



The Rights of Children in Conflicted Territories

by Sophie Rofheart and Andrea Brown

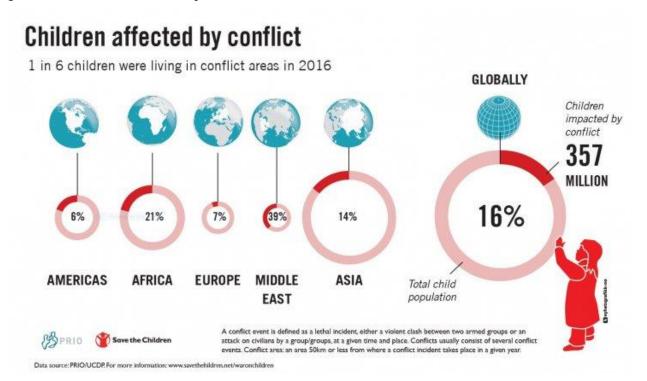
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Introduction

The Member States of the United Nations have addressed children's rights in conflicted territories repeated over the years, and need to focus on the issue again, as the map of global conflict evolves. The discourse is hindered by several complexities, ranging from conflicting priorities among Member States to inadequate considerations specifically for children in conflicted territories.

According to the United Nations, conflictaffected areas are those affected by, 'Multiple human rights violations, with the presence of an illegitimate Government, lack of equal economic opportunities, systematic discrimination against cohorts of the population, lack of political participation by the electorate, endemic corruption, and chronic poverty that is usually associated with heightened risks and responsibilities (Hansson, 2013, p. 10).'

The most acute problems involve conflicts like Ukraine, terrorist violence in much of Northern Africa, or the Somalia, Syrian and Yemeni civil wars, but also potentially the suffering of Muslim Rohingyas of Myanmar forced to leave their country, or even residents of parts of Mexico victimized by violent drug cartels.



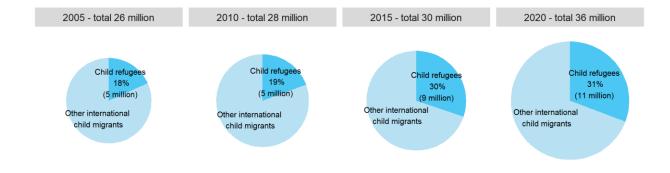
While they may not always suffer most, children have the least control over the ways these conflicts affect them. According to the UN Emergency Children's Fund (UNICEF), at the end of 2022, there were 678 million children under the age of 5, and 2 billion under the age of eighteen.1 All these children have agreed international rights, both as people and especially children. Worldwide, about 36.5 million children had been displaced—forced to become international refuges or internally displaced people (IDPs)—as consequence of conflict and violence as of the end of 2021.² Their rights are least likely to be assured, and most in need to consideration by the UN Human Rights Council.

Definitional issues are extremely important, since the meaning of the word *child* has important legal consequences, and it differs greatly from country to country. According to the *Convention on the rights of the child*, the word refers to any human below the age of eighteen years. They shall, without prejudice or discrimination, enjoy a universal set of rights (Articles 1-54). These rights include but are not limited to; the right to survival/life, protection, and development, the right to an education, the prohibition of unlawful/unfair discrimination, the right of the child to grow up in a family

environment with happiness, love, and understanding, registration immediately after birth, and the right to not be subjected to economic/sexual exploitation or child labor (UNGA, 1989).

The greatest threats to children come from poverty, exploitation, and as addressed here by the UN Human Rights Council, by armed conflict. Millions of children around the world are refugees, typically forced by armed violence or repression to flee their homelands. Other live in contested territory, leaving them victims of struggles for political and territorial control.

Many argue the UN insufficiently addressed the impact of conflict on children. There are dozens of conflicts around the world where children's rights have been violated, where there living standards have been undermined, and their future prospects greatly diminished. Some are affected more directly, their lives threatened, their security undermined. These violations can be observed in the recruitment and training of child soldiers, the holding of children in detention centers after being forcibly separated from their families, as well as child economic and sexual exploitation. Women and children are the most vulnerable in conflicted regions (ICRC, 2020).



¹ 'How many children are there in the world?' *UNICEF*, n.d., https://data.unicef.org/how-many/how-many-children-are-in-the-world/

² 'Child displacement', *UNICEF*, June 2022, https://data.unicef.org/topic/child-migration-and-displacement/displacement/

Organizations and activists dedicated to the protection of children in conflicted regions have been outspoken about the need for increased action and nuanced policies to provide better assistance to children impacted by violence. However, the actions of humanitarian organizations are only capable of solving so much when the needs of children in conflicted territories are not met universally.

Progress requires the full cooperation of the international community, with the kind of agreement only the UN is capable of generating, and the work of the UN Human Rights Council on these specific issues. But the HCR is above all a political institution.

The effect of politics on these issues—the relationship between the needs of children and political priorities of the countries of the UN—are highly relevant here. Specific conflicts, which preoccupy many Member States, also affect children. For many Member States, the children's issues that matter most involve those conflicts. Expect delegates to raise issues like the war in Ukraine or the fate of Palestine (the Occupied Palestinian Territories, or OPT, in the UN), and demand resolution of those conflicts as the best way to address the needs of children in conflicted territories.

History

The UN's Actions Concerning Children's Rights

Children's Rights have been the subject of international debate for decades, and there have been many attempts at creating a universal set of rights and protection for children throughout history. The league of Nations in (1924) established and adopted the Geneva Declaration on the rights of the child, followed by the (UNGA) establishment of the International Children's Emergency Fund (UNICEF), and the Universal Declaration of Human Rights in (1959) with article 25 focusing specifically on mothers and children (UNICEF, 1990).

Moreover, the United Nations General Assembly (UNGA) adopted the Declaration of the Rights of the Child in (1966), which highlighted children's rights to education, a supportive environment, and healthcare, (UNICEF, 1990). There was also the creation of the (ICESCR) and the (ICCPR) which highlighted a myriad of civil, political, social, economic, and cultural rights for all children in (1968) among many other initiatives established and adopted by the United Nations.

Though these documents all called for protecting the rights of children, the differing experiences of and complex politics surrounding children in conflicted territories prevented some children from enjoying the benefits of these initiatives. In an attempt to close this gap, the Convention on the Rights of the Child was adopted in (1990) by the UNGA and aimed to specifically outline the rights and protections of children, to provide a framework for member states to utilize, and this declaration is universally proclaimed as the landmark achievement for promoting and protecting the rights of the child (UNICEF, 1990).

However, this agreement faces criticism for being superficial, as though it encourages and calls for certain protections, it fails to provide any concrete preventative measures.

Consequently, this was highlighted in (2000) when the (UNGA) adopted two *Optional Protocols to the Convention on the Rights of the Child*.

These Optional Protocols are more demanding than the initial convention. States are not legally required to abide by them. Though the content of protocols has considerable protections for the rights of children in conflicted territories, States can align themselves with the original document without genuinely updating their policies.

In 2021 the United Nations continued this pattern with a resolution addressing the "Promotion and protection of the rights of children". The document reinforces the needs of children in conflicted territories and lays out many specific issues, such as preventing the involvement of children in the armed forces and protection for children who are migrants or refugees. Though the resolution recognizes





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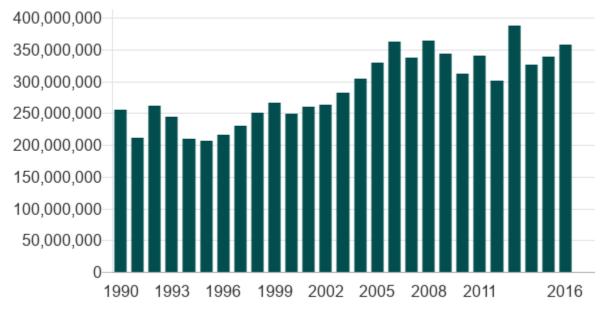
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major issues, it attempts to avoid the downfall of the previously described Optional Protocols by not encroaching on any States sovereignty through obligations. It lacks measures to be taken by Member States to accomplish its goals.

Despite the UN's history of conventions outlining children's rights, children remain the

most vulnerable members of communities plagued by conflict. Through displacement, lack of access to resources for healthy growth and development, recruitment to armed forces, and many other nuances unaddressed by the international community, the rights of children in conflicted territories have been consistently violated.

Children living in areas of conflict, 1990-2016



Current situation

Source: Save the Children

What are the issues that need to be resolved and why? Who are the leading actors: the countries, International Organizations, and NGOs?

At the center of the global discourse on the rights of children in conflicted territories are state and non-state actors such as international and regional organizations, and various non-Governmental Organizations (NGOs). These groups aim to protect the rights of children and provide humanitarian aid in conflicted territories, and the effort to universalize

BBC





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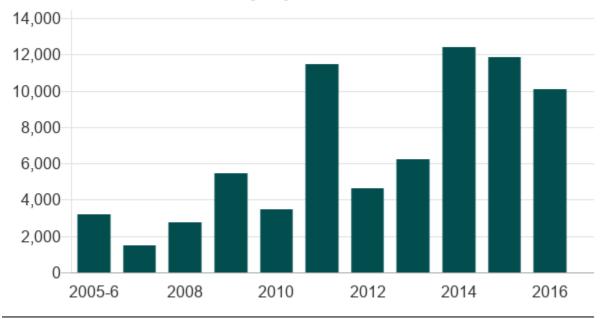
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children's rights - especially in regions impacted by violence - requires the intersection of these causes. Conflict at the national and international levels inevitably impacts housing, transportation, sanitation, and access to clean water, communication, and healthcare. There have been approximately (21,000) violations that have been investigated and verified as of 2017, with 6000 by various government forces, and 15,000 by non-state armed groups (UNSG, 2017). Conflict affects the lives of women and children more than any other cohort in society and as was posited by (Prasad, 2009) one out of

every four children worldwide lives in dangerous situation. Up to 90 percent of the casualties of war being civilians with an increasing number being women and children.

Areas such as Sub-Saharan Africa are home to approximately 393 million children affected by conflict, followed by the Middle East and North Africa, which accounts for 12 percent of the total global number of children being affected by armed conflict (UNICEF, 2016).

Children killed or seriously injured in conflicts



Source: Save the Children. The graph shows verified cases from UN reports - actual numbers are likely to be higher.



There is speculation that the drastic increase is due to conflict in territories such as Mozambique, Afghanistan, the DRC, Nigeria, and Yemen with approximately 337 million children living near armed groups and Government forces that recruit children (Kamoy, 2021, p. 11).

It stands to reason that during an armed conflict at the national and international level, the resources of the government are being diverted and protections and rights that were observed before are now subject to violations and children suffer the loss of protection, the right to an education, the right to life and health and their right to development. Moreover, during times of conflict women and children are at an increased risk of being raped which is used as a weapon of war, experiencing exploitation, and being subjected to exposure to the devastating effects of landmines that injure thousands of children even after the conflict has passed. The inevitable consequences of conflict can be observed in basic amenities such as medical care, clean water, food, and proper housing, becoming inaccessible and resulting in an increase in illnesses, the spread of diseases, and malnutrition and children are considered to be the most vulnerable and affected cohort (Prasad. 2009).

In addition, armed conflict separates children from their parents with approximately 39 percent of the refugee population worldwide being children and adolescents (RCU, 2002). Moreover, there have been approximately 17 million displaced children with more than 2 million deaths worldwide because of armed conflict (Prasad, 2009). The social and cultural rights of children are also violated during periods of conflict and can be observed with the Rohingya children who are currently a stateless minority group suffering from not just ethnic and armed conflict but also state persecution and displacement.

The majority of these refugee children have fled their home country to Bangladesh where they are forced to live in densely populated refugee camps and have very limited access to education, also they are at an increased risk of being trafficked, being subjected to violence, and becoming ill because of limited access to proper healthcare (Shohel, 2022, p. 105).

Organizations such as UNICEF have made attempts to address the negative effects of war on children's rights and have, through the 'Save the children' UNHCR's Human Aid program tried to reduce the psychological effects of war/conflict on children (Prasad, 2009). The United Nations has collaborated with the FARC-EP in Columbia, the Civilian Joint Task Force in Nigeria, and the Sudanese Armed forces, and have finalized the Action Plan that delisted the armed forces from the recruitment and use of children in conflict and is currently working on prevention initiatives (UNSG, 2017, p. 2).

The United Nations is currently working on creating an Action Plan with Iraq (Popular Mobilization Forces) to delist the armed forces from recruiting and using children during conflict. Moreover, the United Nations has increased awareness in the DRC and has contributed to the separation of 2,360 children from armed groups (UNSG, 2017).

Landmark UN Resolutions

The United Nations General Assembly in its bid to address the violation, protection, and promotion of children's rights has adopted numerous resolutions which can be observed exhaustively in the seventy-sixth session on December 16, 2021. UNGA Resolution 76/147 speaks directly to the right of the child and reaffirms the previous resolution that was adopted in 1989 (UNGA resolution 44/25; Convention on the rights of the child) and resolution 70/1 in September of 2015 (Transforming our world: the 2030 Agenda for sustainable development) (UNGA, 2022).

UNGA Resolution 74/133- children without parental care and addresses the economic and social well-being of children, their right to an education, the promotion and protection of the rights of children in difficult situations





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(disabilities, migrant children, and those affected by armed conflict as well as discrimination.

Resolution 73/327 July 25, 2019, which declared 2021 as the international year of the elimination of child labor, 75/167 December 16, 2020, on child early and forced marriages and resolution 74/134 December 18, 2019, on the rights of the girl child.

UNGA resolution 51/77 by which the mandate of the special representative of the Secretary-General for children and armed conflict was created and welcomes the efforts by the special representative to increase public awareness and collect assess, and disseminate best practices and lessons learned which included the "Act to protect children affected by conflict' campaign.

UNSC Resolutions

Resolution 1261 (1999)- Adopted by the Security Council at the 4037th meeting on August 25, 1999, seeks to put an end to the use of children as soldiers in violation of International Law, in the International Labor Organization Convention No. 182 (Prohibition and immediate action for the elimination of the worst form of child labor such as forced labor and the recruitment of children for use in armed conflict) (UNSCR, 1999)

UNSCR Resolution 1314 (2000)- Adopted by the Security Council at the 4185th meeting on August 11, 2000, this resolution was adopted to reiterate multiple resolutions that were adopted previously and welcomed the adoption of UNGA resolution of the Optional Protocol to the

Convention on the rights of the child on the involvement of children in armed conflict (UNSCR, 2000).

UNSCR Resolution 1379 (2001)- Adopted by the Security Council at the 4423rd meeting on November 20, 2001, this resolution recognized the harmful and widespread impact of armed conflict on children and the long-term consequences it had for sustainable peace, security, and development. This resolution further reiterated the aim of the Security Council to maintain peace and security and its commitment to address the impact of conflict on children while underlining the need for all parties to comply with the provisions of the Charter of the United Nations and International Law specifically those regarding children (UNSCR, 2001)

UNSCR 1612 (2005)- Adopted by the Security Council at the 5235th meeting on July 26, 2005, which further contributed to the already adopted resolutions and created a framework for the protection of children that are affected by armed conflict. This resolution stressed the importance of national governments in providing effective protection and relief to all children that are affected by conflict and recalled the responsibility of the state to end all impunity and to prosecute those that are responsible for genocide, crimes against humanity, and war crimes (UNSCR, 2005).

NGOs Consultation: These organizations, both local and international, provide information on grave human rights violations, conduct research, and provide advocacy while delivering services to children worldwide. The Special Representative through the Secretary-General





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fosters closer relations on the various issues with NGOs and creates the structure for consultation on monitoring and reporting at the United Nations Headquarters levels. The advisory group includes but is not limited to the All survivors project, Child Fund Alliance, Defence for Children International, Human Rights Watch, and Protecting Education in Insecurity and conflict (OSRSG, 2020).

Country and bloc positions

Arab and like-minded countries: Will try to keep the HRC focused specifically on the problems affecting children in the Occupied Palestinian Territories (OPT, the West Bank and Gaza), where over one million children live in poverty and insecurity, made worse by Israeli control of much of area. Their preferred solution to the problems of Palestinian children is complete independence for the OPTimplementing the Two State Solution—and keeping Israel out of Palestinian affairs.³ Even Arab and Muslim countries that have good diplomatic relations with Israel—like Bahrain. Egypt, Morocco, Sudan and the United Arab Emirates—can be expected to press for resolution of the problems of Palestine. Arab and like-minded countries also will tend to suppress consideration of other issues, which they see as a distraction from the number issue facing the UN, which is Palestine.

China: The Chinese Permanent Representative to the United Nations made it very clear in his

China has the second largest child population in the world (only India has more) with 280 million children. It ratified the Optional Protocol on children involved in armed conflict, China has also committed resources to monitor and report to the Committee on the Rights of the Child and has submitted four separate reports for consideration by the Committee along with adopting a 10-year national program for Child Development (OHCHR, 2013).

China is cautious on this issue. It supports universal principles, but can be expected to oppose action on specific conflicts, especially any proposal that might create precedent for weaking the power of governments to control their own territory and domestic affairs. China generally opposes rigorous monitoring of children's rights by the international community, fearing, this will become pretext to meddle in their domestic affairs.

European Union: The 27 Member States of the EU strongly support promotion and protection of the rights of children. It is a priority of their

https://www.aljazeera.com/opinions/2022/12/29/israel-is-weaponising-palestinian-childrens-rights

²⁰¹⁹ address at the Security Council meeting on children and armed conflict that China opposes and condemns any violations of children's rights in armed conflict and steadfastly supports the efforts of the United Nations to protect children (Shujun, 2019). The Chinese representative said, "China is ready to work with all parties in this regard so that children in conflict areas can give up weapons, stay away from war, live a happy and dignified life, and create a bright future for themselves" (Shujun, 2019).

³ Hedi Viterbo, 'Israel is weaponising Palestinian children's rights', *Al Jazeera*, 29 December 2019,





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human rights policy. EU countries will stress the need for strong, binding global principles, universal rules affecting all Member States equally and fairly, without exception, universal principles of children's rights. They will support action aimed at specific conflicts, especially the Ukraine war—but mostly in terms of strengthening universal, global principles.

For the 27 Member States of the EU, children's rights are critical; children have inherent and inalienable rights as listed in the CRC and the Optional Protocol. The European Union aims to bring awareness to the issue through certain actions and initiatives. The EU has always supported the work of the UNSG and the Special Representative of the Secretary-General for Children and Armed Conflict, The Security Council, UNICEF, OHCHR, and the Committee on the Rights of the child (Eriksen, 2017, p. 4).

Human rights protection is one of the key objectives of the European Union's Common Foreign and Security Policy (CFSP) and it is also an objective of the European Union to ensure that the member countries are guided by the international laws on Human and Children's rights. The European Union, through a partnership with relevant actors (EU Military, EU Special Representative, and EU Heads of Missions) conducts regular monitoring and reporting on the effects of the EU's actions on children in conflict situations.

The EU is funding children's rights initiatives by specifically targeting disarmament, demobilization, reintegration, and rehabilitation (DDRR). Some Eu Member States will also demand action on specifical conflicts, Ukraine especially, but also Myanmar, Syria and Yemen,

as long as UN action is framed in terms of universal rights and principles.

Non-Aligned Movement: The 120-state voting bloc that dominates the United Nations, the Non-Aligned Movement (NAM), does not have a unified position on this issue. It favors universal principles, affecting all Member States equally. But it prefers the UN offer only general principles, leaving each Member State free to interpret how it implements those principles themselves.

The NAM generally opposes rigorous monitoring of children's rights by the international community, fearing, as does China, this will become pretext to meddle in their domestic affairs. Many members of NAM prefer to focus UN attention on the special plight of children in Palestine, suffering under Israeli security measures. They might be willing o support greater attention to children affected in other conflicts, such as Ukraine, if other priorities are addressed too.

Russia and its closest allies like Belarus, Cuba, Nicaragua and Venezuela, strongly support the universal principles of the UN convention on the rights of children. They support general resolution on this topic. But they oppose measures that are targeted against them. Above all, they oppose efforts to use the HRC as a place to support Ukraine in what they view as its illegal and illegitimate war against the rights of Russia.

Russia and its allies seek above all to draw attention to the crimes against children committed under Western imperialism in Africa, Asia and Latin America as recently as the





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Twentieth Century. They demand Western imperialists like Britain, France and the United States pay restitution for their crimes against the children of their former conquered territories. They also will use HCR to condemn Western sanctions against Russia, Cuba and other countries that harm the welfare and future of the children of Russia, Cuba and other victimized Member States.

Moreover, Russia has been found by the Human Rights Watch in its 94th pre-session of the Committee of the Rights of the Child, to have consistently violated children's rights in areas such as Education and privacy of the child and has forfeited its compliance with the (CRC) (HRW, 2022). The continued aggressive actions of Russia have violated multiple child's rights and are strictly prohibited under international law, international humanitarian law, and international human rights law (Bisset, 2022).

United States: Since the election of President Biden in 2020, the United States has become much more active on children's issues. In 2021 it rejoined the Human Rights Council, after quitting under President Trump. Making up for its lost leadership, the US is especially active on these issues.

The United States has taken important steps to protect the rights of children by ending its deployment of 17-year-old (child) soldiers by the US military in areas of armed conflict and by passing and enforcing laws that prosecute those who actively recruit children. Children still can join the US military, but no longer can be deployed in combat (HRW, 2013). The US adopted the Child Soldiers Prevention Act, which prohibits the US military from giving aid

to Governments who are recruiting and using child soldiers. The United States has also refused to train military personnel in countries such as the Democratic Republic of Congo, and this resulted in the Congolese government signing an Action Plan with the United Nations to delist and cease its use of child soldiers (Becker, 2022).

Some Possible Proposals for Action

As a global community, the issue of children's rights has to be addressed consistently and uniformly as must put an end to the violation of Children's rights in areas of conflict. The recruitment and use of children in war are reprehensible and State leaders must do all that they can to discourage and punish those who actively recruit child soldiers while the Security Council must use its enforcement capabilities to hold perpetrators accountable at the international level as such these are the proposed calls for action.

• Call for direct diplomatic engagement of states and non-state armed groups (NSAGs) in regions of conflict to assure the rights of children. States and groups will not stop abusing children, such as recruiting child soldiers, until pressure rises. Advocates say shaming violators alone won't stop the use of child soldiers and other human rights abuses. Defending children's rights requires engagement with governments and





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armed groups.⁴ Such measures will be popular with many African, Asian, Latin American and Western Member States. But they will be resisted by countries afraid such measures could complicate their military recruitments—16 or 17 year olds can join the military in some countries. Other Member States will resist such measures because they want to keep the HCR focused on specific conflicts, such as Palestine.

Focus on specific conflicts where children are affected. In Ukraine, for example, the UN noted that several hundred children have been killed and hundreds more maimed by indiscriminate shelling and drone attacks on civilian areas.⁵ Sympathetic Member States in Latin America and Europe especially may prefer to focus on Russian attacks there as the best way to help victimized children. Other Member States will want all attention focused on Israeli use of force in the Occupied Palestinian Territories (OPT), where children are impoverished and their rights abused by Israeli security measures. Other conflicts that might be addressed include Myanmar, Syria and Yemen.

- Establish special observatories to monitor the effects of armed violence and armed conflict on children in conflicted territories. Careful monitoring is a basis for action, and targeting the recourses of the international community. The HCR also would have to determine how these observatories would be based, staffed and financed, as well as their reporting responsibilities. Observatories would be strongly supported by Western countries, including much of Africa and Latin America. They would be opposed by China and some NAM Member States, fearing they could justify interference in their domestic affairs.
- Facilitate greater dialogue between States, the UN, NGOs, and those

[•] Encourage full ratification and implementation of the Optional Protocols to the UN Convention on the Rights of the Child, by all UN Member States, with specific emphasis on those involved in armed conflict. Encourage full implementation of the Optional Protocol, so that all Member States work to same high standard of enforcement and implementation, to maximize the effect of all children, both in conflicted territories, and elsewhere.

⁴ Virginia Gamba, 'The United Nations Isn't Jeopardizing Children in Conflict Zones. It's Protecting Them', *Foreign Policy*, 19 August 2020, https://foreignpolicy.com/2020/08/19/the-united-nations-isnt-jeopardizing-children-inconflict-zones-its-protecting-them/

⁵ Matthew Mpoke Bigg, 'At least 437 children have been killed in the war since February, Ukraine says', *New York Times*, 20 November 2022,

https://www.nytimes.com/2022/11/20/world/europe/children-killed-russia-ukraine-war.html





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involved in armed conflicts to better protect children such as the various Action Plans but not just creating them but ensuring that they are enforced.

- Create and fully fund programs that rehabilitate children who are victims of armed conflict to minimize psychological trauma and ensure they can fully continue their development.
- Fully implementing and enforcing the Paris Principles and the Paris Commitments as the monitoring agent of National Human Rights Institutions

(NHRIs) must be fully functional and effective.

- Properly recruit and train child protection experts in the United Nations, The Africa Union, The European Union, and other IOs and Ros that have territories that are being affected by armed conflicts.
- Implement restrictions and punishment for perpetrators such as freezing assets and accounts, sequestering properties, and imposing travel bans to prevent fleeing.





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