

**17<sup>th</sup> Informal ASEM Seminar on Human Rights:  
“Human Rights and Children”  
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**Concept paper**

## **Introduction**

Over the past 70 years, there has been a shift in the perception of children in international law: they are no longer seen as passive beneficiaries but as rights-holders, entitled to the same level of enjoyment of human rights as adults, and given their social, cultural, political and economic status, requiring an even higher level of safeguards and protection. Considered to be the “most rapidly and widely ratified international human rights treaty in history”<sup>1</sup>, the *United Nations Convention on Rights of the Child* (CRC) protects the rights of all children. The CRC defines a child as “every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier”.<sup>2</sup>

The Asia-Europe Meeting (ASEM) is an intergovernmental forum for dialogue and cooperation established in 1996 to deepen relations between Asia and Europe, which addresses political, economic and socio-cultural issues of common concern. Identifying the exploitation of children as a major challenge for ASEM countries, leaders have expressed their intent on incorporating this issue into the ASEM cooperation framework at the 11<sup>th</sup> ASEM Summit (ASEM11) in 2016. The 17<sup>th</sup> Informal ASEM Seminar on Human Rights contributes towards the promotion and protection of human rights of children within the ASEM constituency.

## **Background**

The inclusion of the rights of the child in the international human rights agenda began in the aftermath of World War II, when the United Nations International Children’s Emergency Fund was established to assist in the rehabilitation of young victims of the war. By 1953, its mandate was broadened to encompass addressing the long-term needs of women and children in the larger international context/scope.<sup>3</sup> Children’s rights were first mentioned in the *Universal Declaration of Human Rights*<sup>4</sup> and in 1959, the UN General Assembly adopted the *Declaration of the Rights of the Child* which held that “the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth”.<sup>5</sup>

Following the adoption of the UN *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW) in 1979, the same year was declared as the *Year of the Child*. A working group was set up to increase and augment the protection of children, which eventually culminated in the creation of the *United Nations Convention on the Rights of the Child* (CRC).<sup>6</sup>

The CRC is accompanied by three optional protocols namely, the *Optional Protocol on the Involvement of Children in Armed Conflict*; the *Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography*; and the *Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure*.

## **Regional Developments in Asia and in Europe**

### **Asia**

35.4% of the Association of South East Asian Nations’ (ASEAN) population is below the age of 19<sup>7</sup>. While the *ASEAN Human Rights Declaration* (AHRD) includes children’s rights in its general principles, and specifically under economic, social and cultural rights, the 1993 *ASEAN Plan of*

*Action on Children* was the first policy document to address children's issues in this region. It was followed by the 2001 *Declaration on the Commitments for Children in ASEAN* which was guided by the CRC and child rights principles in general<sup>8</sup> and the 2010 *Hanoi Declaration on the Enhancement of Welfare and Development of ASEAN Women and Children (Hanoi Declaration)* which calls to “achieve the goals for children in the ASEAN region as regards the child's rights to survival, protection, development and participation in a comprehensive and systematic way”<sup>9</sup>. Children have been identified in the *ASEAN Socio-Cultural Community Blueprint (2009–2015)* as belonging to “disadvantaged, vulnerable and marginalized groups” for whom ASEAN should implement survival, development and protection programmes consistent with the CRC; it also calls to set up a monitoring mechanism on the implementation of the CRC<sup>10</sup>.

The ASEAN Intergovernmental Commission on Human Rights (AICHR) was set up in 2009 to promote regional co-operation on human rights; it was followed by the ASEAN Commission on the Rights of Women and Children (ACWC) in 2010 to specifically address the protection and promotion of children's rights.

The well-being and development of children has been a principal area of cooperation for the South Asian Association for Regional Cooperation (SAARC) since its formation in 1985. *Ministerial Conferences on Children* have been held at the regional level<sup>11</sup> and in 2002, SAARC adopted the *SAARC Convention on Regional Arrangements on the Promotion of Child Welfare in South Asia*<sup>12</sup>. A regional mechanism known as the South Asia Initiative to End Violence Against Children (SAIEVAC) has been set up to reinforce regional cooperation to end violence against children and to realise children's rights in South Asia according to the CRC<sup>13</sup>. Identifying the need to provide better advocacy and programming for children affected by HIV/AIDS, in 2007 the *SAARC Regional Strategic Framework for the Protection, Care and Support of Children Affected by HIV/AIDS* was adopted.

## Europe

The *Treaty of the European Union* sets out the obligation for European Union (EU) member States to promote children's rights<sup>14</sup>. Although the entire *Charter of Fundamental Rights* of the EU applies to children, there are also specific provisions on the rights of the child (Article 24) and on child labour (Article 31)<sup>15</sup>. The 2003 *EU Guidelines on Children and Armed Conflict*, the 2017 *EU Guidelines on the Protection and Promotion of the Rights of the Child*<sup>16</sup> and the 2011 *EU Agenda for the Rights of the Child* are aimed not only to protect the rights of the child but also “... to reaffirm the strong commitment of all EU institutions and of all Member States to promoting, protecting and fulfilling the rights of the child in all relevant EU policies and to turn it into concrete results. In the future, EU policies that directly or indirectly affect children should be designed, implemented, and monitored taking into account the principle of the best interests of the child enshrined in the EU Charter of Fundamental Rights and in the UNCRC”<sup>17</sup>. The EU Agenda contains 11 actions by which the EU can contribute towards children's well-being, including the continued implementation of the *EU Guidelines on Children and Armed Conflict* and the *EU Guidelines on the Protection and Promotion of the Rights of the Child*<sup>18</sup>.

At the wider Council of Europe (CoE) level, children are protected under the *European Convention on Human Rights* which applies to all individuals, the *European Social Charter* which safeguards the right of children to protection (Article 7) and the right of children to social, legal and economic protection (Article 17). The *CoE Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention)* seeks to protect children from sexual violence<sup>19</sup>. In 2016, the CoE updated its *Strategy for the Rights of the Child* for 2016-2021. The new Strategy identifies five priorities: equal opportunities, participation of children, a life free from violence, child-friendly justice and children's rights in the digital environment<sup>20</sup>.

The inclusion of **rights in the digital environment** as a priority was in recognition that “all children should be able to safely access ICTs [information communication technologies] and digital media

... to fully participate, express themselves, seek information and enjoy all the rights enshrined in the UNCRC and its Optional Protocols without discrimination of any kind". It aims to secure both participatory rights such as access to information, freedom of expression and participation while protecting them "from potential risks to their safety, security and privacy in the digital environment"<sup>21</sup>.

## The protection of the rights of the child

The *United Nations Convention on the Rights of the Child* (CRC) articles are generally categorised into three categories of provision, protection and participation articles (the "three Ps" approach):

- **Provision:** also known as survival and development rights, these are children's' rights to the resources, skills and services that are necessary to ensure their survival and the development of their full potential<sup>22</sup> ;
- **Protection:** these are rights to protect children from exploitation or abuse, including protection in the criminal justice system and humanitarian protection in times of armed conflict<sup>23</sup>;
- **Participation:** the rights of children to express their opinions, and to actively engage in society and in the decision-making processes that affect their rights<sup>24</sup>.

It is also important to note that the CRC identifies four basic principles which guide the rights of the child<sup>25</sup>:

- **Principle of non-discrimination (Article 2):** All rights apply to all children without exception.
- **Principle of the child's best interest (Article 3):** A child's best interests precede that of an adult. The best interests of the child should be kept at the heart of all actions and policies for children (also refer to UNCRC General Comment 14 CRC/C/GC/14.2013).
- **Rights to life, survival and development (Article 6):** Every child has the right to live, and it is the state's obligation to ensure the child's survival and development.
- **Respect for the views of the child (Article 12):** The child has the right to express an opinion and to have that opinion taken into account in any matter affecting him or her (also refer to UNCRC General Comment 12 CRC/C/GC/14.2009).

In spite of the progress made both at the international and regional levels to safeguard the rights of the child, almost 47% of people living in extreme poverty are below 18 years of age<sup>26</sup>. There is a strong co-relation between **child poverty and abuse, neglect and exploitation**<sup>27</sup>. Although violence against children remains an under-reported issue, the United Nations' Children Fund (UNICEF) estimates that more children experience violence in the form of discipline: 6 out of every 10 children between the ages 2–14 years are subjected to corporal punishment by their caregivers on a regular basis.<sup>28</sup> The *UN Study on Violence Against Children* uses Article 19 of the *Convention on the Rights of the Child* to define violence against children as "all forms of physical or mental violence, injury and abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse"<sup>29</sup>. Following the report, the UN General Assembly established the post of *Special Representative of the Secretary-General on Violence Against Children*<sup>30</sup>.

In addition to weakening their rights, poverty deprives children of the environment needed for survival and development. It reduces a child's chances of gaining access to adequate **nutrition**<sup>31</sup>, clean **drinking water** and **sanitation** leading to micronutrient deficiencies, stunting and illnesses which can affect school performances, causing dropouts and reducing future earning potential<sup>32</sup>. **Children with disabilities** and **indigenous children** suffer from higher rates of poverty than non-disabled and non-indigenous children; they are more vulnerable to marginalisation and exclusion<sup>33</sup>. The CRC protects the child's rights to survival and development (Article 6) and it is also one of the four basic child rights' principles that guide all child-related programming<sup>34</sup>; it also recognises the importance of providing special assistance to protect and promote the rights of children with disabilities and indigenous children.

Data shows that 59 million children of primary school age are currently without **access to education**<sup>35</sup>. 36% of all out-of-school children live in conflict-affected countries<sup>36</sup> while refugees are five times more likely to be out of school than non-refugee children<sup>37</sup>. Children belonging to cultural and ethnic minority groups<sup>38</sup> and children with disabilities<sup>39</sup> are less likely to receive the same levels and quality of education as non-minority, non-indigenous and non-disabled children.

**Gender discrimination** is a major barrier to human rights. A cultural bias towards boys in many countries means girls are denied their rights from an early age, from access to education (nearly 31 million girls of primary school age worldwide are out-of-school<sup>40</sup>) to **early marriage**: A UNICEF study shows that one in every three girls in the developing world is married by the age of 18; South Asia is home to 42% of all child brides worldwide<sup>41</sup>. Child brides are at an increased risk of abuse, of contracting HIV/AIDS<sup>42</sup> and of **maternal mortality**<sup>43</sup>: girls who give birth between the ages of 15-19 are more likely to die in childbirth than women in their early 20s<sup>44</sup>. Girls are also more vulnerable to **sexual exploitation and gender violence**; one of the most extreme forms of discrimination is **female genital mutilation** (FGM) which is mostly carried out on young girls between 0-15 years of age<sup>45</sup>.

UNICEF estimates about 150 million children are engaged in **child labour** worldwide<sup>46</sup>. Since not all work is harmful, “child labour” is often defined as work that deprives children of their childhood, their potential and their dignity, and that is harmful to their physical and mental development<sup>47</sup>. The 1973 *International Labour Organization (ILO) Convention No. 138 on the Minimum Age for Admission to Employment and Work* and the 1999 *ILO Convention No. 182 on the Worst Forms of Child Labour* contain some of the main standards on child labour. Child labour mainly occurs in the informal economy which is difficult to regulate<sup>48</sup>; children are often underpaid, working in hazardous conditions without any knowledge of their rights<sup>49</sup>. Minimum working ages differ from country to country making it difficult to protect children as per international standards. Recognising the important role of the private sector in protecting children’s rights, UNICEF, the UN Global Compact, and Save the Children launched the *Children’s Rights and Business Principles* which seek to mainstream children’s rights considerations across all business activities. The Principles are “*the first comprehensive set of principles to guide companies on the full range of actions they can take in the workplace, marketplace and community to respect and support children’s rights*”<sup>50</sup>, they address not only child labour but also child protection, security and welfare.

The ILO has identified the worst forms of child labour which require immediate elimination. These include slavery or practices similar to slavery including trafficking, the use of children for prostitution, pornography, illegal activities and hazardous work that can affect the health, safety and morals of children<sup>51</sup>. A 2012 ILO estimate places 5.5 million children as being trafficked worldwide<sup>52</sup>. Article 32 of the CRC prohibits trafficking in children for any purpose as well as the sexual exploitation of children and forced or exploitative labour and in 2002, the *Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography* entered into force.

In 2000, the *Protocol to Suppress, Prevent and Punish Trafficking in Persons, Especially Women and Children* was adopted. The Protocol provides a definition of trafficking<sup>53</sup> but it applies to children in a simplified manner, “**trafficking in children** will exist as a matter of international law in situations where a child is subject to some act such as recruitment or transportation, for the purpose of their exploitation ... [the] definition, that removes the requirement to also show means such as force, fraud or coercion, is intended to make the identification of child victims of trafficking and the identification of their traffickers easier”<sup>54</sup>. Recognising the vulnerabilities of children to trafficking and re-trafficking, international law requires States to take special measures to protect children and to follow children’s rights’ principles, especially the best interest of the child when combatting child trafficking<sup>55</sup>. Following the Protocol, regional efforts to

combat trafficking strengthened via the SAARC *Convention on Preventing and Combating Trafficking in Women and Children for Prostitution*; the ASEAN *Convention Against Trafficking in Persons, Especially Women and Children*; the Council of Europe *Convention on Action against Trafficking in Human Beings*; and the EU Strategy on the Rights of the Child (2012-2016)<sup>56</sup>. To prevent the sexual exploitation of children in the tourism industry, the child rights non-governmental organisation (NGO) End Child Prostitution and Trafficking (ECPAT) partnered with the tourism sector to launch the *Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism*<sup>57</sup>.

28 million children have been **forcibly displaced by conflict**; about 17 million are displaced within their own countries with the remaining 11 million seeking asylum outside their countries' borders<sup>58</sup>. Nearly half of all refugees are children, with their numbers doubling between 2005-2015<sup>59</sup>. With an uncertain legal status, absent documentation, and fearful of potential deportation and detention, **stateless, migrant and refugee children**, especially **unaccompanied minors** are more susceptible to abuse and trafficking. A 2016 International Organization for Migration (IOM) study shows that the longer a migrant spends in transit, the more vulnerable they are to exploitation and human trafficking<sup>60</sup>; Europol has estimated that in 2016, 10,000 refugee children seeking asylum in Europe went missing, some of whom most likely fell victim to traffickers<sup>61</sup>. To ensure children remain safe, child protection has been included in the humanitarian and refugee response strategies of different international agencies<sup>62</sup>.

Article 20 of the CRC entitles children who are deprived of their family environment to special protection from the State, with additional consideration to be given to refugee children in accordance with refugee and humanitarian law (Article 22)<sup>63</sup>. In 2005 the Committee on the Rights of the Child provided detailed guidance on the *Treatment of Unaccompanied and Separated Children Outside their Country of Origin (General Comment no. 6)*<sup>64</sup>. Identifying a number of protection gaps in the treatment of such children, it calls on States to respect their obligations under the CRC to protect all children within their territories and jurisdiction, irrespective of the child's nationality or immigration status<sup>65</sup>. It also requires States to take steps to assist former child soldiers who, following cessation of conflict or defection, are unaccompanied or separated, reintegrate into society<sup>66</sup>.

States have the responsibility to protect **children in armed conflict**<sup>67</sup> and also to ensure that children who are below the age of 15 do not take direct part in hostilities<sup>68</sup>. The 2002 *Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict* raises this age to 18 years<sup>69</sup>. The *Special Representative of the Secretary-General for Children Affected by Armed Conflict* has identified six grave violations against children in armed conflict: namely killing or maiming; recruitment or use of child soldiers<sup>70</sup>; rape and other forms of sexual violence against children; abduction of children; attacks against schools or hospitals and; denial of humanitarian access to children<sup>71</sup>. The *Paris Commitments to Protect Children Unlawfully Recruited or Used by Armed Forces or Armed Groups* (Paris Commitments) and the *Principles and Guidelines on Children Associated with Armed Forces or Armed Groups* (Paris Principles) provide operational guidelines on how to prevent the military recruitment of children and how to reintegrate children formerly associated with armed groups<sup>72</sup>. Since 1999, the Security Council has adopted 11 resolutions recognising the deliberate targeting of children in armed conflicts as a threat to peace and security.<sup>73</sup> It has also established a comprehensive monitoring and reporting mechanism (MRM) to collect timely and reliable information on violations committed against children affected by armed conflict.<sup>74</sup>

For children in conflict with the law, **detention** should only be a measure of last resort, in exceptional circumstances and only for the shortest appropriate period of time<sup>75</sup>. This applies to all children, including migrant children, children trafficked into forced criminality, and children involved in armed conflict. Wherever appropriate, States should provide alternatives to judicial proceedings such as diversion procedures but as a 2015 study on juvenile justice in ASEAN

shows, even when the legal framework is in place, diversion is not always used; decision-makers lack adequate knowledge and resources to implement the programmes.<sup>76</sup> Institutional care should be in line with children's human rights and help reintegrate them with society<sup>77</sup>. Children have a right to privacy during all stages of criminal proceedings. For children who are in detention, there are international legal safeguards protecting them from violence, abuse and exploitation<sup>78</sup>; the CRC prohibits the use of torture, cruel, inhuman or degrading treatment or punishment; international law prohibits the death penalty for crimes committed by persons below 18 years of age<sup>79</sup>.

The CRC encourages States to establish a **minimum age of criminal responsibility** at which children can be held criminally responsible and the Committee on the Rights of the Child has stated "*a minimum age of criminal responsibility below the age of 12 years is considered by the Committee not to be internationally acceptable*"<sup>80</sup>. Rule 4 of the *United Nations Standard Minimum Rules for the Administration of Juvenile Justice* (the Beijing Rules) recommends that in setting a minimum age of criminal responsibility, it "*shall not be fixed at too low an age level, bearing in mind the facts of emotional, mental and intellectual maturity*"<sup>81</sup>. Children who are at or above the minimum age but below 18 years can be charged and subject to prosecution but the procedures including the sentencing must be in compliance with the CRC<sup>82</sup>. If it cannot be established that the child is at or above the minimum age, the child shall not be held criminally responsible<sup>83</sup>.

Another important aspect of juvenile justice is the ability of children to get **access to justice**. The 2008 United Nations Common Approach to Justice for Children defines access to justice as "*the ability to obtain a just and timely remedy for violations of rights as put forth in national and international norms and standards*"<sup>84</sup>. Effective access requires children to be able to enjoy their **rights to participate in proceedings, to express their views and be heard**, yet a recent study found that "*a fifth of the world's children do not have the right to be heard in legal proceedings that concern them. A little over a quarter of countries guarantee this right to children in all legal settings, 84 countries enshrine the standard in more limited circumstances while 58 countries do not recognise children's right to be heard in their legislation*"<sup>85</sup>.

The right of children to participate is not limited to legal proceedings but extends to all matters that affect them<sup>86</sup>. At the Rio+20 Summit, it had been agreed that "**sustainable development must be inclusive and people-centred, benefiting and involving all people, including youth and children**"<sup>87</sup>. Furthermore, recognising the need to promote intergenerational dialogue and solidarity, States stressed "*the importance of the active participation of young people in decision-making processes ... as the contribution of children and youth is vital to the achievement of sustainable development*"<sup>88</sup>. Several of the Sustainable Development Goals (SDGs) directly include children<sup>89</sup>; many of the goals seek to eliminate all forms of exploitation of children including eradicating the military recruitment of children, the use of child labour, trafficking and sexual exploitation, and ending harmful practices such as early marriage and FGM<sup>90</sup>. **SDG 16 which promotes peaceful societies aims at ending violence against children**. It promotes the rule of law and seeks to ensure equal access to justice for all; it requires accountability and inclusive participation in decision-making at all levels.

**Monitoring and accountability** is crucial for the realisation of the rights of the child<sup>91</sup>. Treaty bodies which have been charged to monitor the implementation of certain human treaties such as the CRC, the *Convention for the Elimination of Discrimination Against Women*, and the *Convention on the Rights of Persons with Disabilities*, play an important role in ensuring that State Parties fulfil their treaty obligations. The Committee on the Rights of the Child reviews regularly the implementation progress made by Parties to the CRC and the Optional Protocols on the Sale of Children and Children in Armed Conflict, providing recommendations for improvement. In States that have ratified the *Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure*, children and their representatives to directly

address complaints to the Committee on the Rights of the Child if their national legal system has not been able to provide a remedy for the violation of their rights. The Universal Periodic Review (UPR) process also provides a key opportunity to track the efforts made by governments to promote and implement children's rights. Civil society organisations play an important role in monitoring and accountability, not only domestically but also internationally, by participating in the Committee's review process and the UPR mechanism.

### **17<sup>th</sup> Informal ASEM Seminar on Human Rights (2017)**

The Informal ASEM Seminar on Human Rights series was launched in 1997 to deepen relations between civil society actors and governments in Asia and Europe on human rights issues. The Seminar series is co-organised by the Asia-Europe Foundation (ASEF), the Raoul Wallenberg Institute (nominated by the Swedish Ministry of Foreign Affairs), the French Ministry of Foreign Affairs and International Development, the Philippine Department of Foreign Affairs and the Swiss Federal Department of Foreign Affairs.

The 17<sup>th</sup> Informal ASEM Seminar on Human Rights: "*Human Rights and Children*" is hosted in 2017 by the Ministry of Foreign Affairs of the Republic of Bulgaria (7-9 November 2017) in partnership with the Ministry of Labour and Social Policy and the State Agency for Child Protection of Bulgaria.

The host country will organise a side-event related to children and the media, as well as a special event with the participation of children, including the use of taglines proposed by children (detailed information will be provided by the host country):

- "Together is better",
- "Children's rights beyond differences",
- "A future as bright as the eyes of a child",
- "Equality in the child's eye",
- "The future is a fairytale".

Participation in the 17<sup>th</sup> Informal ASEM Seminar on Human Rights: "*Human Rights and Children*" will take place in four simultaneous working group discussions (on Day 2) on the following topics:

- I. State provisions for the survival and development of children;**
- II. Protection of vulnerable children and children on the move;**
- III. Participation and involvement of children in decision-making;**
- IV. International partnership.**

In addition to the guiding questions specific to each working group, the following cross-cutting questions are valid across the four working groups.

The cross-cutting questions as well as the working group questions can be found below.

#### **Cross-cutting Questions:**

1. All policies and programming related to children are to ensure that the child's best interest is the primary consideration in all cases, including for adoption. What has been done to implement the procedural safeguards in *Section V of General Comment No 14 of the UN Committee on the Rights of the Child* on the right of the child to have his or her best interest taken as a primary consideration?
2. The right to participate is important. What are the best practices for ensuring that children's participation is not tokenism, but informative and effective participation?
3. The intersectionality of identity can increase the vulnerability of children in different scenarios. What are the special considerations for girls, children from indigenous, cultural and ethnic groups, children with disabilities, etc?

4. While the universal definition for a child is accepted as a person below the age of 18, the minimum working age and age for criminal responsibility varies from country to country. What are the implications for achieving policy coherence at the national and regional levels?
5. For children involved in armed conflict, how to ensure child rights' principles are maintained?
6. What special considerations are needed to prevent the exploitation of children by the media? How do we provide protection to children in the media and online, against pornography, armed conflict, violence and extremism?
7. What can be done to improve international cooperation in criminal justice to implement the CRC principles, notably on juvenile justice, protection of children on the move or involved in armed conflict, trafficking, forced criminality, and radicalisation?

### **Working Group Questions:**

- I. **State provisions for the survival and development of children (Working Group 1)**
  1. What can be done to improve the capacity of national institutions (such as human rights institutions and ombudsman offices) in receiving complaints from children and their representatives – accountability and monitoring processes/participation in the Optional Protocol?
  2. What types of national coordinating mechanisms are included in State-level policies for children? And how can their effectiveness be increased?
  3. Preventing and responding to violence against children requires the active involvement of multiple stakeholders. What are the best strategies to ensure State agencies, educators, guardians and community members are committed to child protection standards especially when violence can have cultural and social sanction (gender violence, physical violence)?
  4. What has been done to implement guidance in *General Comment No 13* of the *UN Committee on the rights of the child* on the rights of children to be protected from all forms of violence, in particular with regard to a national coordinating framework (Section VI)?
  5. Child labour is mostly prevalent in the informal sector, so how can States push for standard setting and regulations? 17.2 million children are in paid or unpaid domestic work; 67.1% of all child domestic workers are girls. Since domestic work is excluded from regulation, what can be done to protect children?
  6. What action may be taken to counter the so-called "social exploitation" of children, including the exploitation of gifted children, the exploitation of children by the media, and the involvement of children in scientific and medical experiments? How can the protection of children, who are talented in sports, cultural, educational, and other areas, be stimulated at the international level?
  7. Under the 2030 Agenda for sustainable development, States have an obligation to provide equitable and quality education to all children, yet universal enrolment is falling. Why? And what can be done to reverse this?
  8. What does a child rights' perspective into poverty alleviation strategies mean? Any regional or national examples of successfully addressing child poverty, e.g. by way of integrated approaches, e.g. parents' access to the labour market combined with access to quality and affordable services, etc?
  9. Respect for family life and family reunifications. What systems are in place to ensure separation is the last resort; that families are supported in their role as primary caregiver, and family reunification is prioritised?
  10. How can the State and the private sector work together in protecting children? What are best practices for child-friendly public procurement systems?

## **II. Protection of vulnerable children and children on the move (Working Group 2)**

1. The minimum age of criminal responsibility varies from country to country. How do we encourage standardisation so that the minimum age is not lowered? What are the implications for cross-regional cooperation on juvenile justice? What efforts have been made to establish programmes for diversion from criminal justice proceedings?
2. Given the challenges involved in providing all children with access to justice, how can States channel their resources to ensure that children's access to justice is maximised (both judicial and non-judicial access to justice)?
3. The evidence base on the harmful effects of detention on children continues to evolve and the UN has mandated Professor Manfred NOWAK<sup>92</sup> to conduct a global study on this. What are good practices on alternatives to detention?
4. For children who are nevertheless in detention, what are the best practices to ensure that they are prepared for reintegrating with society?
5. What kind of training and support should be given to judges, prosecutors and law enforcement officials to protect the best interests and rights of children? How do they ensure that children understand their rights, the legal procedures involved, and the implications of their participation?
6. What are the difficulties and risks for children studying in a country other than their country of origin and who are deprived of direct parental care?
7. What protection measures should States have to protect "children on the move", in particular unaccompanied migrant children? What are the best practices for inter-country cooperation for family reunification for unaccompanied minors? How can their access to education, health, social services, and justice be secured?
8. What are the special child protection principles that need to be afforded to child trafficking victims?
9. What provisions should be made for children returning from armed conflict? What are the best practices to rehabilitate child soldiers/abducted children? How about children returning from radicalisation?

## **III. Participation and involvement of children in decision-making (Working Group 3)**

1. What are the national, regional and international mechanisms of providing children with the right to participate and the right to be heard?
2. Children in many countries do have the legal right to be heard. In such situations, what efforts need to be undertaken to ensure the right to be heard and participate? What role do guardians place in improving a child's access to these rights?
3. How can the involvement of children in the planning and development of public policies and services be encouraged?
4. Expression and participation can have cultural restrictions—especially for girls. How can the community be involved to improve child participation in social and political decision-making processes?
5. Two previous Eurobarometer surveys (2008 and 2009) showed that 76% of children interviewed were not aware of having rights and 79% did not know who to contact in case of need. What can be done to ensure that children receive information about their rights in an accessible way? What is the role of the school/education system in informing children of their rights? How can active citizenship among children be encouraged?
6. For children who may find themselves in a vulnerable position with the law (trafficking victims, undocumented migrants, children involved in forced criminality), how do we ensure that they are aware of their rights? Who should they approach?
7. What efforts are needed to assist children in understanding legal procedures and proceedings? Their rights and options? What provisions should be made for children with disabilities?

8. How can States and civil society improve access to justice for children? How to balance participation with child protection in justice processes?
9. Successful implementation of the 2030 Agenda depends on governments being held to account for goals and targets, and people, including children, having an active role in accountability processes. How can children's participation in public processes of accountability be improved? How to monitor and evaluate the quality of participation?

#### IV. International partnership (Working Group 4)

1. What international and regional mechanisms exist to monitor and improve accountability for the implementation of the CRC by individual States? What role do regional organisations play in making member States respect their international obligations? Are there guidelines formulated for the development of effective mechanisms for sharing good practices?
2. For regional strategies on implementing the CRC, what are the challenges of monitoring and evaluating regional strategies on child protection? Are there results of evaluations conducted on regional programmes and plans?
3. One of the SDG goals is to create partnerships for implementation. Given how children's rights are close inter-twinned with the SDGs, what are the examples of partnerships and initiatives (demonstrated good practice)? What would an Asia-Europe partnership on protecting children's rights look like?
4. What kinds of partnerships are required with the private sector for protecting children's rights (not only for child labour but also social and environment rights)? Can the private sector better support or champion vulnerable children/vulnerable groups, for example offering career guidance/work placements/internships/scholarships to children in alternative care/children from ethnic minorities, etc?
5. What kind of support do medium and small-scale companies need to protect child rights?
6. International standards require that legal services and detention facilities be child-friendly. What monitoring and evaluation is done at the regional level for these standards?
7. Eradication of poverty, improvement of healthcare and access to social protection and services requires good data and monitoring. How can States and civil society harness the targets and indicators of the SDGs to monitor the progress made for child rights?
8. How can civil society, children and their representatives be supported to monitor and evaluate the implementation of the CRC? And to enhance their role at the international level?

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<sup>1</sup> <http://www.unicef.org/crc/>

<sup>2</sup> Article 1, [http://353ld710iigr2n4po7k4kgvv-wpengine.netdna-ssl.com/wp-content/uploads/2010/05/UNCRC\\_PRESS200910web.pdf](http://353ld710iigr2n4po7k4kgvv-wpengine.netdna-ssl.com/wp-content/uploads/2010/05/UNCRC_PRESS200910web.pdf)

<sup>3</sup> [http://www.unicef.org/about/who/index\\_faq.html](http://www.unicef.org/about/who/index_faq.html)

<sup>4</sup> Article 25 of the Universal Declaration of Human Rights <http://www.un.org/en/universal-declaration-human-rights/>. Specific provisions in other international and regional conventions that also refer to children include the *UN International Covenant on Economic, Social and Cultural Rights*, *International Covenant on Civil and Political Rights*, *European Convention on Human Rights*, *African Charter on Human and People's Rights 1981 (Banjul Charter) and Protocol*, *American Convention on Human Rights (Pact of San Jose, Costa Rica)*, and the *UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)*.

<sup>5</sup> Preamble, <http://www.cirp.org/library/ethics/UN-declaration/>

<sup>6</sup> Other human rights instruments/conventions<sup>6</sup> that specifically cover child rights include the *ILO Minimum Age Convention*, *ILO Convention on Worst Forms of Child Labour*, *African Charter on the Rights and Welfare of the Child*<sup>6</sup>, and the *European Convention on the Exercise of Children Rights*.

<sup>7</sup> ASEAN Community in Figures 2016, <http://asean.org/storage/2012/05/25Content-ACIF.pdf>

<sup>8</sup> The first 4 articles in the Declaration read (1) "Promote regional cooperation for the survival, development, protection and participation of ASEAN children, as an integral part of ASEAN's efforts to improve the lives of peoples in the region. (2) Intensify ASEAN economic and social development cooperation so as to eradicate the scourges of poverty, hunger and homelessness, which have a far-reaching impact on children, in order to promote their welfare and well-being. (3) Protect, respect and recognize the rights of all children, including those of indigenous people, consistent with the customs and traditions of their respective communities. (4) Recognize and encourage respect for children's rights through mutual sharing of information on the rights of the child by ASEAN members, taking into account the different religious, cultural and social values of different countries". Save the Children (2016), *Child*

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*Rights Situation Analysis Within the ASEAN Region*, [https://resourcecentre.savethechildren.net/sites/default/files/documents/crsa-asean\\_region\\_250416.pdf](https://resourcecentre.savethechildren.net/sites/default/files/documents/crsa-asean_region_250416.pdf)

<sup>9</sup> 2010 Hanoi Declaration on the Enhancement of Welfare and Development of ASEAN Women and Children, <https://cil.nus.edu.sg/rp/pdf/2010%20Ha%20Noi%20Dec%20on%20the%20Enhancement%20of%20Welfare%20and%20Development%20of%20ASEAN%20Women%20and%20Children.pdf>

<sup>10</sup> ASEAN (2009), *ASEAN Socio-Cultural Community Blueprint (2009 – 2015)*, <http://asean.org/wp-content/uploads/archive/5187-19.pdf>

<sup>11</sup> Ministerial Conferences on Children were held in 1986, 1992, 1996 and 2009. SAARC website [http://saarc-sec.org/areaofcooperation/detail.php?activity\\_id=8](http://saarc-sec.org/areaofcooperation/detail.php?activity_id=8)

<sup>12</sup> A regional taskforce was established to monitor the implementation of the Convention.

<sup>13</sup> SAIEVAC, <http://www.saievac.org/about-saievac/mission-statement/>

<sup>14</sup> Article 3(3) and 3(5) of the Treaty of the European Union, <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12012M/TXT&from=EN>

<sup>15</sup> Furthermore, the EU yearly adopts Guidelines for the promotion and protection of the rights of the child, which follow the ideas of the EU Action Plan on Human Rights and Democracy.

<sup>16</sup> On 6 March 2017, the EU revised and updated its existing 2007 Guidelines for the Promotion and Protection of the Rights of the Child, <http://www.consilium.europa.eu/en/press/press-releases/2017/03/06-protection-rights-children/>

<sup>17</sup> EC 2011, <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52011DC0060&from=en>

<sup>18</sup> [http://ec.europa.eu/justice/fundamental-rights/rights-child/index\\_en.htm](http://ec.europa.eu/justice/fundamental-rights/rights-child/index_en.htm) and [http://ec.europa.eu/justice/fundamental-rights/rights-child/eu-agenda/index\\_en.htm](http://ec.europa.eu/justice/fundamental-rights/rights-child/eu-agenda/index_en.htm)

<sup>19</sup> Other CoE legal frameworks that protect the rights of the child include the European Convention on the Adoption of Children (Revised), Convention on Contact concerning Children, European Convention on the Exercise of Children's Rights

<sup>20</sup> CoE 2016, Council of Europe Strategy for the Rights of the Child (2016 – 2021),

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168066cff8>

<sup>21</sup> CoE Strategy for the Rights of the Child (2016 – 2021), page 20,

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168066cff8>

<sup>22</sup> See relevant articles that fall under this category: [http://www.unicef.org/crc/files/Survival\\_Development.pdf](http://www.unicef.org/crc/files/Survival_Development.pdf)

<sup>23</sup> See relevant articles that fall under this category: [http://www.unicef.org/crc/files/Protection\\_list.pdf](http://www.unicef.org/crc/files/Protection_list.pdf)

<sup>24</sup> See relevant articles that fall under this category: <http://www.unicef.org/crc/files/Participation.pdf>

<sup>25</sup> [http://www.unicef.org/crc/files/Guiding\\_Principles.pdf](http://www.unicef.org/crc/files/Guiding_Principles.pdf). See also [http://www.eycb.coe.int/compasito/chapter\\_1/2\\_wha.html](http://www.eycb.coe.int/compasito/chapter_1/2_wha.html)

<sup>26</sup> <https://blogs.unicef.org/blog/7-facts-about-child-poverty-you-should-know/>

<sup>27</sup> The Special Representative of the Secretary-General on Violence Against Children has noted that "Social exclusion and extreme poverty offer fertile ground for violence against children and enhance the risk of abuse and exploitation". Pais, Marta Santos (2011), Children in Extreme Poverty and victims of violence are at a double disadvantage,

[http://srsg.violenceagainstchildren.org/story/2011-02-09\\_103](http://srsg.violenceagainstchildren.org/story/2011-02-09_103).

For further reading, see UNICEF Innocenti Research Centre (2012), 'Measuring Child Poverty: New league tables of child poverty in the world's rich countries', Innocenti Report Card 10, [https://www.unicef-irc.org/publications/pdf/rc10\\_eng.pdf](https://www.unicef-irc.org/publications/pdf/rc10_eng.pdf); Joseph Rowntree Foundation (2016), The relationship between poverty, child abuse and neglect: an evidence review,

<https://www.jrf.org.uk/report/relationship-between-poverty-child-abuse-and-neglect-evidence-review>; Child Poverty Action Group

(2013), Child abuse: what role does poverty play?,

<http://www.cpag.org.nz/assets/Publications/130610%20CPAG%20Child%20Abuse%20Report%201%20June%202013.pdf>

<sup>28</sup> United Nations Children's Fund, Hidden in Plain Sight: A statistical analysis of violence against children, UNICEF, New York, 2014.

[https://data.unicef.org/wp-content/uploads/2015/12/VR-full-report\\_Final-LR-3\\_2\\_15\\_189.pdf](https://data.unicef.org/wp-content/uploads/2015/12/VR-full-report_Final-LR-3_2_15_189.pdf)

<sup>29</sup> The definition also drew from the definition used by WHO in the World Report on Violence and Health (2002): "the intentional use of physical force or power, threatened or actual, against a child, by an individual or group, that either results in or has a high likelihood of resulting in actual or potential harm to the child's health, survival, development or dignity." UN (2006), Report of the independent expert for the United Nations study on violence against children, A/61/299, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N06/491/05/PDF/N0649105.pdf?OpenElement>

<sup>30</sup> A/RES/62/141

<sup>31</sup> Nearly half of all deaths in children under 5 are attributable to under-nutrition. UNICEF, WHO, World Bank Group (2016), Joint Child Malnutrition Estimates Key findings of the 2016 edition, Levels and Trends in Child Malnutrition, <http://data.unicef.org/wp-content/uploads/2016/09/UNICEF-Joint-Malnutrition-brochure.pdf>

<sup>32</sup> The UN estimates that illnesses due to contaminated water are one of the major causes of absenteeism in schools, responsible for the loss of over 443 million school days each year. <http://www.un.org/apps/news/story.asp?NewsID=35487#.W17SH1N97IU>

<sup>33</sup> UNICEF (2013), Children and Young People with Disabilities Fact Sheet May 2013,

[https://www.unicef.org/disabilities/files/Factsheet\\_A5\\_Web\\_NEW.pdf](https://www.unicef.org/disabilities/files/Factsheet_A5_Web_NEW.pdf); and UN (2010), Indigenous peoples make up one-third of the world's poorest and suffer alarming conditions in all countries,

<http://www.un.org/esa/socdev/unpfii/documents/SOWIP/press%20package/sowip-press-package-en.pdf>

<sup>34</sup> The UN CRC also provides children with the right to health and health services, including access to clean water, sanitation and food (Article 24); they also have the right to a basic standard of living (Article 27).

<sup>35</sup> Unicef (2016), Education: Equitable Access, [https://www.unicef.org/education/bege\\_61657.html](https://www.unicef.org/education/bege_61657.html)

<sup>36</sup> Unicef (2016), Education: Equitable Access, [https://www.unicef.org/education/bege\\_61657.html](https://www.unicef.org/education/bege_61657.html)

<sup>37</sup> UNHCR 2015, <http://www.unhcr.org/education.html>

<sup>38</sup> UN (2016), Indigenous Peoples' Right to Education, <http://www.un.org/en/events/indigenousday/Backgrounder%20Indigenous%20Day%202016.pdf>; and UN (2012), Education and Indigenous Peoples: Priorities for Inclusive Education,

[http://www.un.org/en/ga/president/68/pdf/wcip/IASG%20Thematic%20Paper\\_%20Education%20-%20rev1.pdf](http://www.un.org/en/ga/president/68/pdf/wcip/IASG%20Thematic%20Paper_%20Education%20-%20rev1.pdf)

<sup>39</sup> UNICEF 2012, The right of children with disabilities to education: A rights-based approach to Inclusive Education Position Paper, [https://www.unicef.org/ceecis/IEPositionPaper\\_ENGLISH.pdf](https://www.unicef.org/ceecis/IEPositionPaper_ENGLISH.pdf)

<sup>40</sup> South and West Asia has the widest gender gap in its out-of-school population – 80% of out-of-school girls in this region are unlikely to ever start school compared to 16% of out-of-school boys. UNICEF (2015), Girls' education and gender equality, 23 July 2015, [https://www.unicef.org/education/bege\\_70640.html](https://www.unicef.org/education/bege_70640.html)

- <sup>41</sup> UNICEF (2014), Ending Child Marriage: Progress and prospects, [https://www.unicef.org/media/files/Child\\_Marriage\\_Report\\_7\\_17\\_LR..pdf](https://www.unicef.org/media/files/Child_Marriage_Report_7_17_LR..pdf)
- <sup>42</sup> Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome
- <sup>43</sup> Girls not Brides, <http://www.girlsnotbrides.org/themes/health/>
- <sup>44</sup> Girls not Brides (2016), <http://www.girlsnotbrides.org/5-reasons-end-child-marriage-improve-maternal-health/>
- <sup>45</sup> WHO (2016), Female Genital Mutilation, <http://www.who.int/mediacentre/factsheets/fs241/en/>
- <sup>46</sup> Although boys and girls are equally likely to be involved in child labour, there is a disparity in the work being carried out, girls far more likely to be involved in domestic work. UNICEF (2016), <https://data.unicef.org/topic/child-protection/child-labour/#>
- <sup>47</sup> ILO, What is Child Labour, <http://ilo.org/ipec/facts/lang-en/index.htm>
- <sup>48</sup> ILO, <http://www.ilo.org/global/topics/child-labour/lang-en/index.htm>
- <sup>49</sup> See <https://www.unicef.org/pon95/chil0016.html>
- <sup>50</sup> <http://childrenandbusiness.org/>
- <sup>51</sup> ILO Convention (no. 182) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_INSTRUMENT\\_ID:312327](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312327).
- <sup>52</sup> ILO (2012), [http://www.ilo.org/global/topics/forced-labour/news/WCMS\\_182109/lang-en/index.htm](http://www.ilo.org/global/topics/forced-labour/news/WCMS_182109/lang-en/index.htm)
- <sup>53</sup> Article 3(a) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons defines trafficking as “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”.
- <sup>54</sup> ASEF (2015), Page 36, Human Rights & Trafficking in Persons, 15<sup>th</sup> Informal ASEM Seminar on Human Rights, [http://asef.org/images/docs/ASEF%2015th%20Human%20Rights%20Seminar%20Publication\\_136pp\\_cast.pdf](http://asef.org/images/docs/ASEF%2015th%20Human%20Rights%20Seminar%20Publication_136pp_cast.pdf)
- <sup>55</sup> Human Rights & Trafficking in Persons, 15<sup>th</sup> Informal ASEM Seminar on Human Rights, [http://asef.org/images/docs/ASEF%2015th%20Human%20Rights%20Seminar%20Publication\\_136pp\\_cast.pdf](http://asef.org/images/docs/ASEF%2015th%20Human%20Rights%20Seminar%20Publication_136pp_cast.pdf)
- <sup>56</sup> See also the ASEAN Declaration against Trafficking in Persons Particularly Women and Children; ASEAN Committee on Women and Children Gender Sensitive Guidelines For Handling Of Women Victims Of Trafficking In Persons (2014); EU Council Framework Decision on Combating Trafficking in Human Beings; EU Council Framework Decision on Combating the Sexual Exploitation of Children and Child Pornography; UNICEF Guidelines for Protection of the Rights of Child Victims of Trafficking.
- <sup>57</sup> [http://www.unicef.org/lac/code\\_of\\_conduct.pdf](http://www.unicef.org/lac/code_of_conduct.pdf); <http://www.thecode.org/>
- <sup>58</sup> In 2015, nearly 45% of all child refugees came from Afghanistan and Syria, UNICEF (2016), Uprooted, [https://www.unicef.org/publications/files/Uprooted\\_growing\\_crisis\\_for\\_refugee\\_and\\_migrant\\_children.pdf](https://www.unicef.org/publications/files/Uprooted_growing_crisis_for_refugee_and_migrant_children.pdf)
- <sup>59</sup> *ibid*
- <sup>60</sup> IOM (2016), Abuse, Exploitation and Trafficking: IOM reveals data on the scale of the danger and risks that migrants face on the Mediterranean routes to Europe, <http://unitedkingdom.iom.int/abuse-exploitation-and-trafficking-iom-reveals-data-scale-danger-and-risks-migrants-face>
- <sup>61</sup> See reports, <http://www.europarl.europa.eu/news/en/news-room/20160419IPR23951/fate-of-10000-missing-refugee-children-debated-in-civil-liberties-committee>; <https://www.theguardian.com/world/2016/jan/30/fears-for-missing-child-refugees>
- <sup>62</sup> See UNHCR (2016), Regional Refugee and Migrant Response plan for Europe, Eastern Mediterranean and Western Balkans Rout (Jan – Dec 3016), <https://data2.unhcr.org/en/documents/download/34906>, to be updated in 2017; UNICEF (2017), Humanitarian Action for Children, [http://reliefweb.int/sites/reliefweb.int/files/resources/2017\\_Crisis-in-Europe\\_HAC%282%29.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/2017_Crisis-in-Europe_HAC%282%29.pdf)
- <sup>63</sup> Migrant children are also protected under the 1951 Refugee Convention, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the UN Convention on the Protection of All Migrant Workers and Members of Their Families, ILO Convention 97 Concerning Migration for Employment (1949) and ILO Convention 143 Concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers (1975). See also, UNHCR Policy on Refugee Children (1993) [www.unhcr.org/refworld/docid/3f9e6a534.html](http://www.unhcr.org/refworld/docid/3f9e6a534.html); UNHCR Guidelines on Determining the Best Interests of the Child (2008) [www.unhcr.org/refworld/docid/48480c342.html](http://www.unhcr.org/refworld/docid/48480c342.html) and Field Handbook (2011) [www.unhcr.org/refworld/docid/4e4a57d02.html](http://www.unhcr.org/refworld/docid/4e4a57d02.html); Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1(A)2 and 1 (F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees (HCR/GIP/09/08) (2009). [www.unhcr.org/refworld/docid/4b2f4f6d2.html](http://www.unhcr.org/refworld/docid/4b2f4f6d2.html)
- <sup>64</sup> Committee on the Rights of the Child, General Comment no. 6 (2005), *Treatment of Unaccompanied and Separated Children Outside their Country of Origin*, <http://www2.ohchr.org/english/bodies/crc/docs/GC6.pdf>. See also UNHCR (2007), UNHCR’s Executive Committee Conclusion on Children at Risk, <http://www.unhcr.org/protection/children/50f6d4746/unhcrs-executive-committee-conclusion-children-risk.html>
- <sup>65</sup> Paragraph 12, Committee on the Rights of the Child, General Comment no. 6 (2005), *Treatment of Unaccompanied and Separated Children Outside their Country of Origin*, <http://www2.ohchr.org/english/bodies/crc/docs/GC6.pdf>. See also the Hague Conference on Private International Law (1994), Recommendation Concerning the Application to Refugee Children and Other Internationally Displaced Children of the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, <https://www.hoch.net/en/publications-and-studies/details4/?pid=934>
- <sup>66</sup> Para 56, Committee on the Rights of the Child, General Comment no. 6 (2005), *Treatment of Unaccompanied and Separated Children Outside their Country of Origin*, <http://www2.ohchr.org/english/bodies/crc/docs/GC6.pdf>
- <sup>67</sup> See Articles 23, 24, 38, 50, 76 and 89 of the Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949, <https://ihl-databases.icrc.org/ihl/385ec082b509e76c41256739003e636d/6756482d86146898c125641e004aa3c5>. Article 77(2) of the 1977 Additional Protocol provides that “Children shall be the object of special respect and shall be protected against any form of indecent assault. The Parties to the conflict shall provide them with the care and aid they require, whether because of their age or for any other reason”.
- <sup>68</sup> Article 77(2) of the 1977 Additional Protocol I, Article 4(3)(c) of the 1997 Additional Protocol II, Article 38(2) of the 1989 Convention on the Rights of the Child, Article 8(2)(b)(xxvi) and (vii) of the 1998 Rome Statute of the International Criminal Court, which makes it a war crime to conscript children under the age of 15.
- <sup>69</sup> The International Labour Organization’s Worst Forms of Child Labour Convention 182 and the African Union’s Charter on the Rights and Welfare of the Child also prohibit enlistment below the age of 18.

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<sup>70</sup> The Special Representative of the Secretary-General for Children Affected by Armed Conflict has stated that “*whether or not the child enlists or is conscripted, the line between voluntary and involuntary is legally irrelevant and practically superficial in the context of children in armed conflict*”.<sup>70</sup> Situation in the Democratic Republic of the Congo in the case of the Prosecutor v Thomas Lubanga Dyilo, written submission of the United Nations Special Representative of the Secretary-General on Children and Armed Conflict, submitted in application of Rule 103 of the Rules of Procedure and Evidence, Decision of the Pre-trial Chamber, No ICC-01/04-01/06-1229-AnxA, Para 13-14, quoted in [https://childrenandarmedconflict.un.org/publications/WorkingPaper-3\\_Children-and-Justice.pdf](https://childrenandarmedconflict.un.org/publications/WorkingPaper-3_Children-and-Justice.pdf)

<sup>71</sup> <https://childrenandarmedconflict.un.org/effects-of-conflict/six-grave-violations/>

<sup>72</sup> <https://www.unicef.org/emerg/files/ParisPrinciples310107English.pdf>

<sup>73</sup> 1261 (1999), 1314 (2000), 1379 (2001), 1460 (2003), 1539 (2004), 1612 (2005), 1882 (2009), 1998 (2011), 2068 (2012), 2143 (2014) and 2225 (2015).

<sup>74</sup> As a subsidiary body, the Security Council created the *Security Council Working Group on Children and Armed Conflict* to review information provided by the MRM on country situations and make recommendations to the Council on measures to promote the protection of children affected by armed conflict.

<sup>75</sup> See Article 37 and 40

<sup>76</sup> Raoul Wallenberg Institute (RWI, 2015), *A Measure of Last Resort? The Current Status of Juvenile Justice in ASEAN Member States*, <http://rwi.lu.se/app/uploads/2015/04/Juvenile-Justice-Report.pdf>

<sup>77</sup> See Article 40(3)(b) of the CRC; and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice

<sup>78</sup> See the Convention on the Rights of the Child (1989), the UN Standard Minimum Rules for the Treatment of Prisoners (1955), the UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules, 1985), the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (Body of Principles, 1988), the UN Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines, 1990), the UN Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules, 1990), the UN Standard Minimum Rules for Non-Custodial Measures (Tokyo Rules, 1990), the UN Rules for the Treatment of Female Prisoners and Non-Custodial Measures for Women Offenders (Bangkok Rules, 2010), the Principles and Guidelines on Children Associated with Armed Forces or Armed Groups (Paris Principles, 2007), the Minimum Standards for Child Protection in Humanitarian Action (Child Protection Working Group, 2012), and Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts (2000)

<sup>79</sup> Article 37(a) of the 1989 Convention on the Rights of the Child; Article 6(5) of the 1966 ICCPR; the Geneva Conventions (Article 68 (4) of the 1949 Geneva Convention IV, Article 77(5) of the 1977 Additional Protocol I, Article 6(4) of the 1977 Additional Protocol II) prohibits the death sentence for anyone under 18 at the time the offence was committed if it was related to an armed conflict.

<sup>80</sup> Paragraph 32, General Comment No. 10, the Committee on the Rights of the Child

<sup>81</sup> The Commentary to this Rule states that ‘*the modern approach is to consider whether a child can live up to the moral and psychological components of criminal responsibility; that is, whether a child, by virtue of her or his individual discernment and understanding, can be held responsible for essentially anti-social behaviour.... The Rules advise that in general there should be a close relationship between the notion of criminal responsibility and other social rights and responsibilities (such as marital status, civil majority, etc).*’ <http://www.ohchr.org/Documents/ProfessionalInterest/beijingrules.pdf>

<sup>82</sup> Paragraph 31, *ibid*

<sup>83</sup> Paragraph 35, *ibid*

<sup>84</sup> <https://www.un.org/ruleoflaw/blog/document/un-common-approach-to-justice-for-children/>

<sup>85</sup> Page 7, Child Rights International Network (2016), *Rights, Remedies & Representation: Global Report on Access to Justice for Children*, [https://www.crin.org/sites/default/files/crin\\_a2j\\_global\\_report\\_final\\_1.pdf](https://www.crin.org/sites/default/files/crin_a2j_global_report_final_1.pdf)

<sup>86</sup> Article 12 of the Convention on the Rights of the Child states that children have the right to participate in decision-making processes that may be relevant in their lives and to influence decisions taken in their regard. See also Article 31 which gives them the right to participate fully in cultural and artistic life. For a detailed explanation on what the right to participation entails, see UNICEF Factsheet: The Right to Participation, <https://www.unicef.org/crc/files/Right-to-Participation.pdf>

<sup>87</sup> Paragraph 31, Outcome document adopted at the United Nations Conference on Sustainable Development, ‘The Future We Want,’ Rio de Janeiro, Brazil, June 2012, <https://sustainabledevelopment.un.org/futurewewant.html>

<sup>88</sup> Paragraph 51, *ibid*

<sup>89</sup> See goals 1,2,3,4, 11 on poverty alleviation, food security, healthcare, inclusive and equitable quality education, gender equality, safe and inclusive cities and public spaces. UN (2015), *Transforming our world: the 2030 Agenda for Sustainable Development*, A/RES/70/1, Resolution adopted by the General Assembly on 25 September 2015, [http://www.un.org/ga/search/view\\_doc.asp?symbol=A/RES/70/1&Lang=E](http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E)

<sup>90</sup> See goals 5,8 and 16, *ibid*

<sup>91</sup> See UNICEF (2015), *ACCOUNTABILITY FOR CHILDREN’S RIGHTS* With special attention to social accountability and its potential to achieve results and equity for children, <https://www.unicef.org/policyanalysis/rights/files/Accountability-for-Childrens-Rights-UNICEF.pdf>

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