovenia, for instance, was recommended to safeguard that children coming from war affected countries would receive immediate access to rehabilitation measures, get counselling as well as take part of ‘social reintegration programmes’.

The Concluding Observations contain some differences in what the Committee recommended the member states to do in regards to article 6(3) of the OPAC. However, when analyzing the Concluding Observations, a pattern emerges with common denominators. Overall, the Committee recommended states to establish mechanisms for data collection. The collection of data are to contain information on migrant, refugee or asylum-seeking children that have arrived in the different state parties and that have or may have been either recruited or used in armed conflicts in other states.

Further, states were recommended to have mechanisms in place in order to identify these children so that they can be given appropriate assistance in regards to their physical and psychological recovery as well as their social reintegration. States shall provide immediate

110 OPAC Concluding Observations for: (1) Hungary (3 Nov 2014) UN Doc CRC/C/OPAC/HUN/CO/1, paras 12-13; (2) India (7 July 2014) UN Doc CRC/C/OPAC/IND/CO/1, paras 41, 43; (3) Jordan (7 July 2014) UN Doc CRC/C/OPAC/JOR/CO/1, para 28; (4) Morocco (13 Nov 2014) UN Doc CRC/C/OPAC/MAR/CO/1, para 22; (5) Portugal (24 Feb 2014) UN Doc CRC/C/OPAC/PRT/CO/1, paras 22-25; (6) Russian Federation (25 February 2014) UN Doc CRC/C/OPAC/RUS/CO/1, para 21; (7) Singapore (13 October 2014) UN Doc CRC/C/OPAC/SGP/CO/1, para 24; (8) Venezuela (3 November 2014) UN Doc CRC/C/OPAC/VEN/CO/1, para 35; (9) Yemen (26 February 2014) UN Doc CRC/C/OPAC/YEM/CO/1, para 38 [However, Yemen was not urged to put in place a mechanism to identify these children, perhaps due to an already existing mechanism.]; (10) China (29 October 2013) UN Doc CRC/C/OPAC/CHN/CO/1, para 32; (11) Paraguay (25 October 2013) UN Doc CRC/C/OPAC/PRY/CO/1, paras 26-27; (12) Uzbekistan (8 July 2013) UN Doc CRC/C/OPAC/UZB/CO/1, para 19; (13) Burkina Faso (26 June 2013) UN Doc CRC/C/OPAC/BFA/CO/1, para 27; (14) United States of America (26 June 2013) UN Doc CRC/C/OPAC/USA/CO/2, paras 19, 36; (15) Slovakia (26 June 2013) UN Doc CRC/C/OPAC/SVK/CO/1, para 17; (16) Albania (6 December 2012) UN Doc CRC/C/OPAC/ALB/CO/1, para 20; (17) The Former Yugoslav Republic of Macedonia (4 December 2012) UN Doc CRC/C/OPAC/MKD/CO/1, paras 14, 16; (18) Greece (20 July 2012) UN Doc CRC/C/OPAC/GRC/CO/1, paras 8-9, 14-15; (19) Azerbaijan (8 March 2012) UN Doc CRC/C/OPAC/AZE/CO/1, para 24; (20) Democratic Republic of Congo (7 March 2012) UN Doc CRC/C/OPAC/COD/CO/1, para 49; (21) Thailand (2 February 2012) UN Doc CRC/C/OPAC/THA/CO/1, para 22.

111 UN Committee on the Rights of the Child, ‘Concluding Observations on the Combined Third and Fourth Periodic Reports of Slovenia, Adopted by the Committee at its Sixty-Third Session (27 May–14 June 2013)’ (8 July 2013) UN Doc CRC/C/SVN/CO/3-4, para 76.

112 OPAC Concluding Observations for: (1) Hungary (3 Nov 2014) UN Doc CRC/C/OPAC/HUN/CO/1, para 7; (2) Jordan (7 July 2014) UN Doc CRC/C/OPAC/JOR/CO/1, para 14; (3) Morocco (13 Nov 2014) UN Doc CRC/C/OPAC/MAR/CO/1, para 14; (4) Portugal (24 Feb 2014) UN Doc CRC/C/OPAC/PRT/CO/1, para 13; (5) Russian Federation (25 February 2014) UN Doc CRC/C/OPAC/RUS/CO/1, para 7; (6) Venezuela (3 November 2014) UN Doc CRC/C/OPAC/VEN/CO/1, para 17; (7) Yemen (26 February 2014) UN Doc CRC/C/OPAC/YEM/CO/1, para 15; (8) China (29 October 2013) UN Doc CRC/C/OPAC/CHN/CO/1, para 14; (9) Paraguay (25 October 2013) UN Doc CRC/C/OPAC/PRY/CO/1, para 13; (10) Burkina Faso (26 June 2013) UN Doc CRC/C/OPAC/BFA/CO/1, para 13; (11) United States of America (26 June 2013) UN Doc CRC/C/OPAC/USA/CO/2, para 19; (12) Greece (20 July 2012) UN Doc CRC/C/OPAC/GRC/CO/1, para 9; (13) Thailand (21 February 2012) UN Doc CRC/C/OPAC/THA/CO/1, para 12.

113 OPAC Concluding Observations for: (1) Hungary (3 Nov 2014) UN Doc CRC/C/OPAC/HUN/CO/1, para 13; (2) India (7 July 2014) UN Doc CRC/C/OPAC/IND/CO/1, paras 41, 43; (3) Jordan (7 July 2014) UN Doc CRC/C/OPAC/JOR/CO/1, para 28; (4) Morocco (13 Nov 2014) UN Doc CRC/C/OPAC/MAR/CO/1, para 22; (5) Portugal (24 Feb 2014) UN Doc CRC/C/OPAC/PRT/CO/1, paras 23, 25; (6) Russian Federation (25 February 2014) UN Doc CRC/C/OPAC/RUS/CO/1, para 21; (7) Singapore (13 October 2014) UN Doc CRC/C/OPAC/SGP/CO/1, para 24; (8) Venezuela (3 November 2014) UN Doc CRC/C/OPAC/VEN/CO/1, para 35; (9) Yemen (26 February 2014) UN Doc CRC/C/OPAC/YEM/CO/1, para 38; (10) China (29 October 2013) UN
assistance with a multidisciplinary approach that is both child and gender sensitive. In those cases where the children cannot be reunited with their families, states should provide them with protective accommodation. Further, states shall ensure that the children have access to education, legal and health care services. Some of the states were advised to seek assistance from international partners and agencies in implementing the recommendations given by the Committee.

In its recommendation to Canada, the Committee raised a specific case: the one of Omar Kadr. Mr. Kadr is a former child soldier that was held at Guantanamo. The Committee was concerned that Mr. Kadr had not been treated in accordance with the provisions of the OPAC and, inter alia, urged Canada to provide rehabilitation that is in line with the Paris Principles. The reference made to the Paris Principles is intriguing and will be further discussed in chapter V.

In conclusion, the Committee’s practice showed that the provisions of article 6(3) does not only apply to conflict affected states, but to all member states. Further, states are obliged to identify children that have or may have been used in hostilities. Upon identifying these children, they are to be provided with immediate assistance that is both multidisciplinary and child and gender sensitive. The assistance shall help the children with their physical and psychological recovery as well as provide for their social reintegration. Those children who cannot be reunited with their families should be provided with protective accommodation, and all children shall have access to education, legal and health services.

The wording of the Concluding Observations is, in comparison to the Concluding Observations of the CRC, more specific and more detailed.

---

114 OPAC Concluding Observations for: (1) India (7 July 2014) UN Doc CRC/C/OPAC/IND/CO/1, para 43; (2) Portugal (24 Feb 2014) UN Doc CRC/C/OPAC/PRT/CO/1, para 25; (3) Venezuela (3 November 2014) UN Doc CRC/C/OPAC/VEN/CO/1, para 35; (4) Yemen (26 February 2014) UN Doc CRC/C/OPAC/YEM/CO/1, para 38; Greece (20 July 2012) UN Doc CRC/C/OPAC/GRC/CO/1, para 15; (5) Democratic Republic of Congo (7 March 2012) UN Doc CRC/C/OPAC/COD/CO/1, para 49.

115 UN Committee on the Rights of the Child, ‘Concluding Observations on the Report Submitted by India under Article 8, Paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict’ (7 July 2014) UN Doc CRC/C/OPAC/IND/CO/1, para 43.

116 OPAC Concluding Observations for: (1) India (7 July 2014) UN Doc CRC/C/OPAC/IND/CO/1, para 43; (2) Venezuela (3 November 2014) UN Doc CRC/C/OPAC/VEN/CO/1, para 35; (3) Albania (6 December 2012) UN Doc CRC/C/OPAC/ALB/CO/1, para 20; (4) Greece (20 July 2012) UN Doc CRC/C/OPAC/GRC/CO/1, para 15; (5) Democratic Republic of Congo (7 March 2012) UN Doc CRC/C/OPAC/COD/CO/1, para 49.

117 OPAC Concluding Observations for: (1) Jordan (7 July 2014) UN Doc CRC/C/OPAC/JOR/CO/1, para 28; (2) Morocco (13 Nov 2014) UN Doc CRC/C/OPAC/MAR/CO/1, para 22; (3) Venezuela (3 November 2014) UN Doc CRC/C/OPAC/VEN/CO/1, para 35.

3.4 Effectiveness

One main limitation of the Committee is the lack of an ongoing mechanism that can monitor states independently from the reports that the states provide. Another serious weakness is that the Committee is unable to enforce implementation of its recommendations.\textsuperscript{119}

Another evident weakness of the OPAC is the lack of enforcement mechanisms. It is problematic that the monitoring is dependent solely on states own record of compliance with the OPAC.\textsuperscript{120} Without being able to enforce its recommendations, the Committee is dependent upon member states own willingness to conform to their obligations.\textsuperscript{121} As pointed out by Ms. Leibig: ‘Self-governance is not terribly effective in the field of human rights.’\textsuperscript{122} Further, enforcement mechanisms are important since not all states abide by the requirements of the OPAC. Ideally, states would respect and ensure observance of international commitments, but since this is not the case, effective enforcement mechanisms should be in place.\textsuperscript{123}

The United States of America could serve as an example. In the Committee’s Concluding Observation of 2013, it is noted that the United States of America had not implemented the Committee’s earlier recommendations. The key problem with the lack of enforcement mechanisms is clearly shown in the concluding report: the Committee can only reiterate its earlier recommendations and urge the United States of America to implement the Committee’s recommendations.\textsuperscript{124}

The lack of enforcement mechanisms make the Committee something of a toothless tiger. There is a legal binding instrument that provides certain provisions for the protection and recovery of former child soldiers, but there are no means of forcing states to implement or to enforce those provisions. This thesis argues that there is a need for enforcement mechanisms that could force state parties to comply with the provisions of both the OPAC and the CRC.

As stated previously, the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure recently entered into force.\textsuperscript{125} It allows for individual communications whenever someone claims to be a victim under the OPAC. It also allows for an inquiry procedure when there are indications of either grave or systematic violations of the

\textsuperscript{125} Optional Protocol to the Convention on the Rights of the Child on a communications procedure (adopted 19 December 2011, entered into force 14 April 2014) 2173 UNTS 222.
However, so far the Communications Protocol has had little significance, since only 17 states have ratified it.\textsuperscript{127}

Ms. McKnight suggests that in order to strengthen the protection of children in armed conflict, and to maintain the relevance of IHRL, there is a need of clearer rules. The current situation, with conflicting standards and vague provisions, might create uncertainties regarding which children are protected, and in what way.\textsuperscript{128} Although Ms. McKnight has a point, her analysis does not seem to take into account that the Committee on the Rights of the Child provide Concluding Observations and General Comments that further elaborate and explains: (1) the scope of the rules; (2) and what is required of states in order to fulfil their obligations. The effectiveness of the OPAC could further be enhanced by adopting a General Comment that has a sole focus on the issue of child soldiers, or by adopting another additional protocol that provides clear rules that align with the Paris Principles and that has a strong enforcement mechanism. However, it is uncertain if states would be willing to ratify another additional protocol.

4 An Examination of the ILO Convention no. 182

4.1 Introduction to the ILO Convention no. 182 and its Compliance Mechanism

For a long time, the ILO has been working on eliminating child labor. In 1999, the ILO adopted Convention (No. 182) Concerning the Prohibition and Immediate Elimination of the Worst Forms of Child Labour.\textsuperscript{129} Currently, there are 179 state parties that have ratified it.\textsuperscript{130} This is the only ILO convention that includes child soldiering as one of the worst forms of child labor, and it is legally binding for its member states. Alongside the Convention is Recommendation No. 190, which provides details on the obligations set out in the Convention. The Recommendation, however, is not directly binding for the member states.\textsuperscript{131}

The organizational structure of the ILO is tripartite, that is, the decision-making power does not rest upon member states only, but is ‘shared with the representative organizations of employers and workers’.\textsuperscript{132}


Article 22 of the ILO Constitution provides that states that have ratified an ILO convention are obliged to submit an annual report on measures taken to implement the convention in question. It is the Committee of Experts on the Application of Conventions and Recommendations and the Conference Committee on the Application of Standards that have the mandate to supervise states compliance with the provisions of ILO conventions. The Committee of Experts examines the annual reports submitted by the member states. The Committee of Experts consists of 20 jurists and their role is to provide an objective and technical assessment of the application of the Conventions. The Committee of Experts submits its annual report to the General Conference. It is then the Conference Committee on the Application of Standards that examines it further, however, with a more political view.

The ILO Constitution provides that only the ICJ is competent to give an authoritative interpretation of the ILO Conventions. However, reports of the Committee of Experts and the Conference Committee on the Application of Standards may give guidance as to the scope and meaning of provisions of ILO Conventions. Observations made by the Committee of Experts are published in an annual report and contain comments on member states application of ILO conventions.

4.2 The Treaty Provision and its Interpretation

Article 2 of Convention 182 states that a child is anyone below the age of eighteen. In terms of reintegration, Convention 182 provides that:

Each Member shall, taking into account the importance of education in eliminating child labour, take effective and time-bound measures to: [...] 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; [...] ensure access to free basic education, and, wherever possible and appropriate, vocational training, for all children removed from the worst forms of child labour.

What is encompassed in the definition of ‘worst forms of child labor’? That needs to be determined in order to establish whether or not the article creates a duty on states to rehabilitate and socially reintegrate former child soldiers.

---

133 ILO, ‘Constitution of the International Labour Organisation’, (1 April 1919), article 22.
136 ILO, ‘Constitution of the International Labour Organisation’, (1 April 1919), article 37(1).
139 Ibid, article 7(2)(b) and article 7(2)(c).
Article 3(a) defines, *inter alia*, ‘forced or compulsory recruitment of children for use in armed conflict’ as something included in the term worst forms of child labor. It follows then that, states have a duty to rehabilitate and socially reintegrate former child soldiers, as well as to provide them with basic education, and, in some cases, vocational training.

This thesis has established that child soldiering is encompassed within the scope of Convention 182, which makes both the Convention and its Recommendation relevant for the purpose of this thesis.

The ILO has made distinctions among the worst forms of child labor. ‘Forced or compulsory recruitment of children for use in armed conflict’ has been labeled unconditional, implying that this type of child labor is never acceptable. It is unconditionally prohibited, as opposed to things that might be permitted under certain conditions. This is due to its negative impact on a child’s health and development.

The Committee of Experts of the ILO has acknowledged that children in armed conflict are used in more capacities than only as fighters. The Committee has, however, not included these roles within the ‘scope of the prohibition of forced or compulsory recruitment of children under 18 for use in armed conflict’. However, children abducted by armed groups to serve in other capacities than as fighters, could be seen as victims of slavery and forced labor. In comparison to the CRC, Convention 182 adopts a straight 18 policy which results in the Convention being applicable to all children below the age of 18.

Article 6 of the Convention provides that member states shall develop and implement programs of action to eliminate the worst forms of child labor. Alongside this, Recommendation no. 190 provides that these programs shall, among other things, provide former child soldiers with rehabilitation and social integration. The measures should focus on the former child soldiers educational, physical and psychological needs.

The Committee of Experts has provided that the prohibition of child soldiering applies to both state armed forces as well as other armed groups. It does not, however, apply to children that are voluntarily recruited.

In conclusion, a narrow definition of child soldiers is used in Convention 182 and states have a responsibility to remove these children from the armed groups. The Convention applies to all

---

141 Ibid, article 3.
142 Ibid, article 3(a).
145 Ibid, 213.
persons below the age of 18, but only to those children that was forcibly recruited. Upon release, former child soldiers are to be provided with rehabilitation, social integration and have access to the educational system or vocational training. Consequently, there is a legal duty on states to reintegrate and rehabilitate child soldiers. The Recommendation, that is not legally binding, also provides that the psychological needs of child soldiers need to be taken care of.

4.3 Practice of the Committee of Experts Regarding Child Soldiers

In order to establish the scope of the provision of Convention 182, the practice of the Committee of Experts regarding child soldiers have been examined. This thesis has examined the 143 observations that the Committee of Experts on the Application of Conventions and Recommendations provided on member states compliance with Convention 182 during 2012-2014.\(^\text{149}\)

A majority of the Observations were silent on the issue of reintegration as a whole.\(^\text{150}\) An almost as big portion of the Observations highlighted the importance of reintegration. In those cases, the Committee urged member states to make sure that children are removed from the worst forms of child labor, and then to provide them with rehabilitation and social integration. However, these recommendations did not explicitly mention child soldiers, rather the Observations referred to other forms of worst child labor.\(^\text{151}\) Examples of this can be shown

---


\(^\text{150}\) International Labour Office, Application of International Labour Standards 2014 (I) (ILO 2014), 181-182 (Democratic Republic of Congo), 182-184 (Kazakhstan), 184-185 (Kenya), 186-187 (Kyrgyzstan), 187-189 (Lebanon), 190-192 (Lesotho), 193-196 (Malawi), 196-199 (Mali), 200-202 (Mauretania), 202-205 (Mongolia), 205-207 (Nicaragua), 207-211 (Niger), 211 (Oman), 211-215 (Pakistan), 215-216 (Panama), 216-218 (Papua New Guinea), 228-229 (Rwanda), 229-230 (Saint Vincent and the Grenadines), 230-231 (Samoa), 233-237 (Senegal), 237 (South Africa), 238-248 (Sri Lanka), 249 (Sweden), 250-256 (United Republic of Tanzania), 256-263 (United States), 265-266 (United States), 266-267 (Uruguay), 267-268 (Uzbekistan).

International Labour Office, Report of the Committee of Experts on the Application of Conventions and Recommendations (ILO 2013), 301-304 (Gabon), 311-312 (Guinea), 323-324 (Ireland), 327-328 (Jordan), 328-329 (Kazakhstan), 332-336 (Lebanon), 336-338 (Lesotho), 364-368 (Mozambique), 368-369 (Namibia), 369-371 (Nepal), 373-375 (New Zealand), 390-392 (Senegal), 395-398 (Togo), 398-399 (Trinidad and Tobago), 403-405 (United States), 405-409 (Uzbekistan).

International Labour Office, Report of the Committee of Experts on the Application of Conventions and Recommendations (ILO 2012), 293-295 (Algeria), 323 (Cyprus), 349-352 (Lebanon), 352-355 (Lesotho), 369-372 (Mauritania), 383-384 (Namibia), 384-385 (Netherlands), 386-388 (New Zealand), 396-397 (Oman), 415-418 (Philippines), 422 (Saudi Arabia), 423-426 (Senegal), 426-428 (South Africa), 429-430 (Sri Lanka), 433-434 (Suriname), 435-436 (Switzerland), 441-443 (The former Yugoslav Republic of Macedonia), 459-460 (Uruguay), 460-463 (Uzbekistan), 466-469 (Zambia).

\(^\text{151}\) International Labour Office, Application of International Labour Standards 2014 (I) (ILO 2014), 121 (Paraguay), 224 (Peru), 231 (Saudi Arabia), 251 (Thailand), 253 (The Former Yugoslav Republic of Macedonia), 256 (Togo), 259 (Turkey), 264 (United Arab Emirates), 270 (Bolivarian Republic of Venezuela), 271 (Viet Nam), 275 (Zambia), 277 (Zimbabwe).

International Labour Office, Report of the Committee of Experts on the Application of Conventions and Recommendations (ILO 2013), 297 (Burkina Faso), 300 (Congo), 311 (Guatemala), 314-315 (Haiti), 318 (Honduras), 322 (Indonesia), 333 (Kyrgyzstan), 341-342 (Madagascar), 344 (Malawi), 346-347 (Malaysia), 350-351 (Mali), 353 (Mauritania), 357 (Mexico), 363 (Morocco), 378, 380 (Niger), 388 (Russian Federation), 394 (Thailand), 403 (United Arab Emirates).
through a couple of Observations, where the Committee only mentioned worst forms of child labor in connection to trafficking. However, the Committee stated that, in order ‘to facilitate […] [the] rehabilitation and social integration’ there was a need to provide ‘legal, psychological and medical services’.\(^{152}\)

Fortunately, not all Observations are silent on child soldiering, although some only mentions the importance of quick demobilization of child soldiers.\(^{153}\) Overall, states are encouraged to work harder in order to improve the situation of child victims of forced recruitment.\(^{154}\) States are also to guarantee that former child soldiers are rehabilitated and socially reintegrated. Further, states need to evaluate the impact of measures taken.\(^{155}\)

The Committee urged Liberia to report on what programs were in place for the reintegrations of child soldiers and how many children had benefited from those programs.\(^{156}\) Some countries were encouraged to collaborate with UNICEF or other international organizations in respect of implementing reintegration measures.\(^{157}\)

In those Observations where the Committee addressed the issue of reintegrating child soldiers, states were urged to make sure that these children received ‘adequate assistance for […] rehabilitation and social integration’,\(^{158}\) as well as reintegrating the children in school or vocational training.\(^{159}\) This thesis regrets that the Committee of Experts did not provide further

---

International Labour Office, Report of the Committee of Experts on the Application of Conventions and Recommendations (ILO 2012), 303-304 (Plurinational State of Bolivia), 305 (Botswana), 308 (Brazil), 309 (Burkina Faso), 314 (Cambodia), 321 (Congo), 330 (El Salvador), 337-338 (Guatemala), 339 (Haiti), 343 (Honduras), 349 (Kyrgyzstan), 357 (Madagascar), 360 (Malawi), 364 (Malaysia), 369 (Mali), 374 (Mexico), 381 (Morocco), 383 (Mozambique), 390 (Nicaragua), 390, 395 (Niger), 401 (Pakistan), 404 (Panama), 408 (Papua New Guinea), 411 (Paraguay), 415 (Peru), 428 (Spain), 438 (United Republic of Tanzania), 441 (Thailand), 446 (Togo), 448-449 (Turkey), 459 (United Arab Emirates), 465 (Bolivarian Republic of Venezuela), 472 (Zimbabwe).


International Labour Office, Application of International Labour Standards 2014 (I) (ILO 2014), 181 (Chad), 193 (Liberia), 242 (Sudan).


Ibid, 193 (Liberia).

International Labour Office, Application of International Labour Standards 2014 (I) (ILO 2014), 181 (Chad), 243 (Sudan).

International Labour Office, Report of the Committee of Experts on the Application of Conventions and Recommendations (ILO 2012), 319 (Chad), 433 (Sudan).

International Labour Office, Application of International Labour Standards 2014 (I) (ILO 2014), 243 (Sudan), 260 (Uganda), 273 (Yemen).


International Labour Office, Application of International Labour Standards 2014 (I) (ILO 2014), 181 (Chad), 273 (Yemen).


details, as to the scope of the provision of Convention 182, in its Observations. More detailed guidance as to what member states are required to do in fulfilling their obligations under the Convention would both enhance the states compliance with the Convention, as well as, in the end, provide the former child soldiers with more uniform rehabilitation and reintegration measures.

The Committee has acknowledged that reintegration of child soldiers is a key challenge due to the fact that if the reintegration process does not work, then it is likely that the children might be re-recruited. Therefore, the Committee has highlighted the importance of these children receiving ‘appropriate assistance for their rehabilitation and social integration’.

In connection to this, the Committee has emphasized the need of psychological assistance, as well as the importance of access to education or vocational training. It also accentuated that states need to ‘pay special attention to the removal, rehabilitation and social integration of girls’. The analysis and examination of the Observations of the Committee of Experts, during the span of three years, regretfully did not provide detailed insights of states obligations in regards to Convention 182 and the duty to rehabilitate and reintegrate former child soldiers. Additional detailed instructions would lead to a more uniform application of the provision, which would also enhance legal clarity.

In conclusion, the previous chapter revealed that Convention 182 provides a duty upon member states to provide child soldiers with rehabilitation, social integration and access to education or vocational training. The practice of the Committee of Experts have further affirmed this in the Observations reviewed, but did not provide further insight as to the scope of the provision.

4.4 Effectiveness

The ILO Constitution allows for individual petitions. However, that is limited to a member state filing a complaint against another member state that is not complying with the provisions of the Convention. The complaint may result in the Governing Body appointing a Commission of Inquiry to investigate the complaint and then issue a report with recommendations to the concerned government. The government in question can then choose to either accept the recommendations or refer the complaint to the ICJ. In the event of a government not complying with the recommendations given, the Governing Body can recommend the International Labour Conference to take ‘such action as it may deem wise and expedient to secure compliance’.

To date, there has not been a Commission of Inquiry established in connection to a complaint of a member state’s noncompliance with Convention 182. However, an example of action

---

164 ILO, ‘Constitution of the International Labour Organisation’ (1 April 1919), article 29(2).
165 Ibid, article 33.
taken in accordance with article 33 of the ILO Constitution will be provided. In 1999, the International Labour Conference took action against Myanmar due to noncompliance with the Forced Labour Convention. In accordance with article 33 of the ILO Constitution, the Conference decided that Myanmar would no longer receive technical assistance from the ILO. The only assistance given would be for the purpose of implementing the recommendations of the Commission of Inquiry. Further, Myanmar would no longer be invited to ILO meetings and seminars.

Nesi, Nogler and Pertile have argued that the supervisory mechanism of the ILO is among the most effective ones. The reason for this is because the ILO is ‘favouring the adoption of result-oriented national policies rather than imposing sanctions bluntly in case of non-compliance’. It is also because the ILO combines the actions of its compliance mechanism with technical cooperation through IPEC. IPEC is a program, funded by donors, that works with technical assistance. It has, for example, implemented projects in relation to the reintegration of child soldiers. One of the strengths of IPEC is its work with both former child soldiers and children at risk. Convention 182 is applicable to all persons under 18 years of age. Therefore, IPEC can work with children at risk up to age 18 and are also able to work with former child soldiers that are over 18 as well.

Another strength of Convention 182 is that states are obliged to create mechanisms that monitor the implementation of the provisions of the Convention. In doing so, states are required to consult with employers’ and workers organizations. Thus, it takes into consideration the important knowledge and perspectives of these organizations that have a lot of practical experience and that often work at grass-roots level.

The focus of the ILO has been on ensuring ‘economic survival’ of former child soldiers. That is due to the view that social reintegration in itself is not enough if economic reintegration measures are not also provided. By working on ensuring that former child soldiers have employment and possibilities to support themselves, the risk of their re-recruited is decreased. By stressing the economic dimension, ILO promotes the overall adoption of counter-strategies to end the worst forms of child labor.

---

171 Holly Cullen, ‘Does the ILO Have a Distinctive Role in the International Legal Protection of child soldiers?’ (2011) 5 (1) Human Rights and the International Legal Discourse 63, 68.
174 Ibid, 78-79.
5 Comparative Discussion

5.1 Comparison of the Legal Instruments Examined

In 1998, former SRSG, Olara Otunnu argued that ‘the most important and pressing challenge today is how to translate existing standards and commitments into action that can make a tangible difference to the fate of children exposed to danger on the ground. Words on paper cannot save the children in peril’.\(^{176}\) In light of the findings of this thesis, it seems that the words of Mr. Otunnu are still relevant today. The words of the conventions need to go from being just words to something that is actually effectively enforced so that it can make a real and substantial difference for the approximate quarter of a million child soldiers around the globe.

Perhaps it is true that ‘[s]uch a project can be accomplished if the international community is prepared to employ its considerable collective influence to that end’.\(^{177}\)

Prof. Nagle have argued that ‘it is not enough to establish duties and responsibilities for States to follow for rehabilitating child soldiers. The level of trauma […] is so much more extreme than what a compassionate society can […] get its collective hands around’.\(^{178}\) Even though the legal instruments examined are rather holistic, there are some elements that are left out. How does one rehabilitate and reintegrate someone that has lived through the darkest of nights and experienced the worst forms of inhumanity? Prof. Nagle has claimed that there is a need for innovative methods. One of those being to include ‘spiritual and religious leaders in a comprehensive care agenda’, implying that the ‘concept of forgiveness and unity […] could be part of the healing process’.\(^{179}\)

There is arguably a gap between the existence of the examined legal instruments and the effectiveness and strength of them. The first practical weakness lies in the fact that they fail to provide extensive protection of child soldiers.\(^{180}\) The CRC fails to protect child victims of armed conflict that are older than 15, even though it can be argued that children from 15 to 18 are as damaged by their experiences of war as children below the age of 15 are. General Comment no. 6 is only applicable to children residing outside their country of origin, even though former child soldiers are in need of protection, reintegration and rehabilitation no matter where they reside.\(^{181}\) Convention 182 fails to protect those child soldiers that “voluntarily” joined an armed force,\(^{182}\) despite the fact that studies have shown that the voluntarism often is the result of economic, cultural, social or political pressures.\(^{183}\) Convention 182 also fails to protect those children who serve in other capacities by providing a narrow definition of child soldiers. However, these children could be seen as victims of slavery and forced labor, and thus be protected by other ILO conventions.\(^{184}\) Further, the Observations of the Committee of Experts imply that it is only countries affected by war or conflict that have a duty to rehabilitate

\(^{176}\) UNGA ‘Promotion and Protection of the Rights of Children: Protection of Children Affected by Armed Conflict’ Note by the Secretary-General (12 October 1998) UN Doc A/53/482, para 140.

\(^{177}\) UNGA ‘Promotion and Protection of the Rights of Children: Protection of Children Affected by Armed Conflict’ Note by the Secretary-General (1 October 1999) UN Doc A/54/430, para 165.

\(^{178}\) Luz E. Nagle, ‘Child Soldiers and the Duty of Nations to Protect Children from Participation in Armed Conflict’ (2011) 19(1) Cardozo Journal of International and Comparative Law 1, 47.

\(^{179}\) Ibid, 48.


\(^{181}\) See chapters 2.2-2.4.

\(^{182}\) See chapter 4.2.

\(^{183}\) See chapter 1.1.

\(^{184}\) See chapter 4.2.
and reintegrate child soldiers, thus failing to protect asylum-seeking and refugee children that are in need of reintegration measures.\textsuperscript{185}

This thesis argues that it is the OPAC that provides the most extensive protection of child soldiers. That is because: (1) it includes everyone up to the age of 18\textsuperscript{186}; (2) it protects children regardless of where they reside; (3) it allows for the broad interpretation of child soldier to be used, and; (4) the practice of its compliance mechanism is fairly detailed in regards to what states need to do in order to fulfil its obligations.\textsuperscript{187}

The second practical weakness lies in the vague use of language when drafting the different instruments, which implies a difficulty to apply the concerned articles in concrete situations.\textsuperscript{188} The wordings of the provisions of the CRC, the OPAC and Convention 182 are rather broad and general.\textsuperscript{189} That has both advantages and disadvantages. It is positive in the way that it allows the states themselves to adapt and adjust their reintegration measures in a way that suits the country’s own context and setting, especially in allowing for cultural appropriateness. However, the disadvantage with general wording is that the provisions will be applied differently around the world. Consequently, with unspecific provisions - child soldiers will benefit from different measures dependent on where they live.

However, even though there are weaknesses in the existing legal framework, ‘[w]e should […] put greater emphasis on enforcing these imperfect, but necessary, standards.’\textsuperscript{190}

States’ compliance with the CRC and the OPAC are monitored by the Committee on the Rights of the Child;\textsuperscript{191} while states’ compliance with Convention 182 is monitored by The Committee of Experts on the Application of Conventions and Recommendations.\textsuperscript{192} The main weakness of the Committee on the Rights of the Child is the lack of an ongoing mechanism that can monitor states’ compliance with the legal instruments independently of the states’ self-reporting. The new additional protocol to the CRC, The Communications Protocol, is promising and hopefully it will further improve the protection of former child soldiers.\textsuperscript{193} Further, it is unfortunate that the Committee cannot enforce its recommendations, but rather only reiterate its recommendations to the different states.\textsuperscript{194} In comparison, Convention 182 provides stronger protection due to its complaint mechanism that may lead to the establishment of a Commission of Inquiry that issues recommendations to the concerned government. It is positive that the recommendations can be referred to the ICJ if the government wishes to. It is also positive that the ILO has a way of enforcing its recommendations through placing restrictions in the case of noncompliance. That the ILO combines placing restrictions with technical assistance to help the concerned government to implement recommendations is another sign of effectiveness: working on a number of fronts in order to reach the objectives of the ILO conventions.\textsuperscript{195}

The practice of the compliance mechanisms differed in content, the level of details provided, and how much focus was placed on the reintegration for child soldiers. The practice of

\textsuperscript{185} See chapter 4.3.
\textsuperscript{186} Except those voluntarily recruited to state armed forces.
\textsuperscript{187} See chapters 3.2-3.3.
\textsuperscript{188} Gus Waschefort, ‘International Law and Child Soldiers’ (Hart Publishing 2015) 8.
\textsuperscript{189} See chapters 2.2, 3.2, 4.2.
\textsuperscript{191} See chapters 2.1, 3.1.
\textsuperscript{192} See chapter 4.1.
\textsuperscript{193} See chapters 2.4, 3.4.
\textsuperscript{194} See chapters 2.4, 3.4.
\textsuperscript{195} See chapter 4.4.
Committee of Experts did not provide further insight as to what member states are to do in order to comply with their obligations to reintegrate child soldiers. Rather, the Committee emphasized the need of rehabilitation and social integration for child soldiers, and highlighted the importance of education and vocational training. By comparison, the practice of the Committee on the Rights of the Child, in regards to the CRC, showed that the issue of child victims of armed conflict under article 39 rarely is addressed. This is despite indications that countries that are not affected by war have obligations to provide psychological and social support to child soldiers, and to take care of their physical and psychological recovery and reintegration. Similarly to the practice of the Committee of Experts, the Committee on the Rights of the Child did not provide in detail what these measures should consist of. The Committee of Experts placed greater emphasis on education and vocational training, while the Committee on the Rights of the Child placed greater emphasis on the psychological and physical needs of child soldiers.

The practice of the Committee on the Rights of the Child, in regards to the OPAC, stands out from the practice of the other two instruments examined due to the level of detail in the Concluding Observations. As the practice of the other instruments, it reflects that states need to implement measures for the children’s physical and psychological recovery, and provide access to educational and health care services. However, the Committee is more specific in its practice, compared to the others, by providing that the children need immediate access to rehabilitation measures and that they need to be part of social reintegration programs.

The practice concerning the OPAC differs; first and foremost, because it provides an obligation on all member states to reintegrate former child soldiers – irrespective of the enlistment having been voluntary or forced. Secondly, it provides that the children need assistance with a multidisciplinary approach that is both child and gender friendly. Thirdly, it provides that the children should be afforded protective accommodation if they cannot be reunited with their families. Fourthly, the children need access to legal services. And lastly, in one Concluding Observation, the Committee stated that the rehabilitation measures should be aligned with the Paris Principles.

5.2 Comparison of the Current Legal Framework and the Paris Principles

The reference made, by the Committee on the Rights of the Child, to the Paris Principles is intriguing. In February 2007, an international conference was held in Paris which led to the adoption of the Paris Commitments. The overall objective was the concern for children affected by armed conflict and, among other things, it recognizes that reintegration of child soldiers is the ‘ultimate goal of the process of securing their release from armed forces or groups’.  

---

196 See chapter 4.3.
197 See chapter 2.3.
198 See chapters 2.3, 4.3.
199 See chapter 3.3.
200 See chapter 3.3.
202 United Nations Children’s Fund, ‘The Paris Commitments to Protect Children from Unlawful Recruitment or use by Armed Forces or Armed Groups’ (February 2007), preamble.
The Paris Commitments was not meant to be a tool to create new international standards, but was rather made to support and enhance the release and reintegration of children.\textsuperscript{203} The Paris Principles is a complementary document to the Paris Commitments that was made to be a practical tool for the reintegration of child soldiers. It was also made to identify best practices that could be used in different contexts.\textsuperscript{204}

The Paris Principles and its definition had, as of 2011, been endorsed by 100 countries, which indicates a strong support for the broader definition of who a child soldier is.\textsuperscript{205} It is also an indication of strong support for the recommendations provided that is both more detailed and specific in comparison to the three legal instruments examined.

In contrast to General Comment no. 6, the Paris Principles pertains to all child soldiers – regardless of where they reside.\textsuperscript{206} In contrast to the CRC and Convention 182, the Paris Principles applies to all children below the age of 18 irrespective of if the recruitment were forced or voluntary. Further, the Paris Principles provides a broad definition of ‘child soldier’, that is encompassing both boys and girls regardless of the capacity the served in.\textsuperscript{207}

The Paris Principles robustly addresses the issue of reintegration and rehabilitation of child soldiers. The wording of its principles and guidelines are specific and built on international standards with a child rights-based approach.\textsuperscript{208} The Paris Principles fills some of the gaps that exist in the framework examined. The purpose of this thesis was not to review the Paris Principles in the same manner as the legal instruments were reviewed. However, there are potential areas where the international legal framework might have room for improvement, and where the Paris Principles could shine some light.

The Paris Principles addresses aspects to reintegration of child soldiers that are not covered by the current legal duty to reintegrate child soldiers. Among other things, the document provides that child soldiers never should be seen as deserters, and that reintegration of child soldiers should be encompassed in peace processes.\textsuperscript{209} The Paris Principles also highlights the importance of community engagement. That is, when planning for reintegration programs the receiving community should be involved. The programs should build on the resources of the community and consider its values, hierarchies and social dynamics.\textsuperscript{210} It could be argued that, if the receiving community is not considered in the equation, it might affect the success of the reintegration programs.

However, as a soft law instrument, the Paris Principles are not binding.\textsuperscript{211} Thus, the Paris Principles are only recommendations and not legal rules that can be enforced. However, the recommendations may shed light and increase attention on the issue of child soldiers and build

\textsuperscript{204} Ibid, 113.
\textsuperscript{207} Ibid, paras 2.0, 2.1.
\textsuperscript{208} Ibid, para 1.5.
\textsuperscript{209} Ibid, paras 7.6.3, 7.12.
\textsuperscript{210} Ibid, para 7.4.
\textsuperscript{211} Rose Mukhar, ‘Child Soldiers and Peace Agreements’ (2014) 20 Annual Survey of International and Comparative Law 73, 86.
support to ratify the international treaties that concerns child soldiers. If more countries would endorse the Paris Principles and if the Committee on the Rights of the Child would continue to make references to them – hopefully, over time, the Paris Principles could develop into customary international law.

6 Conclusion

This thesis was set out to examine and establish whether states have a duty in international treaty law to reintegrate former child soldiers and to examine whether the enforcement mechanisms are effective. A legal dogmatic method was used in order to establish de lege lata. The practice of the respective enforcement mechanisms, as well as general comments, were reviewed to, inter alia, establish the scope and meaning of the provisions.

Armed conflicts are never child-friendly. Often, child soldiers are treated worse than livestock and used as weapons to commit unthinkable atrocities. The situation of child soldiers is both multifaceted and complex, since child soldiers often are both perpetrators and victims at the same time. When the conflict is over, former child soldiers are expendable and it is often difficult for them to return to a normal life.

This thesis has identified that there are state duties in international treaty law to reintegrate child soldiers, and the details of those duties have been summarized in each specific chapter. The state duties to reintegrate child soldiers can be found in the CRC, the OPAC and ILO Convention 182. However, the reintegration duty of the respective legal instruments differ in scope, level of details provided, as well as the applicability of provisions.

This was probably the first study to investigate and review the practice of the respective treaty monitoring bodies in regards to the reintegration of child soldiers. The research has found that even though the three legal instruments contain provisions for the reintegration of former child soldiers - the practice of the respective treaty monitoring bodies show varying degrees of actually addressing the issue to its member states. Further, the respective treaty monitoring bodies differ in effectiveness and strength. They are effective because states, in general, comply with ratified treaties. However, the weaknesses of the treaty monitoring bodies became evident in those cases where a state did not comply with its obligations. The UN Committee on the Rights of the Child can only reiterate its recommendations to states and urge them to take action. The Committee is therefore something of a toothless tiger. By contrast, the ILO has a stronger and more effective treaty monitoring body. That is due to its possibility of placing restrictions in the case of noncompliance, as well as combining those restrictions with technical assistance.

The research of this thesis has also showed that there are gaps in the existing legal framework, and therefore suggests that these gaps could be filled by soft law. The wording of the provisions in the examined treaties is rather general, which has the advantage of states being able to adapt the reintegration measures to their own context and setting, especially in allowing for cultural appropriateness. However, the disadvantage of the general wording is that the provisions of the legal instruments will be applied differently around the world, thus affecting the legal security. This thesis suggests that it would be possible to use soft law as a way of providing clearer rules that could lead to a more uniform application of the provisions. This could be done without

affecting states’ possibilities to make the measures fit their respective context as well as make them culturally appropriate.

The wording and level of detail of the Paris Principles would be wonderful to have in treaty language, but as shown throughout this study – it does not exist there now. Soft law seem to provide more details in regard to the reintegration of child soldiers, and it should shine the light as to how hard law should develop. This could either be done by the Paris Principles developing into customary international law over time, or by the adoption of an additional protocol.

An additional protocol could build on existing standards found in the examined legal instruments, but with the reinforcement of the recommendations and best practices found in the Paris Principles. Further, in order for that additional protocol to be effective – a strong enforcement mechanism should be incorporated. It should be able to place either restrictions or sanctions in the case of noncompliance and have an individual complaint mechanism. However, it is uncertain whether states would be willing to ratify another additional protocol. Further, it would probably take a long time before such an additional protocol could enter into force.

Another way of improving the situation of child soldiers would be for the UN Committee on the Rights of the Child to adopt a General Comment that has a sole focus on the issue and needs of child soldiers. This would enhance the protection and rehabilitation of child soldiers by providing states with further guidance as to the content and meaning of the provisions of the CRC and the OPAC.

The future of approximately a quarter of a million child soldiers depend on states upholding their obligations to reintegrate and rehabilitate them. Former child soldiers need help to work through their trauma and need to receive the tools required to rebuild and reshape their lives. Reintegration of child soldiers is also essential in building peace and stability in areas affected by war. If these children are left without the fulfilment of their right to rehabilitation and reintegration, they will have difficulties building a life where they can contribute to society. It is therefore essential that states uphold their obligations to reintegrate and rehabilitate former child soldiers.
Bibliography

**Primary sources**

**International treaties**


**Secondary sources**

**Articles**

- Holly Cullen, ‘Does the ILO Have a Distinctive Role in the International Legal Protection of child soldiers?’ (2011) 5 (1) Human Rights and the International Legal Discourse 63
Jennifer R. Silva, ‘Child Soldiers: A Call to the International Community to Protect Children from War’ (2008) 31 (3) Suffolk Transnational Law Review 681

Luz E. Nagle, ‘Child Soldiers and the Duty of Nations to Protect Children from Participation in Armed Conflict’ (2011) 19(1) Cardozo Journal of International and Comparative Law 1


Rose Mukhar, ‘Child Soldiers and Peace Agreements’ (2014) 20 Annual Survey of International and Comparative Law 73


Books
Christine Chinkin, ‘Sources’ in Daniel Moeckli, Sangeeta Shah & Sandesh Sivakumaran (eds), International Human Rights Law (2nd edn Oxford University Press 2014)

Fredrik Korling & Mauro Zamboni (eds), Juridisk metodlära (Studentlitteratur 2013)

Giuseppe Nesi, Luca Nogler and Marco Pertile, Child Labour in a Globalized World: A Legal Analysis of ILO Action (Ashgate Publishing Group 2008)

Gus Waschefort, International Law and Child Soldiers (Hart Publishing 2015)


Matthew Happold, Child Soldiers in International Law (Manchester University Press 2005)

Case law

Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo), Merits, Judgment, I.C.J. Reports 2010, 639

Documents

ILO, ‘Constitution of the International Labour Organisation’, (1 April 1919)


International Labour Conference (87th Session) Resolution on the Widespread Use of Forced Labour in Myanmar (Geneva June 1999)


UN Committee on the Rights of the Child, ‘General comment No. 13 (2011) The right of the child to freedom from all forms of violence’ (18 April 2011) UN Doc CRC/C/GC/13

UN Committee on the Rights of the Child, ‘General Guidelines Regarding the Form and Content of Initial Reports to be Submitted by States Parties under Article 44, Paragraph 1(a), of the Convention’ (30 October 1991) UN Doc CRC/C/5

UN Committee on the Rights of the Child, ‘Report on the Second Session’ (19 October 1992) UN Doc CRC/C/10

UN Committee on the Rights of the Child, ‘Revised Guidelines Regarding Initial Reports to be Submitted by State Parties under Article 8, Paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on Involvement of Children in Armed Conflict’ (19 October 2007) UN Doc CRC/C/OPAC/2

UN Committee on the Rights of the Child, ‘Rules of procedure’ (18 March 2015) UN Doc CRC/C/4/Rev.4


UNGA ‘Promotion and protection of the rights of children: Protection of children affected by armed conflict Note by the Secretary-General’ (12 October 1998) UN Doc A/53/482

UNGA ‘Promotion and protection of the rights of children: Protection of children affected by armed conflict Note by the Secretary-General’ (1 October 1999) UN Doc A/54/430

United Nations, ‘Statute of the International Court of Justice’ (18 April 1946)
Concluding Observations of the CRC (sorted by date)

UN Committee on the Rights of the Child, ‘Concluding observations on the combined third, fourth and fifth periodic reports of Hungary’ (14 October 2014) UN Doc CRC/C/HUN/CO/3-5

UN Committee on the Rights of the Child, ‘Concluding observations on the combined third and fourth periodic reports of Morocco’ (14 October 2014) UN Doc CRC/C/MAR/CO/3-4

UN Committee on the Rights of the Child, ‘Concluding observations on the combined third and fourth periodic reports of Croatia’ (13 October 2014) UN Doc CRC/C/HRV/CO/3-4

UN Committee on the Rights of the Child, ‘Concluding observations on the combined second to fourth periodic reports of Fiji’ (13 October 2014) UN Doc CRC/C/FJI/CO/2-4

UN Committee on the Rights of the Child, ‘Concluding observations on the combined third to fifth periodic reports of the Bolivarian Republic of Venezuela’ (13 October 2014) UN Doc CRC/C/VEN/CO/3-5

UN Committee on the Rights of the Child, ‘Concluding observations on the combined third and fourth periodic reports of Indonesia’ (10 July 2014) UN Doc CRC/C/IDN/CO/3-4

UN Committee on the Rights of the Child, ‘Concluding observations on the combined fourth and fifth periodic reports of Jordan’ (8 July 2014) UN Doc CRC/C/JOR/CO/4-5

UN Committee on the Rights of the Child, ‘Concluding observations on the combined second to fourth periodic reports of Saint Lucia’ (8 July 2014) UN Doc CRC/C/LCA/CO/2-4

UN Committee on the Rights of the Child, ‘Concluding observations on the combined third and fourth periodic reports of Armenia, adopted by the Committee at its sixty-third session (27 May – 14 June 2013)’ (8 July 2013) UN Doc CRC/C/ARM/CO/3-4

UN Committee on the Rights of the Child, ‘Concluding observations on the combined third and fourth periodic reports of India’ (7 July 2014) UN Doc CRC/C/IND/CO/3-4

UN Committee on the Rights of the Child, ‘Concluding observations on the combined third and fourth periodic reports of Kyrgyzstan’ (7 July 2014) UN Doc CRC/C/KGZ/CO/3-4

UN Committee on the Rights of the Child, ‘Concluding observations on the combined second to fourth periodic report of the Congo’ (25 February 2014) UN Doc CRC/C/COG/CO/2-4

UN Committee on the Rights of the Child, ‘Concluding observations on the second periodic report of the Holy See’ (25 February 2014) UN Doc CRC/C/VAT/CO/2

UN Committee on the Rights of the Child, ‘Concluding observations on the combined third and fourth periodic reports of Germany’ (25 February 2014) UN Doc CRC/C/DEU/CO/3-4

UN Committee on the Rights of the Child, ‘Concluding observations on the combined third and fourth periodic report of Portugal’ (25 February 2014) UN Doc CRC/C/PRT/CO/3-4
UN Committee on the Rights of the Child, ‘Concluding observations on the combined fourth and fifth periodic reports of the Russian Federation’ (25 February 2014) UN Doc CRC/C/RUS/CO/4-5

UN Committee on the Rights of the Child, ‘Concluding observations on the fourth periodic report of Yemen’ (25 February 2014) UN Doc CRC/C/YEM/CO/4

UN Committee on the Rights of the Child, ‘Concluding observations on the combined third and fourth periodic reports of Lithuania, adopted by the Committee at its sixty-fourth session (16 September–4 October 2013)’ (30 October 2013) UN Doc CRC/C/LTU/CO/3-4

UN Committee on the Rights of the Child, ‘Concluding observations on the initial report of Tuvalu, adopted by the Committee at its sixty-fourth session (16 September–4 October 2013)’ (30 October 2013) UN Doc CRC/C/TUV/CO/1

UN Committee on the Rights of the Child, ‘Concluding observations on the combined third and fourth periodic reports of China, adopted by the Committee at its sixty-fourth session (16 September–4 October 2013)’ (29 October 2013) UN Doc CRC/C/CHN/CO/3-4

UN Committee on the Rights of the Child, ‘Concluding observations on the second periodic report of Kuwait, adopted by the Committee at its sixty-fourth session (16 September–4 October 2013)’ (29 October 2013) UN Doc CRC/C/KWT/CO/2

UN Committee on the Rights of the Child, ‘Concluding observations on the combined second and third periodic reports of Monaco, adopted by the Committee at its sixty-fourth session (16 September–4 October 2013)’ (29 October 2013) UN Doc CRC/C/MCO/CO/2-3

UN Committee on the Rights of the Child, ‘Concluding observations on the combined second to fourth periodic reports of Sao Tome and Principe, adopted by the Committee at its sixty-fourth session (16 September–4 October 2013)’ (29 October 2013) UN Doc CRC/C/STP/CO/2-4

UN Committee on the Rights of the Child, ‘Concluding observations on the combined third and fourth periodic reports of Luxembourg, adopted by the Committee at its sixty-fourth session (16 September–4 October 2013)’ (29 October 2013) UN Doc CRC/C/LUX/CO/3-4

UN Committee on the Rights of the Child, ‘Concluding observations on the combined second to fourth periodic reports of Guinea-Bissau, adopted by the Committee at its sixty-third session (27 May–14 June 2013)’ (8 July 2013) UN Doc CRC/C/GNB/CO/2-4

UN Committee on the Rights of the Child, ‘Concluding observations on the combined third and fourth periodic reports of Uzbekistan, adopted by the Committee at its sixty-third session (27 May–14 June 2013)’ (10 July 2013) UN Doc CRC/C/UZB/CO/3-4

UN Committee on the Rights of the Child, ‘Concluding observations on the combined third and fourth periodic reports of Slovenia, adopted by the Committee at its sixty-third session (27 May–14 June 2013)’ (8 July 2013) UN Doc CRC/C/SVN/CO/3-4

UN Committee on the Rights of the Child, ‘Concluding observations on the combined second to fourth periodic reports of Guyana, adopted by the Committee at its sixty-second session (14 January–1 February 2013)’ (18 June 2013) UN Doc CRC/C/GUY/CO/2-4
UN Committee on the Rights of the Child, ‘Concluding observations on the second periodic report of Malta, adopted by the Committee at its sixty-second session (14 January–1 February 2013)’ (18 June 2013) UN Doc CRC/C/MLT/CO/2

UN Committee on the Rights of the Child, ‘Concluding observations on the second periodic report of Guinea, adopted by the Committee at its sixty-second session (14 January–1 February 2013)’ (13 June 2013) UN Doc CRC/C/GIN/CO/2

UN Committee on the Rights of the Child, ‘Concluding observations on the combined second to fourth periodic reports of Liberia, adopted by the Committee at its sixty-first session (17 September–5 October 2012)’ (13 December 2012) UN Doc CRC/C/LBR/CO/2-4

UN Committee on the Rights of the Child, ‘Concluding observations on the combined second to fourth periodic reports of Albania, adopted by the Committee at its sixty-first session (17 September–5 October 2012)’ (7 December 2012) UN Doc CRC/C/ALB/CO/2-4

UN Committee on the Rights of the Child, ‘Concluding observations on the combined third and fourth periodic report of Canada, adopted by the Committee at its sixty-first session (17 September – 5 October 2012)’ (6 December 2012) UN Doc CRC/C/CAN/CO/3-4

UN Committee on the Rights of the Child, ‘Concluding observations on the combined third and fourth periodic report of Austria, adopted by the Committee at its sixty-first session (17 September – 5 October 2012)’ (3 December 2012) UN Doc CRC/C/AUT/CO/3-4

UN Committee on the Rights of the Child, ‘Concluding observations on the second periodic report of Andorra, adopted by the Committee at its sixty-first session (17 September – 5 October 2012)’ (3 December 2012) UN Doc CRC/C/AND/CO/2

UN Committee on the Rights of the Child, ‘Concluding observations on the consolidated second to fourth periodic reports of Bosnia and Herzegovina, adopted by the Committee at its sixty-first session (17 September–5 October 2012)’ (29 November 2012) UN Doc CRC/C/BIH/CO/2-4

UN Committee on the Rights of the Child, ‘Concluding observations on the consolidated second and third periodic reports of Namibia, adopted by the Committee at its sixty-first session (17 September–5 October 2012)’ (16 October 2012) UN Doc CRC/C/NAM/CO/2-3

UN Committee on the Rights of the Child, ‘Concluding observations on the combined third and fourth periodic report of Cyprus, adopted by the Committee at its sixtieth session (29 May–15 June 2012)’ (24 September 2012) UN Doc CRC/C/CYP/CO/3-4

UN Committee on the Rights of the Child, ‘Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Australia’ (28 August 2012) UN Doc CRC/C/AUS/CO/4

UN Committee on the Rights of the Child, ‘Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Viet Nam’ (22 August 2012) UN Doc CRC/C/VNM/CO/3-4

UN Committee on the Rights of the Child, ‘Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Greece’ (13 August 2012) UN Doc CRC/C/GRC/CO/2-3
UN Committee on the Rights of the Child, ‘Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Turkey’ (20 July 2012) UN Doc CRC/C/TUR/CO/2-3

UN Committee on the Rights of the Child, ‘Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Algeria’ (18 July 2012) UN Doc CRC/C/DZA/CO/3-4

UN Committee on the Rights of the Child, ‘Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Myanmar’ (14 March 2012) UN Doc CRC/C/MMR/CO/3-4

UN Committee on the Rights of the Child, ‘Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Azerbaijan’ (12 March 2012) UN Doc CRC/C/AZE/CO/3-4

UN Committee on the Rights of the Child, ‘Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Togo’ (8 March 2012) UN Doc CRC/C/TGO/CO/3-4

UN Committee on the Rights of the Child, ‘Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Madagascar’ (8 March 2012) UN Doc CRC/C/MDG/CO/3-4

UN Committee on the Rights of the Child, ‘Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Cook Islands’ (22 February 2012) UN Doc CRC/C/COK/CO/1

UN Committee on the Rights of the Child, ‘Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Thailand’ (17 February 2012) UN Doc CRC/C/THA/CO/3-4

UN Committee on the Rights of the Child, ‘Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Syrian Arab Republic’ (9 February 2012) UN Doc CRC/C/SYR/CO/3-4

UN Committee on the Rights of the Child, ‘Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Republic of Korea’ (2 February 2012) UN Doc CRC/C/KOR/CO/3-4

UN Committee on the Rights of the Child, ‘Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Iceland’ (23 January 2012) UN Doc CRC/C/ISL/CO/3-4

UN Committee on the Rights of the Child, ‘Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Seychelles’ (23 January 2012) UN Doc CRC/C/SYC/CO/2-4

Concluding Observations of the OPAC (sorted by date)

UN Committee on the Rights of the Child, ‘Concluding observations on the report submitted by Morocco under article 8, paragraph 1 of the Optional Protocol to the Convention on the
Rights of the Child on the involvement of children in armed conflict’ (13 November 2014) UN Doc CRC/C/OPAC/MAR/CO/1

UN Committee on the Rights of the Child, ‘Concluding observations on the report submitted by Hungary under article 8, paragraph 1 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict’ (3 November 2014) UN Doc CRC/C/OPAC/HUN/CO/1

UN Committee on the Rights of the Child, ‘Concluding observations on the report submitted by the Bolivarian Republic of Venezuela under article 8, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict’ (3 November 2014) UN Doc CRC/C/OPAC/VEN/CO/1

UN Committee on the Rights of the Child, ‘Concluding observations on the report submitted by Singapore under article 8, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict’ (13 October 2014) UN Doc CRC/C/OPAC/SGP/CO/1

UN Committee on the Rights of the Child, ‘Concluding observations on the report submitted by India under article 8, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict’ (7 July 2014) UN Doc CRC/C/OPAC/IND/CO/1

UN Committee on the Rights of the Child, ‘Concluding observations on the report submitted by Jordan under article 8, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict’ (7 July 2014) UN Doc CRC/C/OPAC/JOR/CO/1

UN Committee on the Rights of the Child, ‘Concluding observations on the report submitted by Yemen under article 8, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict’ (26 February 2014) UN Doc CRC/C/OPAC/YEM/CO/1

UN Committee on the Rights of the Child, ‘Concluding observations on the report submitted by the Holy See under article 8, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict’ (25 February 2014) UN Doc CRC/C/OPAC/VAT/CO/1

UN Committee on the Rights of the Child, ‘Concluding observations on the report submitted by the Russian Federation under article 8, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict’ (25 February 2014) UN Doc CRC/C/OPAC/RUS/CO/1

UN Committee on the Rights of the Child, ‘Concluding observations on the report submitted by Portugal under article 8, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict’ (24 February 2014) UN Doc CRC/C/OPAC/PRT/CO/1

UN Committee on the Rights of the Child, ‘Concluding observations on the initial report of China submitted under article 8 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, adopted by the Committee at its sixty-
fourth session (16 September–4 October 2013)’ (29 October 2013) UN Doc CRC/C/OPAC/CHN/CO/1

UN Committee on the Rights of the Child, ‘Concluding observations on the initial report of Paraguay submitted under article 8 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, adopted by the Committee at its sixty-fourth session (16 September–4 October 2013)’ (25 October 2013) UN Doc CRC/C/OPAC/Pry/CO/1

UN Committee on the Rights of the Child, ‘Concluding observations on the initial report of Uzbekistan submitted under article 8 of the Optional Protocol to the Convention on the involvement of children in armed conflict, adopted by the Committee at its sixty-third session (27 May–14 June 2013)’ (8 July 2013) UN Doc CRC/C/OPAC/UZB/CO/1

UN Committee on the Rights of the Child, ‘Concluding observations on the initial report of Burkina Faso submitted under article 8 of the Optional Protocol to the Convention on the involvement of children in armed conflict, adopted by the Committee at its sixty-second session (14 January–1 February 2013)’ (26 June 2013) UN Doc CRC/C/OPAC/BFA/CO/1

UN Committee on the Rights of the Child, ‘Concluding observations on the second report of the United States of America submitted under article 8 of the Optional Protocol to the Convention on the involvement of children in armed conflict, adopted by the Committee at its sixty-second session (14 January–1 February 2013)’ (26 June 2013) UN Doc CRC/C/OPAC/USA/CO/2

UN Committee on the Rights of the Child, ‘Concluding observations on the initial report of Slovakia submitted under article 8 of the Optional Protocol to the Convention on the involvement of children in armed conflict, adopted by the Committee at its sixty-second session (14 January–1 February 2013)’ (26 June 2013) UN Doc CRC/C/OPAC/SVK/CO/1

UN Committee on the Rights of the Child, ‘Optional Protocol on the involvement of children in armed conflict. Concluding observations on the initial report of Albania, adopted by the Committee at its sixty-first session (17 September–5 October 2012)’ (6 December 2012) UN Doc CRC/C/OPAC/ALB/CO/1

UN Committee on the Rights of the Child, ‘Optional Protocol on the involvement of children in armed conflict. Concluding observations on the initial report of the former Yugoslav Republic of Macedonia, adopted by the Committee at its fifty-fourth session (25 May–11 June 2010)’ (4 December 2012) UN Doc CRC/C/OPAC/MKD/CO/1

UN Committee on the Rights of the Child, ‘Consideration of reports submitted by States parties under article 8, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict Concluding observations: Greece’ (20 July 2012) UN Doc CRC/C/OPAC/GRC/CO/1

UN Committee on the Rights of the Child, ‘Consideration of reports submitted by States parties under article 8, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict Concluding observations: Azerbaijan’ (8 March 2012) UN Doc CRC/C/OPAC/AZE/CO/1

UN Committee on the Rights of the Child, ‘Consideration of reports submitted by States parties under article 8, paragraph 1, of the Optional Protocol to the Convention on the Rights of the
Child on the involvement of children in armed conflict Concluding observations: Democratic Republic of Congo’ (7 March 2012) UN Doc CRC/C/OPAC/COD/CO/1

UN Committee on the Rights of the Child, ‘Consideration of reports submitted by States parties under article 8 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict Concluding observations: Thailand’ (21 February 2012) UN Doc CRC/C/OPAC/THA/CO/1

**Online resources**


**Soft law**

United Nations Children’s Fund, ‘The Paris Commitments to Protect Children from Unlawful Recruitment or use by Armed Forces or Armed Groups’ (February 2007) (cit. The Paris Commitments)