

**WAR-AFFECTED CHILDREN**

**COMPENDIUM OF DOCUMENTS**

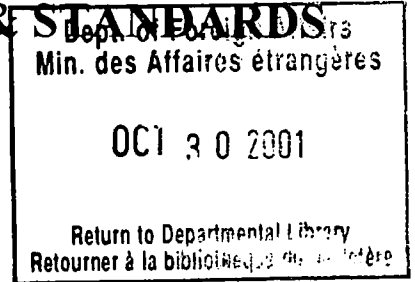
**Department of Foreign Affairs and International Trade  
Canada**

**February 2000**

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**INTERNATIONAL INSTRUMENTS  
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**United Nations Documents**

## *Convention on the Rights of the Child*

The Convention on the Rights of the Child (CRC) is the most widely ratified human rights treaty in history. It is ratified by all states with the exception of only two - the United States and Somalia.

The CRC sets minimum legal and moral standards for the protection of children's rights. Its uniqueness stems from the fact that it is the first legally binding international instrument to incorporate the full range of human rights – children's civil and political rights as well as their economic, social and cultural rights - thus giving all rights equal emphasis.

The following articles pertain to war-affected children:

**Article 1:** Definition of a Child

**Article 10:** Family Reunification

**Article 20:** Protection of a Child Without Family

**Article 22:** Refugee Children

**Article 38:** Armed Conflicts

**Article 39:** Rehabilitative Care



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This brochure contains the full texts of the Convention on the Rights of the Child, as adopted by the General Assembly of the United Nations on November 20, 1989.

Copie française aussi disponible

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# CONVENTION ON THE RIGHTS OF THE CHILD

## PREAMBLE

THE STATES PARTIES TO THE PRESENT CONVENTION,

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

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

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

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

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

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

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

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

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

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

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

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

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

Have agreed as follows:

## Part I

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### ARTICLE 1

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

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### ARTICLE 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

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### ARTICLE 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.
2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.
3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities particularly in the areas of safety, health, in the number and sui

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#### ARTICLE 4

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

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#### ARTICLE 5

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

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#### ARTICLE 6

1. States Parties recognize that every child has the inherent right to life.
2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

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#### ARTICLE 7

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.
2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

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#### ARTICLE 8

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.
2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to speedily re-establishing his or her identity.

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#### ARTICLE 9

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.
2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.
3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.
4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

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## ARTICLE 10

1. In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.
2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 2, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (*ordre public*), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

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## ARTICLE 11

1. States Parties shall take measures to combat the illicit transfer and non-return of children abroad.
2. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

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## ARTICLE 12

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

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## ARTICLE 13

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

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## ARTICLE 14

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

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## ARTICLE 15

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

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## ARTICLE 16

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

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## ARTICLE 17

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health. To this end, States Parties shall:

- (a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;
- (b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;
- (c) Encourage the production and dissemination of children's books;
- (d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;
- (e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

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## ARTICLE 18

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.
2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.
3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.

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## ARTICLE 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.
2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

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## ARTICLE 20

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.
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2. States Parties shall in accordance with their national laws ensure alternative care for such a child.

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

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#### ARTICLE 21

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

- (a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;
- (b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;
- (c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;
- (d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;
- (e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is

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#### ARTICLE 22

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

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

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#### ARTICLE 23

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.
2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.
3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account

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and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development.

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

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#### A R T I C L E 2 4

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

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

- (a) To diminish infant and child mortality;
- (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;
- (c) To combat disease and malnutrition, including within the framework of primary health care, through, *inter alia*, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;
- (d) To ensure appropriate pre-natal and post-natal health care for mothers;

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

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

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

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

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#### A R T I C L E 2 5

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

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#### A R T I C L E 2 6

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

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

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## ARTICLE 27

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.
2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.
3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.
4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

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## ARTICLE 28

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:
  - (a) Make primary education compulsory and available free to all;
  - (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
  - (c) Make higher education accessible to all on the basis of capacity by every appropriate means;

- (d) Make educational and vocational information and guidance available and accessible to all children;
- (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.
3. States Parties shall promote and encourage international co-operation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

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## ARTICLE 29

1. States Parties agree that the education of the child shall be directed to:
  - (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;
  - (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;
  - (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;
  - (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;



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

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#### A R T I C L E 3 0

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

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#### A R T I C L E 3 1

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.
2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

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#### A R T I C L E 3 2

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.
2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present

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

- (a) Provide for a minimum age or minimum ages for admission to employment;
- (b) Provide for appropriate regulation of the hours and conditions of employment;
- (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

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#### A R T I C L E 3 3

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

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#### A R T I C L E 3 4

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

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;
- (c) The exploitative use of children in pornographic performances and materials.

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#### A R T I C L E 3 5

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

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## ARTICLE 36

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

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## ARTICLE 37

States Parties shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;
- (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;
- (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;
- (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

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## ARTICLE 38

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.
2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.
3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.
4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

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## ARTICLE 39

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

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## ARTICLE 40

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

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

- (a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;
- (b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:
  - (i) To be presumed innocent until proven guilty according to law;
  - (ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;
  - (iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;
  - (iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;
  - (v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;
  - (vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;
  - (vii) To have his or her privacy fully respected at all stages of the proceedings.

3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:

- (a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;
- (b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.

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

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#### A R T I C L E 4 1

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

- (a) The law of a State Party; or
- (b) International law in force for that State.

# Part II

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## ARTICLE 42

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

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## ARTICLE 43

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

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

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

4. The initial election to the Committee shall be held no later than six months after the date of the entry into force of the present Convention and thereafter every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to States Parties inviting them to submit their nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating States Parties which have nominated them, and shall submit it to the States Parties to the present Convention.

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

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

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

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

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

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

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

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

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## ARTICLE 44

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

- (a) Within two years of the entry into force of the Convention for the State Party concerned;
- (b) Thereafter every five years.

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

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

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

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

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

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## ARTICLE 45

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

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

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

- (b) The Committee shall transmit, as it may consider appropriate, to the specialized agencies, the United Nations Children's Fund and other competent bodies, any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance, along with the Committee's observations and suggestions, if any, on these requests or indications;
- (c) The Committee may recommend to the General Assembly to request the Secretary-General to undertake on its behalf studies on specific issues relating to the rights of the child;
- (d) The Committee may make suggestions and general recommendations based on information received pursuant to articles 44 and 45 of the present Convention. Such suggestions and general recommendations shall be transmitted to any State Party concerned and reported to the General Assembly, together with comments, if any, from States Parties.

## Part III

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### ARTICLE 46

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

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### ARTICLE 47

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

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### ARTICLE 48

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

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### ARTICLE 49

1. The present Convention shall enter into force on the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying or acceding to the Convention after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

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### ARTICLE 50

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties, with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties shall

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Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly for approval.

2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of States Parties.
3. When an amendment enters into force, it shall be binding on those States Parties which have accepted it, other States Parties still being bound by the provisions of the present Convention and any earlier amendments which they have accepted.

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### ARTICLE 51

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.
2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.
3. Reservations may be withdrawn at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall then inform all States. Such notification shall take effect on the date on which it is received by the Secretary-General.

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### ARTICLE 52

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

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### ARTICLE 53

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

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A R T I C L E 54

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

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

*Draft Optional Protocol to the Convention on the Rights  
of the Child on the Involvement of Children  
in Armed Conflict*



21 January 2000

DRAFT OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON INVOLVEMENT OF CHILDREN IN ARMED CONFLICT.

**CHAIRMAN'S TEXT**

PP1: Encouraged by the overwhelming support for the Convention on the Rights of the Child, demonstrating the widespread commitment that exists to strive for the promotion and protection of the rights of the child.

PP2: Reaffirming that the rights of children require special protection and call for continuous improvement of the situation of children without distinction, as well as for their development and education in conditions of peace and security.

PP3: Disturbed by the harmful and widespread impact of armed conflict on children and the long-term consequences this has for durable peace, security and development.

PP4: Condemning the targeting of children in situations of armed conflict and direct attacks on objects protected under international law, including places generally having a significant presence of children, such as schools and hospitals.

PP5: Noting the adoption of the Statute of the International Criminal Court, in particular the inclusion of conscripting or enlisting children under the age of fifteen years or using them to participate actively in hostilities as a war crime in both international and non-international armed conflicts.

PP6: Considering therefore that to strengthen further the implementation of rights recognized in the Convention on the Rights of the Child, there is a need to increase the protection of children from involvement in armed conflict.

PP7: Noting that article 1 of the Convention on the Rights of the Child specifies that, for the purposes of that Convention, a child means every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier.

PP8: Convinced that an Optional Protocol to the Convention, raising the age of possible recruitment of persons into armed forces and their participation in hostilities, will contribute effectively to the implementation of the principle that the best interests of the child are to be a primary consideration in all actions concerning children.

PP9: Noting that the twenty-sixth international Conference of the Red Cross and Red Crescent in December 1995 recommended inter alia that parties to conflict take every feasible step to ensure that children under the age of 18 years do not take part in hostilities.

PP10: Welcoming also the unanimous adoption in June 1999, of the ILO Convention 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, which prohibits inter alia forced or compulsory recruitment of children for use in armed conflict.

PP11: Condemning with gravest concern the recruitment, training and use within and across national borders of children in hostilities by armed groups distinct from the armed forces of a State, and recognizing the responsibility of those who recruit, train and use children in this regard.

PP12: Recalling the obligation of each party to an armed conflict to abide by the provisions of international humanitarian law.

PP13: Stressing that this Protocol is without prejudice to the purposes and principles contained in the Charter of the United Nations, including article 51 and relevant norms of humanitarian law.

PP14: Bearing in mind that conditions of peace and security based on full respect of the purposes and principles contained in the Charter of the United Nations and observance of applicable human rights instruments are indispensable for the full protection of children, in particular during armed conflicts and foreign occupation.

PP15: Recognizing the special needs of those children who are particularly vulnerable to recruitment or use in hostilities contrary to this Protocol due to their economic or social status or gender.

PP16: Mindful also of the necessity to take into consideration the economic, social and political root causes of the involvement of children in armed conflicts.

PP17: Convinced of the need to strengthen international cooperation in implementation of this protocol, as well as physical and psychosocial rehabilitation and social reintegration of children who are victims of armed conflict.

PP18: Encouraging the participation of the community and, in particular, children and child victims in the dissemination of information and education programmes concerning the implementation of the Protocol.

#### Article 1

State Parties shall take all feasible measures to ensure that members of their armed forces who have not attained the age of 18 years do not take a direct part in hostilities.

## Article 2

State Parties shall ensure that persons who have not attained the age of 18 years are not compulsorily recruited into their armed forces.

## Article 3

States Parties shall raise the minimum age in years for the voluntary recruitment of persons into their national armed forces from that set out in Article 38(3) the Convention on the Rights of the Child, taking account of the principles contained in that article and recognize that under the Convention persons under 18 are entitled to special protection .

Each State Party shall deposit a binding declaration upon ratification of or accession to this Protocol which sets forth the minimum age at which it will permit voluntary recruitment into its national armed forces and a description of the safeguards that it has adopted to ensure that such recruitment is not forced or coerced.

States Parties which permit voluntary recruitment into their national armed forces under the age of 18 shall maintain safeguards to ensure, as a minimum, that:

- such recruitment is genuinely voluntary;
- such recruitment is done with the informed consent of the person's parents or legal guardians;
- such persons are fully informed of the duties involved in such military service, and
- such persons provide reliable proof of age prior to acceptance into national military service.

Each State Party may strengthen its declaration at any time by notification to that effect addressed to the Secretary-General of the United Nations who shall inform all States Parties. Such notification shall take effect on the date which it is received by the Secretary-General.

The requirement to raise the age in paragraph 1 does not apply to schools operated by or under the control of the armed forces of the States Parties, in keeping with Articles 28 and 29 of the Convention on the Rights of the Child.

## Article 4

1. Armed groups, distinct from the armed forces of a State, should not, under any circumstances, recruit or use in hostilities persons under the age of 18 years.
2. State Parties shall take all feasible measures to prevent such recruitment and use, including the adoption of legal measures necessary to prohibit and criminalize such practices.

3. The application of the present article under this Protocol shall not affect the legal status of any party to an armed conflict.

#### Article 5

Nothing in the present Protocol shall be construed to preclude provisions in the law of a State Party or in international instruments and international humanitarian law which is more conducive to the realisation of the rights of the child.

#### Article 6

1. Each State Party shall take all necessary legal, administrative and other measures to ensure the effective implementation and enforcement of the provisions of this Protocol within its jurisdiction.

2. States Parties undertake to make the principles and provisions of the present Protocol widely known and promoted by appropriate means, to adults and children alike.

3. States Parties shall take all feasible measures to ensure that persons within their jurisdiction recruited or used in hostilities contrary to this Protocol are demobilized or otherwise released from service. States Parties shall, when necessary, accord to these persons all appropriate assistance for their physical and psychological recovery, and their social reintegration.

#### Article 7

1. States Parties shall cooperate in the implementation of the present protocol, including in the prevention of any activity contrary to the protocol and in the rehabilitation and social reintegration of persons who are victims of acts contrary to this protocol, including through technical cooperation and financial assistance. Such assistance and cooperation will be undertaken in consultation among concerned States parties and other relevant international organisations.

2. States Parties, in a position to do so, shall provide such assistance through existing multilateral, bilateral, or other programmes, or inter alia, through a voluntary fund established in accordance with the General Assembly rules.

#### Article 8

1. Each State Party shall submit, within two years following the entry into force of the Protocol for that State Party, a report to the Committee on the Rights of the Child providing comprehensive information on the measures it has taken to implement the provisions of the

Protocol, including the measures taken to implement the provisions on participation and recruitment.

2. Following the submission of the comprehensive report, each State Party shall include in the reports they submit to the Committee on the Rights of the Child in accordance with article 44 of the Convention, any further information with respect to the implementation of the Protocol. Other States Parties to the Protocol shall submit a report every five years.

3. The Committee on the Rights of the Child may request from State Parties further information relevant to the implementation of this Protocol.

#### Article 9.

1. The present Protocol is open for signature by any State which is a party to the Convention or has signed it.

2. The present Protocol is subject to ratification or open to accession by any State. Instruments of ratification or accession shall be deposited with the Secretary-General of the United Nations.

3. The Secretary-General of the United Nations in his capacity as depositary of the Convention and the Protocol shall inform all States Parties to the Convention and all States which have signed the Convention of each instrument of declaration pursuant to article 3, ratification or accession to the Protocol.

#### Article 10

1. The present Protocol shall enter into force three months after the deposit of the tenth instrument of ratification or accession.

2. For each State ratifying the present Protocol or acceding to it after its entry into force the present Protocol shall enter into force one month after the date of the deposit of its own instrument of ratification or accession.

#### Article 11

1. Any State Party may denounce the present Protocol at any time by written notification to the Secretary-General of the United Nations, who shall thereafter inform the other States Parties to the Convention and all States which have signed the Convention. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General of the United

Nations. If, however on the expiry of that year the denouncing State Party is engaged in armed conflict, the denunciation shall not take effect before the end of the armed conflict.

2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under the present Protocol in regard to any act which occurs prior to the date at which the denunciation becomes effective. Nor shall such a denunciation prejudice in any way the continued consideration of any matter which is already under consideration by the Committee prior to the date at which the denunciation becomes effective.

#### Article 12

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties, with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly for approval.

2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of States Parties.

When an amendment enters into force, it shall be binding on those States Parties which have accepted it, other States Parties still being bound by the provisions of the present Protocol and any earlier amendments which they have accepted.

#### Article 13

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States Parties to the Convention and all States which have signed the Convention.



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COMMISSION ON HUMAN RIGHTS  
Fifty-fourth session  
Agenda item 20

RIGHTS OF THE CHILD

Report of the Working group on a draft optional protocol to  
the Convention on the Rights of the Child on involvement of  
children in armed conflicts on its fourth session

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### I. Draft optional protocol to the Convention on the Rights of the Child on involve children in armed conflicts

#### II. Chairman's perception

#### Introduction

1. The Commission on Human Rights, in paragraph 14 of its resolution 1997/78, requested the working group on a draft optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts to meet for a period of two weeks, or less if possible, prior to the fifty-fourth session of the Commission, in order to finalize the draft optional protocol.

2. The Economic and Social Council, in its decision 1997/281, approved the Commission's request. [\[back to the contents\]](#)

#### I. ORGANIZATION OF THE SESSION

##### A. Opening and duration of the session

3. The fourth session of the working group was opened by the representative of the Office of the High Commissioner for Human Rights, who made a statement. During the session the working group held seven plenary meetings from 2 to 10 February and on 19 February 1998. The working group adopted its report on 19 March 1998. [\[back to the contents\]](#)

##### B. Election of the Chairman-Rapporteur

4. At its 1st meeting, on 2 February 1998, the working group elected Mr. Nils Eliasson (Sweden) Chairman-Rapporteur. [\[back to the contents\]](#)

##### C. Participation

5. The representatives of the following States members of the Commission attended the meetings of the working group, which were open to all members of the Commission: Argentina, Austria, Brazil, Canada, Chile, China, Cuba, Czech Republic, Denmark, El Salvador, France, Germany, Guatemala, India, Ireland, Italy, Japan, Malaysia, Mexico, Morocco, Pakistan, Peru, Philippines, Poland, Republic of Korea, Russian Federation, South Africa, Sri Lanka, Sudan, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

6. The following States, non-members of the Commission, were represented by observers: Algeria, Australia, Bahrain, Belgium, Colombia, Costa Rica, Dominican Republic, Egypt, Ethiopia, Estonia, Finland, Iran (Islamic Republic of), Netherlands, New Zealand, Nigeria, Norway, Portugal, Romania, Slovakia, Spain, Sweden, Syrian Arab Republic, Thailand, Turkey.



7. The following non-member States of the United Nations were also represented by observers: Holy See, Switzerland.

8. The following United Nations bodies were represented by observers: United Nations Children's Fund (UNICEF) and the Office of the United Nations High Commissioner for Refugees (UNHCR).

9. The International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies were also represented by observers.

10. The following non-governmental organizations in consultative status with the Economic and Social Council were represented by observers: Amnesty International, Associated Country Women of the World, Coalition against Trafficking in Women, Friends World Committee for Consultation (Quakers), Human Rights Watch, International Council of Women, International Federation of Social Workers, International Federation Terre des Hommes, International Save the Children Alliance, International Service for Human Rights, New Humanity and the World Christian Life Community.

11. The following other non-governmental organizations were represented: ACT Project and Dutch Coalition for the Rights of Children in Armed Conflict. [[back to the contents](#)]

#### D. Documentation and organization of work

12. The working group had before it the following documents:

E/CN.4/1998/WG.13/1 Provisional agenda

E/CN.4/1998/WG.13/2 and Add.1-2 Report of the Secretary-General prepared pursuant to paragraph 14 (a) of Commission on Human Rights resolution 1997/78: comments on the report of the working group

E/CN.4/1997/96 Report of the working group on a draft optional protocol to the Convention on the Rights of the Child on involvement of children in armed conflicts on its third session

13. The working group adopted its agenda, as contained in document E/CN.4/1998/WG.13/1, at its 1st meeting, on 2 February 1998.

14. At the 2nd meeting, on the proposal of the Chairman-Rapporteur, the working group decided, in order to speed up the drafting process, to continue its work in informal meetings, in the form of open-ended consultations with the Chairman. Such informal sessions, headed by the Chairman, were held from 3 to 9 February 1998.

15. The Chairman-Rapporteur drew the attention of the working group to the informal paper which he had offered to the Commission on Human Rights in April 1997 when introducing the report of the Working Group on its third session and which contained his perception of the draft optional protocol. This paper was subsequently circulated among delegations and served as one of the bases for informal open-ended consultations

conducted by the Chairman, in the course of which it was partly revised. It was agreed annex to the report of the working group the revised version of his paper entitled "Chairman's perception". [\[back to the contents\]](#)

## II. GENERAL DISCUSSION

16. At its 1st, 2nd and 3rd meetings, on 2 to 4 February 1998, the working group, at the invitation of the Chairman-Rapporteur, held a general discussion on questions relating to the draft optional protocol. The topics discussed included the question of the minimum age of persons participating in hostilities, the issue of direct or indirect involvement in hostilities, the age of recruitment, be it voluntary or compulsory, into the armed forces, and whether or not a clause should be included in the draft optional protocol preventing child recruitment by non-governmental armed groups.

17. Several representatives of non-governmental organizations appealed to the working group to assume fully the serious responsibility to help bring to an end the deplorable practice of the use of children in combat through setting a clear minimum age of 18 years for all forms of recruitment into the armed forces and for participation in hostilities. It was pointed out that in recent years the involvement of children in many armed conflicts had continued unabated and even increased as conflicts were prolonged, economies collapsed, and light weapons proliferated.

18. Many of the speakers also emphasized that the working group was expected and requested to set clear, workable standards which can have a real impact in addressing the problem of preventing children from being recruited and used in combat. It was stated that the time had come to demonstrate international solidarity on behalf of children in armed conflicts. This required the adoption of a multitude of measures and a strong political will to make them work. The drafting of the protocol was one such measure.

19. The participants agreed that the key issue of the draft optional protocol was that of the age limit for participation in hostilities. The vast majority of delegations expressed their support for a clearly designated limit of 18 years for participation (see paragraph 75 below), with most of them favouring this limit being applied to all forms of participation, either direct or indirect. It was pointed out that establishing 18 as the minimum age would be consistent with the general age of majority under the Convention on the Rights of the Child, as well as in most national legislations.

20. An appeal was made to States that were not yet in a position to accept the 18-year age limit not to prevent its adoption by other Governments. The optional character of the proposed protocol was again emphasized in this connection, and it was pointed out that the future instrument would have no binding consequences on countries which chose not to ratify it.

21. Several delegations indicated their readiness to join consensus despite many domestic legal problems which would have to be overcome.

22. The opinion was expressed by several delegations that new standards, in order to be enforceable, should enjoy the support of the vast majority of States. From that point of view, the establishment of an 18-years age limit could not be considered as a practical

practicable proposal acceptable to all. It was argued that the real problem lay not in the debate about the higher standard but in the lack of implementation of existing standards, which would eliminate the real problem - the involvement of those under 15 in armed conflict. It was suggested that, in order to set an achievable goal and to attract the maximum number of States willing to adhere to the protocol, the working group should designate 17 years as the minimum age for participating in hostilities. This view was shared by several delegations.

23. A fundamental difference among States on the question of the minimum age for participation in hostilities was therefore noted by the working group.

24. Most speakers believed that all participation, whether direct or indirect, should be prohibited. They considered that the inclusion of the word "direct" would weaken the very core of the protocol, since under such a formulation children could still be found in war zones performing hazardous duties that placed them at great risk. Other participants held that a specific reference in the protocol to "direct" participation was necessary.

25. While some delegations expressed their readiness to look for solutions which enjoyed the broadest possible support, they felt that the working group should not accept an unsatisfactory solution only for the sake of compromise. The purpose of the working group, it was reiterated, was to provide improved and higher international standards for protecting children.

26. A certain illogic was noted by some speakers in the approach of those Governments which, while recruiting and deploying children under 18 years of age as soldiers, banned the sale of alcohol and tobacco to them, or prohibited their employment in those spheres of industry which were likely to jeopardize their health or safety.

27. It was strongly stated by some participants that preventing recruitment of children would prevent their participation in hostilities. They opposed the idea of focusing only on participation and leaving the question of recruitment aside, which they considered the equivalent of a ban on the use of landmines while permitting their continued production. It was felt that recruitment was precisely the point at which it was most feasible to attack the problem of preventing the involvement of children in armed conflicts.

28. Many speakers considered that what was called voluntary recruitment was in fact, in very many cases, not a free choice but the result of indoctrination, incitement to vengeance, poverty, destitution, severe pressure, the prospect of physical protection, or simply immaturity. It was therefore strongly felt by many participants that the minimum age for recruitment into the armed forces in all circumstances should be set at 18 years and without any distinction being applied between compulsory and voluntary recruitment and regardless of parental consent. The opinion was expressed that the requirement of parental consent was not a safeguard and was irrelevant in many situations.

29. It was also pointed out in that connection that monitoring and enforcement would be difficult if the age limit were different for participation and for recruitment. The age should therefore be 18 for both situations.

30. Other participants believed that the minimum age for voluntary recruitment into the

armed forces should be set at 17 since that was already the practice in many countries. It was also stated that the imposition of an 18-years age limit for any recruitment would undermine an important accessory purpose of military service, which is educating young people. In many countries, the function of military service is not limited to defence. It gives young people an opportunity to acquire knowledge and skills which they would be able to utilize afterwards. It was felt setting a higher age limit for recruitment would limit access to further education by young people who lacked the financial means to continue their schooling.

31. It was pointed out in that connection that acceptance of the 18-years age limit for participation in hostilities and recruitment into the armed forces would not prevent persons under 18 from entering military schools. It would, however, prevent schools from being used as an excuse or cover for the participation of children under 18 in hostilities.

32. Most delegations believed that the protocol should reflect the reality of the situation in the world today, where most armed conflicts take place within States and most under-18 combatants serve in non-governmental armed groups. The future protocol should therefore also address, in its operative part, the situation of child soldiers recruited by non-governmental entities.

33. According to another view, the protocol should not imply recognition of non-governmental armed groups. A preference was voiced for this issue to be addressed in the preambular part of the document only.

34. Some NGO participants, when outlining the context of the use of children in armed conflict as experienced by their organizations, referred to the particular vulnerability of displaced children, especially when they were separated from their families. It was pointed out that refugee camps sometimes became centres for forcible recruitment of child soldiers. Feeling unsafe and left to their own devices, some refugee children have reportedly volunteered to join armed groups hoping to find there physical protection and economic security.

35. It was also stated that the problem of child soldiers was not a merely military or patriotic issue, but also a matter of exploitation and poverty. Reference was made to reports which clearly show that, irrespective of the method of recruitment, child soldiers very often come from the poor and disadvantaged groups of society with lower educational prospects or from groups with disrupted or non-existent family background. Furthermore, it was pointed out that child soldiers were not all boys; there were also girls. In addition to being involved in combat and suffering the same treatment as boys, girl soldiers were very much at risk of sexual violence and exploitation, AIDS and unwanted pregnancy.

36. The social cost of child soldiers was very high. These children were not gaining an education, skills, or any knowledge that they would normally acquire by staying with their families. Instead, they learned how to use a gun. One of the negative results of the phenomenon of child soldiers had been an increase in armed robberies in the affected societies.

37. At the 4th meeting, on 5 February 1998, the Chairman read out a message from the

Olara Otunnu, Special Representative of the Secretary-General for children in armed conflict. Mr. Otunnu strongly supported the proposal to raise the minimum age for recruitment into armed forces or armed groups, and participation in combat to 18. He considered that an optional protocol, adopted by consensus, would send a very important and much needed message concerning the protection of the rights and welfare of children in situations of armed conflict, and urged all delegations participating in the working group to join in that consensus.

38. At the 5th meeting, on 9 February 1998, the United Nations High Commissioner for Human Rights, Mrs. Mary Robinson, addressed the working group. The High Commissioner noted the growing consensus for setting the minimum age for all forms of participation in hostilities at 18 and welcomed the fact that some delegations had indicated their readiness to adjust their positions. She supported the views of those participants who considered that the working group should provide improved and higher international standards and that national legislation should not be presented as an obstacle to the elaboration of more advanced international standards, especially bearing in mind the optional character of the proposed protocol. Finally, the High Commissioner expressed the hope that those Governments which were still reluctant to accept a minimum age of 18 would reconsider their position.

#### Particular views expressed by some delegations

39. The delegation of Ethiopia reiterated its strong support for an optional protocol to the Convention on the Rights of the Child that would prohibit the participation of children under the age of 18 in armed conflicts, without qualifying the nature of that participation. While compulsory recruitment should be totally abolished, the age limit for voluntary recruitment into the armed forces should be set at 18. The prohibition on participation and recruitment should also apply to parties to a non-international armed conflict. The obligation to ensure compliance with the instrument should rest with the States Parties. Since the optional protocol had a very specific purpose and objective, no reservations should be admissible. The delegation's support for significant improvements in the standards of protection for children was based on its experience of the protracted civil war that devastated the country until 1991.

40. With regard to the paper entitled "Chairman's perception", the representative of Pakistan stated that in article 2, paragraph 2, her delegation would like the age of voluntary recruitment to be kept at 16. Sixteen-year-olds voluntarily entered the armed forces in Pakistan because of the job stability, training and educational opportunities offered to them, providing in some cases a livelihood for themselves and their families. Lowering the age could cause severe social dislocation for individuals and families. Her delegation would also favour the retention of article 2, paragraph 3, as it covered educational and vocational training schools run by the military. The delegation of Pakistan did not consider article 3 to be relevant to this protocol as it raised some issues of legality and legal jurisdiction. But in view of the sad reality of children being used in some conflicts, it agreed to accept language on the use of children by armed groups. However, the delegation insisted and would continue to insist that in any document on armed conflict it was essential that there be explicit mention of peoples' right to self-determination and their right to use all legitimate means to fight foreign occupation and alien domination. To this end, her delegation offered the following language of article

3, paragraph 3:

"The application of the present provisions under the protocol shall be without prejudice to the struggle of peoples fighting for their right to self-determination and against foreign occupation and alien domination".

When it was firmly stated by some delegations that a direct reference in the operative part to self-determination, foreign occupation and alien domination would not be acceptable, the delegation of Pakistan offered the following language:

"The application of the present provisions of the protocol is without prejudice to the rights and obligations of peoples flowing from the principles of the Charter of the United Nations and international humanitarian law".

On the understanding that reference to the concept of self-determination would be acceptable only in the preamble, the delegation of Pakistan offered the following two paragraphs from General Assembly resolution 2649 (XXV) of 30 November 1970, to be inserted in the preamble as a compromise:

"Affirming the legitimacy of the struggle of peoples under colonial and alien domination recognized as being entitled to the right to self-determination to restore to themselves their right by any means at their disposal,

"Recognizing the rights of peoples under colonial and alien domination in the legitimate exercise of their right to self-determination to seek and receive all kinds of moral and material assistance in accordance with the resolutions of the United Nations and the provisions of the Charter of the United Nations."

Since this was again found unacceptable by several delegations, the delegation of Pakistan thought that consensus could be emerging on the following language:

"Recognizing the rights of peoples under colonial and alien domination in the legitimate exercise of their right to self-determination in accordance with the Charter of the United Nations and in view of the special needs of the protection of children in armed conflicts."

As this was opposed by some delegations, the delegation of Pakistan agreed to work on a compromise language based partially on the language of the Charter as follows:

"Recalling the provisions in the Charter of the United Nations concerning equal rights of peoples, self-determination of peoples, peaceful settlement of disputes and the duty of Member States to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner, inconsistent with the purposes of the United Nations".

The delegation of Pakistan expressed regret that such language was also not acceptable to some delegations and that its concessions were not met with corresponding gestures: at the time it tried to bridge the gap, there was no political will to take into account the legitimate concerns of the delegation. It therefore requested that the eighth preamble paragraph in the "Chairman's perception" paper to be placed in square brackets for information.

discussions.

The representative of Pakistan felt that further discussions were also required on a number of outstanding issues and proposed that the working group should strongly recommend to the Commission on Human Rights to authorize another session so the working group could achieve consensus. In her view, legal obligations could not be entered into by States on the basis of the "Chairman's perception" but only on the basis of a negotiated consensus text. Since the "Chairman's perception" was only his, the paper could not be annexed to the report of the working group.

41. The delegation of Switzerland welcomed the "Chairman's perception" paper annexed to the report of the working group. In view of that document, which would constitute a reference tool for the future work of the group, the Swiss delegation wished once again to state its position on the basic issues addressed by the working group:

(a) The optional protocol was to fill a gap in the Convention on the Rights of the Child and should establish an age limit of 18 years for the participation of children in hostilities. The distinction between direct and indirect participation in hostilities should be rejected;

(b) With regard to voluntary recruitment for regular troops, the age limit should be 18 years;

(c) In the event that the optional protocol included an exception to the rule covering voluntary recruitment for purposes of education and vocational training in establishments operated by or under the control of the armed forces, particular attention should be paid to the implementation of that exception, in order to prevent it from allowing any circumvention of the principle of the established age limit of 18 years;

(d) It was essential that the optional protocol should contain a provision prohibiting the recruitment of children under the age of 18 by groups of combatants which were not part of the regular armed forces.

42. The representative of Japan stated that under the Constitution of his country, Japanese people forever renounced war as a sovereign right of the nation and expressed the desire for peace at all times. This desire for peace specified in the Constitution of Japan went beyond its borders. In particular, the Japanese people recognized that all peoples of the world had the right to live in peace, free from fear and want. In that respect, the Government of Japan was seriously concerned at the effects that armed conflicts had on children in many parts of the world. It was deplorable that innocent children had been increasingly involved in such conflicts and sometimes used as soldiers. After hearing very impressive statements made by the High Commissioner for Human Rights, specialized agencies and NGOs, the Japanese Government's conviction that the problem must be addressed had been strengthened. The delegation supported the working group and hoped for the early adoption of the optional protocol. Strong support was also expressed for the "Chairman's perception" paper, and for Japan article 2, paragraph 3, was indispensable. Although the perception paper was not satisfactory for all the participants, it was the only solution if the optional protocol was to be adopted at an early stage. Finally, the delegation of Japan expressed its gratitude to the Chairman-Rapporteur for his hard work in seeking an agreement.

43. The representative of Denmark expressed the support of his delegation for the age limit of 18 years for any form of participation in hostilities. His delegation also favoured the 18-years age limit for compulsory recruitment and indicated that it would be able to join consensus on 18 years also for voluntary recruitment. It was of utmost importance that the optional protocol also address the issue of recruitment by armed groups other than governmental forces. While opposing, as a matter of principle, the possibility of reservations to the optional protocol, Denmark would, for the sake of compromise, go along with article 5 of the "Chairman's perception" paper. Similarly, although the delegation of Denmark would prefer slightly different wording in some of the articles of the perception paper, it would be ready to accept the draft optional protocol as presented in the Chairman's paper on the understanding that it was a near-consensus text resulting from a long negotiation process. His delegation would like the perception paper to be annexed to the report of the working group.

44. The observer for Portugal expressed the disappointment of her delegation that no consensus could have been achieved at the present session of the working group. Her delegation supported the "Chairman's perception" text (which should be annexed to the report) as a way to contribute to reaching a consensus. Such a position would, however, constitute a major compromise with regard to those values which should guide the drafting of the protocol, in particular the need to ensure the best interests of the child. The delegation of Portugal would welcome the age limit of 18 years to be set for participation in hostilities, without a distinction being made between direct and indirect participation. Any such distinction would be controversial and subjective, allowing for different interpretations and diminishing the protection of children. It would also constitute a step backwards in relation to existing standards of international humanitarian law, namely those contained in Additional Protocol II to the Geneva Conventions of 1949. Her delegation was also convinced that no reservation to the protocol should be permitted. Being an optional protocol, this instrument should constitute a simple option for States Parties to the Convention on the Rights of the Child that wished to set a higher standard for the protection of children in situations of armed conflict.

45. The observer for Amnesty International stated that his organization was campaigning for the adoption of a draft optional protocol which would include provisions that:

- (a) Prohibited persons below 18 years of age from participating in hostilities;
- (b) Prohibited the compulsory or voluntary recruitment of persons below 18 years of age into governmental armed forces; and
- (c) Prohibited the recruitment of persons below 18 years of age into armed opposition groups.

He pointed out that international law increasingly used the benchmark of 18 years as the age below which special protection should be afforded. The involvement of children in armed forces was not inevitable. The recruitment and participation of children in armed conflicts was always a decision made by Government and/or by leaders of armed opposition groups. While the purpose of this human rights protocol should be to protect children from involvement in armed conflicts, the language used in article 1 only required



States Parties to take "feasible measures", and even then only protected persons under 18 years of age who took a "direct part" in hostilities. This could mean that the child soldiers who were not taking a "direct part" in hostilities but who were in the area of armed conflict became legitimate targets for attack. Amnesty International considered that the purpose of new human rights standards was to significantly develop international law and elaborate clear obligations for States. It believed that the standard required of States in this protocol must be no less rigorous than those in other human rights treaties. States must ensure that persons who had not reached 18 and who were members of governmental armed forces did not participate in hostilities. The practice in recent years of drafting standards by consensus had given each Government an opportunity to block action to defend and protect human rights. Drafting groups could become hostage to a few States and were all too often faced with the stark choice of accepting the lowest common denominator or abandoning the drafting exercise. But this need not be the case. Consensus decision-making should no longer be used unquestionably as the working method for standard-setting initiatives. It was true that the balance had to be struck between drafting a text that enough States would ratify and maintaining the highest standard of human rights protection. The majority of States in favour of a strong text should make every effort to persuade the State, or the few States obstructing adoption of a broad consensus text to reconsider their position. One State, or a small minority of States, should not be allowed to undermine a broad international consensus on a strong text, especially when the instrument was optional. Ultimately, in order to avoid the lowest common denominator approach, voting on the text might be necessary. It was the view of Amnesty International that the text currently before the working group did not yet provide the necessary protection for children at risk of participating in hostilities and recruitment into armed forces.

46. The observer for Egypt confirmed the comments of his Government as contained in document E/CN.4/1998/WG.13/2. His delegation thanked the Chairman-Rapporteur for his efforts and expressed the wish that the "Chairman's perception" paper would become an acceptable text for all participants. To achieve this goal, acceptable language should be found to express that the optional protocol was without prejudice to self-determination and that the right to self-determination could not be used to impair the best interests of the child.

47. The representative of Poland welcomed the fact that the overwhelming majority of States and intergovernmental and non-governmental organizations were in favour of an 18-years age limit for participation in hostilities and considered that the same age limit should be set to protect children from recruitment into armed forces. He shared the view expressed by some delegations that national legislation should not be presented as an obstacle to the success of the working group's exercise, especially bearing in mind the optional character of the future protocol. Another issue of importance to his delegation was the implementation mechanism to the protocol, as proposed in "new article D". He believed that the protocol could not work properly without a procedure for verification fixed within it.

48. The representative of Germany expressed disappointment that despite the willingness demonstrated by the great majority of delegations, it had not been possible to arrive at results allowing the Chairman-Rapporteur to formulate his perception of the status of work as being near consensus. This was due to the position of a very small minority of

delegations unable to join an emerging near-consensus on practically all contentious issues. Indeed, the perception paper tabled by the Chairman following open-ended consultations reflected positions which were as close as the working group could get to reaching consensus. Although the perception paper did not fully reflect German position on all issues, the delegation could have accepted it in its entirety in an effort to clear the way for the adoption of an optional protocol, which should not be postponed any longer. Notwithstanding this, Germany would have preferred a few changes. In article reference to participation should be without the qualification "direct". There should be place for reservations to the protocol; thus article 5 should be deleted. Germany shared the view of those delegations which had spoken in favour of retaining "new article D" of the concept contained therein (see paragraph 86 below). In view of the inability of the working group to solve the outstanding problems, Germany questioned if there was any ground for the working group to continue its work. With all arguments having been made there was now a clear need for political decisions. It was up to the Commission on Human Rights to give the required guidance. Germany expressed the hope that another year was not to be lost before an optional protocol would be adopted which would significantly raise the level of the protection of children in armed conflicts.

49. The observer for the Netherlands underlined that the "Chairman's perception" paper constituted the only feasible way to move forward. Official negotiations had resulted in deadlock. The Commission on Human Rights should now decide what was to be done. Concerning specific articles, he agreed with the core article, article 1. For reasons of coherence with the Convention on the Rights of the Child, the inclusion of the term "a direct part" was necessary. Equally, he was satisfied with article 2 on recruitment, although the phrasing of paragraph 3 created a loophole. The article on recruitment by armed groups was not completely satisfactory, but could stand as a compromise. He was less happy with the article on reservations. In his view, no reservations to an optional protocol should be acceptable. Lastly, the disappearance of "new article D" was to be regretted, as the lack of implementation of the current standards needed correction.

50. The representative of France thanked the Chairman-Rapporteur for the efforts he had made in order to reach a solution and permit the adoption of the draft protocol. The "Chairman's perception" paper appeared to her delegation to represent a basis for an acceptable compromise capable of improving the protection of children in armed conflicts. Her delegation saw only advantages in including it in an annex to the report of the working group.

51. The representative of Cuba interpreted the inclusion of the "Chairman's perception" paper in the report as an element to be taken into account in the future work of the group. She reiterated that the paper in no way reflected all positions and, of course, could not be utilized or invoked in the working group in a way that would prejudice future negotiations. There was no consensus in the working group and, following the rules and procedures, Cuba would therefore take the official text as the basis for work. Regarding the inclusion of non-governmental armed groups, moreover, Cuba reiterated its concern that States would be made to assume responsibility for matters that were beyond their reach. If others considered that type of reference essential, it should remain in the preamble. Furthermore, Cuba restated its view that "new article D" went far beyond the objectives of the protocol. Children in armed conflicts was one of the topics contained in the Convention, but not the only one, and the investment should afford equal attention

all its articles. The "new article D" was unnecessary and lacked a true perspective within the broad content of the Convention and the work of the Committee.

52. The observer for Norway thanked the Chairman-Rapporteur for his efforts to arrive at a consensus and regretted that the working group had not been able to reach an agreement. The "Chairman's perception" paper was in the main acceptable to the delegation of Norway. It would, however, prefer to delete the word "direct" in article 1. Furthermore, his delegation would prefer to retain article 5 and "new article D" and not to have any possibility for reservations in the optional protocol.

53. The representative of Canada thanked the Chairman-Rapporteur for his considerable efforts to make the optional protocol a reality. Although the "Chairman's perception" did not reflect Canada's preferred position on every issue, his delegation believed that it was a very well-balanced text that merited careful reflection beyond the present session of the working group. The delegation of Canada would like to see the full text of the "Chairman's perception" faithfully recorded in the report of the meeting.

54. The observer for Costa Rica expressed his concern at the effects of armed conflicts on persons younger than 18 years. With respect to article 1, he agreed with the proposal to delete the word "direct" and avoid any situation that would impair the physical, mental and educational development of minors under 18 years of age or would in any way jeopardize their rights. With regard to article 2, the delegation of Costa Rica stated that compulsory or voluntary recruitment of minors into armed forces or armed groups whether regular or irregular could not take place below 18 years of age. With respect to article 5, his delegation believed that, since the protocol was optional, no reservations of any type should be allowed. It recognized the immense value of the coming generations and shared the desire not to expose them to violence at a very early age. His delegation considered it highly useful for the document resulting from the informal consultations to be annexed to the report that the Chairman would present at the session of the Commission on Human Rights in due course.

55. The observer for Australia expressed the regret of his delegation that no consensus had been reached by the working group during its fourth session. The delegation appreciated the efforts of the Chairman-Rapporteur and believed that his perception paper adequately reflected the outcome of the informal consultations and the progress made at the session, even though it did not meet all the interests of the delegation of Australia. In particular, his delegation did not support a broad exception for military schools. It also considered that no reservations to the protocol should be permitted. Nevertheless, the delegation of Australia strongly supported the annexing of the "Chairman's perception" paper to the report of the working group and considered that the paper could be the basis of future work on the draft optional protocol.

56. The representative of Guatemala wished to express his gratitude to the Chairman for the efforts made to achieve progress in the working group; the adoption of a protocol that would require States Parties to take the necessary measures to prevent the participation of children in armed conflict constituted a very valuable and essential contribution to international human rights norms aimed at putting an end to that practice. The delegation of Guatemala believed that insufficient progress had been made, despite the efforts of various delegations. The participation of children under 18 in conflicts or their

recruitment into armies or non-governmental armed groups was unacceptable from any human rights perspective, even in the event that the children concerned enlisted voluntarily. Finally, his delegation hoped that a way forward could be found from impasse existing in the working group, and if an annex II to the report, entitled "Chairman's perception", could help in finding the way, his delegation would be prepared to consider that solution.

57. The delegation of Colombia believed that it was essential that the draft protocol should be supported and inspired, *inter alia*, by the close linkage currently recognized between human rights and international humanitarian law, which were to be seen not as separate compartments but as a universe, a whole in which the prime subject was the human person. In that context, the essential obligations which emanated from the draft, namely the prohibition of the recruitment of children and the prevention of their participation in hostilities, should not only be assumed by States but should also be extended to all parties involved in an armed conflict. In the same way, his delegation believed that recruitment of minors under 18 years of age should be prohibited, regardless of whether their participation in conflicts was direct or indirect. It was also in favour of provision requiring States to classify that type of recruitment as an offence under their criminal law.

58. The representative of India stated that recruitment into armed forces began in his country from the age of 16. All recruits underwent training for a minimum of at least two-and-a-half years. His delegation had no difficulty with 18 years as the limit for participation in hostilities. There was no compulsory recruitment in India. Discussion was going on within the Government about the possibility of raising the age limit for voluntary recruitment from 16. The position of his delegation was that the national situation concerning the matter should not prevent the setting of a higher standard which would be in the best interests of children across the world. The delegation of India believed that this was an important exercise with a noble goal and shared the disappointment over lack of progress.

59. The representative of Venezuela first expressed his interest in the swiftest possible approval of the additional protocol to the Convention on the Rights of the Child on involvement of children in armed conflicts. Secondly he wished to state the position of Venezuela with regard to the articles of the draft protocol discussed at the session which was concluding. Concerning article 1, his delegation believed that it was essential to establish the minimum age of 18 years for participation in any type of hostilities; furthermore, it would prefer the deletion of the word "direct" in the definition of the type of participation in armed conflicts that would fall within the scope of that article. With respect to article 2, paragraph 2, his delegation believed that military recruitment should in no case be conducted before the age of 18 years; With regard to article 3, concerning the recruitment of persons by armed groups distinct from the armed forces of the State, considered the wording contained in the "Chairman's perception" paper to be acceptable. As for article 5, his delegation was against any form of reservation to the optional protocol because, like other delegations, it believed that such reservations were not appropriate in an instrument whose acceptance by States was in fact discretionary. On more than one occasion, "realism" had been invoked in that scenario as an argument for restricting the protection of human rights in general, and of the rights contained in the additional protocol in particular. His point of view was the opposite: the goal of h. ar

rights standards, and of humanitarian law as well, was to change the negative aspects of reality for the better. Fortunately, such change was being achieved, although gradually and by degrees, through at least 50 years of effort. Finally, he wished to commend the efforts by the Chairman to guide the discussions towards the necessary consensus, whose final expression, as far as the current session was concerned was represented by the "Chairman's perception" paper. His delegation considered that document to be positive as a whole, and a very good basis for the future work of the group, and requested that it should be included in the report of the current session.

60. The observer for Sweden expressed disappointment that the working group had been unable to reach an agreement on the key issues of the draft optional protocol. Sweden was in favour of an 18-year age limit for participation in hostilities. It also had a similar position on the issue of recruitment, recognizing the linkage between articles 1 and 2.

61. The observer for Finland confirmed the support of his delegation for the age limit of 18 years for any type of recruitment and participation by children in armed conflicts. No reservations to the protocol should be allowed. Although the "Chairman's perception" paper was not perfect, it seemed to reflect a near-consensus and should therefore be annexed to the report of the working group.

62. The representative of the United Kingdom of Great Britain and Northern Ireland expressed disappointment that it had not been possible to reach a consensus on the text of the draft optional protocol, despite the strenuous and comprehensive efforts made by the Chairman-Rapporteur. In particular, although the "Chairman's perception" paper did not fully reflect his delegation's preferences in a few important aspects, the United Kingdom would not have blocked the consensus on the terms set out in this paper, and thus would wish to see it annexed to the report of the working group. Nonetheless, he would have preferred to see the age "17" appear in article 1 and the age "16" appear in paragraph 2 of article 2. Moreover, he would also have preferred the text which appeared in the annex of last year's report as "new article A", rather than the text which appears in article 3 of the "Chairman's perception" paper.

63. The delegation of Belgium regretted that a minority of Governments appeared to lack the political will to make progress in the development of clear standards. Belgium accepted only a minimum age of 18 for (a) direct or indirect involvement in hostilities; (b) voluntary or involuntary recruitment both by the armed forces and by non-governmental armed groups. Given that the "Chairman's perception" seemed to be a near-consensus, it was necessary to include it as an annex to the report, for the purposes of future work.

64. The representative of the Russian Federation confirmed the position of his delegation in favour of an 18-years age limit for both recruitment and participation in hostilities. He expressed disappointment at the slow progress in the work on the draft optional protocol. In the view of his delegation, there was a need for additional legal devices which could ensure the best protection of the interests of the child and which would reflect both the practice and the reality. In this connection, the representative of the Russian Federation drew the attention of the working group to the new article (final provision) proposed by his delegation which read as follows:

"Nothing in this Protocol shall be invoked to circumvent, to deny or to impair the best interests of the child."

65. The representative of the United States of America expressed disappointment at the outcome of the session. After four years, there was still no consensus on any of the five key issues under negotiation. He noted that a significant minority (at least six of the participating countries) favoured 17 for the age on participation, which was not insignificant given the relatively small number of participants in the negotiations. He noted that there was no consensus on the use of "direct", the age of enlistment, military schools, or organized armed groups, and could not agree to any characterization of the Chairman's text as reflecting a consensus or near-consensus on any issue. He noted that there remained a deadlock on most key issues. He indicated that the working group should be focusing on where there was agreement, not on where there was disagreement. He noted that there was in fact a consensus on banning participation by 16-year-olds and those under 17, as well as recruitment of those under 17. He expressed regret that for many, no agreement was acceptable unless 18 was the age, and this "all or nothing" approach was unfortunate. He urged all concerned to support an agreement that reflected what was in fact a real consensus, which would extend current treaty standards by two years and which would constitute progress. Finally, he noted that the protocol did not address the sad reality that the existing treaty prohibitions banning the use of 15-year-olds were not respected and that adopting even higher standards under those circumstances was not likely to increase respect for international norms.

66. The representative of the Czech Republic stated that his Government supported all efforts leading to the adoption of the draft optional protocol ensuring the highest possible standards of protection of the rights of the child. His delegation regretted that the fifty-fourth session of the working group could not reach consensus. Bearing in mind that consensus seemed rather distant under the current circumstances, and in view of the chance to reach near-consensus, it was of the opinion that the extension of the mandate of the working group for one year should be considered. However, if there was a chance of concluding the work of the working group during the fifty-fourth session of the Commission on Human Rights, the Czech Republic was prepared to do its best to contribute to such conclusion. In that regard, his delegation appreciated the enormous effort of the Chairman-Rapporteur and welcomed his paper, which should be part of the report and represented a very good basis for near-consensus. The Czech Republic remained open to any consideration leading to a consensual text. However, the delegation wished to underline its opinions as reflected in the respective paragraphs of the report. [\[back to the contents\]](#)

### III. PROPOSALS CONCERNING THE DRAFT OPTIONAL PROTOCOL

#### A. Preamble

67. During the plenary meetings of the working group, no formal proposals concerning the text of the preamble were submitted. A discussion of several issues relating to the preamble was pursued during informal meetings with some proposals being submitted. The text of the preamble remained unchanged (see annex I). [\[back to the contents\]](#)

#### B. Article 1

68. At the 1st meeting, on 2 February 1998, the working group began its consideration of article 1 of the draft optional protocol as contained in the annex to document E/CN.4/1997/96.

69. The representative of the United States indicated that the option [18] was not acceptable to his delegation. That position was subsequently shared by the representative of the Republic of Korea and the observer for Kuwait. All other speakers were in favour of or ready to accept the "18" years option.

70. In view of the absence of agreement, the Chairman-Rapporteur proposed to move to the consideration of other articles. [\[back to the contents\]](#)

### C. Article 2

71. At its 1st meeting, on 2 February 1998, the working group began its consideration of article 2, as contained in the annex to document E/CN.4/1997/96.

72. The Chairman-Rapporteur suggested that the working group should concentrate on paragraph 2 of article 2 which still contained several options in brackets, and subsequently to discuss paragraph 4 in informal meetings.

73. Concerning the three options of age limit for voluntary recruitment in paragraph 2, various delegations expressed their preferences as follows:

(a) The representatives of the United Kingdom and Pakistan indicated that whilst their delegations retained a preference for the "16" years option, they would not block an emerging consensus on "17" years. The "16" years option was also supported by the observer for the Islamic Republic of Iran;

(b) The representatives of Austria, Brazil, Canada, China, Cuba, France, Germany, Italy, the Republic of Korea, South Africa and the United States and the observers for Australia, the Netherlands, New Zealand and Norway spoke in favour of the "17" years option. At the same time, the delegations of Norway, Portugal and Denmark indicated that they could also consider the possibility of accepting the "18" years option;

(c) The representatives of Chile, the Czech Republic, Denmark, El Salvador, Guatemala, Italy, Japan, Morocco, Poland, the Russian Federation, Sri Lanka, Uruguay and Venezuela and the observers for Colombia, Costa Rica, Egypt, Ethiopia, Finland, the Holy See, Slovakia, Sweden, Switzerland and the Syrian Arab Republic indicated their support for the "18" years option. This position was also supported by the observers for UNHCR, UNICEF, ICRC, the International Federation of Red Cross and Red Crescent Societies, the Friends World Committee for Consultations (Quakers), the World Christian Life Community, the International Federation Terre des Hommes, Human Rights Watch, Amnesty International, Save the Children Alliance and New Humanity;

(d) The representative of Cuba expressed her preference for article 2 of the "Chairman's perception" of April 1997, which gave the age of 17 as the only option for recruitment, without making a distinction between voluntary and compulsory recruitment.

74. The text of this article remained unchanged (see annex I). [\[back to the contents\]](#)

#### D. New article A

75. At the 2nd meeting, on 2 February 1998, the working group began its consideration of new article A, as contained in the annex to document E/CN.4/1997/96.

76. The representative of Cuba reiterated the support of her delegation for the proposal of the delegation of China made during the third session of the working group in 1997 that this article should be moved to the preambular part of the optional protocol. This proposal was supported by the representative of China and by the observers for the Islamic Republic of Iran and the Syrian Arab Republic. The proposal was opposed by the representatives of Canada, the Czech Republic, Germany, Mexico, Peru, the United Kingdom, Uruguay and Venezuela and by the observers for Australia, Belgium, Finland, the Netherlands, New Zealand, Norway, Portugal and Slovakia.

77. Consideration of the issues relating to new article A was continued during the informal meetings with several proposals being submitted. In view of the absence of agreement, the text of new article A remained unchanged (see annex I). [\[back to the contents\]](#)

#### E. Article 4

78. At the 2nd meeting, on 2 February 1998, the working group began its consideration of article 4 as contained in the annex to document E/CN.4/1997/96.

79. The representative of Cuba proposed to replace the present text of article 4 by the text contained in the "Chairman's perception" paper reading as follows:

"No reservation is admissible to article 1 of the present Protocol."

This proposal was supported by the representative of China and by the observer for Egypt. The representative of China further indicated that her delegation could also consider the other options.

80. The representatives of the Czech Republic, Germany, Italy, the Russian Federation, Sri Lanka, Uruguay and Venezuela and the observers for Costa Rica, Ethiopia, Finland, the Netherlands, Norway, Portugal and Slovakia spoke in favour of the first option of article 4.

81. The representatives of Brazil, France, Guatemala, South Africa, the United Kingdom and the United States and the observers for Colombia, the Dominican Republic, New Zealand and the Syrian Arab Republic supported the third option.

82. The observer for the Islamic Republic of Iran, while supporting the third option, proposed the following new wording for this article:

"States should avoid making reservations incompatible with the object and the purposes



the present Protocol."

83. Consideration of this article was continued during the informal meetings of the working group with some proposals being submitted. The text of the article remained unchanged (see annex I). [\[back to the contents\]](#)

#### F. New article D

84. At the 2nd meeting, on 2 February 1998, the working group considered new article D as contained in the annex to document E/CN.4/1997/96.

85. The representatives of China, Cuba and Peru and the observer for the Syrian Arab Republic considered this article to be unnecessary and proposed its deletion.

86. The representatives of Colombia, the Czech Republic, El Salvador, Germany, Guatemala, Italy, Poland, the Russian Federation, Sri Lanka and Uruguay and the observers for Australia, Belgium, Costa Rica, Finland, the Netherlands, New Zealand, Norway, Portugal, Romania and Slovakia considered that the article or the concepts contained therein should be retained.

87. The observer for Egypt proposed to replace this article by new wording to be added at the end of article 5, reading as follows:

"and clarification of any alleged breach of these provisions."

88. Subsequent to the consideration of new article D by the working group, its text remained unchanged (see annex I). [\[back to the contents\]](#)

#### G. Article 6

89. At its 2nd meeting, on 2 February 1998, the working group considered article 6 of the draft optional protocol, as contained in E/CN.5/1997/96, which read as follows:

"[Article 6]

[The provisions of the present Protocol shall apply to the States Parties in addition to the provisions of the Convention on the Rights of the Child]."

90. The observer for Ethiopia proposed the deletion of the article. The proposal was supported by the representatives of China and Cuba and by the observers for Egypt and the Syrian Arab Republic.

91. The working group agreed to delete article 6 from the draft optional protocol. [\[back to the contents\]](#)

#### Annex I

DRAFT OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF  
THE CHILD ON INVOLVEMENT OF CHILDREN IN ARMED CONFLICTS

The States Parties to the present Protocol,

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

Reaffirming that the rights of children require special protection and call for continuous improvement of the situation of children without distinction, as well as for their development and education in conditions of peace and security,

Considering that to further strengthen the implementation of rights recognized in the Convention on the Rights of the Child, there is a need to increase the protection of children from involvement in armed conflicts,

Noting that article 1 of the Convention on the Rights of the Child specifies that, for the purpose of that Convention, a child means every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier,

Convinced that an optional protocol to the Convention, raising the age of possible recruitment of persons into armed forces and their participation in hostilities, will contribute effectively to the implementation of the principle that the best interests of the child are to be a primary consideration in all actions concerning children,

Noting with satisfaction that the twenty-sixth International Conference of the Red Cross and Red Crescent in December 1995 recommended that parties to conflict take every feasible step to ensure that children under the age of 18 years do not take part in hostilities,

Bearing in mind that conditions of peace and security based on full respect of the purposes and principles contained in the Charter of the United Nations and observance of applicable human rights instruments are indispensable for the full protection of children, in particular during armed conflicts and foreign occupation,

Convinced of the need to strengthen international cooperation regarding the physical and psychosocial rehabilitation and social reintegration of children who are victims of armed conflicts,

Recognizing with grave concern the growing trend towards recruitment, training and use of children in hostilities by armed groups,

Have agreed as follows:

Article 1

States Parties shall take all feasible measures to ensure that persons who have not attained the age of [18] [17] years do not take [a direct] part in hostilities.

Article 2

1. States Parties shall ensure that persons who have not attained the age of 18 years are not compulsorily recruited into their armed forces.
2. States Parties shall ensure that persons who have not attained the age of [16] [17] [18] years are not voluntarily recruited into their armed forces.
3. States Parties shall ensure that every person who chooses to enlist into their armed forces before reaching the age of 18 does so of his or her own free will and, unless he or she has already attained majority, with the full and informed consent of those legally responsible for him or her.
4. [Paragraph 2 does not apply to education and vocational training in establishments operated by or under the control of the armed forces of the States Parties in keeping with articles 28 and 29 of the Convention on the Rights of the Child.]

#### New article A

[States Parties shall take all appropriate measures to prevent recruitment of persons under the age of 18 years by non-governmental armed groups involved in hostilities.]

#### Article 3

Nothing in the present Protocol shall be construed so as to preclude provisions in the law of a State Party or in international instruments and international humanitarian law which are more conducive to the realization of the rights of the child.

#### Article 4

[No reservation is admissible to the present Protocol.]

OR

[No reservation is admissible to articles ... and ... of the present Protocol.]

OR

[A reservation incompatible with the object and the purpose of the present Protocol shall not be permitted.]

#### Article 5

The States Parties to the present Protocol shall include in the reports they submit to the Committee on the Rights of the Child, in accordance with article 44 of the Convention, information on the measures that they have adopted to give effect to the present Protocol.

#### New article D

[1. If the Committee receives reliable information which appears to it to contain

well-founded indications that recruitment or use of children in hostilities, contrary to the provisions of the present Protocol, is being practised in the territory of a State Party, the Committee may request the observations of the State Party with regard to the information concerned.

2. Taking into account any observations which may have been submitted by the State Party concerned, as well as any other relevant information available to it, the Committee may:

(a) Seek further clarification, information or comments from any source, including where applicable the source(s) of the original information;

(b) Hold hearings in order to clarify the situation.

3. The Committee may initiate a confidential inquiry, which may include a visit of its members (2-3) to the territory of the State Party concerned:

(a) Such a visit could take place only with the consent/after the consultation with the State Party concerned;

(b) If an inquiry is made in accordance with the present paragraph the Committee shall cooperate with the State Party concerned.

4. After examining the findings of its inquiry, made in accordance with paragraphs 2 and 3 of this article, the Committee shall transmit these findings to the State Party concerned together with any comments or recommendations which seem appropriate in view of the situation.

5. All the proceedings of the Committee referred to in paragraphs 1 to 4 of this article shall be confidential. After such proceedings have been completed with regard to an inquiry made in accordance with paragraph 3, the Committee may decide to include a summary account of the results of the proceedings in its annual report.]

#### Article 7

1. The present Protocol is open for signature by any State which is a party to the Convention or has signed it.

2. The present Protocol is subject to ratification or open to accession by any State which has ratified or acceded to the Convention. Instruments of ratification or accession shall be deposited with the Secretary-General of the United Nations.

3. The Secretary-General of the United Nations in his capacity as the depositary of the Convention and the Protocol shall inform all States Parties to the Convention and all States which have signed the Convention of each instrument of ratification or accession to the Protocol.

#### Article 8

1. The present Protocol shall enter into force three months after the deposit of the tenth instrument of ratification or accession.

2. For each State ratifying the present Protocol or acceding to it after its entry into force, the present Protocol shall enter into force one month after the date of the deposit of its own instrument of ratification or accession.

#### Article 9

1. Any State Party may denounce the present Protocol at any time by written notification to the Secretary-General of the United Nations, who shall thereafter inform the other States Parties to the Convention and all States which have signed the Convention. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General of the United Nations. If, however, on the expiry of that year the denouncing State Party is engaged in armed conflict, the denunciation shall not take effect before the end of the armed conflict.

2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under the present Protocol in regard to any act which occurs prior to the date at which the denunciation becomes effective. Nor shall such a denunciation prejudice in any way the continued consideration of any matter which is already under consideration by the Committee prior to the date at which the denunciation becomes effective.

#### Article 10

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations together with the Convention on the Rights of the Child.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States Parties to the Convention and all States which have signed the Convention. [[back to the contents](#)]

#### Annex II

##### CHAIRMAN'S PERCEPTION

##### OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON INVOLVEMENT OF CHILDREN IN ARMED CONFLICTS

The States Parties to the present Protocol,

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

Re-affirming that the rights of children require special protection and call for continuous improvement of the situation of children without distinction, as well as for their development and education in conditions of peace and security,

Considering that to further strengthen the implementation of rights recognized in the Convention on the Rights of the Child, there is a need to increase the protection of children from involvement in armed conflicts,

Noting that article 1 of the Convention on the Rights of the Child specifies that, for the purposes of that Convention, a child means every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier,

Convinced that an optional protocol to the Convention, raising the age of possible recruitment of persons into armed forces and their participation in hostilities, will contribute effectively to the implementation of the principle that the best interests of the child are to be a primary consideration in all actions concerning children,

Noting with satisfaction that the twenty-sixth International Conference of the Red Cross and Red Crescent in December 1995 recommended that parties to conflict take every feasible step to ensure that children under the age of 18 years do not take part in hostilities,

Recalling the obligation of each party to an armed conflict to abide by the provisions of international humanitarian law,

Recalling the purposes and principles contained in the Charter of the United Nations,

Bearing in mind that conditions of peace and security based on full respect of the purposes and principles contained in the Charter of the United Nations and other applicable human rights instruments are indispensable for the full protection of children in particular during armed conflicts and foreign occupation,

Convinced of the need to strengthen international cooperation regarding the physical and psychosocial rehabilitation and social reintegration of children who are victims of armed conflicts,

Recognizing with grave concern the growing trend towards recruitment, training and use of children in hostilities by armed groups,

Have agreed as follows:

#### Article 1

States Parties shall take all feasible measures to ensure that persons who have not attained the age of 18 years do not take a direct part in hostilities.

#### Article 2

1. States Parties shall ensure that persons who have not attained the age of 18 years are compulsorily recruited into their armed forces.
2. States Parties shall not recruit into their armed forces any person who has not attained the age of 18 years.

the age of 17 years.

3. Paragraph 2 does not apply to education and vocational training in schools, including those operated by or under the control of the armed forces of States Parties in keeping with articles 28 and 29 of the Convention on the Rights of the Child.

#### Article 3

1. Persons under the age of 18 years should not be recruited into armed groups, distinct from the armed forces of a State, which are parties to an armed conflict. States Parties shall take all feasible measures to prevent such recruitment.

2. The application of the present provision under the Protocol shall not affect the legal status of any party to an armed conflict.

#### Article 4

Nothing in the present Protocol shall be construed so as to preclude provisions in the law of a State Party or in international instruments and international humanitarian law which are more conducive to the realization of the rights of the child.

#### Article 5

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

#### Article 6

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

#### Article 7

The States Parties to the present Protocol shall include in the reports they submit to the Committee on the Rights of the Child, in accordance with article 44 of the Convention, information on the measures that they have adopted to give effect to the present Protocol.

#### Article 8

1. The present Protocol is open for signature by any State which is a party to the Convention or has signed it.

2. The present Protocol is subject to ratification or open to accession by any State which has ratified or acceded to the Convention. Instruments of ratification or accession shall be deposited with the Secretary-General of the United Nations.

3. The Secretary-General of the United Nations in his capacity as depositary of the Convention and the Protocol shall inform all States Parties to the Convention and all States which have signed the Convention of each instrument of ratification or accession to

the Protocol.

#### Article 9

1. The present Protocol shall enter into force three months after the deposit of the tenth instrument of ratification or accession.
2. For each State ratifying the present Protocol or acceding to it after its entry into force the present Protocol shall enter into force one month after the date of the deposit of its own instrument of ratification or accession.

#### Article 10

1. Any State Party may denounce the present Protocol at any time by written notification to the Secretary-General of the United Nations, who shall thereafter inform the other States Parties to the Convention and all States which have signed the Convention. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General of the United Nations. If, however on the expiry of that year the denouncing State Party is engaged in armed conflict, the denunciation shall not take effect before the end of the armed conflict.
2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under the present Protocol in regard to any act which occurs prior to the date at which the denunciation becomes effective. Nor shall such a denunciation prejudice in any way the continued consideration of any matter which is already under consideration by the Committee prior to the date at which the denunciation becomes effective.

#### Article 11

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States Parties to the Convention and all States which have signed the Convention.

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Geneva, Switzerland



**PROVISIONAL DRAFT OPTIONAL PROTOCOL TO THE  
CONVENTION ON THE RIGHTS OF THE CHILD ON INVOLVEMENT  
OF CHILDREN IN ARMED CONFLICT**

*Further to resolution 1998/76 of the UN Commission on Human Rights, Friends World Committee for Consultation (Quakers) would like to submit, on behalf of the Coalition to Stop the Use of Child Soldiers, the following comments on the report of the working group on the draft optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts (E/CN.4/1998/102 and its two Annexes).*

*After careful consideration of the texts in Annex 1 and Annex 2, we continue to believe that neither text sets adequate safeguards against the recruitment of children and their use in hostilities. We, therefore, wish to propose the following as an alternative text for consideration.*

**PROVISIONAL DRAFT OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF  
THE CHILD  
ON INVOLVEMENT OF CHILDREN IN ARMED CONFLICT**

*The States Parties to the present Protocol,*

...  
Welcoming the adoption of the Statute of the International Criminal Court, in particular the inclusion of conscripting or enlisting children under the age of fifteen years or using them to participate actively in hostilities as a war crime in both international and non-international armed conflicts,

Recalling the obligation of each party to an armed conflict to abide by the provisions of international humanitarian law,

*Have agreed as follows:*

Article 1

States Parties shall ensure that persons who have not attained the age of 18 years are not compulsorily or voluntarily recruited into their armed forces.

Article 2

States Parties shall ensure that persons who have not attained the age of 18 years do not take part in hostilities as part of their armed forces.

Article 3

(1) Persons under the age of 18 years should not be compulsorily or voluntarily recruited into armed groups, distinct from the armed forces of a state, nor take part in hostilities. States Parties shall take all feasible measures to prevent such recruitment and participation.

(2) The application of the present provisions shall not affect the legal status of any party to an armed conflict.

Article 4

States Parties shall make compulsorily or voluntarily recruiting persons under the age of 18 years into armed forces or armed groups or using them to participate in hostilities a criminal offence.

Article 5

No reservation to the present Protocol shall be permitted.

Article 6

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

Article 7

The States Parties to the present Protocol shall include in the reports they submit to the Committee on the Rights of the Child, in accordance with article 44 of the Convention, information on the measures that they have

adopted to give effect to the present Protocol.

#### Article 8

- (1) The present Protocol is open for signature by any State which is a party to the Convention or has signed the Convention.
- (2) The present Protocol is subject to ratification or open to accession by any State which has ratified or acceded to the Convention. Instruments of ratification or accession shall be deposited with the Secretary-General of the United Nations.
- (3) The Secretary-General of the United Nations in his capacity as depository of the Convention and the Protocol shall inform all States Parties to the Convention and all States which have signed the Convention of each instrument of ratification or accession to the Protocol.

#### Article 9

- (1) The present Protocol shall enter into force three months after the deposit of the tenth instrument of ratification or accession.
- (2) For each State ratifying the present Protocol or acceding to it after its entry into force, the present Protocol shall enter into force one month after the date of the deposit of its own instrument of ratification or accession.

#### Article 10

- (1) The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations together with the Convention on the Rights of the Child.
- (2) The Secretary-General of the United Nations shall transmit certified copies of this Protocol to all States Parties to the Convention and all States which have signed the Convention.

#### *Commentary on the proposed text:*

*The preamble has been left incomplete. No exception is provided from the minimum age of 18 years for any form of recruitment or participation in hostilities. Participation as part of government armed forces is separated from other participation, thus enabling a higher level of commitment to prevent this by states parties to the protocol. The question of recruitment into and participation in hostilities as part of armed groups has been combined into one provision, since the same considerations of balancing the obligation on States Parties and the armed groups themselves apply. The wording is based on that in Annex 2. Finally, a new article reflects the need for States Parties to introduce legislation which would criminalise the activities of those who recruit in hostilities those under 18 years contrary to the protocol to provide effective national implementation.*

*Although the existence of the International Criminal Court could make a significant difference in relation to the enforceability of the prohibitions on the recruitment and use of under-15s, the Coalition also supports the inclusion of a provision along the lines of New Article D in Annex 1 which would enable the Committee on the Rights of the Child to consider situations where there is a practice of recruitment or use contrary to the provisions of the protocol.*

*A question which might be worth exploring, and which might help to resolve some of the ambiguities and concerns expressed by states, is a definition of the term "recruitment".*

*Report of the Expert of the Secretary-General of the  
United Nations, Grace Machel -  
10 Point Call For Action*

# 10 Recommendations

## *Children and armed conflict: Ten key recommendations*

**1. Peace and security.** The needs of children and women must be at the heart of all actions to resolve conflicts and implement peace agreements, including those mandated by the United Nations Security Council, the General Assembly or the High Commissioner for Human Rights. Peace-keepers have a vital role to play in promoting children's rights.

**2. Monitoring and reporting violations of child rights.** Children in armed-conflict situations must be treated as a distinct and priority concern in all monitoring and reporting activities by UN field personnel and any other responsible organizations which may be involved. *Truth Commissions specific to children*

**3. Health, psychosocial well-being and education.** These *should be the pillars of all humanitarian assistance for children in emergencies.* Psychosocial well-being can best be ensured *through community rather than institutional approaches.* Maintaining children's education during emergencies is crucial *for the stability of the community.*

**4. Adolescents.** Their educational, training and health care needs should be given priority to ensure their well-being and to prevent their participation in armed conflict, prostitution and drug abuse. To this end, the participation of youth in their own development and that of their community is essential. Child-headed households urgently need protection and care.

**5. Gender-based violence.** Whether committed by a soldier or an official, whether as a matter of public policy or of individual behaviour, all incidents of wartime rape and other sexual torture must be prosecuted as war crimes. Military and peace-keeping troops and personnel of all humanitarian agencies must have special training on their responsibilities to children and women.



UNITED NATIONS



unicef

# 10 Recommendation

**6. Internally displaced children.** In each emergency, organization should be assigned overall responsibility for protection and assistance of internally displaced persons. In collaboration with that lead organization, UNICEF should provide leadership for the protection and assistance of internally displaced and unaccompanied children, with particular reference to preventing family separation and promoting family reunification.

**7. Child soldiers.** A global campaign should be launched to stop the recruitment of children under age 18 into armed forces and to ensure that Governments and opposition forces demobilize all such children immediately and incorporate them into peace agreements and demobilization programmes. The first step should be speedily to conclude, adopt and adhere to the draft Optional Protocol to the Convention on the Rights of the Child raising the age of recruitment and participation in armed forces to 18 years.

**8. Landmines.** The report supports the international campaign for a complete ban on the use, production, transport, stockpiling of landmines, programmes to instruct children in mine-contaminated areas about the dangers of mines, and community-based rehabilitation programmes and landmine clearance with contributions required from countries and companies profiting from landmine sales.

**9. Prevention.** The international community should monitor arms transfers and impose a total ban on arms shipments to conflict zones. Governments and civil society support from donors and development agencies, must address the root socio-economic causes of conflict and support the infrastructure that protects children.

**10. Special Representative.** A Special Representative of the Secretary-General should be named to monitor implementation of this report and ensure that issues of children and war are high on international human rights, peace, security and development agendas.

*Cape Town Principles and Best Practices on the  
Recruitment of Children into the Armed Forces  
and on Demobilization and Social Reintegration  
of Child Soldiers in Africa (1997)*

ON THE RECRUITMENT OF  
CHILDREN INTO THE ARMED  
FORCES AND ON DEMOBILIZATION  
AND SOCIAL REINTEGRATION OF  
CHILD SOLDIERS IN AFRICA

**unicef**   
United Nations Children's Fund

# Cape Town Principles and Best Practices

ADOPTED AT THE SYMPOSIUM\* ON  
THE PREVENTION OF RECRUITMENT  
OF CHILDREN INTO THE ARMED  
FORCES AND ON DEMOBILIZATION  
AND SOCIAL REINTEGRATION OF  
CHILD SOLDIERS IN AFRICA

\*27-30 April 1997  
Cape Town, South Africa





*As part of the effort to deal with the tragic and growing problem of children serving in armed forces, the NGO Working Group on the Convention on the Rights of the Child and UNICEF conducted a symposium in Cape Town (South Africa) from 27 to 30 April 1997. The purpose of the symposium was to bring together experts and partners to develop strategies for preventing recruitment of children — in particular, for establishing 18 as the minimum age of recruitment — and for demobilizing child soldiers and helping them reintegrate into society. The Cape Town Principles and Best Practices are the result of that symposium. They recommend actions to be taken by governments and communities in affected countries to end this violation of children's rights.*

## PREVENTION OF CHILD RECRUITMENT

---

A minimum age of 18 years should be established for any person participating in hostilities and for recruitment in all forms into any armed force or armed group.

Governments should adopt and ratify the Optional Protocol to the Convention on the Rights of the Child, raising the minimum age from 15 to 18 years.

Governments should ratify and implement pertinent regional and international treaties and incorporate them into national law, namely:

- ▲ The African Charter on the Rights and Welfare of the Child, which, upon entry into force, will establish the age of 18 as the minimum age for recruitment and participation in any armed force or armed group;

- ▲ The two Additional Protocols to the 1949 Geneva Conventions and the Convention on the Rights of the Child, which currently establish 15 as the minimum age for recruitment and participation.

Governments should adopt national legislation that sets a minimum age of 18 years for voluntary and compulsory recruitment and should establish proper recruitment procedures and the means to enforce them. Those persons responsible for illegally recruiting children should be brought to justice. Recruitment procedures must include:

- ▲ Requirement of proof of age;
- ▲ Safeguards against violations;
- ▲ Dissemination of the legal standards on minimum age of recruitment to military personnel, especially to recruiters;
- ▲ Distribution of the standards and safeguards to the civilian population, especially to those children at risk of recruitment and to their families and those organizations that work with at-risk groups;
- ▲ Recruitment into militias or other armed groups — including private security forces, established, condoned or armed by the government — must also be regulated.

**A** permanent International Criminal Court should be established with jurisdiction covering, *inter alia*, the illegal recruitment of children.

**A**ll parties to a conflict should conclude written agreements that include a commitment to the establishment of a minimum age for recruitment. (The SPLM/Operation Lifeline Sudan Agreement on Ground Rules [July 1995] is a useful example.)

**M**onitoring, documentation and advocacy are fundamental to eliminating child recruitment and to informing programmes to this end. Community efforts to prevent child recruitment should therefore be developed and supported.

- ▲ Local human rights organizations, the media, former child soldiers and teachers, health workers, church and other community leaders can play an important advocacy role;

- ▲ Governments and communities that regard children as adults before the age of 18 can establish a dialogue about the importance of limiting the age of recruitment to persons 18 or older;

- ▲ Alternatives to the glorification of war, including those images shown in the media, can be provided to children;

- ▲ Government representatives, military personnel and former opposition leaders can be instrumental in advocating, negotiating and providing technical assistance to their counterparts in other countries in order to prevent the recruitment of child soldiers, as well as to facilitate their demobilization and reintegration into the community.

**P**rogrammes to prevent recruitment of children should be developed in response to children's expressed needs and aspirations.

**I**n programmes for children, particular attention should be paid to those most at risk of recruitment: children in conflict zones, children (especially adolescents) separated from or without families, including those in institutions; other marginalized groups

(e.g., children living or working on the streets, minorities, refugees and the internally displaced); and economically and socially deprived children.

- ▲ Risk mapping can help to identify the groups at risk, including identifying areas where fighting is concentrated, the age of children being recruited into the military and the type of risks they face, as well as the principal recruiting agents;

- ▲ Respect for international humanitarian law should be promoted;

- ▲ Volunteerism into opposing armed forces can be reduced by avoiding harassment of or attacks on children, their homes and families;

- ▲ Recruitment practices can be monitored and pressure can be put on recruiters to abide by the standards and to avoid forced recruitment.

**A**ll efforts should be made to keep or reunite children with their families or to place them within a family structure.

- ▲ This can be done, for example, through warnings stressing the need to avoid separation (e.g., in radio broadcasts or posters), or by attaching identification papers to young children, except where identifying children would expose them to additional risk. (For further ideas, see 'Unaccompanied Minors: Priority Action Handbook for UNICEF/UNHCR Field Staff'.)

**B**irth registration, including for refugees and internally displaced children, should be ensured, and identity documents should be provided to all children, particularly to those most at risk of recruitment.

**A**ccess to education, including secondary education and vocational training, should be promoted for all children, including refugee and internally displaced children.

- ▲ Adequate economic provision or opportunities also need to be considered for children or their families.

**S**pecial protection measures are needed to prevent recruitment of children in camps for refugees and internally displaced persons.

▲ Refugee camps should be established at a reasonable distance from the border, wherever possible;

▲ The civilian nature and humanitarian character of camps for refugees and internally displaced persons should be ensured. Where this is a problem, specific educational and vocational programmes for children, including adolescents, are even more critical;

▲ Host governments, with the assistance of the international community, if necessary, should prevent the infiltration of armed elements into camps for refugees and internally displaced persons and should provide physical protection to persons in these camps.

**T**he international community should recognize that children who leave their country of origin to avoid illegal recruitment or participation in hostilities are in need of international protection. Children who are not nationals of the country in which they are fighting are also in need of international protection.

**C**ontrols should be imposed on the manufacture and transfer of arms, especially small arms. No arms should be supplied to parties to an armed conflict that are recruiting children or allowing them to take part in hostilities.

#### **DEMOBILIZATION OF CHILD SOLDIERS**

**A**ll persons under the age of 18 should be demobilized from any kind of regular or irregular armed force or armed group.

▲ Direct and free access to all child soldiers should be granted to relevant authorities or organizations in charge of collecting information concerning their demobilization and of implementing specific programmes.

**P**riority should be given to children in any demobilization process.

**I**n anticipation of peace negotiations or as soon as they begin, preparations should be made to respond to the needs of children who will be demobilized.

▲ An initial situation analysis/needs assessment of children and their communities should be prepared;

▲ Coordination between all parties should be ensured in order to avoid duplication and gaps;

▲ Where there is access to governmental and other local structures, existing capacities to respond should be incorporated and (where necessary) strengthened;

▲ Training of staff who will be involved in the process should be ensured;

▲ Logistical and technical support should be organized in collaboration with agencies responsible for the formal demobilization process;

▲ The demobilization package should provide long-term help of a sustaining nature rather than an immediate 'reward', taking into account the effect on future recruitment of offering children a demobilization package.

**T**he issue of demobilization of children should be included in the peace process from the beginning.

**W**here children have participated in armed conflict, peace agreements and related documents should acknowledge this fact.

**T**he demobilization process should be designed as the first step in the social reintegration process.

**T**he duration of the demobilization process should be as short as possible and should take into account the child's dignity and the need for confidentiality.

▲ Adequate time and appropriate personnel should be ensured in order to make children feel secure and comfortable enough to receive information, including information on their rights, and to share their concerns;

▲ Wherever possible, staff dealing with the children should be nationals;

▲ Special measures must be taken to ensure the protection of children who are in demobilization centres for extended periods of time;

▲ Children should be interviewed individually and away from their superiors and peers;

▲ Sensitive issues should not be raised in the initial interview. If these issues need to be raised subsequently, they must be raised only when in the best interest of the child and only by a person qualified to raise such issues;

▲ Confidentiality must be respected;

▲ Throughout the process, all children should be informed as to why the information is being collected and should be assured that confidentiality will be respected. Children should be further informed about what will happen to them at each step of the process;

▲ Wherever possible, communication and information should be in the child's mother tongue;

▲ Particular attention should be paid to the special needs of girls, and appropriate responses should be developed to this end.

**F**amily tracing, contacts and reunification should be established as soon as possible.

**P**riority should be given to health assessment and treatment.

▲ As quickly as possible during the demobilization process, all children should undergo assessment of their physical health and receive treatment as necessary;

▲ Appropriate responses should be developed to meet the special needs of girls;

▲ Specific responses are needed for children with special needs (e.g., children with disabilities, child soldiers with children of their own, children with substance abuse problems or sexually transmitted diseases such as HIV/AIDS, etc.);

▲ Linkages between the demobilization process and existing programmes for dealing with children's health needs should be ensured.

**M**onitoring and documentation of child involvement in hostilities, as well as advocacy for demobilization and release of children, should be undertaken throughout the armed conflict. Community efforts to this end should be supported.

**T**he special protection needs of children who leave any armed force or group during ongoing hostilities must be addressed.

▲ Formal demobilization rarely takes place during hostilities. However, children may leave the army, for example, by escaping or as a result of being captured or wounded. This may compromise their security, protection and access to services. Despite difficulties in identifying such children, their special needs for protection must be recognized:

- Efforts should be made for early initiation of programmes and family tracing for unaccompanied children;

- Efforts should be made to ensure that re-recruitment does not occur. The likelihood of re-recruitment can be reduced if: (a) children are returned to their caregivers soon as possible; (b) children are informed of their status to not be recruited; and (c) children involved in armed conflict are informed when other child soldiers have formally demobilized;

- Assembly areas must be sufficiently far from the conflict zones to ensure security. Particular problems of reuniting demobilized child soldiers with their families may include: (a) some children may be unable to return home; (b) some areas may be inaccessible for family tracing; (c) families of some children may be in camps for refugees or internally displaced persons; and (d) children may be at risk of placement in institutions.

**I**llegally recruited children who leave the armed forces or armed groups at any time should not be considered as deserters. Child soldiers retain their rights as children.

Special assistance and protection measures must be taken on behalf of children and those adults who were recruited as children. (See, for example, 'Basic Rights Recognized for the Angolan Under-aged Soldiers'.)

To the extent possible, the return of demobilized children to their communities under conditions of safety should be ensured.

With regard to services and benefits for demobilized soldiers, non-discrimination of demobilized children should be ensured.

The rights of children involved in the demobilization process must be ensured and their rights must be respected by the media, researchers and others.

▲ A code of conduct for journalists should be developed in order to prevent the media exploitation of child soldiers. This code should take account of, *inter alia*, the manner in which sensitive issues are raised, the child's right to anonymity and the frequency of contact with the media.

#### **REINTEGRATION INTO FAMILY AND COMMUNITY LIFE**

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Family reunification is the principal factor in effective social reintegration.

▲ For family reunification to be successful, special attention must be paid to re-establishing the emotional link between the child and the family prior to and following the child's return;

▲ Where children have not been reunited with their families, their need to establish and maintain stable emotional relationships must be recognized;

▲ Institutionalization should only be used as a last resort and for the shortest possible time, and efforts to find family-based solutions should continue.

Programmes should be developed with the communities, build on existing resources and take account of the context and community priorities, values and traditions.

▲ Programmes that respond to the needs of the children should be developed. Such programmes should seek to enhance their self-esteem and to promote their capacity to protect their own integrity and construct a positive life. Activities must take into account the age and stage of development of each child and must accommodate the particular requirements of girls and children with special needs;

▲ Programmes can only be developed through relationships of trust and confidence. They require time and a commitment of resources and will necessitate close and ongoing cooperation among all actors;

▲ The impact of the conflict on children and their families must be assessed in order to develop effective programming. This should be undertaken through interviews and discussions with the children concerned, the families and the community, as well as the government, where appropriate. Information should be gathered as early as possible to enable preparation and planning;

▲ Policies and strategies to address the situation of demobilized child soldiers should be developed and implemented on the basis of such assessments.

The capacity of the family and community to care for and protect the child should be developed and supported.

▲ Traditional resources and practices in the community, which can support the psychosocial integration of children affected by war, should be identified and supported;

▲ The socio-economic context, with specific reference to poverty, food and nutritional security, should be evaluated and clarified;

▲ Traditional ways of generating income, traditional apprenticeships and credit and money-making schemes should be identified and built upon;

▲ Dialogue with communities should be undertaken to clarify their main concerns for the children and the community's perception of their own roles and responsibilities with regard to the children.

**P**rogrammes targeted at former child soldiers should be integrated into programmes for the benefit of all war-affected children.

▲ While stressing that it is essential to normalize the life of child soldiers, it is important to recognize that all children in a community will have been affected by the conflict to some degree. Programmes for former child soldiers should therefore be integrated into efforts to address the situation of all children affected by the conflict, while ensuring the continuing implementation of specific rights and benefits of demobilized children;

▲ Existing health, education and social services within the communities should be supported.

**P**rovision should be made for educational activities that reflect: the loss of educational opportunities as a consequence of participation in hostilities; the age and stage of development of the children; and the potential of these activities for promoting the development of self-esteem.

**P**rovision should be made for relevant vocational training and opportunities for employment, including for children with disabilities.

▲ Upon completion of vocational skills training, trainees should be provided with the necessary tools and, where possible, with start-up loans to promote self-reliance.

**R**ecreational activities are essential for psychosocial well-being.

▲ Recreational activities should be included in all reintegration programmes for war-affected children. These programmes contribute to the children's psychosocial well-being, facilitate the reconciliation process and constitute part of their rights as children.

**P**rogramme development and implementation should incorporate the participation of the children and reflect their needs and concerns with due regard for the context of reintegration.

**P**sychosocial programmes should assist children in developing and building those capacities that will facilitate reattachment to families and communities.

**M**onitoring and follow-up of children should take place to ensure reintegration and receipt of rights and benefits. Community resources (e.g., religious leaders, teachers or others, depending on the situation) should be used.

**I**n order to be successful, reintegration of the child within the community should be carried out within the framework of efforts towards national reconciliation.

**P**rogrammes to prevent recruitment of child soldiers and to demobilize and reintegrate them should be jointly and constantly monitored and evaluated with communities.

*Cape Town, 30 April 1997*

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DEFINITIONS

**Child soldier** in this document is any person under 18 years of age who is recruited into any kind of regular or irregular armed force or armed group in any capacity, including but not limited to cooks, porters, messengers and anyone accompanying such groups, other than family members. The definition includes girls recruited for sexual purposes and for forced marriage. It does not, however, only refer to a child who is serving or has served in a regular or irregular (officially recognized) force of and within any government in any kind of conflict or irregular armed force or armed group.

**Demobilization** means the formal and controlled discharge of child soldiers from the army or from an armed group.

This is the most holistic analysis of the close relationship between the psychological and social effects of armed conflict. The analysis of these conditions, influencing the child. Psychological effects are defined as those experiences that affect emotions, behaviour, thoughts, memory and learning ability and the perception and understanding of a given situation. Social effects are defined as the effects that the various experiences of war, including death, separation, sexual violence and other losses have on people, in that these affect change them and alter their relationships with others. Social effects are also include economic factors of individuals and families becoming destitute because of the impact and economic destruction of war, losing their social status and place in their families and social networks.



*Statement Attributable to the Spokesman for the  
Secretary-General on the  
Minimum Age of Peacekeepers*

F. 02

**STATEMENT ATTRIBUTABLE TO THE SPOKESMAN  
FOR THE SECRETARY-GENERAL**

**ON THE MINIMUM AGE OF PEACEKEEPERS**

The Secretary-General has decided to set minimum age requirements for United Nations peacekeepers who are made available to the Organization by Member States. As announced in the Fourth Committee this morning by Bernard Miyet, Under-Secretary-General for Peacekeeping, contributing governments are asked not to send civilian police and military observers younger than 25 years to serve in peacekeeping operations; troops in national contingents should preferably be 21 years, but not less than 18. This decision has been taken as an additional measure in the Organization's efforts to promote the rights of the child. While we have no indication that Member Governments have provided the UN with soldiers under the age of 18, this policy has been adopted as a proactive measure, and to ensure that the Organization's use of uniformed personnel is an example for police and military forces worldwide.

29 October 1998  
New York

*Security Council Resolutions and Statements  
Dealing With War-Affected Children*

*1. Resolution 1261 (1999) on War-Affected Children*

*2. Resolution 1265 (1999) on the Protection of Civilians in  
Armed Conflict*

*3. Statement by the President of the Security Council (1998) on  
War-Affected Children*



Security Council

Res 1261 / 1999

PROVISIONAL

S/1999/811

15 August 1999

25 Aug 99

ORIGINAL: ENGLISH

Draft resolution

The Security Council,

Recalling the statements of its President of 29 June 1998 (S/PRST/1998/12), 12 February 1999 (S/PRST/1999/6) and 2 July 1999 (S/PRST/1999/21),

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

1. Expresses its grave concern at the harmful and widespread impact of armed conflict on children and the long-term consequences this has for durable peace, security and development;

2. Strongly condemns the targeting of children in situations of armed conflict, including killing and maiming, sexual violence, abduction and forced displacement, recruitment and use of children in armed conflict in violation of international law, and attacks on objects protected under international law, including places that usually have a significant presence of children such as schools and hospitals, and calls on all parties concerned to put an end to such practices;

3. Calls upon all parties concerned to comply strictly with their obligations under international law, in particular the Geneva Conventions of 12 August 1949 and the obligations applicable to them under the Additional Protocols thereto of 1977 and the United Nations Convention on the Rights of the Child of 1989, and stresses the responsibility of all States to bring an end to impunity and their obligation to prosecute those responsible for grave breaches of the Geneva Conventions of 12 August 1949;

4. Expresses its support for the ongoing work of the Special Representative of the Secretary-General for Children and Armed Conflict, United

Nations Children's Fund (UNICEF), United Nations High Commissioner for Refugees (UNHCR), other parts of the United Nations system and other relevant international organizations dealing with children affected by armed conflict, and requests the Secretary-General to continue to develop coordination and coherence among them;

5. Welcomes and encourages efforts by all relevant actors at the national and international level to develop more coherent and effective approaches to the issue of children and armed conflict;

6. Supports the work of the open-ended inter-sessional working group of the Commission on Human Rights on a draft optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, and expresses the hope that it will make further progress with a view to finalising its work;

7. Urges all parties to armed conflicts to ensure that the protection, welfare and rights of children are taken into account during peace negotiations and throughout the process of consolidating peace in the aftermath of conflict;

8. Calls upon parties to armed conflicts to undertake feasible measures during armed conflicts to minimize the harm suffered by children, such as "days of tranquillity" to allow the delivery of basic necessary services, and further calls upon all parties to armed conflicts to promote, implement and respect such measures;

9. Urges all parties to armed conflicts to abide by concrete commitments made to ensure the protection of children in situations of armed conflict;

10. Urges all parties to armed conflicts to take special measures to protect children, in particular girls, from rape and other forms of sexual abuse and gender-based violence in situations of armed conflict and to take into account the special needs of the girl child throughout armed conflicts and their aftermath, including in the delivery of humanitarian assistance;

11. Calls upon all parties to armed conflicts to ensure the full, safe and unhindered access of humanitarian personnel and the delivery of humanitarian assistance to all children affected by armed conflict;

12. Underlines the importance of the safety, security and freedom of movement of United Nations and associated personnel to the alleviation of the impact of armed conflict on children, and urges all parties to armed conflicts to respect fully the status of United Nations and associated personnel;

13. Urges States and all relevant parts of the United Nations system to intensify their efforts to ensure an end to the recruitment and use of children in armed conflict in violation of international law through political and other efforts, including promotion of the availability of alternatives for children to their participation in armed conflict;

14. Recognizes the deleterious impact of the proliferation of arms, in particular small arms, on the security of civilians, including refugees and

other vulnerable populations, particularly children, and, in this regard, it recalls resolution 1209 (1996) of 19 November 1998 which, inter alia, stresses the importance of all Member States, and in particular States involved in manufacturing and marketing of weapons, restricting arms transfers which could provoke or prolong armed conflicts or aggravate existing tensions or armed conflicts, and which urged international collaboration in combating illegal arms flows;

15. Urges States and the United Nations system to facilitate the disarmament, demobilization, rehabilitation and reintegration of children used as soldiers in violation of international law, and calls upon, in particular, the Special Representative of the Secretary-General for Children and Armed Conflict, UNICEF, UNHCR and other relevant agencies of the United Nations system to intensify their efforts in this regard;

16. Undertakes, when taking action aimed at promoting peace and security, to give special attention to the protection, welfare and rights of children, and requests the Secretary-General to include in his reports recommendations in this regard;

17. Reaffirms its readiness when dealing with situations of armed conflict:

(a) to continue to support the provision of humanitarian assistance to civilian populations in distress, taking into account the particular needs of children including, inter alia, the provision and rehabilitation of medical and educational services to respond to the needs of children, the rehabilitation of children who have been maimed or psychologically traumatized, and child-focused mine clearance and mine-awareness programmes;

(b) to continue to support the protection of displaced children including their resettlement by UNHCR and others as appropriate; and

(c) whenever adopting measures under Article 41 of the Charter of the United Nations, to give consideration to their impact on children, in order to consider appropriate humanitarian exemptions;

18. Reaffirms also its readiness to consider appropriate responses whenever buildings or sites which usually have a significant presence of children are specifically targeted in situations of armed conflict, in violation of international law;

19. Requests the Secretary-General to ensure that personnel involved in United Nations peacemaking, peacekeeping and peace-building activities have appropriate training on the protection, rights and welfare of children, and urges States and relevant international and regional organizations to ensure that appropriate training is included in their programmes for personnel involved in similar activities;

20. Requests the Secretary-General to submit to the Council by 31 July 2000, a report on the implementation of this resolution, consulting all

UNITED  
NATIONS

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## Security Council

15-0-0  
SCR 1265 (1999)

PROVISIONAL

S/1999/961  
17~~16~~ September 1999

ORIGINAL: ENGLISH

Draft resolutionThe Security Council,

Recalling the statement of its President of 12 February 1999 (S/PRST/1999/6),

Having considered the report of the Secretary-General of 8 September 1999 (S/1999/957) submitted to the Security Council in accordance with the above-mentioned statement,

Taking note of the reports of the Secretary-General of 13 April 1998 on the "Causes of Conflict and the Promotion of Durable Peace and Sustainable Development in Africa" (S/1998/318) and 22 September 1998 on the "Protection for Humanitarian Assistance to Refugees and Others in Conflict Situations" (S/1998/883), in particular their analysis related to the protection of civilians,

Noting that civilians account for the vast majority of casualties in armed conflicts and are increasingly targeted by combatants and armed elements, gravely concerned by the hardships borne by civilians during armed conflict, in particular as a result of acts of violence directed against them, especially women, children and other vulnerable groups, including refugees and internally displaced persons, and recognizing the consequent impact this will have on durable peace, reconciliation and development,

Bearing in mind its primary responsibility under the Charter of the United Nations for the maintenance of international peace and security, and underlining the importance of taking measures aimed at conflict prevention and resolution,

Stressing the need to address the causes of armed conflict in a comprehensive manner in order to enhance the protection of civilians on a long-term basis, including by promoting economic growth, poverty eradication, sustainable development, national reconciliation, good governance, democracy, the rule of law and respect for and protection of human rights,

Expressing its deep concern at the erosion in respect for international humanitarian, human rights and refugee law and principles during armed conflict, in particular deliberate acts of violence against all those protected under such

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law, and expressing also its concern at the denial of safe and unimpeded access to people in need,

Underlining the importance of the widest possible dissemination of international humanitarian, human rights and refugee law and of relevant training for, inter alia, civilian police, armed forces, members of the judicial and legal professions, civil society and personnel of international and regional organizations,

Recalling the statement of its President of 8 July 1999 (S/PRST/1999/21), and emphasizing its call for the inclusion, as appropriate, within specific peace agreements and, on a case-by-case basis, within United Nations peacekeeping mandates, of clear terms for the disarmament, demobilization and reintegration of ex-combatants, including the safe and timely disposal of arms and ammunition,

Mindful of the particular vulnerability of refugees and internally displaced persons, and reaffirming the primary responsibility of States to ensure their protection, in particular by maintaining the security and civilian character of refugee and internally displaced person camps,

Underlining the special rights and needs of children in situations of a conflict, including those of the girl-child,

Recognizing the direct and particular impact of armed conflict on women as referred to in paragraph 18 of the report of the Secretary-General and, in this regard, welcoming the ongoing work within the United Nations system on the implementation of a gender perspective in humanitarian assistance and on violence against women,

1. Welcomes the report of the Secretary-General of 8 September 1999, and takes note of the comprehensive recommendations contained therein;
2. Strongly condemns the deliberate targeting of civilians in situations of armed conflict as well as attacks on objects protected under international law, and calls on all parties to put an end to such practices;
3. Emphasizes the importance of preventing conflicts which could endanger international peace and security and, in this context, highlights the importance of implementing appropriate preventive measures to resolve conflicts, including the use of United Nations and other dispute settlement mechanisms and of preventive military and civilian deployments, in accordance with the relevant provisions of the Charter of the United Nations, resolutions of the Security Council and relevant international instruments;
4. Urges all parties concerned to comply strictly with their obligations under international humanitarian, human rights and refugee law, in particular those contained in the Hague Conventions of 1899 and 1907 and in the Geneva Conventions of 1949 and their Additional Protocols of 1977, as well as with the decisions of the Security Council;



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5. Calls on States which have not already done so to consider ratifying the major instruments of international humanitarian, human rights and refugee law, and to take appropriate legislative, judicial and administrative measures to implement these instruments domestically, drawing on technical assistance, as appropriate, from relevant international organizations including the International Committee of the Red Cross and United Nations bodies;

6. Emphasizes the responsibility of States to end impunity and to prosecute those responsible for genocide, crimes against humanity and serious violations of international humanitarian law, affirms the possibility, to this end, of using the International Fact-Finding Commission established by Article 90 of the First Additional Protocol to the Geneva Conventions, reaffirms the importance of the work being done by the ad hoc Tribunals for the former Yugoslavia and Rwanda, stresses the obligation of all States to cooperate fully with the Tribunals, and acknowledges the historic significance of the adoption of the Rome Statute of the International Criminal Court which is open for signature and ratification by States;

7. Underlines the importance of safe and unhindered access of humanitarian personnel to civilians in armed conflict, including refugees and internally displaced persons, and the protection of humanitarian assistance to them, and recalls in this regard the statements of its President of 19 June 1997 (S/PRST/1997/34) and 29 September 1998 (S/PRST/1998/30);

8. Emphasizes the need for combatants to ensure the safety, security and freedom of movement of United Nations and associated personnel, as well as personnel of international humanitarian organizations, and recalls in this regard the statements of its President of 12 March 1997 (S/PRST/1997/13) and 29 September 1998;

9. Takes note of the entry into force of the Convention on the Safety of United Nations and Associated Personnel of 1994, recalls the relevant principles contained therein, urges all parties in armed conflicts to respect fully the status of United Nations and associated personnel and, in this regard, condemns attacks and the use of force against United Nations and associated personnel, as well as personnel of international humanitarian organizations, and affirms the need to hold accountable those who commit such acts;

10. Expresses its willingness to respond to situations of armed conflict where civilians are being targeted or humanitarian assistance to civilians is being deliberately obstructed, including through the consideration of appropriate measures at the Council's disposal in accordance with the Charter of the United Nations, and notes, in that regard, the relevant recommendations contained in the report of the Secretary-General;

11. Expresses its willingness to consider how peacekeeping mandates might better address the negative impact of armed conflict on civilians;

12. Expresses its support for the inclusion, where appropriate, in peace agreements and mandates of United Nations peacekeeping missions, of specific and adequate measures for the disarmament, demobilization and reintegration of ex-combatants, with special attention given to the demobilization and

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reintegration of child soldiers, as well as clear and detailed arrangements for the destruction of surplus arms and ammunition and, in this regard, recalls its statement of its President of 8 July 1999;

13. Notes the importance of including in the mandates of peacemaking, peacekeeping and peace-building operations special protection and assistance provisions for groups requiring particular attention, including women and children;

14. Requests the Secretary-General to ensure that United Nations personnel involved in peacemaking, peacekeeping and peace-building activities have appropriate training in international humanitarian, human rights and refugee law, including child and gender-related provisions, negotiation and communication skills, cultural awareness and civilian-military coordination, urges States and relevant international and regional organizations to ensure that appropriate training is included in their programmes for personnel involved in similar activities;

15. Underlines the importance of civilian police as a component of peacekeeping operations, recognizes the role of police in assuring the safety and well-being of civilians and, in this regard, acknowledges the need to enhance the capacity of the United Nations for the rapid deployment of quick reaction forces and well-trained civilian police;

16. Reaffirms its readiness, whenever measures are adopted under Article 41 of the Charter of the United Nations, to give consideration to the impact on the civilian population, bearing in mind the needs of children, in order to consider appropriate humanitarian exemptions;

17. Notes that the excessive accumulation and destabilizing effect of small arms and light weapons pose a considerable impediment to the provision of humanitarian assistance and have a potential to exacerbate and prolong conflicts, endanger the lives of civilians and undermine security and the confidence required for a return to peace and stability;

18. Takes note of the entry into force of the Convention on the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and their Destruction of 1997 and the amended Protocol on Prohibitions or Restrictions on the Use of Mines, Booby Traps and Other Devices (Protocol II) annexed to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which May be Deemed to be Excessively Injurious or to have Indiscriminate Effects of 1980, recalls the relevant provisions contained therein, and notes the beneficial effect that their implementation will have on the safety of civilians;

19. Reiterates its grave concern at the harmful and widespread impact of armed conflict on children, recalls its resolution 1261 (1999) of 25 August 1999, and reaffirms the recommendations contained therein;

20. Stresses the importance of consultation and cooperation between the United Nations, the International Committee of the Red Cross and other relevant organizations, including regional organizations, on follow-up to the report of

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the Secretary-General and encourages the Secretary-General to continue consultations on this subject and to take concrete actions aimed at enhancing the capacity of the United Nations to improve the protection of civilians in armed conflict;

21. Expresses its willingness also to work in cooperation with regional organizations to examine how these bodies might better enhance the protection of civilians in armed conflict;

22. Decides to establish immediately an appropriate mechanism to review further the recommendations contained in the report of the Secretary-General and to consider appropriate steps by April 2000 in accordance with its responsibilities under the Charter of the United Nations;

23. Decides to remain actively seized of the matter.



## Security Council

Distr.  
GENERAL

S/PRST/1998/18  
29 June 1998

ORIGINAL: ENGLISH

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### STATEMENT BY THE PRESIDENT OF THE SECURITY COUNCIL

At the 3897th meeting of the Security Council, held on 29 June 1998, in connection with the Council's consideration of the item entitled "Children and armed conflict", the President of the Security Council made the following statement on behalf of the Council:

"The Security Council expresses its grave concern at the harmful impact of armed conflict on children.

"The Security Council strongly condemns the targeting of children in armed conflicts, including their humiliation, brutalization, sexual abuse, abduction and forced displacement, as well as their recruitment and use in hostilities in violation of international law, and calls upon all parties concerned to put an end to such activities.

"The Security Council calls upon all parties concerned to comply strictly with their obligations under international law, in particular their obligations under the Geneva Conventions of 1949, the Additional Protocols of 1977 and the United Nations Convention on the Rights of the Child of 1989. The Council stresses the obligation of all States to prosecute those responsible for grave breaches of international humanitarian law.

"The Security Council recognizes the importance of the mandate of the Special Representative of the Secretary-General on Children and Armed Conflict, supports his activities and welcomes his cooperation with all relevant programmes, funds and agencies of the United Nations system which he deems appropriate.

"The Security Council expresses its intention to pay serious attention to the situation of children affected by armed conflicts and, to this end, to maintain contact, as appropriate, with the Special Representative of the Secretary-General and with the relevant programmes, funds and agencies of the United Nations system.

"The Security Council, while dealing with situations of armed conflict, expresses its readiness to consider, when appropriate, means to assist with the effective provision and protection of humanitarian aid and

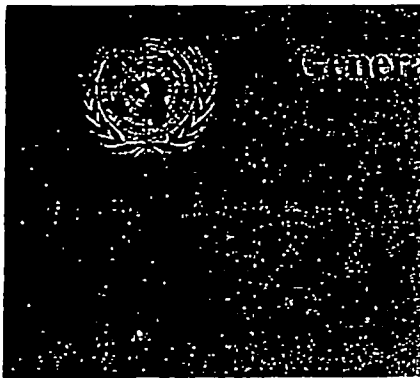
assistance to civilian population in distress, in particular women and children; to consider appropriate responses whenever buildings or sites that usually have a significant presence of children such as, inter alia, schools, playgrounds, hospitals, are specifically targeted; to support efforts aimed at obtaining commitments to put to an end the recruitment and use of children in armed conflicts in violation of international law; to give special consideration to the disarmament and demobilization of child soldiers, and to the reintegration into society of children maimed or otherwise traumatized as a result of an armed conflict; and to support or promote child-focused mine clearance and mine-awareness programmes, as well as child-centred physical and social rehabilitation programmes.

"The Security Council recognizes the importance of special training of personnel involved in peacemaking, peacekeeping and peace-building activities on the needs, interests and rights of children, as well as on their treatment and protection.

"The Security Council further recognizes that, whenever measures are adopted under Article 41 of the United Nations Charter, consideration should be given to their impact on the civilian population, bearing in mind the needs of children, in order to consider appropriate humanitarian exemptions."

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*General Assembly Resolution on the Rights of the Child*  
*53/128 (1998)*



General Assembly

Distr.  
GENERAL

A/RES/53/128  
23 February 1999

Fifty-third session  
Agenda item 106

**RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY**

*[on the report of the Third Committee (A/53/621)]*

**53/128. The rights of the child**

*The General Assembly,*

*Recalling* its resolutions 52/106 and 52/107 of 12 December 1997 and Commission on Human Rights resolution 1998/76 of 22 April 1998,<sup>1</sup>

*Reaffirming* that the best interest of the child shall be the primary consideration in all actions concerning children,

*Reaffirming* the World Declaration on the Survival, Protection and Development of Children and the Plan of Action for Implementing the World Declaration on the Survival, Protection and Development of Children in the 1990s adopted by the World Summit for Children, held in New York on 29 and 30 September 1990,<sup>2</sup> notably the solemn commitment to give high priority to the rights of children, to their survival and to their protection and development, and reaffirming also the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights, held at Vienna from 14 to 25 June 1993,<sup>3</sup> which, *inter alia*, states that national and international mechanisms and programmes for the defence and protection of

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<sup>1</sup> See *Official Records of the Economic and Social Council, 1998, Supplement No. 3 (E/1998/23)*, chap. II, sect. A.

<sup>2</sup> A/45/625, annex.

<sup>3</sup> A/CONF.157/24 (Part I), chap. III.

children, in particular those in especially difficult circumstances, should be strengthened, including through effective measures to combat exploitation and abuse of children, such as female infanticide, harmful child labour, sale of children and organs, child prostitution and child pornography, and which reaffirms that all human rights and fundamental freedoms are universal,

*Underlining* the need for mainstreaming a gender perspective into all policies and programmes relating to children,

*Welcoming* the fact that the special situation of children has been taken into account in the conclusion of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, guided by the principles and provisions of the Convention on the Rights of the Child,<sup>4</sup>

*Profoundly concerned* that the situation of children in many parts of the world remains critical as a result of poverty, inadequate social and economic conditions aggravated by the current international financial crisis in an increasingly globalized world economy, pandemics, natural disasters, armed conflicts, displacement, exploitation, illiteracy, hunger, intolerance and disability and inadequate legal protection, and convinced that urgent and effective national and international action is called for,

*Recognizing* that legislation alone is not enough to prevent violations of the rights of the child, that stronger political commitment is needed and that Governments should implement their laws and complement legislative measures with effective action,

*Recommending* that, within their mandates, all relevant human rights mechanisms and all other relevant organs and mechanisms of the United Nations system and the supervisory bodies of the specialized agencies pay attention to particular situations in which children are in danger and where their rights are violated and that they take into account the work of the Committee on the Rights of the Child, and welcoming the rights-based approach adopted by the United Nations Children's Fund and the steps taken further to increase system-wide coordination and inter-agency cooperation for the promotion and protection of the rights of the child,

*Recalling* the important open debate and the statement made by the President of the Security Council on behalf of the Council on 29 June 1998 on the item entitled "Children and armed conflict",<sup>5</sup>

*Stressing* the need to strengthen partnerships between Governments, international organizations and all sectors of civil society, in particular non-governmental organizations,

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<sup>4</sup> Resolution 44/25, annex.

<sup>5</sup> S/PRST/1998/18; see *Resolutions and Decisions of the Security Council, 1998*.



11. *Encourages Governments to consult and facilitate the active participation of children who have been victims of sexual exploitation or abuse in the development and implementation of strategies to protect children from all forms of sexual exploitation and abuse;*

12. *Stresses the need to combat the existence of a market that encourages such criminal practices against children, including through preventive and enforcement measures targeting customers or individuals who sexually exploit or sexually abuse children;*

13. *Requests States to increase cooperation and concerted action by all relevant law enforcement authorities and institutions with a view to dismantling national, regional and international networks trafficking in children;*

14. *Also requests States to increase cooperation and concerted action, at the national, regional and international levels, to enforce measures to combat effectively all forms of sexual exploitation and abuse of children, in particular paedophilia, child sex tourism, child prostitution and child pornography, in particular its dissemination through the Internet;*

15. *Urges States, in cases of child sex tourism, to develop or strengthen and implement laws to criminalize the acts of nationals of the countries of origin when committed against children in the countries of destination, to ensure that a person who exploits a child for sexual abuse purposes in another country is prosecuted by competent national authorities, either in the country of origin or in the country of destination, to strengthen laws and law enforcement, including confiscation and seizure of assets and profits and other sanctions, against those who commit sexual crimes against children in countries of destination and to share relevant data;*

16. *Invites States and relevant United Nations bodies and agencies to allocate appropriate resources for comprehensive and gender-sensitive programmes to rehabilitate physically and psychologically child victims of trafficking and of any form of sexual exploitation and abuse and to take all appropriate measures to promote their full recovery and social reintegration;*

#### IV

#### PROTECTION OF CHILDREN AFFECTED BY ARMED CONFLICT

1. *Expresses grave concern at the numerous damaging effects of armed conflicts on children, and emphasizes the need for the world community to focus increased attention on this serious problem with a view to bringing it to an end;*

2. *Welcomes the report of the Special Representative of the Secretary-General for Children and Armed Conflict,<sup>14</sup> and expresses its support for his work for children affected by armed conflict, in particular his efforts to raise worldwide awareness and to mobilize official and public opinion for the protection of children affected by armed conflict, including through field visits, with the consent of the State concerned, in order to promote respect for the rights and needs of children in conflict and post-conflict situations;*

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<sup>14</sup> A/53/482.

3. *Notes* that, without adequate human resources, the effectiveness of the Special Representative will continue to be severely constrained, calls upon the Secretary-General to ensure that the necessary support is made available expeditiously to the Special Representative for the effective performance of his mandate, encourages the United Nations Children's Fund, the Office of the United Nations High Commissioner for Refugees and the Office of the United Nations High Commissioner for Human Rights to continue to provide support to the Special Representative, and calls upon States and other institutions to provide voluntary contributions to the Special Representative;

4. *Calls upon* the Special Representative and all relevant parts of the United Nations system to continue to develop a concerted approach to the rights, protection and welfare of children affected by armed conflict, in order to place this issue within the mainstream of United Nations policy-making and programme activities and to increase cooperation within their respective mandates, including, as appropriate, in the follow-up to the recommendations and field visits of the Special Representative;

5. *Invites* Governments, regional, intergovernmental and non-governmental organizations to continue to cooperate with the Special Representative, taking into account his recommendations, and, in this context, welcomes the initiative of the Special Representative for a series of regional symposia on children and armed conflict, the first of which was held in London in June 1998, with the others being planned for Tokyo and for cities in other regions;

6. *Welcomes* the information provided by the Special Representative in his report on field missions and country initiatives, calls upon Governments and other parties in the countries concerned to implement the commitments they have undertaken, and invites them to consider carefully and to address the recommendations of the Special Representative;

7. *Invites* the Special Representative to continue to include in his reports information on his field visits, including recommendations and, as appropriate, commitments obtained as well as follow-up to them;

8. *Invites* all States to accede to relevant international human rights and humanitarian law instruments, and urges them to implement those instruments to which they are parties;

9. *Calls upon* all States and other parties to armed conflict to respect international humanitarian law, and, in this regard, calls upon States parties to respect fully the provisions of the Geneva Conventions of 12 August 1949<sup>15</sup> and the additional protocols thereto of 1977;<sup>16</sup>

10. *Urges* States and all other parties to armed conflict to adopt all necessary measures to end the use of children as soldiers and to ensure their demobilization and effective disarmament;

11. *Calls upon* States, United Nations bodies and agencies and other relevant humanitarian organizations to give priority to the respect for the rights of the child in complex humanitarian emergencies, in particular armed conflicts and post-conflict situations, and to integrate those rights into all humanitarian and development activities, including emergency relief operations, country programmes and field operations aimed at promoting peace, preventing and resolving conflicts and implementing peace agreements;

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<sup>15</sup> United Nations, *Treaty Series*, vol. 75, Nos. 970-973.

<sup>16</sup> *Ibid.*, vol. 1125, Nos. 17512 and 17513.

12. *Urges* all Governments and parties in complex humanitarian emergencies, in particular armed conflicts and post-conflict situations, to ensure the safe and unhindered access of humanitarian personnel in conformity with the relevant provisions of international law and national laws, so as to allow them to perform efficiently their task of assisting children;

13. *Urges* States to ensure that effective measures are taken for the rehabilitation, physical and psychological recovery and reintegration into society of children affected by armed conflict, child soldiers, victims of landmines and other weapons and victims of gender-based violence, *inter alia*, through adequate education and training, and invites the international community to assist in this endeavour;

14. *Stresses* the importance of promoting and supporting local capacities to address at the local level, including through advocacy, the issue of children and armed conflict;

15. *Underlines* the importance that relevant measures to ensure respect for the rights of the child in the areas of health and nutrition, formal, informal or non-formal education, physical and psychological recovery and social reintegration be included in emergency and other humanitarian assistance policies and programmes;

16. *Stresses* the urgent need to raise the current human rights standards set by article 38 of the Convention on the Rights of the Child,<sup>4</sup> supports the work of the open-ended inter-sessional working group of the Commission on Human Rights on a draft optional protocol to the Convention on the Rights of the Child related to the involvement of children in armed conflict and the task given to the chairperson of the working group by the Commission in its resolution 1998/76<sup>1</sup> to undertake broad informal consultations with a view to presenting a progress report to the working group at its next meeting, and expresses the hope that it will make further progress prior to the fifty-fifth session of the Commission with a view to finalizing this work;

17. *Welcomes* the ongoing efforts to bring to an end the use of children as soldiers, and, in this context, recognizes the contribution of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court and recalls the qualification as a war crime in the Rome Statute of the International Criminal Court of the conscription, enlistment or use to participate actively in hostilities of child soldiers,<sup>17</sup> which will contribute towards making it possible to end impunity for the perpetrators of such crimes;

18. *Notes with concern* the impact of small arms and light weapons on children in situations of armed conflict, in particular as a result of their illicit production and traffic, and calls upon States to address this problem;

19. *Welcomes* increased international efforts in various forums with respect to anti-personnel mines, recognizes the positive effect on children of those efforts, and, in this regard, takes due note of the entry into force on 1 March 1999 of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction<sup>18</sup> and its implementation by those States that become parties to it, as well as of the entry into force on 3 December 1998 of the amended Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-traps and Other Devices (Protocol II)<sup>19</sup> to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be

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<sup>17</sup> See A/CONF.183/9, art. 8.

<sup>18</sup> See CD/1478.

<sup>19</sup> See CCW/CONF.I/16 (Part I).

Excessively Injurious or to Have Indiscriminate Effects<sup>20</sup> and its implementation by those States that become parties to it;

20. *Calls upon* States and relevant United Nations bodies to continue to support national and international mine action efforts, including by continuing to contribute to the Voluntary Trust Fund for Assistance in Mine Clearance, and to take further action to promote gender- and age-appropriate mine-awareness programmes, victim assistance and child-centred rehabilitation, thereby reducing the number and the plight of child victims;

21. *Reaffirms* that rape in the conduct of armed conflict constitutes a war crime and that under certain circumstances it constitutes a crime against humanity and an act of genocide, as defined in the Convention on the Prevention and Punishment of the Crime of Genocide,<sup>21</sup> and calls upon all States to take all measures required for the protection of women and children from all acts of gender-based violence, including rape, sexual exploitation and forced pregnancy, to strengthen mechanisms to investigate and punish all those responsible and bring the perpetrators to justice;

22. *Condemns* the abduction of children in situations of armed conflict, and urges States, international organizations and other concerned parties to take all appropriate measures to secure the unconditional release of all abducted children;

23. *Recommends* that whenever sanctions are imposed their impact on children be assessed and monitored and that humanitarian exceptions be child-focused and formulated with clear guidelines for their application;

24. *Recalls* the importance of preventive measures such as early warning systems, preventive diplomacy and education for peace to prevent conflicts and their negative impact on the rights of the child, and urges Governments and the international community to promote sustainable human development;

25. *Calls upon* all States, in accordance with the norms of international humanitarian law, to integrate in the training and gender-sensitized education programmes of their armed forces, including those for peacekeeping, instruction on responsibilities towards the civilian population, in particular women and children;

26. *Invites* Member States and relevant United Nations bodies and non-governmental organizations to consider the issue of how the impact of armed conflict on children can best be integrated into events designed to commemorate the tenth anniversary of the World Summit for Children and of the entry into force of the Convention on the Rights of the Child;

V

REFUGEE AND INTERNALLY DISPLACED CHILDREN

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<sup>20</sup> See *The United Nations Disarmament Yearbook*, vol. 5: 1980 (United Nations publication, Sales No. E.81.IX.4), appendix VII.

<sup>21</sup> Resolution 260 A (III).

*International Labour Organization Convention (182)  
Concerning the Prohibition and Immediate Action for the  
Elimination of the Worst Forms of Child Labour  
(June 1999)*

War-affected children are made reference to in **Article 3(A)** - in the definition of what constitutes the term “the worst forms of child labour.”

The Convention has the necessary two ratifications in order to bring it into force next year (Malawi and Seychelles).



**CONVENTION 182**

CONVENTION CONCERNING THE PROHIBITION  
AND IMMEDIATE ACTION FOR THE ELIMINATION  
OF THE WORST FORMS OF CHILD LABOUR  
ADOPTED BY THE CONFERENCE AT  
ITS EIGHTY-SEVENTH SESSION,  
GENEVA, 17 JUNE 1999

**Convention 182**

**CONVENTION CONCERNING THE PROHIBITION  
AND IMMEDIATE ACTION FOR THE ELIMINATION OF  
THE WORST FORMS OF CHILD LABOUR**

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 87th Session on 1 June 1999, and

Considering the need to adopt new instruments for the prohibition and elimination of the worst forms of child labour, as the main priority for national and international action, including international cooperation and assistance, to complement the Convention and the Recommendation concerning Minimum Age for Admission to Employment, 1973, which remain fundamental instruments on child labour, and

Considering that the effective elimination of the worst forms of child labour requires immediate and comprehensive action, taking into account the importance of free basic education and the need to remove the children concerned from all such work and to provide for their rehabilitation and social integration while addressing the needs of their families, and

Recalling the resolution concerning the elimination of child labour adopted by the International Labour Conference at its 83rd Session in 1996, and

Recognizing that child labour is to a great extent caused by poverty and that the long-term solution lies in sustained economic growth leading to social progress, in particular poverty alleviation and universal education, and

Recalling the Convention on the Rights of the Child adopted by the United Nations General Assembly on 20 November 1989, and

Recalling the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, adopted by the International Labour Conference at its 86th Session in 1998, and

Recalling that some of the worst forms of child labour are covered by other international instruments, in particular the Forced Labour Convention, 1930, and the United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and



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

#### *Article 7*

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

#### *Article 8*

Members shall take appropriate steps to assist one another in giving effect to the provisions of this Convention through enhanced international cooperation and/or assistance including support for social and economic development, poverty eradication programmes and universal education.

#### *Article 9*

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

#### *Article 10*

1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General of the International Labour Office.
2. It shall come into force 12 months after the date on which the ratifications of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member 12 months after the date on which its ratification has been registered.

#### *Article 11*

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from



the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

#### Article 12

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications and acts of denunciation communicated by the Members of the Organization.

2. When notifying the Members of the Organization of the registration of the second ratification, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention shall come into force.

#### Article 13

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations, for registration in accordance with article 102 of the Charter of the United Nations, full particulars of all ratifications and acts of denunciation registered by the Director-General in accordance with the provisions of the preceding Articles.

#### Article 14

At such times as it may consider necessary, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

#### Article 15

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides --

(a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 11 above, if and when the new revising Convention shall have come into force;

(b) as from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

#### Article 16

The English and French versions of the text of this Convention are equally authoritative.

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The foregoing is the authentic text of the Convention unanimously adopted by the General Conference of the International Labour Organization during its Eighty-seventh Session which was held at Geneva and declared closed on 17 June 1999.

IN FAITH WHEREOF we have appended our signatures this day of June 1999.

*The President of the Conference,*

*The Director-General of the International Labour Office,*

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For further information, please contact the Official Relations Branch at Tel: +41.22.799.7732 or Fax: +41.22.799.8944 or by e-mail: [RELOFF@ilo.org](mailto:RELOFF@ilo.org)



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*This page was created by HK. It was approved by RH. It was last updated on 18 June 1999.*

## *Rome Statute of the International Criminal Court*

In July 1998, diplomats concluded the historic Rome conference and completed drafting the statute to establish an International Criminal Court (ICC). The statute represents important developments in international human rights and humanitarian law, including a great advance in the struggle against the use of child soldiers.

**Article 8** of the statute, enumerating war crimes within the court's jurisdiction, grants the court power to prosecute the conscription or active use of children under the age of fifteen years in armed forces. The court will have jurisdiction over the use of child soldiers in both international (**article 8(2)(b)(xxvi)**) and non-international armed conflicts (**article 8(2)(e)(vii)**).

The statute makes great strides in advancing international efforts to end the exploitation and abuse of children in armed conflict in other areas as well. **Article 8(2)(b)(ix)** and **8(2)(e)(iv)** of the ICC statute on war crimes grant the court jurisdiction over intentional attacks on educational institutions and schools, which have frequently been targeted for recruitment purposes and to terrorize civilian populations. Other advances for children's rights in the statute include special provisions for the protection of children as victims and witnesses (**articles 43(6) and 68(1) and (2)**), exemption of children under 18 from prosecution by the court (**article 26**), and requiring judges and office of the prosecutor to have expertise on violence against children (**articles 36(8)(b) and 42(9)**).

**Sixty (60)** ratifications are required for the statute to come into force. To date, there are **six (6)** confirmed ratifications: Senegal, Trinidad and Tobago, San Marino, Italy, Fiji and Ghana. We understand that Norway is very close to ratification. Currently, the statute has eighty-six (86) signatories.



# International Criminal Court

(U.N. Doc. A/CONF.183/9\*)  
[as corrected by the procès-verbaux of 10 November 1998 and 12 July 1999]

Entire Statute (261K)

	<u>Preamble</u>
Part 1	<u>Establishment of the Court</u>
Part 2	<u>Jurisdiction, Admissibility and Applicable Law</u>
Part 3	<u>General Principles of Criminal Law</u>
Part 4	<u>Composition and Administration of the Court</u>
Part 5	<u>Investigation and Prosecution</u>
Part 6	<u>The Trial</u>
Part 7	<u>Penalties</u>
Part 8	<u>Appeal and Revision</u>
Part 9	<u>International Cooperation and Judicial Assistance</u>
Part 10	<u>Enforcement</u>
Part 11	<u>Assembly of States Parties</u>
Part 12	<u>Financing</u>
Part 13	<u>Final Clauses</u>

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# International Criminal Court

[as corrected by the procès-verbaux of 10 November 1998 and 12 July 1999]

## PREAMBLE

The States Parties to this Statute,

Conscious that all peoples are united by common bonds, their cultures pieced together in a shared heritage, and concerned that this delicate mosaic may be shattered at any time,

Mindful that during this century millions of children, women and men have been victims of unimaginable atrocities that deeply shock the conscience of humanity,

Recognizing that such grave crimes threaten the peace, security and well-being of the world,

Affirming that the most serious crimes of concern to the international community as a whole must not go unpunished and that their effective prosecution must be ensured by taking measures at the national level and by enhancing international cooperation,

Determined to put an end to impunity for the perpetrators of these crimes and thus to contribute to the prevention of such crimes,

Recalling that it is the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes,

Reaffirming the Purposes and Principles of the Charter of the United Nations, and in particular that all States shall refrain from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations,

Emphasizing in this connection that nothing in this Statute shall be taken as authorizing any State Party to intervene in an armed conflict or in the internal affairs of any State,

Determined to these ends and for the sake of present and future generations, to establish an independent permanent International Criminal Court in relationship with the United Nations system, with jurisdiction over the most serious crimes of concern to the international community as a whole,

Emphasizing that the International Criminal Court established under this Statute shall be complementary to national criminal jurisdictions,

Resolved to guarantee lasting respect for and the enforcement of international justice,

Have agreed as follows

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Part I

(entire Statute (261K))



# International Criminal Court

[as corrected by the procès-verbaux of 10 November 1998 and 12 July 1999]

## PART 1. ESTABLISHMENT OF THE COURT

### Article 1 The Court

An International Criminal Court ("the Court") is hereby established. It shall be a permanent institution and shall have the power to exercise its jurisdiction over persons for the most serious crimes of international concern, as referred to in this Statute, and shall be complementary to national criminal jurisdictions. The jurisdiction and functioning of the Court shall be governed by the provisions of this Statute.

### Article 2 Relationship of the Court with the United Nations

The Court shall be brought into relationship with the United Nations through an agreement to be approved by the Assembly of States Parties to this Statute and thereafter concluded by the President of the Court on its behalf.

### Article 3 Seat of the Court

1. The seat of the Court shall be established at The Hague in the Netherlands ("the host State").
2. The Court shall enter into a headquarters agreement with the host State, to be approved by the Assembly of States Parties and thereafter concluded by the President of the Court on its behalf.
3. The Court may sit elsewhere, whenever it considers it desirable, as provided in this Statute.

### Article 4 Legal status and powers of the Court

1. The Court shall have international legal personality. It shall also have such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes.
2. The Court may exercise its functions and powers, as provided in this Statute, on the territory of any State Party and, by special agreement, on the territory of any other State.

preamble / Part 2

(entire Statute (261K))



# International Criminal Court

[as corrected by the procès-verbaux of 10 November 1998 and 12 July 1999]

## PART 2. JURISDICTION, ADMISSIBILITY AND APPLICABLE LAW

### Article 5

#### Crimes within the jurisdiction of the Court

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

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

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

### Article 6

#### Genocide

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

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

### Article 7

#### Crimes against humanity

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

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

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

2. For the purpose of paragraph 1:

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

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



Article 8  
War crimes

1. The Court shall have jurisdiction in respect of war crimes in particular when committed as part of a plan or policy or as part of a large-scale commission of such crimes.
2. For the purpose of this Statute, "war crimes" means:
  - (a) Grave breaches of the Geneva Conventions of 12 August 1949, namely, any of the following acts against persons or property protected under the provisions of the relevant Geneva Convention:
    - (i) Wilful killing;
    - (ii) Torture or inhuman treatment, including biological experiments;
    - (iii) Wilfully causing great suffering, or serious injury to body or health;
    - (iv) Extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly;
    - (v) Compelling a prisoner of war or other protected person to serve in the forces of a hostile Power;
    - (vi) Wilfully depriving a prisoner of war or other protected person of the rights of fair and regular trial;
    - (vii) Unlawful deportation or transfer or unlawful confinement;
    - (viii) Taking of hostages.
  - (b) Other serious violations of the laws and customs applicable in international armed conflict, within the established framework of international law, namely, any of the following acts:
    - (i) Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;
    - (ii) Intentionally directing attacks against civilian objects, that is, objects which are not military objectives;
    - (iii) Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;
    - (iv) Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated;
    - (v) Attacking or bombarding, by whatever means, towns, villages, dwellings or buildings which are undefended and which are not military objectives;
    - (vi) Killing or wounding a combatant who, having laid down his arms or having no longer means of defence, has surrendered at discretion;
    - (vii) Making improper use of a flag of truce, of the flag or of the military insignia and uniform of the enemy or of the United Nations, as well as of the distinctive emblems of the Geneva Conventions, resulting in death or serious personal injury;
    - (viii) The transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory;
    - (ix) Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives;

- (x) Subjecting persons who are in the power of an adverse party to physical mutilation or to medical or scientific experiments of any kind which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his or her interest, and which cause death to or seriously endanger the health of such person or persons;
  - (xi) Killing or wounding treacherously individuals belonging to the hostile nation or army;
  - (xii) Declaring that no quarter will be given;
  - (xiii) Destroying or seizing the enemy's property unless such destruction or seizure be imperatively demanded by the necessities of war;
  - (xiv) Declaring abolished, suspended or inadmissible in a court of law the rights and actions of the nationals of the hostile party;
  - (xv) Compelling the nationals of the hostile party to take part in the operations of war directed against their own country, even if they were in the belligerent's service before the commencement of the war;
  - (xvi) Pillaging a town or place, even when taken by assault;
  - (xvii) Employing poison or poisoned weapons;
  - (xviii) Employing asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices;
  - (xix) Employing bullets which expand or flatten easily in the human body, such as bullets with a hard envelope which does not entirely cover the core or is pierced with incisions;
  - (xx) Employing weapons, projectiles and material and methods of warfare which are of a nature to cause superfluous injury or unnecessary suffering or which are inherently indiscriminate in violation of the international law of armed conflict, provided that such weapons, projectiles and material and methods of warfare are the subject of a comprehensive prohibition and are included in an annex to this Statute, by an amendment in accordance with the relevant provisions set forth in articles 121 and 123;
  - (xxi) Committing outrages upon personal dignity, in particular humiliating and degrading treatment;
  - (xxii) Committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in article 7, paragraph 2 (f), enforced sterilization, or any other form of sexual violence also constituting a grave breach of the Geneva Conventions;
  - (xxiii) Utilizing the presence of a civilian or other protected person to render certain points, areas or military forces immune from military operations;
  - (xxiv) Intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law;
  - (xxv) Intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including wilfully impeding relief supplies as provided for under the Geneva Conventions;
  - (xxvi) Conscripting or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities.
- (c) In the case of an armed conflict not of an international character, serious violations of article 3 common to the four Geneva Conventions of 12 August 1949, namely, any of the following acts committed against persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention or any other cause:
- (i) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
  - (ii) Committing outrages upon personal dignity, in particular humiliating and degrading treatment;

(iii) Taking of hostages;

(iv) The passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all judicial guarantees which are generally recognized as indispensable.

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

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

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

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

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

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

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

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

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

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

(ix) Killing or wounding treacherously a combatant adversary;

(x) Declaring that no quarter will be given;

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

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

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

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

Article 9  
Elements of Crimes

1. Elements of Crimes shall assist the Court in the interpretation and application of articles 6, 7 and 8. They shall be adopted by a two-thirds majority of the members of the Assembly of States Parties.
2. Amendments to the Elements of Crimes may be proposed by:
  - (a) Any State Party;
  - (b) The judges acting by an absolute majority;
  - (c) The Prosecutor.

Such amendments shall be adopted by a two-thirds majority of the members of the Assembly of States Parties.

3. The Elements of Crimes and amendments thereto shall be consistent with this Statute.

Article 10

Nothing in this Part shall be interpreted as limiting or prejudicing in any way existing or developing rules of international law for purposes other than this Statute.

Article 11  
Jurisdiction *ratione temporis*

1. The Court has jurisdiction only with respect to crimes committed after the entry into force of this Statute.
2. If a State becomes a Party to this Statute after its entry into force, the Court may exercise its jurisdiction only with respect to crimes committed after the entry into force of this Statute for that State, unless that State has made a declaration under article 12, paragraph 3.

Article 12  
Preconditions to the exercise of jurisdiction

1. A State which becomes a Party to this Statute thereby accepts the jurisdiction of the Court with respect to the crimes referred to in article 5.
2. In the case of article 13, paragraph (a) or (c), the Court may exercise its jurisdiction if one or more of the following States are Parties to this Statute or have accepted the jurisdiction of the Court in accordance with paragraph 3:
  - (a) The State on the territory of which the conduct in question occurred or, if the crime was committed on board a vessel or aircraft, the State of registration of that vessel or aircraft;
  - (b) The State of which the person accused of the crime is a national.
3. If the acceptance of a State which is not a Party to this Statute is required under paragraph 2, that State may, by declaration lodged with the Registrar, accept the exercise of jurisdiction by the Court with respect to the crime in question. The accepting State shall cooperate with the Court without any delay or exception in accordance with Part 9.

Article 13  
Exercise of jurisdiction

The Court may exercise its jurisdiction with respect to a crime referred to in article 5 in accordance with the provisions of this Statute if:

- (a) A situation in which one or more of such crimes appears to have been committed is referred to the Prosecutor

by a State Party in accordance with article 14;

- (b) A situation in which one or more of such crimes appears to have been committed is referred to the Prosecutor by the Security Council acting under Chapter VII of the Charter of the United Nations; or
- (c) The Prosecutor has initiated an investigation in respect of such a crime in accordance with article 15.

Article 14  
Referral of a situation by a State Party

1. A State Party may refer to the Prosecutor a situation in which one or more crimes within the jurisdiction of the Court appear to have been committed requesting the Prosecutor to investigate the situation for the purpose of determining whether one or more specific persons should be charged with the commission of such crimes.
2. As far as possible, a referral shall specify the relevant circumstances and be accompanied by such supporting documentation as is available to the State referring the situation.

Article 15  
Prosecutor

1. The Prosecutor may initiate investigations proprio motu on the basis of information on crimes within the jurisdiction of the Court.
2. The Prosecutor shall analyse the seriousness of the information received. For this purpose, he or she may seek additional information from States, organs of the United Nations, intergovernmental or non-governmental organizations, or other reliable sources that he or she deems appropriate, and may receive written or oral testimony at the seat of the Court.
3. If the Prosecutor concludes that there is a reasonable basis to proceed with an investigation, he or she shall submit to the Pre-Trial Chamber a request for authorization of an investigation, together with any supporting material collected. Victims may make representations to the Pre-Trial Chamber, in accordance with the Rules of Procedure and Evidence.
4. If the Pre-Trial Chamber, upon examination of the request and the supporting material, considers that there is a reasonable basis to proceed with an investigation, and that the case appears to fall within the jurisdiction of the Court, it shall authorize the commencement of the investigation, without prejudice to subsequent determinations by the Court with regard to the jurisdiction and admissibility of a case.
5. The refusal of the Pre-Trial Chamber to authorize the investigation shall not preclude the presentation of a subsequent request by the Prosecutor based on new facts or evidence regarding the same situation.
6. If, after the preliminary examination referred to in paragraphs 1 and 2, the Prosecutor concludes that the information provided does not constitute a reasonable basis for an investigation, he or she shall inform those who provided the information. This shall not preclude the Prosecutor from considering further information submitted to him or her regarding the same situation in the light of new facts or evidence.

Article 16  
Deferral of investigation or prosecution

No investigation or prosecution may be commenced or proceeded with under this Statute for a period of 12 months after the Security Council, in a resolution adopted under Chapter VII of the Charter of the United Nations, has requested the Court to that effect; that request may be renewed by the Council under the same conditions.

Article 17  
Issues of admissibility

1. Having regard to paragraph 10 of the Preamble and article 1, the Court shall determine that a case is inadmissible where:
  - (a) The case is being investigated or prosecuted by a State which has jurisdiction over it, unless the State is unwilling or unable genuinely to carry out the investigation or prosecution;

- (b) The case has been investigated by a State which has jurisdiction over it and the State has decided not to prosecute the person concerned, unless the decision resulted from the unwillingness or inability of the State genuinely to prosecute;
  - (c) The person concerned has already been tried for conduct which is the subject of the complaint, and a trial by the Court is not permitted under article 20, paragraph 3;
  - (d) The case is not of sufficient gravity to justify further action by the Court.
2. In order to determine unwillingness in a particular case, the Court shall consider, having regard to the principles of due process recognized by international law, whether one or more of the following exist, as applicable:
- (a) The proceedings were or are being undertaken or the national decision was made for the purpose of shielding the person concerned from criminal responsibility for crimes within the jurisdiction of the Court referred to in article 5;
  - (b) There has been an unjustified delay in the proceedings which in the circumstances is inconsistent with an intent to bring the person concerned to justice;
  - (c) The proceedings were not or are not being conducted independently or impartially, and they were or are being conducted in a manner which, in the circumstances, is inconsistent with an intent to bring the person concerned to justice.
3. In order to determine inability in a particular case, the Court shall consider whether, due to a total or substantial collapse or unavailability of its national judicial system, the State is unable to obtain the accused or the necessary evidence and testimony or otherwise unable to carry out its proceedings.

Article 18  
Preliminary rulings regarding admissibility

1. When a situation has been referred to the Court pursuant to article 13 (a) and the Prosecutor has determined that there would be a reasonable basis to commence an investigation, or the Prosecutor initiates an investigation pursuant to articles 13 (c) and 15, the Prosecutor shall notify all States Parties and those States which, taking into account the information available, would normally exercise jurisdiction over the crimes concerned. The Prosecutor may notify such States on a confidential basis and, where the Prosecutor believes it necessary to protect persons, prevent destruction of evidence or prevent the absconding of persons, may limit the scope of the information provided to States.
2. Within one month of receipt of that notification, a State may inform the Court that it is investigating or has investigated its nationals or others within its jurisdiction with respect to criminal acts which may constitute crimes referred to in article 5 and which relate to the information provided in the notification to States. At the request of that State, the Prosecutor shall defer to the State's investigation of those persons unless the Pre-Trial Chamber, on the application of the Prosecutor, decides to authorize the investigation.
3. The Prosecutor's deferral to a State's investigation shall be open to review by the Prosecutor six months after the date of deferral or at any time when there has been a significant change of circumstances based on the State's unwillingness or inability genuinely to carry out the investigation.
4. The State concerned or the Prosecutor may appeal to the Appeals Chamber against a ruling of the Pre-Trial Chamber, in accordance with article 82. The appeal may be heard on an expedited basis.
5. When the Prosecutor has deferred an investigation in accordance with paragraph 2, the Prosecutor may request that the State concerned periodically inform the Prosecutor of the progress of its investigations and any subsequent prosecutions. States Parties shall respond to such requests without undue delay.
6. Pending a ruling by the Pre-Trial Chamber, or at any time when the Prosecutor has deferred an investigation under this article, the Prosecutor may, on an exceptional basis, seek authority from the Pre-Trial Chamber to pursue necessary investigative steps for the purpose of preserving evidence where there is a unique opportunity to obtain important evidence or there is a significant risk that such evidence may not be subsequently available.
7. A State which has challenged a ruling of the Pre-Trial Chamber under this article may challenge the admissibility of a case under article 19 on the grounds of additional significant facts or significant change of circumstances.

Article 19  
Challenges to the jurisdiction of the Court  
or the admissibility of a case

1. The Court shall satisfy itself that it has jurisdiction in any case brought before it. The Court may, on its own motion, determine the admissibility of a case in accordance with article 17.
2. Challenges to the admissibility of a case on the grounds referred to in article 17 or challenges to the jurisdiction of the Court may be made by:
  - (a) An accused or a person for whom a warrant of arrest or a summons to appear has been issued under article 58;
  - (b) A State which has jurisdiction over a case, on the ground that it is investigating or prosecuting the case or has investigated or prosecuted; or
  - (c) A State from which acceptance of jurisdiction is required under article 12.
3. The Prosecutor may seek a ruling from the Court regarding a question of jurisdiction or admissibility. In proceedings with respect to jurisdiction or admissibility, those who have referred the situation under article 13, as well as victims, may also submit observations to the Court.
4. The admissibility of a case or the jurisdiction of the Court may be challenged only once by any person or State referred to in paragraph 2. The challenge shall take place prior to or at the commencement of the trial. In exceptional circumstances, the Court may grant leave for a challenge to be brought more than once or at a time later than the commencement of the trial. Challenges to the admissibility of a case, at the commencement of a trial, or subsequently with the leave of the Court, may be based only on article 17, paragraph 1 (c).
5. A State referred to in paragraph 2 (b) and (c) shall make a challenge at the earliest opportunity.
6. Prior to the confirmation of the charges, challenges to the admissibility of a case or challenges to the jurisdiction of the Court shall be referred to the Pre-Trial Chamber. After confirmation of the charges, they shall be referred to the Trial Chamber. Decisions with respect to jurisdiction or admissibility may be appealed to the Appeals Chamber in accordance with article 82.
7. If a challenge is made by a State referred to in paragraph 2 (b) or (c), the Prosecutor shall suspend the investigation until such time as the Court makes a determination in accordance with article 17.
8. Pending a ruling by the Court, the Prosecutor may seek authority from the Court:
  - (a) To pursue necessary investigative steps of the kind referred to in article 18, paragraph 6;
  - (b) To take a statement or testimony from a witness or complete the collection and examination of evidence which had begun prior to the making of the challenge; and
  - (c) In cooperation with the relevant States, to prevent the absconding of persons in respect of whom the Prosecutor has already requested a warrant of arrest under article 58.
9. The making of a challenge shall not affect the validity of any act performed by the Prosecutor or any order or warrant issued by the Court prior to the making of the challenge.
10. If the Court has decided that a case is inadmissible under article 17, the Prosecutor may submit a request for a review of the decision when he or she is fully satisfied that new facts have arisen which negate the basis on which the case had previously been found inadmissible under article 17.
11. If the Prosecutor, having regard to the matters referred to in article 17, defers an investigation, the Prosecutor may request that the relevant State make available to the Prosecutor information on the proceedings. That information shall, at the request of the State concerned, be confidential. If the Prosecutor thereafter decides to proceed with an investigation, he or she shall notify the State to which deferral of the proceedings has taken place.

Article 20  
Ne bis in idem

1. Except as provided in this Statute, no person shall be tried before the Court with respect to conduct which formed the basis of crimes for which the person has been convicted or acquitted by the Court.
2. No person shall be tried by another court for a crime referred to in article 5 for which that person has already been convicted or acquitted by the Court.
3. No person who has been tried by another court for conduct also proscribed under article 6, 7 or 8 shall be tried by the Court with respect to the same conduct unless the proceedings in the other court:
  - (a) Were for the purpose of shielding the person concerned from criminal responsibility for crimes within the jurisdiction of the Court; or
  - (b) Otherwise were not conducted independently or impartially in accordance with the norms of due process recognized by international law and were conducted in a manner which, in the circumstances, was inconsistent with an intent to bring the person concerned to justice.

Article 21  
Applicable law

1. The Court shall apply:
  - (a) In the first place, this Statute, Elements of Crimes and its Rules of Procedure and Evidence;
  - (b) In the second place, where appropriate, applicable treaties and the principles and rules of international law, including the established principles of the international law of armed conflict;
  - (c) Failing that, general principles of law derived by the Court from national laws of legal systems of the world including, as appropriate, the national laws of States that would normally exercise jurisdiction over the crime, provided that those principles are not inconsistent with this Statute and with international law and internationally recognized norms and standards.
2. The Court may apply principles and rules of law as interpreted in its previous decisions.
3. The application and interpretation of law pursuant to this article must be consistent with internationally recognized human rights, and be without any adverse distinction founded on grounds such as gender as defined in article 7, paragraph 3, age, race, colour, language, religion or belief, political or other opinion, national, ethnic or social origin, wealth, birth or other status.

Part I / Part 3

(entire Statute (261K))





# International Criminal Court

[as corrected by the procès-verbaux of 10 November 1998 and 12 July 1999]

## PART 3. GENERAL PRINCIPLES OF CRIMINAL LAW

### Article 22 Nullum crimen sine lege

1. A person shall not be criminally responsible under this Statute unless the conduct in question constitutes, at the time it takes place, a crime within the jurisdiction of the Court.
2. The definition of a crime shall be strictly construed and shall not be extended by analogy. In case of ambiguity, the definition shall be interpreted in favour of the person being investigated, prosecuted or convicted.
3. This article shall not affect the characterization of any conduct as criminal under international law independently of this Statute.

### Article 23 Nulla poena sine lege

A person convicted by the Court may be punished only in accordance with this Statute.

### Article 24 Non-retroactivity ratione personae

1. No person shall be criminally responsible under this Statute for conduct prior to the entry into force of the Statute.
2. In the event of a change in the law applicable to a given case prior to a final judgement, the law more favourable to the person being investigated, prosecuted or convicted shall apply.

### Article 25 Individual criminal responsibility

1. The Court shall have jurisdiction over natural persons pursuant to this Statute.
2. A person who commits a crime within the jurisdiction of the Court shall be individually responsible and liable for punishment in accordance with this Statute.
3. In accordance with this Statute, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court if that person:
  - (a) Commits such a crime, whether as an individual, jointly with another or through another person, regardless of whether that other person is criminally responsible;
  - (b) Orders, solicits or induces the commission of such a crime which in fact occurs or is attempted;
  - (c) For the purpose of facilitating the commission of such a crime, aids, abets or otherwise assists in its commission or its attempted commission, including providing the means for its commission;
  - (d) In any other way contributes to the commission or attempted commission of such a crime by a group of persons acting with a common purpose. Such contribution shall be intentional and shall either:
    - (i) Be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of a crime within the jurisdiction of the Court; or
    - (ii) Be made in the knowledge of the intention of the group to commit the crime;

- (e) In respect of the crime of genocide, directly and publicly incites others to commit genocide;
- (f) Attempts to commit such a crime by taking action that commences its execution by means of a substantial step, but the crime does not occur because of circumstances independent of the person's intentions. However, a person who abandons the effort to commit the crime or otherwise prevents the completion of the crime shall not be liable for punishment under this Statute for the attempt to commit that crime if that person completely and voluntarily gave up the criminal purpose.

4. No provision in this Statute relating to individual criminal responsibility shall affect the responsibility of States under international law.

Article 26  
Exclusion of jurisdiction over persons under eighteen

The Court shall have no jurisdiction over any person who was under the age of 18 at the time of the alleged commission of a crime.

Article 27  
Irrelevance of official capacity

1. This Statute shall apply equally to all persons without any distinction based on official capacity. In particular, official capacity as a Head of State or Government, a member of a Government or parliament, an elected representative or a government official shall in no case exempt a person from criminal responsibility under this Statute, nor shall it, in and of itself, constitute a ground for reduction of sentence.

2. Immunities or special procedural rules which may attach to the official capacity of a person, whether under national or international law, shall not bar the Court from exercising its jurisdiction over such a person.

Article 28  
Responsibility of commanders and other superiors

In addition to other grounds of criminal responsibility under this Statute for crimes within the jurisdiction of the Court:

(a) A military commander or person effectively acting as a military commander shall be criminally responsible for crimes within the jurisdiction of the Court committed by forces under his or her effective command and control, or effective authority and control as the case may be, as a result of his or her failure to exercise control properly over such forces, where:

(i) That military commander or person either knew or, owing to the circumstances at the time, should have known that the forces were committing or about to commit such crimes; and

(ii) That military commander or person failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.

(b) With respect to superior and subordinate relationships not described in paragraph (a), a superior shall be criminally responsible for crimes within the jurisdiction of the Court committed by subordinates under his or her effective authority and control, as a result of his or her failure to exercise control properly over such subordinates, where:

(i) The superior either knew, or consciously disregarded information which clearly indicated, that the subordinates were committing or about to commit such crimes;

(ii) The crimes concerned activities that were within the effective responsibility and control of the superior; and

(iii) The superior failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.

Article 29  
Non-applicability of statute of limitations

The crimes within the jurisdiction of the Court shall not be subject to any statute of limitations.

Article 30  
Mental element

1. Unless otherwise provided, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court only if the material elements are committed with intent and knowledge.
2. For the purposes of this article, a person has intent where:
  - (a) In relation to conduct, that person means to engage in the conduct;
  - (b) In relation to a consequence, that person means to cause that consequence or is aware that it will occur in the ordinary course of events.
3. For the purposes of this article, "knowledge" means awareness that a circumstance exists or a consequence will occur in the ordinary course of events. "Know" and "knowingly" shall be construed accordingly.

Article 31  
Grounds for excluding criminal responsibility

1. In addition to other grounds for excluding criminal responsibility provided for in this Statute, a person shall not be criminally responsible if, at the time of that person's conduct:
  - (a) The person suffers from a mental disease or defect that destroys that person's capacity to appreciate the unlawfulness or nature of his or her conduct, or capacity to control his or her conduct to conform to the requirements of law;
  - (b) The person is in a state of intoxication that destroys that person's capacity to appreciate the unlawfulness or nature of his or her conduct, or capacity to control his or her conduct to conform to the requirements of law, unless the person has become voluntarily intoxicated under such circumstances that the person knew, or disregarded the risk, that, as a result of the intoxication, he or she was likely to engage in conduct constituting a crime within the jurisdiction of the Court;
  - (c) The person acts reasonably to defend himself or herself or another person or, in the case of war crimes, property which is essential for the survival of the person or another person or property which is essential for accomplishing a military mission, against an imminent and unlawful use of force in a manner proportionate to the degree of danger to the person or the other person or property protected. The fact that the person was involved in a defensive operation conducted by forces shall not in itself constitute a ground for excluding criminal responsibility under this subparagraph;
  - (d) The conduct which is alleged to constitute a crime within the jurisdiction of the Court has been caused by duress resulting from a threat of imminent death or of continuing or imminent serious bodily harm against that person or another person, and the person acts necessarily and reasonably to avoid this threat, provided that the person does not intend to cause a greater harm than the one sought to be avoided. Such a threat may either be:
    - (i) Made by other persons; or
    - (ii) Constituted by other circumstances beyond that person's control.
2. The Court shall determine the applicability of the grounds for excluding criminal responsibility provided for in this Statute to the case before it.
3. At trial, the Court may consider a ground for excluding criminal responsibility other than those referred to in paragraph 1 where such a ground is derived from applicable law as set forth in article 21. The procedures relating to the consideration of such a ground shall be provided for in the Rules of Procedure and Evidence.

Article 32

Mistake of fact or mistake of law

1. A mistake of fact shall be a ground for excluding criminal responsibility only if it negates the mental element required by the crime.
2. A mistake of law as to whether a particular type of conduct is a crime within the jurisdiction of the Court shall not be a ground for excluding criminal responsibility. A mistake of law may, however, be a ground for excluding criminal responsibility if it negates the mental element required by such a crime, or as provided for in article 33.

Article 33  
Superior orders and prescription of law

1. The fact that a crime within the jurisdiction of the Court has been committed by a person pursuant to an order of a Government or of a superior, whether military or civilian, shall not relieve that person of criminal responsibility unless:
  - (a) The person was under a legal obligation to obey orders of the Government or the superior in question;
  - (b) The person did not know that the order was unlawful; and
  - (c) The order was not manifestly unlawful.
2. For the purposes of this article, orders to commit genocide or crimes against humanity are manifestly unlawful.

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Part 2 / Part 4

(entire Statute (261K))



# International Criminal Court

[as corrected by the procès-verbaux of 10 November 1998 and 12 July 1999]

## PART 4. COMPOSITION AND ADMINISTRATION OF THE COURT

### Article 34 Organs of the Court

The Court shall be composed of the following organs:

- (a) The Presidency;
- (b) An Appeals Division, a Trial Division and a Pre-Trial Division;
- (c) The Office of the Prosecutor;
- (d) The Registry.

### Article 35 Service of judges

1. All judges shall be elected as full-time members of the Court and shall be available to serve on that basis from the commencement of their terms of office.
2. The judges composing the Presidency shall serve on a full-time basis as soon as they are elected.
3. The Presidency may, on the basis of the workload of the Court and in consultation with its members, decide from time to time to what extent the remaining judges shall be required to serve on a full-time basis. Any such arrangement shall be without prejudice to the provisions of article 40.
4. The financial arrangements for judges not required to serve on a full-time basis shall be made in accordance with article 49.

### Article 36 Qualifications, nomination and election of judges

1. Subject to the provisions of paragraph 2, there shall be 18 judges of the Court.
2. (a) The Presidency, acting on behalf of the Court, may propose an increase in the number of judges specified in paragraph 1, indicating the reasons why this is considered necessary and appropriate. The Registrar shall promptly circulate any such proposal to all States Parties.  
  
(b) Any such proposal shall then be considered at a meeting of the Assembly of States Parties to be convened in accordance with article 112. The proposal shall be considered adopted if approved at the meeting by a vote of two thirds of the members of the Assembly of States Parties and shall enter into force at such time as decided by the Assembly of States Parties.  
  
(c) (i) Once a proposal for an increase in the number of judges has been adopted under subparagraph (b), the election of the additional judges shall take place at the next session of the Assembly of States Parties in accordance with paragraphs 3 to 8, and article 37, paragraph 2;  
  
(ii) Once a proposal for an increase in the number of judges has been adopted and brought into effect under subparagraphs (b) and (c) (i), it shall be open to the Presidency at any time thereafter, if the workload of the Court justifies it, to propose a reduction in the number of judges, provided that the number of judges shall not be reduced below that specified in paragraph 1. The proposal shall be dealt with in accordance with the procedure laid down in subparagraphs (a) and (b). In

the event that the proposal is adopted, the number of judges shall be progressively decreased as the terms of office of serving judges expire, until the necessary number has been reached.

3. (a) The judges shall be chosen from among persons of high moral character, impartiality and integrity who possess the qualifications required in their respective States for appointment to the highest judicial offices.

(b) Every candidate for election to the Court shall:

(i) Have established competence in criminal law and procedure, and the necessary relevant experience, whether as judge, prosecutor, advocate or in other similar capacity, in criminal proceedings; or

(ii) Have established competence in relevant areas of international law such as international humanitarian law and the law of human rights, and extensive experience in a professional legal capacity which is of relevance to the judicial work of the Court;

(c) Every candidate for election to the Court shall have an excellent knowledge of and be fluent in at least one of the working languages of the Court.

4. (a) Nominations of candidates for election to the Court may be made by any State Party to this Statute, and shall be made either:

(i) By the procedure for the nomination of candidates for appointment to the highest judicial offices in the State in question; or

(ii) By the procedure provided for the nomination of candidates for the International Court of Justice in the Statute of that Court.

Nominations shall be accompanied by a statement in the necessary detail specifying how the candidate fulfils the requirements of paragraph 3.

(b) Each State Party may put forward one candidate for any given election who need not necessarily be a national of that State Party but shall in any case be a national of a State Party.

(c) The Assembly of States Parties may decide to establish, if appropriate, an Advisory Committee on nominations. In that event, the Committee's composition and mandate shall be established by the Assembly of States Parties.

5. For the purposes of the election, there shall be two lists of candidates:

List A containing the names of candidates with the qualifications specified in paragraph 3 (b) (i); and

List B containing the names of candidates with the qualifications specified in paragraph 3 (b) (ii).

A candidate with sufficient qualifications for both lists may choose on which list to appear. At the first election to the Court, at least nine judges shall be elected from list A and at least five judges from list B. Subsequent elections shall be so organized as to maintain the equivalent proportion on the Court of judges qualified on the two lists.

6. (a) The judges shall be elected by secret ballot at a meeting of the Assembly of States Parties convened for that purpose under article 112. Subject to paragraph 7, the persons elected to the Court shall be the 18 candidates who obtain the highest number of votes and a two-thirds majority of the States Parties present and voting.

(b) In the event that a sufficient number of judges is not elected on the first ballot, successive ballots shall be held in accordance with the procedures laid down in subparagraph (a) until the remaining places have been filled.

7. No two judges may be nationals of the same State. A person who, for the purposes of membership of the Court, could be regarded as a national of more than one State shall be deemed to be a national of the State in which that person ordinarily exercises civil and political rights.

8. (a) The States Parties shall, in the selection of judges, take into account the need, within the membership of the Court, for:

(i) The representation of the principal legal systems of the world;

- (ii) Equitable geographical representation; and
- (iii) A fair representation of female and male judges.

(b) States Parties shall also take into account the need to include judges with legal expertise on specific issues, including, but not limited to, violence against women or children.

9. (a) Subject to subparagraph (b), judges shall hold office for a term of nine years and, subject to subparagraph (c) and to article 37, paragraph 2, shall not be eligible for re-election.

(b) At the first election, one third of the judges elected shall be selected by lot to serve for a term of three years; one third of the judges elected shall be selected by lot to serve for a term of six years; and the remainder shall serve for a term of nine years.

(c) A judge who is selected to serve for a term of three years under subparagraph (b) shall be eligible for re-election for a full term.

10. Notwithstanding paragraph 9, a judge assigned to a Trial or Appeals Chamber in accordance with article 39 shall continue in office to complete any trial or appeal the hearing of which has already commenced before that Chamber.

Article 37  
Judicial vacancies

1. In the event of a vacancy, an election shall be held in accordance with article 36 to fill the vacancy.
2. A judge elected to fill a vacancy shall serve for the remainder of the predecessor's term and, if that period is three years or less, shall be eligible for re-election for a full term under article 36.

Article 38  
The Presidency

1. The President and the First and Second Vice-Presidents shall be elected by an absolute majority of the judges. They shall each serve for a term of three years or until the end of their respective terms of office as judges, whichever expires earlier. They shall be eligible for re-election once.
2. The First Vice-President shall act in place of the President in the event that the President is unavailable or disqualified. The Second Vice-President shall act in place of the President in the event that both the President and the First Vice-President are unavailable or disqualified.
3. The President, together with the First and Second Vice-Presidents, shall constitute the Presidency, which shall be responsible for:
  - (a) The proper administration of the Court, with the exception of the Office of the Prosecutor; and
  - (b) The other functions conferred upon it in accordance with this Statute.
4. In discharging its responsibility under paragraph 3 (a), the Presidency shall coordinate with and seek the concurrence of the Prosecutor on all matters of mutual concern.

Article 39  
Chambers

1. As soon as possible after the election of the judges, the Court shall organize itself into the divisions specified in article 34, paragraph (b). The Appeals Division shall be composed of the President and four other judges, the Trial Division of not less than six judges and the Pre-Trial Division of not less than six judges. The assignment of judges to divisions shall be based on the nature of the functions to be performed by each division and the qualifications and experience of the judges elected to the Court, in such a way that each division shall contain an appropriate combination of expertise in criminal law and procedure and in international law. The Trial and Pre-Trial Divisions shall be composed predominantly of judges with criminal trial experience.

2. (a) The judicial functions of the Court shall be carried out in each division by Chambers.
  - (b) (i) The Appeals Chamber shall be composed of all the judges of the Appeals Division;
  - (ii) The functions of the Trial Chamber shall be carried out by three judges of the Trial Division;
  - (iii) The functions of the Pre-Trial Chamber shall be carried out either by three judges of the Pre-Trial Division or by a single judge of that division in accordance with this Statute and the Rules of Procedure and Evidence;
- (c) Nothing in this paragraph shall preclude the simultaneous constitution of more than one Trial Chamber or Pre-Trial Chamber when the efficient management of the Court's workload so requires.
3. (a) Judges assigned to the Trial and Pre-Trial Divisions shall serve in those divisions for a period of three years, and thereafter until the completion of any case the hearing of which has already commenced in the division concerned.
  - (b) Judges assigned to the Appeals Division shall serve in that division for their entire term of office.
4. Judges assigned to the Appeals Division shall serve only in that division. Nothing in this article shall, however, preclude the temporary attachment of judges from the Trial Division to the Pre-Trial Division or vice versa, if the Presidency considers that the efficient management of the Court's workload so requires, provided that under no circumstances shall a judge who has participated in the pre-trial phase of a case be eligible to sit on the Trial Chamber hearing that case.

Article 40  
Independence of the judges

1. The judges shall be independent in the performance of their functions.
2. Judges shall not engage in any activity which is likely to interfere with their judicial functions or to affect confidence in their independence.
3. Judges required to serve on a full-time basis at the seat of the Court shall not engage in any other occupation of a professional nature.
4. Any question regarding the application of paragraphs 2 and 3 shall be decided by an absolute majority of the judges. Where any such question concerns an individual judge, that judge shall not take part in the decision.

Article 41  
Excusing and disqualification of judges

1. The Presidency may, at the request of a judge, excuse that judge from the exercise of a function under this Statute, in accordance with the Rules of Procedure and Evidence.
2. (a) A judge shall not participate in any case in which his or her impartiality might reasonably be doubted on any ground. A judge shall be disqualified from a case in accordance with this paragraph if, *inter alia*, that judge has previously been involved in any capacity in that case before the Court or in a related criminal case at the national level involving the person being investigated or prosecuted. A judge shall also be disqualified on such other grounds as may be provided for in the Rules of Procedure and Evidence.
  - (b) The Prosecutor or the person being investigated or prosecuted may request the disqualification of a judge under this paragraph.
  - (c) Any question as to the disqualification of a judge shall be decided by an absolute majority of the judges. The challenged judge shall be entitled to present his or her comments on the matter, but shall not take part in the decision.

Article 42  
The Office of the Prosecutor

1. The Office of the Prosecutor shall act independently as a separate organ of the Court. It shall be responsible for receiving referrals and any substantiated information on crimes within the jurisdiction of the Court, for examining them and



for conducting investigations and prosecutions before the Court. A member of the Office shall not seek or act on instructions from any external source.

2. The Office shall be headed by the Prosecutor. The Prosecutor shall have full authority over the management and administration of the Office, including the staff, facilities and other resources thereof. The Prosecutor shall be assisted by one or more Deputy Prosecutors, who shall be entitled to carry out any of the acts required of the Prosecutor under this Statute. The Prosecutor and the Deputy Prosecutors shall be of different nationalities. They shall serve on a full-time basis.

3. The Prosecutor and the Deputy Prosecutors shall be persons of high moral character, be highly competent in and have extensive practical experience in the prosecution or trial of criminal cases. They shall have an excellent knowledge of and be fluent in at least one of the working languages of the Court.

4. The Prosecutor shall be elected by secret ballot by an absolute majority of the members of the Assembly of States Parties. The Deputy Prosecutors shall be elected in the same way from a list of candidates provided by the Prosecutor. The Prosecutor shall nominate three candidates for each position of Deputy Prosecutor to be filled. Unless a shorter term is decided upon at the time of their election, the Prosecutor and the Deputy Prosecutors shall hold office for a term of nine years and shall not be eligible for re-election.

5. Neither the Prosecutor nor a Deputy Prosecutor shall engage in any activity which is likely to interfere with his or her prosecutorial functions or to affect confidence in his or her independence. They shall not engage in any other occupation of a professional nature.

6. The Presidency may excuse the Prosecutor or a Deputy Prosecutor, at his or her request, from acting in a particular case.

7. Neither the Prosecutor nor a Deputy Prosecutor shall participate in any matter in which their impartiality might reasonably be doubted on any ground. They shall be disqualified from a case in accordance with this paragraph if, *inter alia*, they have previously been involved in any capacity in that case before the Court or in a related criminal case at the national level involving the person being investigated or prosecuted.

8. Any question as to the disqualification of the Prosecutor or a Deputy Prosecutor shall be decided by the Appeals Chamber.

(a) The person being investigated or prosecuted may at any time request the disqualification of the Prosecutor or a Deputy Prosecutor on the grounds set out in this article;

(b) The Prosecutor or the Deputy Prosecutor, as appropriate, shall be entitled to present his or her comments on the matter;

9. The Prosecutor shall appoint advisers with legal expertise on specific issues, including, but not limited to, sexual and gender violence and violence against children.

#### Article 43 The Registry

1. The Registry shall be responsible for the non-judicial aspects of the administration and servicing of the Court, without prejudice to the functions and powers of the Prosecutor in accordance with article 42.

2. The Registry shall be headed by the Registrar, who shall be the principal administrative officer of the Court. The Registrar shall exercise his or her functions under the authority of the President of the Court.

3. The Registrar and the Deputy Registrar shall be persons of high moral character, be highly competent and have an excellent knowledge of and be fluent in at least one of the working languages of the Court.

4. The judges shall elect the Registrar by an absolute majority by secret ballot, taking into account any recommendation by the Assembly of States Parties. If the need arises and upon the recommendation of the Registrar, the judges shall elect, in the same manner, a Deputy Registrar.

5. The Registrar shall hold office for a term of five years, shall be eligible for re-election once and shall serve on a full-time basis. The Deputy Registrar shall hold office for a term of five years or such shorter term as may be decided upon by an absolute majority of the judges, and may be elected on the basis that the Deputy Registrar shall be called upon to serve as required.

6. The Registrar shall set up a Victims and Witnesses Unit within the Registry. This Unit shall provide, in consultation with the Office of the Prosecutor, protective measures and security arrangements, counselling and other appropriate assistance for witnesses, victims who appear before the Court, and others who are at risk on account of testimony given by such witnesses. The Unit shall include staff with expertise in trauma, including trauma related to crimes of sexual violence.

Article 44  
Staff

1. The Prosecutor and the Registrar shall appoint such qualified staff as may be required to their respective offices. In the case of the Prosecutor, this shall include the appointment of investigators.
2. In the employment of staff, the Prosecutor and the Registrar shall ensure the highest standards of efficiency, competency and integrity, and shall have regard, mutatis mutandis, to the criteria set forth in article 36, paragraph 8.
3. The Registrar, with the agreement of the Presidency and the Prosecutor, shall propose Staff Regulations which include the terms and conditions upon which the staff of the Court shall be appointed, remunerated and dismissed. The Staff Regulations shall be approved by the Assembly of States Parties.
4. The Court may, in exceptional circumstances, employ the expertise of gratis personnel offered by States Parties, intergovernmental organizations or non-governmental organizations to assist with the work of any of the organs of the Court. The Prosecutor may accept any such offer on behalf of the Office of the Prosecutor. Such gratis personnel shall be employed in accordance with guidelines to be established by the Assembly of States Parties.

Article 45  
Solemn undertaking

Before taking up their respective duties under this Statute, the judges, the Prosecutor, the Deputy Prosecutors, the Registrar and the Deputy Registrar shall each make a solemn undertaking in open court to exercise his or her respective functions impartially and conscientiously.

Article 46  
Removal from office

1. A judge, the Prosecutor, a Deputy Prosecutor, the Registrar or the Deputy Registrar shall be removed from office if a decision to this effect is made in accordance with paragraph 2, in cases where that person:
  - (a) Is found to have committed serious misconduct or a serious breach of his or her duties under this Statute, as provided for in the Rules of Procedure and Evidence; or
  - (b) Is unable to exercise the functions required by this Statute.
2. A decision as to the removal from office of a judge, the Prosecutor or a Deputy Prosecutor under paragraph 1 shall be made by the Assembly of States Parties, by secret ballot:
  - (a) In the case of a judge, by a two-thirds majority of the States Parties upon a recommendation adopted by a two-thirds majority of the other judges;
  - (b) In the case of the Prosecutor, by an absolute majority of the States Parties;
  - (c) In the case of a Deputy Prosecutor, by an absolute majority of the States Parties upon the recommendation of the Prosecutor.
3. A decision as to the removal from office of the Registrar or Deputy Registrar shall be made by an absolute majority of the judges.
4. A judge, Prosecutor, Deputy Prosecutor, Registrar or Deputy Registrar whose conduct or ability to exercise the functions of the office as required by this Statute is challenged under this article shall have full opportunity to present and receive evidence and to make submissions in accordance with the Rules of Procedure and Evidence. The person in question shall not otherwise participate in the consideration of the matter.

Article 47

### Disciplinary measures

A judge, Prosecutor, Deputy Prosecutor, Registrar or Deputy Registrar who has committed misconduct of a less serious nature than that set out in article 46, paragraph 1, shall be subject to disciplinary measures, in accordance with the Rules of Procedure and Evidence.

### Article 48 Privileges and immunities

1. The Court shall enjoy in the territory of each State Party such privileges and immunities as are necessary for the fulfilment of its purposes.
2. The judges, the Prosecutor, the Deputy Prosecutors and the Registrar shall, when engaged on or with respect to the business of the Court, enjoy the same privileges and immunities as are accorded to heads of diplomatic missions and shall, after the expiry of their terms of office, continue to be accorded immunity from legal process of every kind in respect of words spoken or written and acts performed by them in their official capacity.
3. The Deputy Registrar, the staff of the Office of the Prosecutor and the staff of the Registry shall enjoy the privileges and immunities and facilities necessary for the performance of their functions, in accordance with the agreement on the privileges and immunities of the Court.
4. Counsel, experts, witnesses or any other person required to be present at the seat of the Court shall be accorded such treatment as is necessary for the proper functioning of the Court, in accordance with the agreement on the privileges and immunities of the Court.
5. The privileges and immunities of:
  - (a) A judge or the Prosecutor may be waived by an absolute majority of the judges;
  - (b) The Registrar may be waived by the Presidency;
  - (c) The Deputy Prosecutors and staff of the Office of the Prosecutor may be waived by the Prosecutor;
  - (d) The Deputy Registrar and staff of the Registry may be waived by the Registrar.

### Article 49 Salaries, allowances and expenses

The judges, the Prosecutor, the Deputy Prosecutors, the Registrar and the Deputy Registrar shall receive such salaries, allowances and expenses as may be decided upon by the Assembly of States Parties. These salaries and allowances shall not be reduced during their terms of office.

### Article 50 Official and working languages

1. The official languages of the Court shall be Arabic, Chinese, English, French, Russian and Spanish. The judgements of the Court, as well as other decisions resolving fundamental issues before the Court, shall be published in the official languages. The Presidency shall, in accordance with the criteria established by the Rules of Procedure and Evidence, determine which decisions may be considered as resolving fundamental issues for the purposes of this paragraph.
2. The working languages of the Court shall be English and French. The Rules of Procedure and Evidence shall determine the cases in which other official languages may be used as working languages.
3. At the request of any party to a proceeding or a State allowed to intervene in a proceeding, the Court shall authorize a language other than English or French to be used by such a party or State, provided that the Court considers such authorization to be adequately justified.

### Article 51 Rules of Procedure and Evidence

1. The Rules of Procedure and Evidence shall enter into force upon adoption by a two-thirds majority of the members of the Assembly of States Parties.

2. Amendments to the Rules of Procedure and Evidence may be proposed by:

- (a) Any State Party;
- (b) The judges acting by an absolute majority; or
- (c) The Prosecutor.

Such amendments shall enter into force upon adoption by a two-thirds majority of the members of the Assembly of States Parties.

3. After the adoption of the Rules of Procedure and Evidence, in urgent cases where the Rules do not provide for a specific situation before the Court, the judges may, by a two-thirds majority, draw up provisional Rules to be applied until adopted, amended or rejected at the next ordinary or special session of the Assembly of States Parties.

4. The Rules of Procedure and Evidence, amendments thereto and any provisional Rule shall be consistent with this Statute. Amendments to the Rules of Procedure and Evidence as well as provisional Rules shall not be applied retroactively to the detriment of the person who is being investigated or prosecuted or who has been convicted.

5. In the event of conflict between the Statute and the Rules of Procedure and Evidence, the Statute shall prevail.

Article 52  
Regulations of the Court

1. The judges shall, in accordance with this Statute and the Rules of Procedure and Evidence, adopt, by an absolute majority, the Regulations of the Court necessary for its routine functioning.

2. The Prosecutor and the Registrar shall be consulted in the elaboration of the Regulations and any amendments thereto.

3. The Regulations and any amendments thereto shall take effect upon adoption unless otherwise decided by the judge. Immediately upon adoption, they shall be circulated to States Parties for comments. If within six months there are no objections from a majority of States Parties, they shall remain in force.

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Part 3 / Part 5

(entire Statute (261K))



# International Criminal Court

[as corrected by the procès-verbaux of 10 November 1998 and 12 July 1999]

## PART 5. INVESTIGATION AND PROSECUTION

### Article 53

#### Initiation of an investigation

1. The Prosecutor shall, having evaluated the information made available to him or her, initiate an investigation unless he or she determines that there is no reasonable basis to proceed under this Statute. In deciding whether to initiate an investigation, the Prosecutor shall consider whether:

- (a) The information available to the Prosecutor provides a reasonable basis to believe that a crime within the jurisdiction of the Court has been or is being committed;
- (b) The case is or would be admissible under article 17; and
- (c) Taking into account the gravity of the crime and the interests of victims, there are nonetheless substantial reasons to believe that an investigation would not serve the interests of justice.

If the Prosecutor determines that there is no reasonable basis to proceed and his or her determination is based solely on subparagraph (c) above, he or she shall inform the Pre-Trial Chamber.

2. If, upon investigation, the Prosecutor concludes that there is not a sufficient basis for a prosecution because:

- (a) There is not a sufficient legal or factual basis to seek a warrant or summons under article 58;
- (b) The case is inadmissible under article 17; or
- (c) A prosecution is not in the interests of justice, taking into account all the circumstances, including the gravity of the crime, the interests of victims and the age or infirmity of the alleged perpetrator, and his or her role in the alleged crime;

the Prosecutor shall inform the Pre-Trial Chamber and the State making a referral under article 14 or the Security Council in a case under article 13, paragraph (b), of his or her conclusion and the reasons for the conclusion.

3. (a) At the request of the State making a referral under article 14 or the Security Council under article 13, paragraph (b), the Pre-Trial Chamber may review a decision of the Prosecutor under paragraph 1 or 2 not to proceed and may request the Prosecutor to reconsider that decision.

(b) In addition, the Pre-Trial Chamber may, on its own initiative, review a decision of the Prosecutor not to proceed if it is based solely on paragraph 1 (c) or 2 (c). In such a case, the decision of the Prosecutor shall be effective only if confirmed by the Pre-Trial Chamber.

4. The Prosecutor may, at any time, reconsider a decision whether to initiate an investigation or prosecution based on new facts or information.

### Article 54

#### Duties and powers of the Prosecutor with respect to investigations

1. The Prosecutor shall:

- (a) In order to establish the truth, extend the investigation to cover all facts and evidence relevant to an assessment of whether there is criminal responsibility under this Statute, and, in doing so, investigate incriminating and exonerating circumstances equally;

- (b) Take appropriate measures to ensure the effective investigation and prosecution of crimes within the jurisdiction of the Court, and in doing so, respect the interests and personal circumstances of victims and witnesses, including age, gender as defined in article 7, paragraph 3, and health, and take into account the nature of the crime, in particular where it involves sexual violence, gender violence or violence against children; and
  - (c) Fully respect the rights of persons arising under this Statute.
2. The Prosecutor may conduct investigations on the territory of a State:
- (a) In accordance with the provisions of Part 9; or
  - (b) As authorized by the Pre-Trial Chamber under article 57, paragraph 3 (d).
3. The Prosecutor may:
- (a) Collect and examine evidence;
  - (b) Request the presence of and question persons being investigated, victims and witnesses;
  - (c) Seek the cooperation of any State or intergovernmental organization or arrangement in accordance with its respective competence and/or mandate;
  - (d) Enter into such arrangements or agreements, not inconsistent with this Statute, as may be necessary to facilitate the cooperation of a State, intergovernmental organization or person;
  - (e) Agree not to disclose, at any stage of the proceedings, documents or information that the Prosecutor obtains on the condition of confidentiality and solely for the purpose of generating new evidence, unless the provider of the information consents; and
  - (f) Take necessary measures, or request that necessary measures be taken, to ensure the confidentiality of information, the protection of any person or the preservation of evidence.

Article 55  
Rights of persons during an investigation

1. In respect of an investigation under this Statute, a person:
- (a) Shall not be compelled to incriminate himself or herself or to confess guilt;
  - (b) Shall not be subjected to any form of coercion, duress or threat, to torture or to any other form of cruel, inhuman or degrading treatment or punishment;
  - (c) Shall, if questioned in a language other than a language the person fully understands and speaks, have, free of any cost, the assistance of a competent interpreter and such translations as are necessary to meet the requirements of fairness; and
  - (d) Shall not be subjected to arbitrary arrest or detention, and shall not be deprived of his or her liberty except on such grounds and in accordance with such procedures as are established in this Statute.
2. Where there are grounds to believe that a person has committed a crime within the jurisdiction of the Court and that person is about to be questioned either by the Prosecutor, or by national authorities pursuant to a request made under Part 9, that person shall also have the following rights of which he or she shall be informed prior to being questioned:
- (a) To be informed, prior to being questioned, that there are grounds to believe that he or she has committed a crime within the jurisdiction of the Court;
  - (b) To remain silent, without such silence being a consideration in the determination of guilt or innocence;
  - (c) To have legal assistance of the person's choosing, or, if the person does not have legal assistance, to have legal assistance assigned to him or her, in any case where the interests of justice so require, and without payment by the person in any such case if the person does not have sufficient means to pay for it; and

- (d) To be questioned in the presence of counsel unless the person has voluntarily waived his or her right to counsel.

Article 56  
Role of the Pre-Trial Chamber in relation  
to a unique investigative opportunity

1. (a) Where the Prosecutor considers an investigation to present a unique opportunity to take testimony or a statement from a witness or to examine, collect or test evidence, which may not be available subsequently for the purposes of a trial, the Prosecutor shall so inform the Pre-Trial Chamber.

(b) In that case, the Pre-Trial Chamber may, upon request of the Prosecutor, take such measures as may be necessary to ensure the efficiency and integrity of the proceedings and, in particular, to protect the rights of the defence.

(c) Unless the Pre-Trial Chamber orders otherwise, the Prosecutor shall provide the relevant information to the person who has been arrested or appeared in response to a summons in connection with the investigation referred to in subparagraph (a), in order that he or she may be heard on the matter.

2. The measures referred to in paragraph 1 (b) may include:

(a) Making recommendations or orders regarding procedures to be followed;

(b) Directing that a record be made of the proceedings;

(c) Appointing an expert to assist;

(d) Authorizing counsel for a person who has been arrested, or appeared before the Court in response to a summons, to participate, or where there has not yet been such an arrest or appearance or counsel has not been designated, appointing another counsel to attend and represent the interests of the defence;

(e) Naming one of its members or, if necessary, another available judge of the Pre-Trial or Trial Division to observe and make recommendations or orders regarding the collection and preservation of evidence and the questioning of persons;

(f) Taking such other action as may be necessary to collect or preserve evidence.

3. (a) Where the Prosecutor has not sought measures pursuant to this article but the Pre-Trial Chamber considers that such measures are required to preserve evidence that it deems would be essential for the defence at trial, it shall consult with the Prosecutor as to whether there is good reason for the Prosecutor's failure to request the measures. If upon consultation, the Pre-Trial Chamber concludes that the Prosecutor's failure to request such measures is unjustified, the Pre-Trial Chamber may take such measures on its own initiative.

(b) A decision of the Pre-Trial Chamber to act on its own initiative under this paragraph may be appealed by the Prosecutor. The appeal shall be heard on an expedited basis.

4. The admissibility of evidence preserved or collected for trial pursuant to this article, or the record thereof, shall be governed at trial by article 69, and given such weight as determined by the Trial Chamber.

Article 57  
Functions and powers of the Pre-Trial Chamber

1. Unless otherwise provided in this Statute, the Pre-Trial Chamber shall exercise its functions in accordance with the provisions of this article.

2. (a) Orders or rulings of the Pre-Trial Chamber issued under articles 15, 18, 19, 54, paragraph 2, 61, paragraph 7, and 72 must be concurred in by a majority of its judges.

(b) In all other cases, a single judge of the Pre-Trial Chamber may exercise the functions provided for in this Statute, unless otherwise provided for in the Rules of Procedure and Evidence or by a majority of the Pre-Trial Chamber.

3. In addition to its other functions under this Statute, the Pre-Trial Chamber may:
  - (a) At the request of the Prosecutor, issue such orders and warrants as may be required for the purposes of an investigation;
  - (b) Upon the request of a person who has been arrested or has appeared pursuant to a summons under article 58, issue such orders, including measures such as those described in article 56, or seek such cooperation pursuant to Part 9 as may be necessary to assist the person in the preparation of his or her defence;
  - (c) Where necessary, provide for the protection and privacy of victims and witnesses, the preservation of evidence, the protection of persons who have been arrested or appeared in response to a summons, and the protection of national security information;
  - (d) Authorize the Prosecutor to take specific investigative steps within the territory of a State Party without having secured the cooperation of that State under Part 9 if, whenever possible having regard to the views of the State concerned, the Pre-Trial Chamber has determined in that case that the State is clearly unable to execute a request for cooperation due to the unavailability of any authority or any component of its judicial system competent to execute the request for cooperation under Part 9.
  - (e) Where a warrant of arrest or a summons has been issued under article 58, and having due regard to the strength of the evidence and the rights of the parties concerned, as provided for in this Statute and the Rules of Procedure and Evidence, seek the cooperation of States pursuant to article 93, paragraph 1 (k), to take protective measures for the purpose of forfeiture, in particular for the ultimate benefit of victims.

Article 58  
Issuance by the Pre-Trial Chamber of a warrant of arrest  
or a summons to appear

1. At any time after the initiation of an investigation, the Pre-Trial Chamber shall, on the application of the Prosecutor, issue a warrant of arrest of a person if, having examined the application and the evidence or other information submitted by the Prosecutor, it is satisfied that:
  - (a) There are reasonable grounds to believe that the person has committed a crime within the jurisdiction of the Court; and
  - (b) The arrest of the person appears necessary:
    - (i) To ensure the person's appearance at trial,
    - (ii) To ensure that the person does not obstruct or endanger the investigation or the court proceedings, or
    - (iii) Where applicable, to prevent the person from continuing with the commission of that crime or a related crime which is within the jurisdiction of the Court and which arises out of the same circumstances.
2. The application of the Prosecutor shall contain:
  - (a) The name of the person and any other relevant identifying information;
  - (b) A specific reference to the crimes within the jurisdiction of the Court which the person is alleged to have committed;
  - (c) A concise statement of the facts which are alleged to constitute those crimes;
  - (d) A summary of the evidence and any other information which establish reasonable grounds to believe that the person committed those crimes; and
  - (e) The reason why the Prosecutor believes that the arrest of the person is necessary.
3. The warrant of arrest shall contain:
  - (a) The name of the person and any other relevant identifying information;



- (b) A specific reference to the crimes within the jurisdiction of the Court for which the person's arrest is sought; and
  - (c) A concise statement of the facts which are alleged to constitute those crimes.
4. The warrant of arrest shall remain in effect until otherwise ordered by the Court.
  5. On the basis of the warrant of arrest, the Court may request the provisional arrest or the arrest and surrender of the person under Part 9.
  6. The Prosecutor may request the Pre-Trial Chamber to amend the warrant of arrest by modifying or adding to the crimes specified therein. The Pre-Trial Chamber shall so amend the warrant if it is satisfied that there are reasonable grounds to believe that the person committed the modified or additional crimes.
  7. As an alternative to seeking a warrant of arrest, the Prosecutor may submit an application requesting that the Pre-Trial Chamber issue a summons for the person to appear. If the Pre-Trial Chamber is satisfied that there are reasonable grounds to believe that the person committed the crime alleged and that a summons is sufficient to ensure the person's appearance, it shall issue the summons, with or without conditions restricting liberty (other than detention) if provided for by national law, for the person to appear. The summons shall contain:
    - (a) The name of the person and any other relevant identifying information;
    - (b) The specified date on which the person is to appear;
    - (c) A specific reference to the crimes within the jurisdiction of the Court which the person is alleged to have committed; and
    - (d) A concise statement of the facts which are alleged to constitute the crime.

The summons shall be served on the person.

#### Article 59 Arrest proceedings in the custodial State

1. A State Party which has received a request for provisional arrest or for arrest and surrender shall immediately take steps to arrest the person in question in accordance with its laws and the provisions of Part 9.
2. A person arrested shall be brought promptly before the competent judicial authority in the custodial State which shall determine, in accordance with the law of that State, that:
  - (a) The warrant applies to that person;
  - (b) The person has been arrested in accordance with the proper process; and
  - (c) The person's rights have been respected.
3. The person arrested shall have the right to apply to the competent authority in the custodial State for interim release pending surrender.
4. In reaching a decision on any such application, the competent authority in the custodial State shall consider whether, given the gravity of the alleged crimes, there are urgent and exceptional circumstances to justify interim release and whether necessary safeguards exist to ensure that the custodial State can fulfil its duty to surrender the person to the Court. It shall not be open to the competent authority of the custodial State to consider whether the warrant of arrest was properly issued in accordance with article 58, paragraph 1 (a) and (b).
5. The Pre-Trial Chamber shall be notified of any request for interim release and shall make recommendations to the competent authority in the custodial State. The competent authority in the custodial State shall give full consideration to such recommendations, including any recommendations on measures to prevent the escape of the person, before rendering its decision.
6. If the person is granted interim release, the Pre-Trial Chamber may request periodic reports on the status of the

interim release.

7. Once ordered to be surrendered by the custodial State, the person shall be delivered to the Court as soon as possible.

Article 60  
Initial proceedings before the Court

1. Upon the surrender of the person to the Court, or the person's appearance before the Court voluntarily or pursuant to a summons, the Pre-Trial Chamber shall satisfy itself that the person has been informed of the crimes which he or she is alleged to have committed, and of his or her rights under this Statute, including the right to apply for interim release pending trial.
2. A person subject to a warrant of arrest may apply for interim release pending trial. If the Pre-Trial Chamber is satisfied that the conditions set forth in article 58, paragraph 1, are met, the person shall continue to be detained. If it is not so satisfied, the Pre-Trial Chamber shall release the person, with or without conditions.
3. The Pre-Trial Chamber shall periodically review its ruling on the release or detention of the person, and may do so at any time on the request of the Prosecutor or the person. Upon such review, it may modify its ruling as to detention, release or conditions of release, if it is satisfied that changed circumstances so require.
4. The Pre-Trial Chamber shall ensure that a person is not detained for an unreasonable period prior to trial due to inexcusable delay by the Prosecutor. If such delay occurs, the Court shall consider releasing the person, with or without conditions.
5. If necessary, the Pre-Trial Chamber may issue a warrant of arrest to secure the presence of a person who has been released.

Article 61  
Confirmation of the charges before trial

1. Subject to the provisions of paragraph 2, within a reasonable time after the person's surrender or voluntary appearance before the Court, the Pre-Trial Chamber shall hold a hearing to confirm the charges on which the Prosecutor intends to seek trial. The hearing shall be held in the presence of the Prosecutor and the person charged, as well as his or her counsel.
2. The Pre-Trial Chamber may, upon request of the Prosecutor or on its own motion, hold a hearing in the absence of the person charged to confirm the charges on which the Prosecutor intends to seek trial when the person has:
  - (a) Waived his or her right to be present; or
  - (b) Fled or cannot be found and all reasonable steps have been taken to secure his or her appearance before the Court and to inform the person of the charges and that a hearing to confirm those charges will be held.In that case, the person shall be represented by counsel where the Pre-Trial Chamber determines that it is in the interests of justice.
3. Within a reasonable time before the hearing, the person shall:
  - (a) Be provided with a copy of the document containing the charges on which the Prosecutor intends to bring the person to trial; and
  - (b) Be informed of the evidence on which the Prosecutor intends to rely at the hearing.

The Pre-Trial Chamber may issue orders regarding the disclosure of information for the purposes of the hearing.

4. Before the hearing, the Prosecutor may continue the investigation and may amend or withdraw any charges. The person shall be given reasonable notice before the hearing of any amendment to or withdrawal of charges. In case of a withdrawal of charges, the Prosecutor shall notify the Pre-Trial Chamber of the reasons for the withdrawal.
5. At the hearing, the Prosecutor shall support each charge with sufficient evidence to establish substantial grounds to believe that the person committed the crime charged. The Prosecutor may rely on documentary or summary evidence and

need not call the witnesses expected to testify at the trial.

6. At the hearing, the person may:

- (a) Object to the charges;
- (b) Challenge the evidence presented by the Prosecutor; and
- (c) Present evidence.

7. The Pre-Trial Chamber shall, on the basis of the hearing, determine whether there is sufficient evidence to establish substantial grounds to believe that the person committed each of the crimes charged. Based on its determination, the Pre-Trial Chamber shall:

- (a) Confirm those charges in relation to which it has determined that there is sufficient evidence, and commit the person to a Trial Chamber for trial on the charges as confirmed;
- (b) Decline to confirm those charges in relation to which it has determined that there is insufficient evidence;
- (c) Adjourn the hearing and request the Prosecutor to consider:
  - (i) Providing further evidence or conducting further investigation with respect to a particular charge; or
  - (ii) Amending a charge because the evidence submitted appears to establish a different crime within the jurisdiction of the Court.

8. Where the Pre-Trial Chamber declines to confirm a charge, the Prosecutor shall not be precluded from subsequently requesting its confirmation if the request is supported by additional evidence.

9. After the charges are confirmed and before the trial has begun, the Prosecutor may, with the permission of the Pre-Trial Chamber and after notice to the accused, amend the charges. If the Prosecutor seeks to add additional charges or to substitute more serious charges, a hearing under this article to confirm those charges must be held. After commencement of the trial, the Prosecutor may, with the permission of the Trial Chamber, withdraw the charges.

10. Any warrant previously issued shall cease to have effect with respect to any charges which have not been confirmed by the Pre-Trial Chamber or which have been withdrawn by the Prosecutor.

11. Once the charges have been confirmed in accordance with this article, the Presidency shall constitute a Trial Chamber which, subject to paragraph 9 and to article 64, paragraph 4, shall be responsible for the conduct of subsequent proceedings and may exercise any function of the Pre-Trial Chamber that is relevant and capable of application in those proceedings.

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Part 4 / Part 6

(entire Statute (261K))



# International Criminal Court

[as corrected by the procès-verbaux of 10 November 1998 and 12 July 1999]

## PART 6. THE TRIAL

### Article 62 Place of trial

Unless otherwise decided, the place of the trial shall be the seat of the Court.

### Article 63 Trial in the presence of the accused

1. The accused shall be present during the trial.
2. If the accused, being present before the Court, continues to disrupt the trial, the Trial Chamber may remove the accused and shall make provision for him or her to observe the trial and instruct counsel from outside the courtroom, through the use of communications technology, if required. Such measures shall be taken only in exceptional circumstances after other reasonable alternatives have proved inadequate, and only for such duration as is strictly required.

### Article 64 Functions and powers of the Trial Chamber

1. The functions and powers of the Trial Chamber set out in this article shall be exercised in accordance with this Statute and the Rules of Procedure and Evidence.
2. The Trial Chamber shall ensure that a trial is fair and expeditious and is conducted with full respect for the rights of the accused and due regard for the protection of victims and witnesses.
3. Upon assignment of a case for trial in accordance with this Statute, the Trial Chamber assigned to deal with the case shall:
  - (a) Confer with the parties and adopt such procedures as are necessary to facilitate the fair and expeditious conduct of the proceedings;
  - (b) Determine the language or languages to be used at trial; and
  - (c) Subject to any other relevant provisions of this Statute, provide for disclosure of documents or information not previously disclosed, sufficiently in advance of the commencement of the trial to enable adequate preparation for trial.
4. The Trial Chamber may, if necessary for its effective and fair functioning, refer preliminary issues to the Pre-Trial Chamber or, if necessary, to another available judge of the Pre-Trial Division.
5. Upon notice to the parties, the Trial Chamber may, as appropriate, direct that there be joinder or severance in respect of charges against more than one accused.
6. In performing its functions prior to trial or during the course of a trial, the Trial Chamber may, as necessary:
  - (a) Exercise any functions of the Pre-Trial Chamber referred to in article 61, paragraph 11;
  - (b) Require the attendance and testimony of witnesses and production of documents and other evidence by obtaining, if necessary, the assistance of States as provided in this Statute;
  - (c) Provide for the protection of confidential information;

- (d) Order the production of evidence in addition to that already collected prior to the trial or presented during the trial by the parties;
  - (e) Provide for the protection of the accused, witnesses and victims; and
  - (f) Rule on any other relevant matters.
7. The trial shall be held in public. The Trial Chamber may, however, determine that special circumstances require that certain proceedings be in closed session for the purposes set forth in article 68, or to protect confidential or sensitive information to be given in evidence.
8. (a) At the commencement of the trial, the Trial Chamber shall have read to the accused the charges previously confirmed by the Pre-Trial Chamber. The Trial Chamber shall satisfy itself that the accused understands the nature of the charges. It shall afford him or her the opportunity to make an admission of guilt in accordance with article 65 or to plead not guilty.
- (b) At the trial, the presiding judge may give directions for the conduct of proceedings, including to ensure that they are conducted in a fair and impartial manner. Subject to any directions of the presiding judge, the parties may submit evidence in accordance with the provisions of this Statute.
9. The Trial Chamber shall have, inter alia, the power on application of a party or on its own motion to:
- (a) Rule on the admissibility or relevance of evidence; and
  - (b) Take all necessary steps to maintain order in the course of a hearing.
10. The Trial Chamber shall ensure that a complete record of the trial, which accurately reflects the proceedings, is made and that it is maintained and preserved by the Registrar.

Article 65  
Proceedings on an admission of guilt

1. Where the accused makes an admission of guilt pursuant to article 64, paragraph 8 (a), the Trial Chamber shall determine whether:
- (a) The accused understands the nature and consequences of the admission of guilt;
  - (b) The admission is voluntarily made by the accused after sufficient consultation with defence counsel; and
  - (c) The admission of guilt is supported by the facts of the case that are contained in:
    - (i) The charges brought by the Prosecutor and admitted by the accused;
    - (ii) Any materials presented by the Prosecutor which supplement the charges and which the accused accepts; and
    - (iii) Any other evidence, such as the testimony of witnesses, presented by the Prosecutor or the accused.
2. Where the Trial Chamber is satisfied that the matters referred to in paragraph 1 are established, it shall consider the admission of guilt, together with any additional evidence presented, as establishing all the essential facts that are required to prove the crime to which the admission of guilt relates, and may convict the accused of that crime.
3. Where the Trial Chamber is not satisfied that the matters referred to in paragraph 1 are established, it shall consider the admission of guilt as not having been made, in which case it shall order that the trial be continued under the ordinary trial procedures provided by this Statute and may remit the case to another Trial Chamber.
4. Where the Trial Chamber is of the opinion that a more complete presentation of the facts of the case is required in the interests of justice, in particular the interests of the victims, the Trial Chamber may:
- (a) Request the Prosecutor to present additional evidence, including the testimony of witnesses; or

(b) Order that the trial be continued under the ordinary trial procedures provided by this Statute, in which case it shall consider the admission of guilt as not having been made and may remit the case to another Trial Chamber.

5. Any discussions between the Prosecutor and the defence regarding modification of the charges, the admission of guilt or the penalty to be imposed shall not be binding on the Court.

Article 66  
Presumption of innocence

1. Everyone shall be presumed innocent until proved guilty before the Court in accordance with the applicable law.
2. The onus is on the Prosecutor to prove the guilt of the accused.
3. In order to convict the accused, the Court must be convinced of the guilt of the accused beyond reasonable doubt.

Article 67  
Rights of the accused

1. In the determination of any charge, the accused shall be entitled to a public hearing, having regard to the provisions of this Statute, to a fair hearing conducted impartially, and to the following minimum guarantees, in full equality:
  - (a) To be informed promptly and in detail of the nature, cause and content of the charge, in a language which the accused fully understands and speaks;
  - (b) To have adequate time and facilities for the preparation of the defence and to communicate freely with counsel of the accused's choosing in confidence;
  - (c) To be tried without undue delay;
  - (d) Subject to article 63, paragraph 2, to be present at the trial, to conduct the defence in person or through legal assistance of the accused's choosing, to be informed, if the accused does not have legal assistance, of this right and to have legal assistance assigned by the Court in any case where the interests of justice so require, and without payment if the accused lacks sufficient means to pay for it;
  - (e) To examine, or have examined, the witnesses against him or her and to obtain the attendance and examination of witnesses on his or her behalf under the same conditions as witnesses against him or her. The accused shall also be entitled to raise defences and to present other evidence admissible under this Statute;
  - (f) To have, free of any cost, the assistance of a competent interpreter and such translations as are necessary to meet the requirements of fairness, if any of the proceedings or documents presented to the Court are not in a language which the accused fully understands and speaks;
  - (g) Not to be compelled to testify or to confess guilt and to remain silent, without such silence being a consideration in the determination of guilt or innocence;
  - (h) To make an unsworn oral or written statement in his or her defence; and
  - (i) Not to have imposed on him or her any reversal of the burden of proof or any onus of rebuttal.
2. In addition to any other disclosure provided for in this Statute, the Prosecutor shall, as soon as practicable, disclose to the defence evidence in the Prosecutor's possession or control which he or she believes shows or tends to show the innocence of the accused, or to mitigate the guilt of the accused, or which may affect the credibility of prosecution evidence. In case of doubt as to the application of this paragraph, the Court shall decide.

Article 68  
Protection of the victims and witnesses and their  
participation in the proceedings

1. The Court shall take appropriate measures to protect the safety, physical and psychological well-being, dignity and privacy of victims and witnesses. In so doing, the Court shall have regard to all relevant factors, including age, gender as

defined in article 7, paragraph 3, and health, and the nature of the crime, in particular, but not limited to, where the crime involves sexual or gender violence or violence against children. The Prosecutor shall take such measures particularly during the investigation and prosecution of such crimes. These measures shall not be prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial.

2. As an exception to the principle of public hearings provided for in article 67, the Chambers of the Court may, to protect victims and witnesses or an accused, conduct any part of the proceedings *in camera* or allow the presentation of evidence by electronic or other special means. In particular, such measures shall be implemented in the case of a victim of sexual violence or a child who is a victim or a witness, unless otherwise ordered by the Court, having regard to all the circumstances, particularly the views of the victim or witness.

3. Where the personal interests of the victims are affected, the Court shall permit their views and concerns to be presented and considered at stages of the proceedings determined to be appropriate by the Court and in a manner which is not prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial. Such views and concerns may be presented by the legal representatives of the victims where the Court considers it appropriate, in accordance with the Rules of Procedure and Evidence.

4. The Victims and Witnesses Unit may advise the Prosecutor and the Court on appropriate protective measures, security arrangements, counselling and assistance as referred to in article 43, paragraph 6.

5. Where the disclosure of evidence or information pursuant to this Statute may lead to the grave endangerment of the security of a witness or his or her family, the Prosecutor may, for the purposes of any proceedings conducted prior to the commencement of the trial, withhold such evidence or information and instead submit a summary thereof. Such measures shall be exercised in a manner which is not prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial.

6. A State may make an application for necessary measures to be taken in respect of the protection of its servants or agents and the protection of confidential or sensitive information.

#### Article 69 Evidence

1. Before testifying, each witness shall, in accordance with the Rules of Procedure and Evidence, give an undertaking to the truthfulness of the evidence to be given by that witness.

2. The testimony of a witness at trial shall be given in person, except to the extent provided by the measures set forth in article 68 or in the Rules of Procedure and Evidence. The Court may also permit the giving of *viva voce* (oral) or recorded testimony of a witness by means of video or audio technology, as well as the introduction of documents or written transcripts, subject to this Statute and in accordance with the Rules of Procedure and Evidence. These measures shall not be prejudicial to or inconsistent with the rights of the accused.

3. The parties may submit evidence relevant to the case, in accordance with article 64. The Court shall have the authority to request the submission of all evidence that it considers necessary for the determination of the truth.

4. The Court may rule on the relevance or admissibility of any evidence, taking into account, *inter alia*, the probative value of the evidence and any prejudice that such evidence may cause to a fair trial or to a fair evaluation of the testimony of a witness, in accordance with the Rules of Procedure and Evidence.

5. The Court shall respect and observe privileges on confidentiality as provided for in the Rules of Procedure and Evidence.

6. The Court shall not require proof of facts of common knowledge but may take judicial notice of them.

7. Evidence obtained by means of a violation of this Statute or internationally recognized human rights shall not be admissible if:

(a) The violation casts substantial doubt on the reliability of the evidence; or

(b) The admission of the evidence would be antithetical to and would seriously damage the integrity of the proceedings.

8. When deciding on the relevance or admissibility of evidence collected by a State, the Court shall not rule on the application of the State's national law.

Article 70  
Offences against the administration of justice

1. The Court shall have jurisdiction over the following offences against its administration of justice when committed intentionally:
  - (a) Giving false testimony when under an obligation pursuant to article 69, paragraph 1, to tell the truth;
  - (b) Presenting evidence that the party knows is false or forged;
  - (c) Corruptly influencing a witness, obstructing or interfering with the attendance or testimony of a witness, retaliating against a witness for giving testimony or destroying, tampering with or interfering with the collection of evidence;
  - (d) Impeding, intimidating or corruptly influencing an official of the Court for the purpose of forcing or persuading the official not to perform, or to perform improperly, his or her duties;
  - (e) Retaliating against an official of the Court on account of duties performed by that or another official;
  - (f) Soliciting or accepting a bribe as an official of the Court in connection with his or her official duties.
2. The principles and procedures governing the Court's exercise of jurisdiction over offences under this article shall be those provided for in the Rules of Procedure and Evidence. The conditions for providing international cooperation to the Court with respect to its proceedings under this article shall be governed by the domestic laws of the requested State.
3. In the event of conviction, the Court may impose a term of imprisonment not exceeding five years, or a fine in accordance with the Rules of Procedure and Evidence, or both.
4. (a) Each State Party shall extend its criminal laws penalizing offences against the integrity of its own investigative or judicial process to offences against the administration of justice referred to in this article, committed on its territory, or by one of its nationals;
 

(b) Upon request by the Court, whenever it deems it proper, the State Party shall submit the case to its competent authorities for the purpose of prosecution. Those authorities shall treat such cases with diligence and devote sufficient resources to enable them to be conducted effectively.

Article 71  
Sanctions for misconduct before the Court

1. The Court may sanction persons present before it who commit misconduct, including disruption of its proceedings or deliberate refusal to comply with its directions, by administrative measures other than imprisonment, such as temporary or permanent removal from the courtroom, a fine or other similar measures provided for in the Rules of Procedure and Evidence.
2. The procedures governing the imposition of the measures set forth in paragraph 1 shall be those provided for in the Rules of Procedure and Evidence.

Article 72  
Protection of national security information

1. This article applies in any case where the disclosure of the information or documents of a State would, in the opinion of that State, prejudice its national security interests. Such cases include those falling within the scope of article 56, paragraphs 2 and 3, article 61, paragraph 3, article 64, paragraph 3, article 67, paragraph 2, article 68, paragraph 6, article 87, paragraph 6 and article 93, as well as cases arising at any other stage of the proceedings where such disclosure may be at issue.
2. This article shall also apply when a person who has been requested to give information or evidence has refused to do so or has referred the matter to the State on the ground that disclosure would prejudice the national security interests of a State and the State concerned confirms that it is of the opinion that disclosure would prejudice its national security interests.
3. Nothing in this article shall prejudice the requirements of confidentiality applicable under article 54, paragraph 3 (e)



and (f), or the application of article 73.

4. If a State learns that information or documents of the State are being, or are likely to be, disclosed at any stage of the proceedings, and it is of the opinion that disclosure would prejudice its national security interests, that State shall have the right to intervene in order to obtain resolution of the issue in accordance with this article.

5. If, in the opinion of a State, disclosure of information would prejudice its national security interests, all reasonable steps will be taken by the State, acting in conjunction with the Prosecutor, the defence or the Pre-Trial Chamber or Trial Chamber, as the case may be, to seek to resolve the matter by cooperative means. Such steps may include:

- (a) Modification or clarification of the request;
- (b) A determination by the Court regarding the relevance of the information or evidence sought, or a determination as to whether the evidence, though relevant, could be or has been obtained from a source other than the requested State;
- (c) Obtaining the information or evidence from a different source or in a different form; or
- (d) Agreement on conditions under which the assistance could be provided including, among other things, providing summaries or redactions, limitations on disclosure, use of *in camera* or *ex parte* proceedings, or other protective measures permissible under the Statute and the Rules of Procedure and Evidence.

6. Once all reasonable steps have been taken to resolve the matter through cooperative means, and if the State considers that there are no means or conditions under which the information or documents could be provided or disclosed without prejudice to its national security interests, it shall so notify the Prosecutor or the Court of the specific reasons for its decision, unless a specific description of the reasons would itself necessarily result in such prejudice to the State's national security interests.

7. Thereafter, if the Court determines that the evidence is relevant and necessary for the establishment of the guilt or innocence of the accused, the Court may undertake the following actions:

- (a) Where disclosure of the information or document is sought pursuant to a request for cooperation under Part II, and the State has invoked the ground for refusal referred to in article 93, paragraph 4:
  - (i) The Court may, before making any conclusion referred to in subparagraph 7 (a) (ii), request further consultations for the purpose of considering the State's representations, which may include, as appropriate, hearings *in camera* and *ex parte*;
  - (ii) If the Court concludes that, by invoking the ground for refusal under article 93, paragraph 4, in the circumstances of the case, the requested State is not acting in accordance with its obligations under this Statute, the Court may refer the matter in accordance with article 87, paragraph 7, specifying the reasons for its conclusion; and
  - (iii) The Court may make such inference in the trial of the accused as to the existence or non-existence of a fact, as may be appropriate in the circumstances; or
- (b) In all other circumstances:
  - (i) Order disclosure; or
  - (ii) To the extent it does not order disclosure, make such inference in the trial of the accused as to the existence or non-existence of a fact, as may be appropriate in the circumstances.

#### Article 73 Third-party information or documents

If a State Party is requested by the Court to provide a document or information in its custody, possession or control, which was disclosed to it in confidence by a State, intergovernmental organization or international organization, it shall seek the consent of the originator to disclose that document or information. If the originator is a State Party, it shall either consent to disclosure of the information or document or undertake to resolve the issue of disclosure with the Court, subject to the provisions of article 72. If the originator is not a State Party and refuses to consent to disclosure, the requested State shall inform the Court that it is unable to provide the document or information because of a pre-existing obligation of

confidentiality to the originator.

Article 74  
Requirements for the decision

1. All the judges of the Trial Chamber shall be present at each stage of the trial and throughout their deliberations. The Presidency may, on a case-by-case basis, designate, as available, one or more alternate judges to be present at each stage of the trial and to replace a member of the Trial Chamber if that member is unable to continue attending.
2. The Trial Chamber's decision shall be based on its evaluation of the evidence and the entire proceedings. The decision shall not exceed the facts and circumstances described in the charges and any amendments to the charges. The Court may base its decision only on evidence submitted and discussed before it at the trial.
3. The judges shall attempt to achieve unanimity in their decision, failing which the decision shall be taken by a majority of the judges.
4. The deliberations of the Trial Chamber shall remain secret.
5. The decision shall be in writing and shall contain a full and reasoned statement of the Trial Chamber's findings on the evidence and conclusions. The Trial Chamber shall issue one decision. When there is no unanimity, the Trial Chamber's decision shall contain the views of the majority and the minority. The decision or a summary thereof shall be delivered in open court.

Article 75  
Reparations to victims

1. The Court shall establish principles relating to reparations to, or in respect of, victims, including restitution, compensation and rehabilitation. On this basis, in its decision the Court may, either upon request or on its own motion in exceptional circumstances, determine the scope and extent of any damage, loss and injury to, or in respect of, victims and will state the principles on which it is acting.
2. The Court may make an order directly against a convicted person specifying appropriate reparations to, or in respect of, victims, including restitution, compensation and rehabilitation.

Where appropriate, the Court may order that the award for reparations be made through the Trust Fund provided for in article 79.

3. Before making an order under this article, the Court may invite and shall take account of representations from or on behalf of the convicted person, victims, other interested persons or interested States.
4. In exercising its power under this article, the Court may, after a person is convicted of a crime within the jurisdiction of the Court, determine whether, in order to give effect to an order which it may make under this article, it is necessary to seek measures under article 93, paragraph 1.
5. A State Party shall give effect to a decision under this article as if the provisions of article 109 were applicable to this article.
6. Nothing in this article shall be interpreted as prejudicing the rights of victims under national or international law.

Article 76  
Sentencing

1. In the event of a conviction, the Trial Chamber shall consider the appropriate sentence to be imposed and shall take into account the evidence presented and submissions made during the trial that are relevant to the sentence.
2. Except where article 65 applies and before the completion of the trial, the Trial Chamber may on its own motion and shall, at the request of the Prosecutor or the accused, hold a further hearing to hear any additional evidence or submissions relevant to the sentence, in accordance with the Rules of Procedure and Evidence.
3. Where paragraph 2 applies, any representations under article 75 shall be heard during the further hearing referred to in paragraph 2 and, if necessary, during any additional hearing.

4. The sentence shall be pronounced in public and, wherever possible, in the presence of the accused.

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Part 5 / Part 7

(entire Statute (261K))



# International Criminal Court

[as corrected by the procès-verbaux of 10 November 1998 and 12 July 1999]

## PART 7. PENALTIES

### Article 77 Applicable penalties

1. Subject to article 110, the Court may impose one of the following penalties on a person convicted of a crime referred to in article 5 of this Statute:
  - (a) Imprisonment for a specified number of years, which may not exceed a maximum of 30 years; or
  - (b) A term of life imprisonment when justified by the extreme gravity of the crime and the individual circumstances of the convicted person.
2. In addition to imprisonment, the Court may order:
  - (a) A fine under the criteria provided for in the Rules of Procedure and Evidence;
  - (b) A forfeiture of proceeds, property and assets derived directly or indirectly from that crime, without prejudice to the rights of bona fide third parties.

### Article 78 Determination of the sentence

1. In determining the sentence, the Court shall, in accordance with the Rules of Procedure and Evidence, take into account such factors as the gravity of the crime and the individual circumstances of the convicted person.
2. In imposing a sentence of imprisonment, the Court shall deduct the time, if any, previously spent in detention in accordance with an order of the Court. The Court may deduct any time otherwise spent in detention in connection with conduct underlying the crime.
3. When a person has been convicted of more than one crime, the Court shall pronounce a sentence for each crime and a joint sentence specifying the total period of imprisonment. This period shall be no less than the highest individual sentence pronounced and shall not exceed 30 years imprisonment or a sentence of life imprisonment in conformity with article 77, paragraph 1 (b).

### Article 79 Trust Fund

1. A Trust Fund shall be established by decision of the Assembly of States Parties for the benefit of victims of crimes within the jurisdiction of the Court, and of the families of such victims.
2. The Court may order money and other property collected through fines or forfeiture to be transferred, by order of the Court, to the Trust Fund.
3. The Trust Fund shall be managed according to criteria to be determined by the Assembly of States Parties.

### Article 80 Non-prejudice to national application of penalties and national laws

Nothing in this Part affects the application by States of penalties prescribed by their national law, nor the law of States which do not provide for penalties prescribed in this Part.

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Part 6 / Part 8

(entire Statute (261K))



# International Criminal Court

[as corrected by the procès-verbaux of 10 November 1998 and 12 July 1999]

## PART 8. APPEAL AND REVISION

### Article 81 Appeal against decision of acquittal or conviction or against sentence

1. A decision under article 74 may be appealed in accordance with the Rules of Procedure and Evidence as follows:
  - (a) The Prosecutor may make an appeal on any of the following grounds:
    - (i) Procedural error,
    - (ii) Error of fact, or
    - (iii) Error of law;
  - (b) The convicted person, or the Prosecutor on that person's behalf, may make an appeal on any of the following grounds:
    - (i) Procedural error,
    - (ii) Error of fact,
    - (iii) Error of law, or
    - (iv) Any other ground that affects the fairness or reliability of the proceedings or decision.
2.
  - (a) A sentence may be appealed, in accordance with the Rules of Procedure and Evidence, by the Prosecutor or the convicted person on the ground of disproportion between the crime and the sentence;
  - (b) If on an appeal against sentence the Court considers that there are grounds on which the conviction might be set aside, wholly or in part, it may invite the Prosecutor and the convicted person to submit grounds under article 81, paragraph 1 (a) or (b), and may render a decision on conviction in accordance with article 83;
  - (c) The same procedure applies when the Court, on an appeal against conviction only, considers that there are grounds to reduce the sentence under paragraph 2 (a).
3.
  - (a) Unless the Trial Chamber orders otherwise, a convicted person shall remain in custody pending an appeal;
  - (b) When a convicted person's time in custody exceeds the sentence of imprisonment imposed, that person shall be released, except that if the Prosecutor is also appealing, the release may be subject to the conditions under subparagraph (c) below;
  - (c) In case of an acquittal, the accused shall be released immediately, subject to the following:
    - (i) Under exceptional circumstances, and having regard, *inter alia*, to the concrete risk of flight, the seriousness of the offence charged and the probability of success on appeal, the Trial Chamber, at the request of the Prosecutor, may maintain the detention of the person pending appeal;
    - (ii) A decision by the Trial Chamber under subparagraph (c) (i) may be appealed in accordance with the Rules of Procedure and Evidence.
4. Subject to the provisions of paragraph 3 (a) and (b), execution of the decision or sentence shall be suspended during

the period allowed for appeal and for the duration of the appeal proceedings.

Article 82  
Appeal against other decisions

1. Either party may appeal any of the following decisions in accordance with the Rules of Procedure and Evidence:
  - (a) A decision with respect to jurisdiction or admissibility;
  - (b) A decision granting or denying release of the person being investigated or prosecuted;
  - (c) A decision of the Pre-Trial Chamber to act on its own initiative under article 56, paragraph 3;
  - (d) A decision that involves an issue that would significantly affect the fair and expeditious conduct of the proceedings or the outcome of the trial, and for which, in the opinion of the Pre-Trial or Trial Chamber, an immediate resolution by the Appeals Chamber may materially advance the proceedings.
2. A decision of the Pre-Trial Chamber under article 57, paragraph 3 (d), may be appealed against by the State concerned or by the Prosecutor, with the leave of the Pre-Trial Chamber. The appeal shall be heard on an expedited basis.
3. An appeal shall not of itself have suspensive effect unless the Appeals Chamber so orders, upon request, in accordance with the Rules of Procedure and Evidence.
4. A legal representative of the victims, the convicted person or a bona fide owner of property adversely affected by an order under article 75 may appeal against the order for reparations, as provided in the Rules of Procedure and Evidence.

Article 83  
Proceedings on appeal

1. For the purposes of proceedings under article 81 and this article, the Appeals Chamber shall have all the powers of the Trial Chamber.
2. If the Appeals Chamber finds that the proceedings appealed from were unfair in a way that affected the reliability of the decision or sentence, or that the decision or sentence appealed from was materially affected by error of fact or law or procedural error, it may:
  - (a) Reverse or amend the decision or sentence; or
  - (b) Order a new trial before a different Trial Chamber.

For these purposes, the Appeals Chamber may remand a factual issue to the original Trial Chamber for it to determine the issue and to report back accordingly, or may itself call evidence to determine the issue. When the decision or sentence has been appealed only by the person convicted, or the Prosecutor on that person's behalf, it cannot be amended to his or her detriment.

3. If in an appeal against sentence the Appeals Chamber finds that the sentence is disproportionate to the crime, it may vary the sentence in accordance with Part 7.
4. The judgement of the Appeals Chamber shall be taken by a majority of the judges and shall be delivered in open court. The judgement shall state the reasons on which it is based. When there is no unanimity, the judgement of the Appeals Chamber shall contain the views of the majority and the minority, but a judge may deliver a separate or dissenting opinion on a question of law.
5. The Appeals Chamber may deliver its judgement in the absence of the person acquitted or convicted.

Article 84  
Revision of conviction or sentence

1. The convicted person or, after death, spouses, children, parents or one person alive at the time of the accused's death who has been given express written instructions from the accused to bring such a claim, or the Prosecutor on the person's behalf, may apply to the Appeals Chamber to revise the final judgement of conviction or sentence on the grounds that:

- (a) New evidence has been discovered that:
  - (i) Was not available at the time of trial, and such unavailability was not wholly or partially attributable to the party making application; and
  - (ii) Is sufficiently important that had it been proved at trial it would have been likely to have resulted in a different verdict;
- (b) It has been newly discovered that decisive evidence, taken into account at trial and upon which the conviction depends, was false, forged or falsified;
- (c) One or more of the judges who participated in conviction or confirmation of the charges has committed, in that case, an act of serious misconduct or serious breach of duty of sufficient gravity to justify the removal of that judge or those judges from office under article 46.

2. The Appeals Chamber shall reject the application if it considers it to be unfounded. If it determines that the application is meritorious, it may, as appropriate:

- (a) Reconvene the original Trial Chamber;
- (b) Constitute a new Trial Chamber; or
- (c) Retain jurisdiction over the matter,

with a view to, after hearing the parties in the manner set forth in the Rules of Procedure and Evidence, arriving at a determination on whether the judgement should be revised.

Article 85  
Compensation to an arrested or convicted person

- 1. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.
- 2. When a person has by a final decision been convicted of a criminal offence, and when subsequently his or her conviction has been reversed on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him or her.
- 3. In exceptional circumstances, where the Court finds conclusive facts showing that there has been a grave and manifest miscarriage of justice, it may in its discretion award compensation, according to the criteria provided in the Rules of Procedure and Evidence, to a person who has been released from detention following a final decision of acquittal or a termination of the proceedings for that reason.

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Part 7 / Part 9

(entire Statute (261K))





# International Criminal Court

[as corrected by the procès-verbaux of 10 November 1998 and 12 July 1999]

## PART 9. INTERNATIONAL COOPERATION AND JUDICIAL ASSISTANCE

### Article 86 General obligation to cooperate

States Parties shall, in accordance with the provisions of this Statute, cooperate fully with the Court in its investigation and prosecution of crimes within the jurisdiction of the Court.

### Article 87 Requests for cooperation: general provisions

1. (a) The Court shall have the authority to make requests to States Parties for cooperation. The requests shall be transmitted through the diplomatic channel or any other appropriate channel as may be designated by each State Party upon ratification, acceptance, approval or accession.

Subsequent changes to the designation shall be made by each State Party in accordance with the Rules of Procedure and Evidence.

(b) When appropriate, without prejudice to the provisions of subparagraph (a), requests may also be transmitted through the International Criminal Police Organization or any appropriate regional organization.

2. Requests for cooperation and any documents supporting the request shall either be in or be accompanied by a translation into an official language of the requested State or one of the working languages of the Court, in accordance with the choice made by that State upon ratification, acceptance, approval or accession.

Subsequent changes to this choice shall be made in accordance with the Rules of Procedure and Evidence.

3. The requested State shall keep confidential a request for cooperation and any documents supporting the request, except to the extent that the disclosure is necessary for execution of the request.

4. In relation to any request for assistance presented under this Part, the Court may take such measures, including measures related to the protection of information, as may be necessary to ensure the safety or physical or psychological well-being of any victims, potential witnesses and their families. The Court may request that any information that is made available under this Part shall be provided and handled in a manner that protects the safety and physical or psychological well-being of any victims, potential witnesses and their families.

5. (a) The Court may invite any State not party to this Statute to provide assistance under this Part on the basis of an ad hoc arrangement, an agreement with such State or any other appropriate basis.

(b) Where a State not party to this Statute, which has entered into an ad hoc arrangement or an agreement with the Court, fails to cooperate with requests pursuant to any such arrangement or agreement, the Court may so inform the Assembly of States Parties or, where the Security Council referred the matter to the Court, the Security Council.

6. The Court may ask any intergovernmental organization to provide information or documents. The Court may also ask for other forms of cooperation and assistance which may be agreed upon with such an organization and which are in accordance with its competence or mandate.

7. Where a State Party fails to comply with a request to cooperate by the Court contrary to the provisions of this Statute, thereby preventing the Court from exercising its functions and powers under this Statute, the Court may make a finding to that effect and refer the matter to the Assembly of States Parties or, where the Security Council referred the matter to the Court, to the Security Council.

### Article 88

Availability of procedures under national law

States Parties shall ensure that there are procedures available under their national law for all of the forms of cooperation which are specified under this Part.

Article 89  
Surrender of persons to the Court

1. The Court may transmit a request for the arrest and surrender of a person, together with the material supporting the request outlined in article 91, to any State on the territory of which that person may be found and shall request the cooperation of that State in the arrest and surrender of such a person. States Parties shall, in accordance with the provisions of this Part and the procedure under their national law, comply with requests for arrest and surrender.

2. Where the person sought for surrender brings a challenge before a national court on the basis of the principle of ne bis in idem as provided in article 20, the requested State shall immediately consult with the Court to determine if there has been a relevant ruling on admissibility. If the case is admissible, the requested State shall proceed with the execution of the request. If an admissibility ruling is pending, the requested State may postpone the execution of the request for surrender of the person until the Court makes a determination on admissibility.

3. (a) A State Party shall authorize, in accordance with its national procedural law, transportation through its territory of a person being surrendered to the Court by another State, except where transit through that State would impede or delay the surrender.

(b) A request by the Court for transit shall be transmitted in accordance with article 87. The request for transit shall contain:

- (i) A description of the person being transported;
- (ii) A brief statement of the facts of the case and their legal characterization; and
- (iii) The warrant for arrest and surrender;

(c) A person being transported shall be detained in custody during the period of transit;

(d) No authorization is required if the person is transported by air and no landing is scheduled on the territory of the transit State;

(e) If an unscheduled landing occurs on the territory of the transit State, that State may require a request for transit from the Court as provided for in subparagraph (b). The transit State shall detain the person being transported until the request for transit is received and the transit is effected, provided that detention for purposes of this subparagraph may not be extended beyond 96 hours from the unscheduled landing unless the request is received within that time.

4. If the person sought is being proceeded against or is serving a sentence in the requested State for a crime different from that for which surrender to the Court is sought, the requested State, after making its decision to grant the request, shall consult with the Court.

Article 90  
Competing requests

1. A State Party which receives a request from the Court for the surrender of a person under article 89 shall, if it also receives a request from any other State for the extradition of the same person for the same conduct which forms the basis of the crime for which the Court seeks the person's surrender, notify the Court and the requesting State of that fact.

2. Where the requesting State is a State Party, the requested State shall give priority to the request from the Court if:

(a) The Court has, pursuant to article 18 or 19, made a determination that the case in respect of which surrender is sought is admissible and that determination takes into account the investigation or prosecution conducted by the requesting State in respect of its request for extradition; or

(b) The Court makes the determination described in subparagraph (a) pursuant to the requested State's notification under paragraph 1.

3. Where a determination under paragraph 2 (a) has not been made, the requested State may, at its discretion, pending

the determination of the Court under paragraph 2 (b), proceed to deal with the request for extradition from the requesting State but shall not extradite the person until the Court has determined that the case is inadmissible. The Court's determination shall be made on an expedited basis.

4. If the requesting State is a State not Party to this Statute the requested State, if it is not under an international obligation to extradite the person to the requesting State, shall give priority to the request for surrender from the Court, if the Court has determined that the case is admissible.

5. Where a case under paragraph 4 has not been determined to be admissible by the Court, the requested State may, at its discretion, proceed to deal with the request for extradition from the requesting State.

6. In cases where paragraph 4 applies except that the requested State is under an existing international obligation to extradite the person to the requesting State not Party to this Statute, the requested State shall determine whether to surrender the person to the Court or extradite the person to the requesting State. In making its decision, the requested State shall consider all the relevant factors, including but not limited to:

- (a) The respective dates of the requests;
- (b) The interests of the requesting State including, where relevant, whether the crime was committed in its territory and the nationality of the victims and of the person sought; and
- (c) The possibility of subsequent surrender between the Court and the requesting State.

7. Where a State Party which receives a request from the Court for the surrender of a person also receives a request from any State for the extradition of the same person for conduct other than that which constitutes the crime for which the Court seeks the person's surrender:

- (a) The requested State shall, if it is not under an existing international obligation to extradite the person to the requesting State, give priority to the request from the Court;
- (b) The requested State shall, if it is under an existing international obligation to extradite the person to the requesting State, determine whether to surrender the person to the Court or to extradite the person to the requesting State. In making its decision, the requested State shall consider all the relevant factors, including but not limited to those set out in paragraph 6, but shall give special consideration to the relative nature and gravity of the conduct in question.

8. Where pursuant to a notification under this article, the Court has determined a case to be inadmissible, and subsequently extradition to the requesting State is refused, the requested State shall notify the Court of this decision.

Article 91  
Contents of request for arrest and surrender

1. A request for arrest and surrender shall be made in writing. In urgent cases, a request may be made by any medium capable of delivering a written record, provided that the request shall be confirmed through the channel provided for in article 87, paragraph 1 (a).

2. In the case of a request for the arrest and surrender of a person for whom a warrant of arrest has been issued by the Pre-Trial Chamber under article 58, the request shall contain or be supported by:

- (a) Information describing the person sought, sufficient to identify the person, and information as to that person's probable location;
- (b) A copy of the warrant of arrest; and
- (c) Such documents, statements or information as may be necessary to meet the requirements for the surrender process in the requested State, except that those requirements should not be more burdensome than those applicable to requests for extradition pursuant to treaties or arrangements between the requested State and other States and should, if possible, be less burdensome, taking into account the distinct nature of the Court.

3. In the case of a request for the arrest and surrender of a person already convicted, the request shall contain or be supported by:

- (a) A copy of any warrant of arrest for that person;
  - (b) A copy of the judgement of conviction;
  - (c) Information to demonstrate that the person sought is the one referred to in the judgement of conviction; and
  - (d) If the person sought has been sentenced, a copy of the sentence imposed and, in the case of a sentence for imprisonment, a statement of any time already served and the time remaining to be served.
4. Upon the request of the Court, a State Party shall consult with the Court, either generally or with respect to a specific matter, regarding any requirements under its national law that may apply under paragraph 2 (c). During the consultations, the State Party shall advise the Court of the specific requirements of its national law.

Article 92  
Provisional arrest

1. In urgent cases, the Court may request the provisional arrest of the person sought, pending presentation of the request for surrender and the documents supporting the request as specified in article 91.
2. The request for provisional arrest shall be made by any medium capable of delivering a written record and shall contain:
  - (a) Information describing the person sought, sufficient to identify the person, and information as to that person's probable location;
  - (b) A concise statement of the crimes for which the person's arrest is sought and of the facts which are alleged to constitute those crimes, including, where possible, the date and location of the crime;
  - (c) A statement of the existence of a warrant of arrest or a judgement of conviction against the person sought; and
  - (d) A statement that a request for surrender of the person sought will follow.
3. A person who is provisionally arrested may be released from custody if the requested State has not received the request for surrender and the documents supporting the request as specified in article 91 within the time limits specified in the Rules of Procedure and Evidence. However, the person may consent to surrender before the expiration of this period if permitted by the law of the requested State. In such a case, the requested State shall proceed to surrender the person to the Court as soon as possible.
4. The fact that the person sought has been released from custody pursuant to paragraph 3 shall not prejudice the subsequent arrest and surrender of that person if the request for surrender and the documents supporting the request are delivered at a later date.

Article 93  
Other forms of cooperation

1. States Parties shall, in accordance with the provisions of this Part and under procedures of national law, comply with requests by the Court to provide the following assistance in relation to investigations or prosecutions:
  - (a) The identification and whereabouts of persons or the location of items;
  - (b) The taking of evidence, including testimony under oath, and the production of evidence, including expert opinions and reports necessary to the Court;
  - (c) The questioning of any person being investigated or prosecuted;
  - (d) The service of documents, including judicial documents;
  - (e) Facilitating the voluntary appearance of persons as witnesses or experts before the Court;
  - (f) The temporary transfer of persons as provided in paragraph 7;

- (g) The examination of places or sites, including the exhumation and examination of grave sites;
- (h) The execution of searches and seizures;
- (i) The provision of records and documents, including official records and documents;
- (j) The protection of victims and witnesses and the preservation of evidence;
- (k) The identification, tracing and freezing or seizure of proceeds, property and assets and instrumentalities of crimes for the purpose of eventual forfeiture, without prejudice to the rights of bona fide third parties; and
- (l) Any other type of assistance which is not prohibited by the law of the requested State, with a view to facilitating the investigation and prosecution of crimes within the jurisdiction of the Court.

2. The Court shall have the authority to provide an assurance to a witness or an expert appearing before the Court that he or she will not be prosecuted, detained or subjected to any restriction of personal freedom by the Court in respect of any act or omission that preceded the departure of that person from the requested State.

3. Where execution of a particular measure of assistance detailed in a request presented under paragraph 1, is prohibited in the requested State on the basis of an existing fundamental legal principle of general application, the requested State shall promptly consult with the Court to try to resolve the matter. In the consultations, consideration should be given to whether the assistance can be rendered in another manner or subject to conditions. If after consultations the matter cannot be resolved, the Court shall modify the request as necessary.

4. In accordance with article 72, a State Party may deny a request for assistance, in whole or in part, only if the request concerns the production of any documents or disclosure of evidence which relates to its national security.

5. Before denying a request for assistance under paragraph 1 (l), the requested State shall consider whether the assistance can be provided subject to specified conditions, or whether the assistance can be provided at a later date or in an alternative manner, provided that if the Court or the Prosecutor accepts the assistance subject to conditions, the Court or the Prosecutor shall abide by them.

6. If a request for assistance is denied, the requested State Party shall promptly inform the Court or the Prosecutor of the reasons for such denial.

7. (a) The Court may request the temporary transfer of a person in custody for purposes of identification or for obtaining testimony or other assistance. The person may be transferred if the following conditions are fulfilled:

- (i) The person freely gives his or her informed consent to the transfer; and
- (ii) The requested State agrees to the transfer, subject to such conditions as that State and the Court may agree.

(b) The person being transferred shall remain in custody. When the purposes of the transfer have been fulfilled, the Court shall return the person without delay to the requested State.

8. (a) The Court shall ensure the confidentiality of documents and information, except as required for the investigation and proceedings described in the request.

(b) The requested State may, when necessary, transmit documents or information to the Prosecutor on a confidential basis. The Prosecutor may then use them solely for the purpose of generating new evidence.

(c) The requested State may, on its own motion or at the request of the Prosecutor, subsequently consent to the disclosure of such documents or information. They may then be used as evidence pursuant to the provisions of Parts 5 and 6 and in accordance with the Rules of Procedure and Evidence.

9. (a) (i) In the event that a State Party receives competing requests, other than for surrender or extradition, from the Court and from another State pursuant to an international obligation, the State Party shall endeavour, in consultation with the Court and the other State, to meet both requests, if necessary by postponing or attaching conditions to one or the other request.

(ii) Failing that, competing requests shall be resolved in accordance with the principles established in article

90.

(b) Where, however, the request from the Court concerns information, property or persons which are subject to control of a third State or an international organization by virtue of an international agreement, the requested States shall so inform the Court and the Court shall direct its request to the third State or international organization.

10. (a) The Court may, upon request, cooperate with and provide assistance to a State Party conducting an investigation into or trial in respect of conduct which constitutes a crime within the jurisdiction of the Court or which constitutes a serious crime under the national law of the requesting State.

(b) (i) The assistance provided under subparagraph (a) shall include, inter alia:

a. The transmission of statements, documents or other types of evidence obtained in the course of an investigation or a trial conducted by the Court; and

b. The questioning of any person detained by order of the Court;

(ii) In the case of assistance under subparagraph (b) (i) a:

a. If the documents or other types of evidence have been obtained with the assistance of a State, such transmission shall require the consent of that State;

b. If the statements, documents or other types of evidence have been provided by a witness or expert, such transmission shall be subject to the provisions of article 68.

(c) The Court may, under the conditions set out in this paragraph, grant a request for assistance under this paragraph from a State which is not a Party to this Statute.

Article 94  
Postponement of execution of a request in respect  
of ongoing investigation or prosecution

1. If the immediate execution of a request would interfere with an ongoing investigation or prosecution of a case different from that to which the request relates, the requested State may postpone the execution of the request for a period of time agreed upon with the Court. However, the postponement shall be no longer than is necessary to complete the relevant investigation or prosecution in the requested State. Before making a decision to postpone, the requested State should consider whether the assistance may be immediately provided subject to certain conditions.

2. If a decision to postpone is taken pursuant to paragraph 1, the Prosecutor may, however, seek measures to preserve evidence, pursuant to article 93, paragraph 1 (j).

Article 95  
Postponement of execution of a request in  
respect of an admissibility challenge

Where there is an admissibility challenge under consideration by the Court pursuant to article 18 or 19, the requested State may postpone the execution of a request under this Part pending a determination by the Court, unless the Court has specifically ordered that the Prosecutor may pursue the collection of such evidence pursuant to article 18 or 19.

Article 96  
Contents of request for other forms of  
assistance under article 93

1. A request for other forms of assistance referred to in article 93 shall be made in writing. In urgent cases, a request may be made by any medium capable of delivering a written record, provided that the request shall be confirmed through the channel provided for in article 87, paragraph 1 (a).

2. The request shall, as applicable, contain or be supported by the following:

(a) A concise statement of the purpose of the request and the assistance sought, including the legal basis and the grounds for the request;

- (b) As much detailed information as possible about the location or identification of any person or place that must be found or identified in order for the assistance sought to be provided;
- (c) A concise statement of the essential facts underlying the request;
- (d) The reasons for and details of any procedure or requirement to be followed;
- (e) Such information as may be required under the law of the requested State in order to execute the request; and
- (f) Any other information relevant in order for the assistance sought to be provided.

3. Upon the request of the Court, a State Party shall consult with the Court, either generally or with respect to a specific matter, regarding any requirements under its national law that may apply under paragraph 2 (e). During the consultations, the State Party shall advise the Court of the specific requirements of its national law.

4. The provisions of this article shall, where applicable, also apply in respect of a request for assistance made to the Court.

#### Article 97 Consultations

Where a State Party receives a request under this Part in relation to which it identifies problems which may impede or prevent the execution of the request, that State shall consult with the Court without delay in order to resolve the matter. Such problems may include, inter alia:

- (a) Insufficient information to execute the request;
- (b) In the case of a request for surrender, the fact that despite best efforts, the person sought cannot be located or that the investigation conducted has determined that the person in the requested State is clearly not the person named in the warrant; or
- (c) The fact that execution of the request in its current form would require the requested State to breach a pre-existing treaty obligation undertaken with respect to another State.

#### Article 98 Cooperation with respect to waiver of immunity and consent to surrender

1. The Court may not proceed with a request for surrender or assistance which would require the requested State to act inconsistently with its obligations under international law with respect to the State or diplomatic immunity of a person or property of a third State, unless the Court can first obtain the cooperation of that third State for the waiver of the immunity.
2. The Court may not proceed with a request for surrender which would require the requested State to act inconsistently with its obligations under international agreements pursuant to which the consent of a sending State is required to surrender a person of that State to the Court, unless the Court can first obtain the cooperation of the sending State for the giving of consent for the surrender.

#### Article 99 Execution of requests under articles 93 and 96

1. Requests for assistance shall be executed in accordance with the relevant procedure under the law of the requested State and, unless prohibited by such law, in the manner specified in the request, including following any procedure outlined therein or permitting persons specified in the request to be present at and assist in the execution process.
2. In the case of an urgent request, the documents or evidence produced in response shall, at the request of the Court, be sent urgently.
3. Replies from the requested State shall be transmitted in their original language and form.

4. Without prejudice to other articles in this Part, where it is necessary for the successful execution of a request which can be executed without any compulsory measures, including specifically the interview of or taking evidence from a person on a voluntary basis, including doing so without the presence of the authorities of the requested State Party if it is essential for the request to be executed, and the examination without modification of a public site or other public place, the Prosecutor may execute such request directly on the territory of a State as follows:

(a) When the State Party requested is a State on the territory of which the crime is alleged to have been committed, and there has been a determination of admissibility pursuant to article 18 or 19, the Prosecutor may directly execute such request following all possible consultations with the requested State Party;

(b) In other cases, the Prosecutor may execute such request following consultations with the requested State Party and subject to any reasonable conditions or concerns raised by that State Party. Where the requested State Party identifies problems with the execution of a request pursuant to this subparagraph it shall, without delay, consult with the Court to resolve the matter.

5. Provisions allowing a person heard or examined by the Court under article 72 to invoke restrictions designed to prevent disclosure of confidential information connected with national security shall also apply to the execution of requests for assistance under this article.

#### Article 100 Costs

1. The ordinary costs for execution of requests in the territory of the requested State shall be borne by that State, except for the following, which shall be borne by the Court:

(a) Costs associated with the travel and security of witnesses and experts or the transfer under article 93 of persons in custody;

(b) Costs of translation, interpretation and transcription;

(c) Travel and subsistence costs of the judges, the Prosecutor, the Deputy Prosecutors, the Registrar, the Deputy Registrar and staff of any organ of the Court;

(d) Costs of any expert opinion or report requested by the Court;

(e) Costs associated with the transport of a person being surrendered to the Court by a custodial State; and

(f) Following consultations, any extraordinary costs that may result from the execution of a request.

2. The provisions of paragraph 1 shall, as appropriate, apply to requests from States Parties to the Court. In that case, the Court shall bear the ordinary costs of execution.

#### Article 101 Rule of speciality

1. A person surrendered to the Court under this Statute shall not be proceeded against, punished or detained for any conduct committed prior to surrender, other than the conduct or course of conduct which forms the basis of the crimes for which that person has been surrendered.

2. The Court may request a waiver of the requirements of paragraph 1 from the State which surrendered the person to the Court and, if necessary, the Court shall provide additional information in accordance with article 91. States Parties shall have the authority to provide a waiver to the Court and should endeavour to do so.

#### Article 102 Use of terms

For the purposes of this Statute:

(a) "surrender" means the delivering up of a person by a State to the Court, pursuant to this Statute.



(b) "extradition" means the delivering up of a person by one State to another as provided by treaty, convention or national legislation.

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Part 8 / Part 10

(entire Statute (261K))



# International Criminal Court

[as corrected by the procès-verbaux of 10 November 1998 and 12 July 1999]

## PART 10. ENFORCEMENT

### Article 103 Role of States in enforcement of sentences of imprisonment

1. (a) A sentence of imprisonment shall be served in a State designated by the Court from a list of States which have indicated to the Court their willingness to accept sentenced persons.  
  
(b) At the time of declaring its willingness to accept sentenced persons, a State may attach conditions to its acceptance as agreed by the Court and in accordance with this Part.  
  
(c) A State designated in a particular case shall promptly inform the Court whether it accepts the Court's designation.
2. (a) The State of enforcement shall notify the Court of any circumstances, including the exercise of any conditions agreed under paragraph 1, which could materially affect the terms or extent of the imprisonment. The Court shall be given at least 45 days' notice of any such known or foreseeable circumstances. During this period, the State of enforcement shall take no action that might prejudice its obligations under article 110.  
  
(b) Where the Court cannot agree to the circumstances referred to in subparagraph (a), it shall notify the State of enforcement and proceed in accordance with article 104, paragraph 1.
3. In exercising its discretion to make a designation under paragraph 1, the Court shall take into account the following:
  - (a) The principle that States Parties should share the responsibility for enforcing sentences of imprisonment, in accordance with principles of equitable distribution, as provided in the Rules of Procedure and Evidence;
  - (b) The application of widely accepted international treaty standards governing the treatment of prisoners;
  - (c) The views of the sentenced person;
  - (d) The nationality of the sentenced person;
  - (e) Such other factors regarding the circumstances of the crime or the person sentenced, or the effective enforcement of the sentence, as may be appropriate in designating the State of enforcement.
4. If no State is designated under paragraph 1, the sentence of imprisonment shall be served in a prison facility made available by the host State, in accordance with the conditions set out in the headquarters agreement referred to in article 3, paragraph 2. In such a case, the costs arising out of the enforcement of a sentence of imprisonment shall be borne by the Court.

### Article 104 Change in designation of State of enforcement

1. The Court may, at any time, decide to transfer a sentenced person to a prison of another State.
2. A sentenced person may, at any time, apply to the Court to be transferred from the State of enforcement.

### Article 105 Enforcement of the sentence

1. Subject to conditions which a State may have specified in accordance with article 103, paragraph 1 (b), the sentence of imprisonment shall be binding on the States Parties, which shall in no case modify it.
2. The Court alone shall have the right to decide any application for appeal and revision. The State of enforcement shall not impede the making of any such application by a sentenced person.

Article 106  
Supervision of enforcement of sentences and  
conditions of imprisonment

1. The enforcement of a sentence of imprisonment shall be subject to the supervision of the Court and shall be consistent with widely accepted international treaty standards governing treatment of prisoners.
2. The conditions of imprisonment shall be governed by the law of the State of enforcement and shall be consistent with widely accepted international treaty standards governing treatment of prisoners; in no case shall such conditions be more or less favourable than those available to prisoners convicted of similar offences in the State of enforcement.
3. Communications between a sentenced person and the Court shall be unimpeded and confidential.

Article 107  
Transfer of the person upon completion of sentence

1. Following completion of the sentence, a person who is not a national of the State of enforcement may, in accordance with the law of the State of enforcement, be transferred to a State which is obliged to receive him or her, or to another State which agrees to receive him or her, taking into account any wishes of the person to be transferred to that State, unless the State of enforcement authorizes the person to remain in its territory.
2. If no State bears the costs arising out of transferring the person to another State pursuant to paragraph 1, such costs shall be borne by the Court.
3. Subject to the provisions of article 108, the State of enforcement may also, in accordance with its national law, extradite or otherwise surrender the person to a State which has requested the extradition or surrender of the person for purposes of trial or enforcement of a sentence.

Article 108  
Limitation on the prosecution or punishment of other offences

1. A sentenced person in the custody of the State of enforcement shall not be subject to prosecution or punishment or to extradition to a third State for any conduct engaged in prior to that person's delivery to the State of enforcement, unless such prosecution, punishment or extradition has been approved by the Court at the request of the State of enforcement.
2. The Court shall decide the matter after having heard the views of the sentenced person.
3. Paragraph 1 shall cease to apply if the sentenced person remains voluntarily for more than 30 days in the territory of the State of enforcement after having served the full sentence imposed by the Court, or returns to the territory of that State after having left it.

Article 109  
Enforcement of fines and forfeiture measures

1. States Parties shall give effect to fines or forfeitures ordered by the Court under Part 7, without prejudice to the rights of bona fide third parties, and in accordance with the procedure of their national law.
2. If a State Party is unable to give effect to an order for forfeiture, it shall take measures to recover the value of the proceeds, property or assets ordered by the Court to be forfeited, without prejudice to the rights of bona fide third parties.
3. Property, or the proceeds of the sale of real property or, where appropriate, the sale of other property, which is obtained by a State Party as a result of its enforcement of a judgement of the Court shall be transferred to the Court.

Article 110  
Review by the Court concerning reduction of sentence

1. The State of enforcement shall not release the person before expiry of the sentence pronounced by the Court.
2. The Court alone shall have the right to decide any reduction of sentence, and shall rule on the matter after having heard the person.
3. When the person has served two thirds of the sentence, or 25 years in the case of life imprisonment, the Court shall review the sentence to determine whether it should be reduced. Such a review shall not be conducted before that time.
4. In its review under paragraph 3, the Court may reduce the sentence if it finds that one or more of the following factors are present:
  - (a) The early and continuing willingness of the person to cooperate with the Court in its investigations and prosecutions;
  - (b) The voluntary assistance of the person in enabling the enforcement of the judgements and orders of the Court in other cases, and in particular providing assistance in locating assets subject to orders of fine, forfeiture or reparation which may be used for the benefit of victims; or
  - (c) Other factors establishing a clear and significant change of circumstances sufficient to justify the reduction of sentence, as provided in the Rules of Procedure and Evidence.
5. If the Court determines in its initial review under paragraph 3 that it is not appropriate to reduce the sentence, it shall thereafter review the question of reduction of sentence at such intervals and applying such criteria as provided for in the Rules of Procedure and Evidence.

Article 111  
Escape

If a convicted person escapes from custody and flees the State of enforcement, that State may, after consultation with the Court, request the person's surrender from the State in which the person is located pursuant to existing bilateral or multilateral arrangements, or may request that the Court seek the person's surrender, in accordance with Part 9. It may direct that the person be delivered to the State in which he or she was serving the sentence or to another State designated by the Court.

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Part 9 / Part 11

(entire Statute (261K))



# International Criminal Court

[as corrected by the procès-verbaux of 10 November 1998 and 12 July 1999]

## PART II. ASSEMBLY OF STATES PARTIES

### Article 112 Assembly of States Parties

1. An Assembly of States Parties to this Statute is hereby established. Each State Party shall have one representative in the Assembly who may be accompanied by alternates and advisers. Other States which have signed this Statute or the Final Act may be observers in the Assembly.
2. The Assembly shall:
  - (a) Consider and adopt, as appropriate, recommendations of the Preparatory Commission;
  - (b) Provide management oversight to the Presidency, the Prosecutor and the Registrar regarding the administration of the Court;
  - (c) Consider the reports and activities of the Bureau established under paragraph 3 and take appropriate action in regard thereto;
  - (d) Consider and decide the budget for the Court;
  - (e) Decide whether to alter, in accordance with article 36, the number of judges;
  - (f) Consider pursuant to article 87, paragraphs 5 and 7, any question relating to non-cooperation;
  - (g) Perform any other function consistent with this Statute or the Rules of Procedure and Evidence.
3.
  - (a) The Assembly shall have a Bureau consisting of a President, two Vice-Presidents and 18 members elected by the Assembly for three-year terms.
  - (b) The Bureau shall have a representative character, taking into account, in particular, equitable geographical distribution and the adequate representation of the principal legal systems of the world.
  - (c) The Bureau shall meet as often as necessary, but at least once a year. It shall assist the Assembly in the discharge of its responsibilities.
4. The Assembly may establish such subsidiary bodies as may be necessary, including an independent oversight mechanism for inspection, evaluation and investigation of the Court, in order to enhance its efficiency and economy.
5. The President of the Court, the Prosecutor and the Registrar or their representatives may participate, as appropriate, in meetings of the Assembly and of the Bureau.
6. The Assembly shall meet at the seat of the Court or at the Headquarters of the United Nations once a year and, when circumstances so require, hold special sessions. Except as otherwise specified in this Statute, special sessions shall be convened by the Bureau on its own initiative or at the request of one third of the States Parties.
7. Each State Party shall have one vote. Every effort shall be made to reach decisions by consensus in the Assembly and in the Bureau. If consensus cannot be reached, except as otherwise provided in the Statute:
  - (a) Decisions on matters of substance must be approved by a two-thirds majority of those present and voting provided that an absolute majority of States Parties constitutes the quorum for voting;

(b) Decisions on matters of procedure shall be taken by a simple majority of States Parties present and voting.

8. A State Party which is in arrears in the payment of its financial contributions towards the costs of the Court shall have no vote in the Assembly and in the Bureau if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. The Assembly may, nevertheless, permit such a State Party to vote in the Assembly and in the Bureau if it is satisfied that the failure to pay is due to conditions beyond the control of the State Party.

9. The Assembly shall adopt its own rules of procedure.

10. The official and working languages of the Assembly shall be those of the General Assembly of the United Nations.

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Part 10 / Part 12

(entire Statute (261K))



# International Criminal Court

[as corrected by the procès-verbaux of 10 November 1998 and 12 July 1999]

## PART 12. FINANCING

### Article 113 Financial Regulations

Except as otherwise specifically provided, all financial matters related to the Court and the meetings of the Assembly of States Parties, including its Bureau and subsidiary bodies, shall be governed by this Statute and the Financial Regulations and Rules adopted by the Assembly of States Parties.

### Article 114 Payment of expenses

Expenses of the Court and the Assembly of States Parties, including its Bureau and subsidiary bodies, shall be paid from the funds of the Court.

### Article 115 Funds of the Court and of the Assembly of States Parties

The expenses of the Court and the Assembly of States Parties, including its Bureau and subsidiary bodies, as provided for in the budget decided by the Assembly of States Parties, shall be provided by the following sources:

- (a) Assessed contributions made by States Parties;
- (b) Funds provided by the United Nations, subject to the approval of the General Assembly, in particular in relation to the expenses incurred due to referrals by the Security Council.

### Article 116 Voluntary contributions

Without prejudice to article 115, the Court may receive and utilize, as additional funds, voluntary contributions from Governments, international organizations, individuals, corporations and other entities, in accordance with relevant criteria adopted by the Assembly of States Parties.

### Article 117 Assessment of contributions

The contributions of States Parties shall be assessed in accordance with an agreed scale of assessment, based on the scale adopted by the United Nations for its regular budget and adjusted in accordance with the principles on which that scale is based.

### Article 118 Annual audit

The records, books and accounts of the Court, including its annual financial statements, shall be audited annually by an independent auditor.

Part 11 / Part 13

(entire Statute (261K))



# International Criminal Court

[as corrected by the procès-verbaux of 10 November 1998 and 12 July 1999]

## PART 13. FINAL CLAUSES

### Article 119 Settlement of disputes

1. Any dispute concerning the judicial functions of the Court shall be settled by the decision of the Court.
2. Any other dispute between two or more States Parties relating to the interpretation or application of this Statute which is not settled through negotiations within three months of their commencement shall be referred to the Assembly of States Parties. The Assembly may itself seek to settle the dispute or may make recommendations on further means of settlement of the dispute, including referral to the International Court of Justice in conformity with the Statute of that Court.

### Article 120 Reservations

No reservations may be made to this Statute.

### Article 121 Amendments

1. After the expiry of seven years from the entry into force of this Statute, any State Party may propose amendments thereto. The text of any proposed amendment shall be submitted to the Secretary-General of the United Nations, who shall promptly circulate it to all States Parties.
2. No sooner than three months from the date of notification, the Assembly of States Parties, at its next meeting, shall, by a majority of those present and voting, decide whether to take up the proposal. The Assembly may deal with the proposal directly or convene a Review Conference if the issue involved so warrants.
3. The adoption of an amendment at a meeting of the Assembly of States Parties or at a Review Conference on which consensus cannot be reached shall require a two-thirds majority of States Parties.
4. Except as provided in paragraph 5, an amendment shall enter into force for all States Parties one year after instruments of ratification or acceptance have been deposited with the Secretary-General of the United Nations by seven-eighths of them.
5. Any amendment to articles 5, 6, 7 and 8 of this Statute shall enter into force for those States Parties which have accepted the amendment one year after the deposit of their instruments of ratification or acceptance. In respect of a State Party which has not accepted the amendment, the Court shall not exercise its jurisdiction regarding a crime covered by the amendment when committed by that State Party's nationals or on its territory.
6. If an amendment has been accepted by seven-eighths of States Parties in accordance with paragraph 4, any State Party which has not accepted the amendment may withdraw from this Statute with immediate effect, notwithstanding article 127, paragraph 1, but subject to article 127, paragraph 2, by giving notice no later than one year after the entry into force of such amendment.
7. The Secretary-General of the United Nations shall circulate to all States Parties any amendment adopted at a meeting of the Assembly of States Parties or at a Review Conference.

### Article 122 Amendments to provisions of an institutional nature

1. Amendments to provisions of this Statute which are of an exclusively institutional nature, namely, article 35, article



36, paragraphs 8 and 9, article 37, article 38, article 39, paragraphs 1 (first two sentences), 2 and 4, article 42, paragraphs 4 to 9, article 43, paragraphs 2 and 3, and articles 44, 46, 47 and 49, may be proposed at any time, notwithstanding article 121, paragraph 1, by any State Party. The text of any proposed amendment shall be submitted to the Secretary-General of the United Nations or such other person designated by the Assembly of States Parties who shall promptly circulate it to all States Parties and to others participating in the Assembly.

2. Amendments under this article on which consensus cannot be reached shall be adopted by the Assembly of States Parties or by a Review Conference, by a two-thirds majority of States Parties. Such amendments shall enter into force for all States Parties six months after their adoption by the Assembly or, as the case may be, by the Conference.

#### Article 123 Review of the Statute

1. Seven years after the entry into force of this Statute the Secretary-General of the United Nations shall convene a Review Conference to consider any amendments to this Statute. Such review may include, but is not limited to, the list of crimes contained in article 5. The Conference shall be open to those participating in the Assembly of States Parties and on the same conditions.

2. At any time thereafter, at the request of a State Party and for the purposes set out in paragraph 1, the Secretary-General of the United Nations shall, upon approval by a majority of States Parties, convene a Review Conference.

3. The provisions of article 121, paragraphs 3 to 7, shall apply to the adoption and entry into force of any amendment to the Statute considered at a Review Conference.

#### Article 124 Transitional Provision

Notwithstanding article 12, paragraphs 1 and 2, a State, on becoming a party to this Statute, may declare that, for a period of seven years after the entry into force of this Statute for the State concerned, it does not accept the jurisdiction of the Court with respect to the category of crimes referred to in article 8 when a crime is alleged to have been committed by its nationals or on its territory. A declaration under this article may be withdrawn at any time. The provisions of this article shall be reviewed at the Review Conference convened in accordance with article 123, paragraph 1.

#### Article 125 Signature, ratification, acceptance, approval or accession

1. This Statute shall be open for signature by all States in Rome, at the headquarters of the Food and Agriculture Organization of the United Nations, on 17 July 1998. Thereafter, it shall remain open for signature in Rome at the Ministry of Foreign Affairs of Italy until 17 October 1998. After that date, the Statute shall remain open for signature in New York, at United Nations Headquarters, until 31 December 2000.

2. This Statute is subject to ratification, acceptance or approval by signatory States. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations.

3. This Statute shall be open to accession by all States. Instruments of accession shall be deposited with the Secretary-General of the United Nations.

#### Article 126 Entry into force

1. This Statute shall enter into force on the first day of the month after the 60th day following the date of the deposit of the 60th instrument of ratification, acceptance, approval or accession with the Secretary-General of the United Nations.

2. For each State ratifying, accepting, approving or acceding to this Statute after the deposit of the 60th instrument of ratification, acceptance, approval or accession, the Statute shall enter into force on the first day of the month after the 60th day following the deposit by such State of its instrument of ratification, acceptance, approval or accession.

#### Article 127 Withdrawal

1. A State Party may, by written notification addressed to the Secretary-General of the United Nations, withdraw from this Statute. The withdrawal shall take effect one year after the date of receipt of the notification, unless the notification specifies a later date.

2. A State shall not be discharged, by reason of its withdrawal, from the obligations arising from this Statute while it was a Party to the Statute, including any financial obligations which may have accrued. Its withdrawal shall not affect any cooperation with the Court in connection with criminal investigations and proceedings in relation to which the withdrawing State had a duty to cooperate and which were commenced prior to the date on which the withdrawal became effective, nor shall it prejudice in any way the continued consideration of any matter which was already under consideration by the Court prior to the date on which the withdrawal became effective.

Article 128  
Authentic texts

The original of this Statute, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Statute.

DONE at Rome, this 17th day of July 1998.

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Part 12

(entire Statute (261K))



**International Red Cross and Red Crescent Movement  
Documents**

*The 1977 Additional Protocols  
to the Geneva Conventions*

# ***The 1977 Additional Protocols to the Geneva Conventions***

**Article 77 (2), Additional Protocol I of 8 June 1977 relating to the Protection of Victims of International Armed Conflicts.**

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

**Article 4 (3) (c), Additional Protocol II of 8 June 1977 relating to the Protection of Victims of Non-International Armed Conflicts.**

"Children who have not attained the age of fifteen years shall neither be recruited in the armed forces or groups nor allowed to take part in hostilities."

*Resolution 2 of the 26<sup>th</sup> International Conference of  
the Red Cross and Red Crescent on the Protection of  
the Civilian Population in Period of Armed Conflict  
(1995)*

**Twenty-sixth International Conference  
of the Red Cross and Red Crescent**

**Geneva, 1995**

**RESOLUTIONS**

Offprint from the *International Review of the Red Cross*  
**January-February 1996**  
(No. 310)





1. *strongly condemns* the violations of international humanitarian law taking place in various parts of the world;
2. *solemnly reaffirms* that every State must respect in all circumstances the relevant principles and norms of humanitarian law and that States party to the 1949 Geneva Conventions and States party to the 1977 Additional Protocols must ensure respect for the Conventions and Protocols;
3. *endorses* the Final Declaration of the International Conference for the Protection of War Victims,<sup>1</sup> adopted on 1 September 1993, which confirms the need to reinforce implementation of and respect for international humanitarian law and which is attached to the present resolution;
4. *also endorses* the Recommendations drawn up by the Intergovernmental Group of Experts (Recommendations),<sup>2</sup> which aim at translating the Final Declaration of the Conference into concrete and effective measures and which are attached to the present Resolution;
5. *strongly urges* States to implement the Recommendations addressed to them, especially by adopting appropriate measures at the national and international level and supporting international organizations working in this field, and *invites* them to consider further steps towards the effective protection of war victims;
6. *encourages* States and National Red Cross and Red Crescent Societies (National Societies) to organize meetings, workshops and other activities on a regional basis to enhance the understanding and implementation of international humanitarian law;
7. *recommends* that the outcome of meetings convened by the Depositary of the 1949 Geneva Conventions, including those mentioned in Recommendation VII of the Intergovernmental Group of Experts, be transmitted to the next International Conference of the Red Cross and Red Crescent as well as to States party to those Conventions;
8. *urges* the International Committee of the Red Cross (ICRC), the International Federation of Red Cross and Red Crescent Societies (International Federation) and the National Societies to carry out the tasks entrusted to them by the Recommendations and *calls upon* States to give them adequate support in this regard;

<sup>1</sup> See Annex I, pp. 26-29.

<sup>2</sup> See Annex II, pp. 30-35.

9. *invites* States to respond generously to the annual Appeal made jointly by the ICRC and the International Federation in pursuance of Recommendation VIII of the Intergovernmental Group of Experts for the financing of concrete dissemination projects proposed by National Societies, to support financially the dissemination component of regular relief and development programmes of the ICRC and of the International Federation, and to support domestic dissemination programmes of the National Societies of their respective countries;
10. *invites* the ICRC, in cooperation with the International Federation, to report to the 27th International Conference on the implementation of the present resolution.

## RESOLUTION 2

### Protection of the civilian population in period of armed conflict

The 26th International Conference of the Red Cross and Red Crescent, *deeply alarmed*

- by the spread of violence and the massive and continuing violations of international humanitarian law throughout the world,
- by the immense suffering this causes among the civilian population in cases of armed conflict or foreign occupation of a territory, and in particular by the spread of acts of genocide, the practice of "ethnic cleansing", widespread murder, forced displacement of persons and the use of force to prevent their return home, hostage-taking, torture, rape and arbitrary detention, all of which violate international humanitarian law,
- by the serious violations of international humanitarian law constituted by acts aimed at the expulsion of the civilian population from certain areas or even the extermination of the civilian population, or by compelling civilians to collaborate in such practices,
- by the serious violations of international humanitarian law in internal as well as international armed conflicts constituted by acts or threats of violence the primary purpose of which is to spread terror among the civilian population and by acts of violence or of terror making civilians the object of attack,
- by the difficulties encountered by humanitarian institutions in performing their tasks in armed conflicts, in particular when State structures have disintegrated,

- by the growing disparity between the humanitarian pledges made by certain parties to armed conflicts and the profoundly inhumane practices of those same parties,
- by the rapid expansion of the arms trade and the uncontrolled proliferation of weapons, especially those which may have indiscriminate effects or cause unnecessary suffering,

*stressing* the importance of full compliance with and implementation of international humanitarian law, and *recalling* that international humanitarian law and international instruments relating to human rights offer basic protection to the human person,

*recalling* the obligation of States to repress violations of international humanitarian law and *urging* them to increase international efforts

- to bring before courts and punish war criminals and those responsible for serious violations of international humanitarian law,
- to establish permanently an international criminal court,

*reaffirming* that any party to an armed conflict which violates international humanitarian law shall, if the case demands, be liable to pay compensation,

*aware* that the urgency of alleviating the suffering of the civilian population in times of armed conflict should not distract attention from the pressing obligation to fight the root causes of conflicts and the need to find solutions to conflicts,

*alarmed* by the deliberate and systematic destruction of movable and immovable property of importance to the cultural or spiritual heritage of peoples, such as places of worship and monuments of architecture, art or history, whether religious or secular,

*particularly concerned* by the plight of women, children, dispersed families, the disabled and elderly, and civilian populations stricken by famine, deprived of access to water and subjected to the scourge of anti-personnel landmines as well as other weapons used indiscriminately.

#### A. With regard to the whole of the civilian population:

- (a) *reaffirms* the obligation of all States to respect in all circumstances the relevant principles and norms of international humanitarian law, and of States

- (b) *strongly condemns* the systematic and massive killing of civilians in armed conflicts;
- (c) *urges* States and all parties to armed conflicts to comply in all circumstances and to ensure compliance by their armed forces with the relevant principles and norms of international humanitarian law and, with the support of the International Red Cross and Red Crescent Movement (Movement), to take the necessary measures to disseminate them;
- (d) *stresses* that international humanitarian law provides for the protection of the civilian population in case of foreign occupation and against attacks, the effects of hostilities and dangers arising from military operations;
- (e) *welcomes* the efforts being undertaken to develop the rules of international humanitarian law applicable to multilateral peacekeeping operations and enforcement actions;
- (f) *stresses* also the utmost importance, in all circumstances, of humanitarian standards and the necessity to respect applicable human rights norms;
- (g) *condemns* sexual violence directed against any person and *stresses* that rape and forced prostitution in the course of an armed conflict or instigated by any party to a conflict constitute war crimes;
- (h) *strongly reasserts* the right of a civilian population in need to benefit from impartial humanitarian relief actions in accordance with international humanitarian law;
- (i) *emphasizes* the importance for humanitarian organizations to have unimpeded access in times of armed conflict to civilian populations in need, in accordance with the applicable rules of international humanitarian law;
- (j) *invites* States party to Additional Protocol I to implement and disseminate the rules of the Protocol regarding civil defence and *recommends* that the International Committee of the Red Cross (ICRC), in collaboration with the International Civil Defence Organization, encourage international cooperation in this field and the inclusion of this question in international meetings on international humanitarian law;
- (k) *urges* the ICRC, the National Red Cross and Red Crescent Societies (National Societies) and the International Federation of Red Cross and Red Crescent Societies (International Federation), in accordance with the requirements of their mandates, to intensify their efforts to disseminate these rules, and to

*B. With regard to women:*

- (a) *expresses* its outrage at practices of sexual violence in armed conflicts, in particular the use of rape as an instrument of terror, forced prostitution and any other form of indecent assault;
- (b) *recognizes* the fundamental link between assistance to and protection of women victims of conflict, and *urges* that strong measures be taken to provide women with the protection and assistance to which they are entitled under national and international law;
- (c) *strongly condemns* sexual violence, in particular rape, in the conduct of armed conflict as a war crime, and under certain circumstances a crime against humanity, and *urges* the establishment and strengthening of mechanisms to investigate, bring to justice and punish all those responsible;
- (d) *underlines* the importance of providing appropriate training to prosecutors, judges and other officials in handling such cases, in order to preserve the dignity and interests of the victims;
- (e) *encourages* States, the Movement and other competent entities and organizations to develop preventive measures, assess existing programmes and set up new programmes to ensure that women victims of conflict receive medical, psychological and social assistance, provided if possible by qualified personnel who are aware of the specific issues involved;

*C. With regard to children:*

- (a) *urgently draws attention to* the obligation to take all requisite measures to provide children with the protection and assistance to which they are entitled under national and international law;
- (b) *strongly condemns* deliberate killing and sexual exploitation of, and abuse of and violence against children, and *calls for* particularly stringent measures to prevent and punish such behaviour;
- (c) *also strongly condemns* recruitment and conscription of children under the age of 15 years in the armed forces or armed groups, which constitute a violation of international humanitarian law, and *demand*s that those responsible for such acts be brought to justice and punished;
- (d) *recommends that* parties to conflict refrain from arming children under the age of 18 years and take every feasible step to ensure that children under the age of 18 years do not take part in hostilities;

- (e) *supports* the work being done by the United Nations Commission on Human Rights on the involvement of children in armed conflicts with a view to adopting an optional Protocol to the 1989 Convention on the Rights of the Child, the purpose of which is to increase the protection of children involved in armed conflicts;
- (f) *takes note of* the efforts of the Movement to promote a principle of non-recruitment and non-participation in armed conflicts of children under the age of 18 years, and *supports* its practical action to protect and assist all children who are victims of conflict;
- (g) *encourages* States, the Movement and other competent entities and organizations to develop preventive measures, assess existing programmes and set up new programmes to ensure that child victims of conflict receive medical, psychological and social assistance, provided if possible by qualified personnel who are aware of the specific issues involved;

*D. With regard to the reunification of families:*

- (a) *demand*s that all parties to armed conflict avoid any action aimed at, or having the effect of, causing the separation of families in a manner contrary to international humanitarian law;
- (b) *appeals* to States to do their utmost to solve the serious humanitarian issue of dispersed families without delay;
- (c) *emphasizes* that family reunification must begin with the tracing of separated family members at the request of one of them and end with their coming together as a family;
- (d) *stresses* the particular vulnerability of children separated from their families as a result of armed conflict, and *invites* the ICRC, the National Societies and the International Federation, within the scope of their respective mandates, to intensify their efforts to locate unaccompanied children, to identify them, to re-establish contact and reunite them with their families, and to give them the necessary assistance and support;
- (e) *notes* that the form of a family may vary from one culture to the other, *recognizes* the aspiration of separated families to be reunited and *appeals* to States to apply criteria for family reunification in such a way that they take into account the situation of those family members who are most vulnerable;
- (f) *requests* that the legal status of family members in a host country be determined swiftly and in a humanitarian spirit, with a view to ensuring the facilitation of family reunification;

## INTERNATIONAL REVIEW OF THE RED CROSS

- (g) *calls upon* States to facilitate the tracing activities of their respective National Red Cross or Red Crescent Societies by granting them access to the relevant data;
- (h) *encourages* National Societies to maximize their efficiency in carrying out tracing work and family reunifications by strengthening their tracing and social welfare activities and maintaining close cooperation with the ICRC, government authorities and other competent organizations, such as the United Nations High Commissioner for Refugees (UNHCR), the International Organization for Migration (IOM) and non-governmental organizations (NGOs) involved in such work;
- (i) *calls upon* States to support National Societies in carrying out such tracing work and family reunifications;
- (j) *commends* the role of the ICRC's Central Tracing Agency (CTA) in tracing and reuniting family members, and *encourages* the CTA to continue to coordinate, whenever necessary, National Society activities in tracing and reuniting families and to train National Society staff in the principles and techniques of tracing;
- (k) *stresses* the need and the right of families to obtain information on missing persons, including missing prisoners of war and those missing in action, and *strongly urges* States and parties to armed conflict to provide families with information on the fate of their missing relatives;
- (l) *urges* States and parties to armed conflict to cooperate with the ICRC in tracing missing persons and providing necessary documentation;
- (m) *notes* the increasing importance of the psychological and social aspects of the needs of victims of armed conflict, and *encourages* the International Federation to advise and train National Societies in this field;

### *E. With regard to the civilian population affected by famine:*

- (a) *strongly condemns* attempts to starve civilian populations in armed conflicts;
- (b) *stresses* the following provisions of international humanitarian law:
- the prohibition on using starvation of civilians as a method of warfare and on attacking, destroying, removing or rendering useless, for that purpose, objects indispensable to the survival of the civilian population,
  - the prohibition on attacking, destroying, removing or rendering useless any objects indispensable to the survival of the civilian population.

## RESOLUTIONS OF THE 26TH INTERNATIONAL CONFERENCE

- the general prohibition on forced displacement of the civilian population, which often causes widespread famine,
  - the obligation to accept, under the conditions prescribed by international humanitarian law, impartial humanitarian relief operations for the civilian population when it lacks supplies essential to its survival;
- (c) *urges* parties to conflict to maintain conditions in which the civilian population is able to provide for its own needs, in particular by refraining from any measure intended to cut it off from its sources of supply or access to its crops or arable land or generally depriving it of objects indispensable to its survival;

### *F. With regard to the civilian population deprived of water:*

- (a) *stresses* that water is a vital resource for victims of armed conflict and the civilian population and is indispensable to their survival;
- (b) *calls upon* parties to conflict to take all feasible precautions to avoid, in their military operations, all acts liable to destroy or damage water sources and systems of water supply, purification and distribution solely or primarily used by civilians;
- (c) *requests* parties to conflict not to hinder access by the civilian population to water, and to facilitate access for the repair of water supply systems damaged by hostilities, also by ensuring the protection of personnel engaged in that task;
- (d) *requests* every State to encourage all efforts to bring back into operation water supply, purification or distribution systems damaged by military operations;

### *G. With regard to anti-personnel landmines:*

- (a) *expresses deep concern and indignation* that anti-personnel landmines kill or maim hundreds of people every week, mostly innocent and defenceless civilians, obstruct economic development and have other severe consequences for years after emplacement, which include inhibiting the return and rehabilitation of refugees and internally displaced persons and the free movement of all persons;
- (b) *takes note* of the fact that the Movement and a growing number of States, international, regional and non-governmental organizations have undertaken to work urgently for the total elimination of anti-personnel landmines;
- (c) *noting* also that the ultimate goal of States is to achieve the eventual elimination of anti-personnel landmines as viable alternatives are developed that

- (d) *welcomes* the unilateral steps which some States have taken towards eliminating all types of anti-personnel landmines and the moratoria on the export of anti-personnel landmines instituted by many States, *urges* States that have not yet done so to take similar unilateral measures at the earliest possible date, and *encourages* all States to take further steps to limit transfers;
- (e) *regrets* that the Review Conference of States party to the 1980 United Nations Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects, held from 25 September to 13 October 1995, could not complete its work;
- (f) *urges* States party to the 1980 Convention and the Movement to redouble efforts to ensure that the resumed sessions of the above-mentioned Review Conference in 1996 result in strong and effective measures;
- (g) *urges* all States which have not yet done so to become party to this Convention and in particular to its Protocol II on landmines, with a view to achieving universal adherence thereto, and further *underlines* the importance of respect for its provisions by all parties to armed conflict;
- (h) *urges* all States and competent organizations to take concrete action to increase their support for mine-clearance efforts in affected States which will need to continue for many decades, to strengthen international cooperation and assistance in this field and, in this regard, to provide the necessary maps and information and appropriate technical and material assistance to remove or otherwise render ineffective minefields, mines and booby traps, in accordance with international law;
- (i) *invites* the ICRC to continue to follow these matters in consultation with the International Federation and National Societies, and to keep the International Conference of the Red Cross and Red Crescent informed;

## II. With regard to blinding and other weapons:

- (a) *recalling* Resolution VII of the 25th International Conference of the Red Cross concerning the work on international humanitarian law in armed conflicts at sea and on land;
- (b) *reaffirms* that international humanitarian law must be respected in the development of weapons technology;
- (c) *welcomes* the adoption by the above-mentioned Review Conference of a new fourth Protocol on blinding laser weapons as an important step in the development of international humanitarian law;

- (d) *emphasizes* the prohibition on the use or transfer of laser weapons specifically designed to cause permanent blindness;
- (e) *urges* States to declare themselves bound by the provisions of this Protocol at the earliest possible date and to ensure they have in place necessary national measures of implementation;
- (f) *welcomes* the general agreement achieved at the Review Conference that the scope of application of this Protocol should apply not only to international armed conflicts;
- (g) *requests* States to consider, for example at a subsequent Review Conference, further measures on the production and stockpiling of blinding laser weapons prohibited by this Protocol and *requests* that other issues, such as measures concerning compliance, should be further considered;
- (h) *underlines* that proper attention should be given to other existing conventional weapons or future weapons which may cause unnecessary suffering or have indiscriminate effects;
- (i) *concerned* about the threat to civilian shipping posed by free-floating naval mines, and *notes* that a proposal to deal with problems such as this has been under discussion;
- (j) *invites* the ICRC, in consultation with the International Federation and National Societies, to follow developments in these fields, in particular the expansion of the scope of application of the new fourth Protocol, and to keep the International Conference of the Red Cross and Red Crescent informed;

### 3

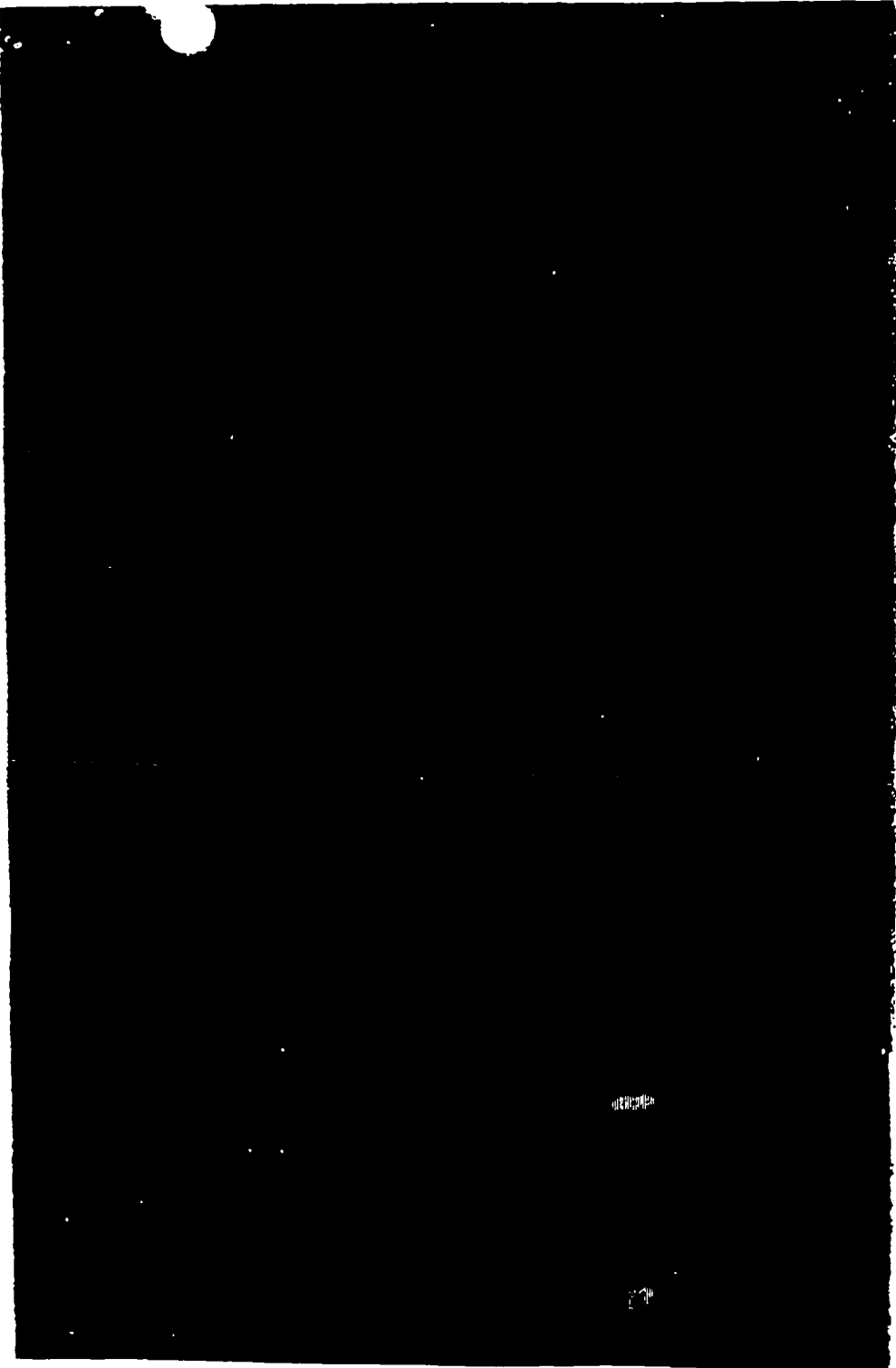
#### International humanitarian law applicable to armed conflicts at sea

The 26th International Conference of the Red Cross and Red Crescent, *recalling* Resolution VII of the 25th International Conference of the Red Cross, which called for further efforts as to the reaffirmation, clarification and development of international humanitarian law applicable to armed conflicts at sea,

*noting* the report by the International Committee of the Red Cross (ICRC) on this subject,

*noting with satisfaction* the efforts that have been made at the national level to draw up manuals specifying the content of international humanitarian law applicable to armed conflicts at sea,

*Plan of Action Concerning Children in Armed Conflict*



PLAN OF ACTION  
CONCERNING CHILDREN  
IN ARMED CONFLICT





There are children who participate as soldiers in the violence. Some have committed atrocities such as murder, rape, mutilation, and other forms of torture.

PHOTO: ICRC/M. BOISSARD

**T**he different components of the International Red Cross and Red Crescent Movement are today engaged in a range of activities in favour of children<sup>1</sup> affected by armed conflict. With the purpose of developing these existing activities, the International Red Cross and Red Crescent Movement in 1995 endorsed a common PLAN OF ACTION CONCERNING CHILDREN IN ARMED CONFLICT<sup>2</sup>.

THE PLAN OF ACTION CONCERNING CHILDREN IN ARMED CONFLICT is based on replies to a questionnaire sent to all National Societies on activities for children in armed conflicts, on the findings and recommendations of the Henry Dunant Institute study, *Child Soldiers* (Guy S. Goodwin-Gill and Ilene Cohn), and also on the recommendations of a Meeting of Consultation on the first draft of the Plan, held in Geneva in June 1995, with a number of National Societies and governmental and non-governmental organisations.

THE PLAN OF ACTION CONCERNING CHILDREN IN ARMED CONFLICT focuses on *preventing* the use of children as soldiers and on psychosocial *rehabilitation* of children having experienced armed conflicts. The Plan of Action also includes suggestions to facilitate and support its implementation.

THE PLAN OF ACTION CONCERNING CHILDREN IN ARMED CONFLICT develops the International Red Cross and Red Crescent Movement's commitments in relation to children affected by armed conflict, namely:

- to promote the principle of non-recruitment and non-participation of children below the age of 18 years in armed conflicts, and
- to take concrete action to protect and assist child victims of armed conflicts.

In order to fulfil these commitments, six *objectives* have been identified. The National Red Cross and Red Crescent Societies, the International Federation of Red Cross and Red Crescent Societies (the International Federation) and the International Committee of the Red Cross (the ICRC) are asked to *take action* in relation to each of these objectives.

To facilitate the implementation of THE PLAN OF ACTION CONCERNING CHILDREN IN ARMED CONFLICT an International Co-ordinating Group has been set up, in accordance with the Plan of Action. Within the over-all framework of the joint-Movement Programme on Children Affected by Armed Conflict the task of the International Co-ordinating Group is to facilitate, monitor and support the implementation of the Plan of Action by National Red Cross and Red Crescent Societies around the world. The Swedish Red Cross has been appointed International Focal Point for the Programme on Children Affected by Armed Conflict.

<sup>1</sup> In line with the Convention on the Rights of the Child, a child is defined as a person under 18 years of age.  
<sup>2</sup> Council of Delegates, resolution 5, 1995. See page 21.

## INTRODUCTION

The International Red Cross and Red Crescent Movement (the Movement) has in a number of resolutions committed itself to promote the rights of children. In 1993 the Council of Delegates adopted resolution 4 on Child Soldiers. The resolution requests the International Committee of the Red Cross (the ICRC), the International Federation of Red Cross and Red Crescent Societies (the International Federation), in cooperation with the Henry Dunant Institute, to draw up and implement a Plan of Action for the Movement aimed at promoting the principle of non-recruitment and non-participation of children below the age of eighteen years in armed conflicts and at taking concrete action to protect and assist child victims of armed conflicts.<sup>1</sup>

The Movement has demonstrated that it is strongly committed to *the protection and assistance to child victims of armed conflicts and to the promotion of the principle of non-recruitment and non-participation of children below the age of eighteen years in armed conflicts*. The challenge for the Movement is to implement these commitments. To this end the proposed medium term Plan of Action has been developed.

## COMMITMENTS, OBJECTIVES AND ACTION

### COMMITMENT 1: TO PROMOTE THE PRINCIPLE OF NON-RECRUITMENT AND NON-PARTICIPATION IN ARMED CONFLICT OF CHILDREN UNDER THE AGE OF 18 YEARS.

The first commitment aims to prevent children from being used as soldiers. Three objectives have been identified to fulfill this commitment:

#### OBJECTIVE 1.1.

*Promote national and international legal standards (such as an Optional Protocol to the Convention on the Rights of the Child) prohibiting the military recruitment and use in hostilities of persons younger than 18 years of age, and also the recognition and enforcement of such standards by all armed groups (governmental and non-governmental).*

#### BASIS FOR ACTION:

The 1989 Convention on the Rights of the Child (the Child Convention) and the first additional protocol to the Geneva Conventions of 1949, prohibit the recruitment of children under the age of 15 years into the armed forces and also stipulate that the States Parties shall take all feasible measures to prevent children under that age from participating in the hostilities. Further, in recruiting among children between 15 and 18 years of age, the States Parties shall give priority to those who are oldest. According to the second additional protocol to the Geneva Conventions, applicable in Internal armed conflicts, no child under the age of 15 years shall be recruited or allowed to take part in the hostilities.

International law protecting children is often extended to and developed in domestic laws and regulations. The national and international rules cover most of the areas vital to a child's well-being and developmental process. However, two areas remain to be developed; namely 1) affording the same protection to children in armed conflict as to children in peace, which means *a clear 18 year age limit* for recruitment and participation in armed conflicts, and also 2) the enormous task of ensuring *the implementation and enforcement* of the existing rules.

In order to promote the principle of non-recruitment and non-participation of children under 18 years, there is a need for improvement and reinforcement of international and national legal standards. An Optional Protocol to the Child Convention is presently being drafted by a working-group under the UN Commission on Human Rights.

The Movement should strive to influence all governments to approve and enforce an Optional Protocol prohibiting the military recruitment and use of children younger than 18 years of age, and also to urge all armed groups (governmental and non-governmental) to recognize and enforce the standards of that Optional Protocol. Should such an Optional Protocol be approved during the period covered by this Plan of Action, the Movement should also promote the implementation of that Protocol. Depending on the local situation, National Red Cross and Red Crescent Societies could urge non-governmental armed opposition groups to refrain from using children as soldiers. National Societies might be able to reach these groups through activities such as dissemination and first aid courses.

International legal standards are supplemented by domestic laws enforceable at the national level. National Societies should strive to initiate and influence the process of improving domestic laws establishing the minimum age of recruitment and participation in armed conflict at 18 years. National Societies should also work

Children affected by armed conflict are found globally in many contexts: in their homes or displaced in conflict areas, displaced in non-conflict areas or as refugees in neighbouring countries or in host countries far away. The plight of these children is therefore of great concern to the International Red Cross and Red Crescent Movement as a whole.

PHOTO ICRC/A BROOKS

#### ACTION PROPOSED:

*National Societies are asked to:*

- approach their government to make Red Cross and Red Crescent view on 18 year age limit known,
- in cooperation with other organizations as appropriate, persuade governments to adopt the idea of the 18 year age limit; and when and if appropriate, persuade governments to promote this idea internationally and to adopt national legislation, and
- raise public awareness of the need for the 18 year age limit, e.g. (depending on local circumstances and relevance) through articles in newspapers and magazines, radio programs, and on buses in the street, etc.

*To support activities of National Societies the ICRC and the International Federation are asked to:*

- supply National Societies with relevant background documents (including draft letters, legal texts, campaign materials, information from other countries, organizations, etc.),
- make the Red Cross and Red Crescent view on 18 year age limit known internationally through active participation in UN and regional fora,
- lobby government representatives internationally, and participate in international and national efforts to raise public awareness about child soldiers,
- participate actively in the UN working-group to draft the new Optional Protocol to the Child Convention (if still relevant after the adoption of this Plan of Action), and
- collect, analyze, and process information from National Societies' programs in order to facilitate reports to donors and the general public.

#### OBJECTIVE 1.2.

*Prevent children from joining armed forces or groups by offering them alternatives to enlistment.*

#### BASIS FOR ACTION:

To prevent children from becoming soldiers there is also a need for measures directed to the children themselves. Studies imply that many children do not join the armed forces or groups voluntarily. Many child soldiers would have chosen other activities if alternatives to participation in the conflict had been offered.

National Societies could play a critical role in providing alternatives to children at-risk of becoming soldiers. They could initiate assessments to identify such children.



Regional assessment criteria should be developed for this purpose. Alternative activities could be offered to these children such as education, vocational training, and the opportunity to fulfill purposeful tasks within the community (for example as Red Cross/Red Crescent volunteers). Care should be taken, however, that the tasks offered are appropriate to the age of the child. If possible, a child-to-child or youth-to youth approach could be developed.

This is a difficult objective to accomplish since so many children are at-risk of becoming soldiers. Many of the reasons for children joining are born from socio-economic problems that will not be solved in a short period. Although some children become soldiers because they want to be heroes or martyrs, many would rather have attended school given the opportunity. Activities created for and with these children could therefore make a great difference in the choices they make in life.

#### ACTION PROPOSED:

*National Societies are asked to:*

- initiate assessment, in cooperation with other organizations, governments and military as appropriate, to:
  - identify children at risk of becoming soldiers; and
  - identify reasons for them potentially joining.
- decide on what programs/activities to set up to counter these reasons; such activities could include:
  - education;
  - income generation (vocational training or short-term material support);
  - recreational activities; and
  - empowering children to play a positive role in their community (e.g. as youth volunteer, first-aider, ambulance volunteer, or other responsible tasks within National Society).

*To support activities of National Societies the ICRC and the International Federation are asked to:*

- encourage and support the setting up of programs,
- facilitate contacts between National Societies in order to exchange experience (such as organize meetings for exchange of experience and develop existing and new program, as well as training for trainer workshops for volunteers and personnel),  
collect, analyze and process information from National Societies' programs in order

#### OBJECTIVE 1.3.

*Raise awareness in society of the need not to allow children to join armed forces or groups.*

#### BASIS FOR ACTION:

Responsibility for using children as soldiers lies with all of the adults who accept or encourage children to participate in armed conflict. These are parents and other adults from the child's community, local commanders accepting children in their ranks, and peer groups glorifying the «free lifestyle» of the soldiers. There is therefore a need to raise public awareness of the long-term effects on the children themselves and on the society in which they live, and to advocate against the use of children as soldiers.

Many of the children recruited have a background as street children and many former child soldiers become street children when they leave the army or the guerrilla group.

Thus, depending on local circumstances, National Societies should raise public awareness about the negative effects on children and society which result from allowing children to participate in armed conflicts. The influential role of religious and community leaders should be utilized whenever possible.

#### ACTION PROPOSED:

*National Societies are asked to:*

- initiate articles in newspapers and magazines, radio programs, etc., in cooperation with organizations and authorities and depending on local circumstances and relevance, and
- initiate, with support in local traditions, a discussion in society of the long- and short-term disadvantages of children participating in violence; such activities could include:
  - training of teachers and care-givers in children's rights;
  - discussions in mother's and women's clubs;
  - discussing the issue and children's rights with children in schools and through youth organizations (this could especially be done by Red Cross and Red Crescent youth volunteers);
  - establishing a dialogue with the army and, if possible, other armed groups; and
  - pursuing a dialogue with government and relevant structures in the community.

ventilators, as well as 38 and 39  
of the UN Convention on the Rights  
of the Child, accord children special  
attention.

PHOTO: ICHICIA BROOKS



campaign materials, information from other countries, organizations, etc.),

- facilitate, coordinate and encourage the work of National Societies, as proposed in the case of Objective 1.2.

**COMMITMENT 2:  
TO TAKE CONCRETE ACTION TO PROTECT AND ASSIST  
CHILD VICTIMS OF ARMED CONFLICT.**

**OBJECTIVE 2.1.**  
*Address psychosocial as well as physical needs of children living with families.*

**BASIS FOR ACTION:**  
Few of the children's most basic needs are met in armed conflicts. It is therefore necessary to identify and counter the obstructions hindering children in armed conflict from having their needs fulfilled. Like the situation in which they live, the counter-measures for these children vary in a number of ways. First, the immediate needs of physical and economic security need to be met, often in the form of relief assistance. Second, children have a need for order in life. Schooling and kindergarten can provide this structure and routine which is especially critical during the chaos that accompanies armed conflict.

Psychosocial rehabilitation<sup>2</sup> presupposes a certain degree of physical security and economic stability before a person is prepared to, or even able to, come to terms with the experiences of armed conflict. Most children who experience violence need special care and attention. The family is the basic and most important ingredient in a child's physical and psychological rehabilitation. In most cases, psychosocial support must be offered to the parents as well as the children if the assistance to the children is going to make a difference. In many cases, the family (in armed conflicts often the mother) needs support to help their children overcome experiences and anxieties.

The Movement works extensively to alleviate human suffering in armed conflict, through assistance to all victims of armed conflict including children. The programs often concentrate on meeting the victims' immediate needs such as food, clean water, shelter, clothing, and medical assistance. But the Movement also engages in more long-term physical and psychological rehabilitation. In refugee camps, camps for displaced persons, and in host countries, the Movement initiates various activities to help the people cope with their situation.

Many National Societies and the Federation have recently taken a growing interest in the psychological and social well-being of the people served by the Movement's programs. Several National Societies have established programs for social counselling

or psychosocial support to victims of disasters or other stressful events. In 1991, the Federation established a Psychological Support Programme. The Federation Reference Centre for Psychological Support is situated in the Danish Red Cross.

Many National Societies possess the tools necessary to provide psychosocial support to the children and their families, both in rehabilitation and in re-integration of the children into their communities.

Psychosocial rehabilitation programs should be flexible and adapted to local circumstances. Children with special needs are often difficult to identify, since they at first may show no signs of distress. However, various kinds of play-programs or other activities which encourage children to express memories of the armed conflict might assist in the process of identifying the children in need of psychosocial rehabilitation. In areas where physical and economic security are not certain, the programs will mostly include the establishment of routines and an ordered life, in the form of kindergartens and schools, etc. In more secure areas, parents could be encouraged to talk to their children about their experiences of the armed conflict.<sup>3</sup> Parents, other care-givers, and volunteers will often have similar experiences to those of the children and it will therefore be important when setting-up programs to include opportunities for the adults to discuss and come to terms with their own experiences.

Caregivers, volunteers, and other adults close to children should be able to identify children who have participated in armed violence and to work with these children. However, former child soldiers should not be singled out, but integrated in programs for other children affected by armed conflict. The purpose of these activities should be to rehabilitate and reintegrate the children into their local communities.

**ACTION PROPOSED:**

*National Societies are asked to:*

- initiate assessment of needs in cooperation with other organizations, local leaders, and government/authorities,
- in cooperation with other organizations, decide on what programs or activities to set up to assist the children. Activities could, depending on local circumstances, include:
  - schooling and vocational training;
  - training courses for teachers, nurses, and other professionals who work with children in order for them better to assist the children;
  - training of volunteers (non-professionals) to work with children in their communities (e.g. in play-groups or youth clubs) and also to know their limits;
  - training on how to assist children who have participated in the violence;
  - setting-up a support network of professionals to assist the volunteers and parents working with the children: and

– provide practical assistance to refugees and asylum-seekers in their new countries to empower the refugees and facilitate their entry into the new society (including awareness-building in the host-country of the needs and background of the refugees).

*To support activities of National Societies the ICRC and the International Federation are asked to:*

- facilitate, coordinate and encourage the work of National Societies, as proposed in the case of Objective 1.2.

#### OBJECTIVE 2.2.

*Address psychosocial as well as physical needs of unaccompanied children.*

Children who are not accompanied by a family member or not cared for by any person who would normally be entrusted with that responsibility by law or custom are referred to as «unaccompanied children».

Unaccompanied children have the same basic needs for food, shelter, clothing, and medical care that all children have. But, in addition, they also need to be reunited with their families or to be placed with foster families. Institutionalization should be avoided as much as possible. The ICRC and National Societies have a long tradition of tracing family members in times of armed conflict, exchanging family messages, and eventually reunifying families. If the family cannot be found (or until the family has been found), measures should be taken to place the child with a family of the same ethnic, religious, and linguistic background, whenever possible. Tracing and reunification activities need to be accompanied by follow-up, support and evaluation, both in the case where a foster-family is found and where the child is reunited with her or his close family. In many cases there will be a need for psychosocial support for the child and the family.

National Societies should try to organize educational and recreational activities and vocational training for unaccompanied children who are in refugee camps, orphanages, or other transitional settings. Some of the children will be in need of psychosocial rehabilitation. In addition, some of these children will have participated in the conflict and might therefore need special attention to come to terms with the experiences from fighting and living with the soldiers.

Since many of the needs of unaccompanied children will be similar to the needs of all children experiencing armed conflict, programs for and together with these children should be developed in a similar way to those for other children, as outlined under Objective 2.1.

#### ACTION PROPOSED:

*National Societies are asked to:*

- Initiate assessment of needs in cooperation with other organizations, local leaders, and government/authorities,
- in cooperation with other organizations, decide on what programs or activities to set up to assist the children. Activities could, depending on local circumstances, include:
  - relief assistance;
  - tracing and family reunification or establishing foster families;
  - recreational activities in orphanages, camps, etc;
  - follow-up, support, and evaluations after the child is reunited with the family or if a home is found outside the child's close family;
  - psychosocial support to unaccompanied children in camps, orphanages, and foster-homes;
  - schooling and other types of education to restore the child's confidence and identity;
  - activities and training in reconciliation and non-violent conflict resolution; and
  - protection against abuse, abduction, and revenge including the initiation or implementation of legal frameworks to protect children.

*To support activities of National Societies the ICRC and the International Federation are asked to:*

- facilitate, coordinate and encourage the work of National Societies, as proposed in the case of Objective 1.2.

#### OBJECTIVE 2.3.

*Advocate in favor of children who participated in armed conflict in order to make society and the local community accept these children.*

Children who have participated in armed conflict might not be accepted back by their local communities or even their families. Many of the children are violent and aggressive, and might have committed atrocities well known to the community surrounding them. Parents might not dare to take their children back for fear of reprisals.

When the conflict is over, many children are not formally recognized as former soldiers, and, therefore, will not be included in demobilization programs. These children risk ending up on the streets, possibly still possessing their weapons and still threatening their societies long after the armed conflict is over.

Thus, there is a need to advocate in favor of these children. Efforts should be made to encourage the communities to recognize these children as the victims they are and



Convention) is built on the fundamental notion of the best interest of the child. The Child Convention clearly underlines that every child is an individual human being with the right to be treated with respect.

PHOTO: ICRC/Y. MULLER

#### ACTION PROPOSED:

*National Societies are asked to:*

- raise awareness in society and initiate discussions with various targetgroups, as proposed in the case of Objective 1.3.

*To support activities of National Societies the ICRC and the International Federation are asked to:*

- supply National Societies with relevant background documents, and
- facilitate, coordinate and encourage the work of National Societies, as proposed in the case of Objective 1.2.

## MONITORING AND FACILITATING THE IMPLEMENTATION

It is recommended that an *International Co-ordinating Group* be established to monitor the implementation of this Plan of Action. The group should be comprised of representatives from five National Societies implementing or supporting programs for children in armed conflict, the International Federation, and the ICRC. The representatives should have expertise in the field of children in armed conflict. The Co-ordinating Group should be appointed by the International Federation and the ICRC in consultation with National Societies.

The responsibilities of the International Co-ordinating Group would be to facilitate and monitor the implementation of this Plan of Action and to continuously evaluate, revise, and develop the Plan. It should report to the Council of Delegates in 1999.

The tasks of the International Co-ordinating Group would include:

- to follow the implementation of the Plan of Action, including its international aspects,
- to support National Societies working with children in armed conflict;
- to encourage and support the setting up of new programs for children in armed conflict under the Plan of Action.
- to develop or improve methods and materials that would serve the needs of several National Societies (such as how to use non-professional volunteers in psychosocial programs, or the development of background material for lobbying),
- to prepare joint international action by the Movement in favor of children in armed conflict,



lost their parents and family due to the conflict. Girls are especially vulnerable in these situations. Too many children have witnessed, or in other ways experienced, violence.

PHOTO: ICRC/M. COMTE

- to organize a review meeting with National Societies in two years time, and
- to raise funding for the Co-ordinating Group and for common activities that benefit several National Societies.

It is also recommended that the International Federation and the ICRC, in cooperation with the Co-ordinating Group, designate a National Society as *International Focal Point* for the implementation of this Plan of Action.

Likewise, a network of National Societies at the sub-regional level should be developed with the intention of facilitating and coordinating the activities of those National Societies, and to encourage and support the setting up of programs.



† For the purpose of this Plan of Action a child is defined as a person under 18 years of age.

† The expression psychosocial rehabilitation is used to signify measures to assist persons to overcome upsetting or disturbing experiences in the context of their social and cultural surroundings, including their family and community.

† For an example of such a project, please see the report by Nancy Baron for the Sri Lanka Red Cross Society and the International Federation entitled *Psycho-social Needs Assessment. The Voice of Internally Displaced People in the Non-conflict Area of Sri Lanka*, as well as the book *A Little Elephant Finds his Courage* by the same author.



Landmines pose a particular danger for children. More children are mutilated or killed by landmines than by any other weapon.

PHOTO: ICRC/C. J. PAGE

## RESOLUTION 5 OF THE COUNCIL OF DELEGATES

(adopted at its session of 1-2 December 1995, Geneva, Switzerland)

### CHILDREN IN ARMED CONFLICTS

The Council of Delegates,

*recalling* Resolution IX of the 25th International Conference of the Red Cross (1986) entitled «Protection of Children in Armed Conflicts», Resolution 14 of the Council of Delegates (1991) entitled «Child Soldiers» and Resolution 4 of the Council of Delegates (1993) entitled «Child Soldiers»,

*also recalling* with appreciation the study entitled Child Soldiers undertaken by the Henry Dunant Institute,

*recognizing* that the 1949 Geneva Conventions and the 1977 Additional Protocols, as well as Articles 38 and 39 of the 1989 United Nations Convention on the Rights of the Child, accord children special protection and treatment,

*deeply concerned* that children suffer particular hardship during armed conflicts,

*taking note* of the joint report of the International Federation and the ICRC on the implementation of Resolution 4 of the Council of Delegates (1993),

*deploring* that children under the age of 15 are used as soldiers in many parts of the world, in violation of international law,

1. *urges* the ICRC, National Societies and the International Federation to work for improved implementation, at the national level, of existing international legal standards and increased dissemination thereof;

2. *endorses* the Plan of Action for the Red Cross and Red Crescent Movement, prepared by the International Federation and the ICRC in cooperation with the Henry Dunant Institute, which aims to promote the principle of non-participation and non-recruitment of children below the age of 18 years in armed conflicts and to take concrete action to protect and assist child victims of armed conflicts;

3. *urges* all National Societies, the International Federation and the ICRC to implement or support the implementation of the Plan of Action;

4. *requests* the International Federation and the ICRC, in order to monitor and facilitate the implementation of the Plan of Action, to establish a coordinating group comprised of representatives of the International Federation, the ICRC and five National Societies implementing or supporting programmes for children in armed conflicts;

5. *requests* the International Federation and the ICRC to report on progress in implementing the Plan of Action to the Council of Delegates in 1997.

## RESOLUTION 8 OF THE COUNCIL OF DELEGATES

(adopted at its session of 26–27 November 1997, Seville, Spain)

### PEACE, INTERNATIONAL HUMANITARIAN LAW AND HUMAN RIGHTS

The Council of Delegates,

*having taken cognizance* of the various interim and progress reports on work accomplished in areas pertaining to children in armed conflicts, street children, and the role and attitude of the Movement in regard to arms transfers, anti-personnel landmines and the security of field personnel,

*recalling* all the efforts made to foster peace and develop the Movement's contribution to respect for human rights and for international humanitarian law, and the importance of ensuring the promotion and implementation thereof,

*stressing* the need to encourage any initiative aimed at promoting indigenous local capacities for conflict resolution and peace building, tolerance, solidarity, dialogue and mutual understanding, at combating all forms of discrimination and at raising awareness of those values,

*reaffirming* the necessity for the Movement, which upholds such values, to continue its efforts to spread knowledge of the rules of international humanitarian law and the principles and ideals of the Movement and to achieve greater respect for the fundamental rights of the individual,

### 1. WITH REGARD TO CHILDREN AFFECTED BY ARMED CONFLICT:

*recalling* Resolution 20 of the 26th International Conference of the Red Cross and Red Crescent (1995), recommending that «parties to conflict refrain from arming children under the age of 18 years and take every feasible step to ensure that children under the age of 18 years do not take part in hostilities», and Resolution 5 of the Council of Delegates (1995) endorsing a Plan of Action for the Red Cross and Red Crescent Movement concerning children in armed conflicts,

*welcoming* the resolution adopted by the Organization of African Unity (Sixty-sixth Ordinary Session of the Council of Ministers, 26–30 May 1997, Harare, Zimbabwe) condemning recruitment and conscription of children under the age of 18 years,

*mindful* that the Geneva Conventions of 1949 and their 1977 Additional Protocols establish protection for children affected by armed conflict and provide a basis for the Movement's services on behalf of these children,

*commending* the progress made by the ICRC, the National Societies and the International Federation in implementing the Movement's Programme on Children Affected by Armed Conflict (CABAAC),

*welcoming* the work of the international coordinating group set up to monitor implementation of the Plan of Action, and the cooperation established between the Movement and other organizations,

*concerned* by the number of contexts in which armed conflict is still having a serious effect on children, and by the resulting need to increase support for activities on their behalf,

*regretting* the fact that no international agreement has yet been reached to set at 18 years the minimum age limit for recruitment into armed forces or armed groups and for participation in hostilities,

1. *urges* all National Societies, the International Federation and the ICRC to implement the Plan of Action for the Red Cross and Red Crescent Movement concerning children in armed conflicts;
2. *further urges* all National Societies, the International Federation and the ICRC to support the work of the international coordinating group set up to facilitate and monitor implementation of the Plan of Action;
3. *takes note* with interest of the report on progress achieved in implementing the Plan of Action and *requests* the international coordinating group to submit a report to the Council of Delegates in 1999;
4. *calls on* all the components of the Movement to undertake specific action aimed at providing all necessary psychological and social assistance to children affected by armed conflict, and to take every feasible measure to help reintegrate the children into their families, their communities and their normal environment after the conflict;
5. *appeals* to all National Societies to promote the Movement's position on the 18-year age limit for recruitment and participation in hostilities, with a view to encouraging their respective governments to adopt national legislation and recruitment procedures in line with this position;
6. *asks* National Societies of countries that have already adopted the 18-year age limit for recruitment and participation to urge their respective governments to make their positions known to other governments, and to encourage their respective governments to participate in and support the process of drafting an optional protocol to the Convention on the Rights of the Child on involvement of children in armed conflicts;
7. *acknowledges* the efforts made by the ICRC and the International Federation to support and facilitate action by National Societies with regard to this 18-year age limit and to promote the minimum age limit in the relevant international fora, and *requests* them to continue those efforts within the framework of the Plan of Action for the International Red Cross and Red Crescent Movement concerning children affected by armed conflict.

This Plan of Action is produced for the Programme on Children Affected by Armed Conflict of the International Red Cross and Red Crescent Movement. It is based on the Plan of Action Concerning Children in Armed Conflict endorsed by the Council of Delegates, Geneva, 1995.

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The International Committee of the Red Cross (ICRC) and the International Federation of Red Cross and Red Crescent Societies, together with the National Red Cross and Red Crescent Societies, form the International Red Cross and Red Crescent Movement.

The ICRC, which gave rise to the Movement, is an independent humanitarian institution. As a neutral intermediary in the event of armed conflict or unrest it endeavours, on its own initiative or on the basis of the Geneva Conventions, to bring protection and assistance to the victims of international and non-international armed conflict and internal disturbances and tension.

The International Federation of Red Cross and Red Crescent Societies promotes the humanitarian activities of National Societies among vulnerable people. By coordinating international relief and encouraging development support it seeks to prevent and alleviate human suffering and so contribute to peace in the world.

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*Plan of Action for the Years 2000 - 2003*

## 27<sup>th</sup> International Conference of the Red Cross and Red Crescent

### **PLAN OF ACTION FOR THE YEARS 2000 - 2003**

The members of the 27th International Conference of the Red Cross and Red Crescent, held in Geneva from 31 October to 6 November 1999, adopt the following Plan of Action for the coming four years in order to improve the care and protection of victims of armed conflicts and disasters and more generally of the most vulnerable people. They will implement the actions set out in the Plan of Action in accordance with their respective powers, mandates and capacities.

In adopting this Plan of Action, the International Conference recognises the unique nature of the co-operation between the International Red Cross and Red Crescent Movement<sup>1</sup> and States<sup>2</sup> and the specific mandates of each component of the Movement. It also reaffirms the commitment of States, adhering to the purposes and principles of the United Nations Charter, to meet their existing obligations under international humanitarian law to support the work of each component of the Movement and to respect at all times the components' adherence to the Fundamental Principles.

The Plan of Action is divided into long term goals and specific actions which represent the main areas where a renewed effort is required from States and the Movement for their respective commitments in the coming four years.

The 28th International Conference will evaluate the results attained over the next four years. The Standing Commission of the Red Cross and Red Crescent will encourage and further the implementation of the Plan of Action, according to its statutory mandate, through consultations with States party to the Geneva Conventions, components of the Movement and other actors, as to the best methods of achieving this.

#### **1. PROTECTION OF VICTIMS OF ARMED CONFLICT THROUGH RESPECT OF INTERNATIONAL HUMANITARIAN LAW**

##### **Final goals**

1.1. Full compliance by all the parties to an armed conflict with their obligations under international humanitarian law to protect and assist the civilian population and other victims of the conflict and to respect protected

objects.

1.2. An effective barrier against impunity through the combination of relevant international treaties and national laws concerning the repression of violations of international humanitarian law, and the examination of an equitable system of reparations.

1.3. Universal acceptance of international humanitarian law and the adoption of all necessary measures by States at the national level to ensure the implementation of their obligations under international law.

1.4. Integration, by States, of their obligations under international humanitarian law in relevant procedures and training. Promotion of this law among relevant persons and bodies.

1.5. Conformity of weapons with international humanitarian law, the establishment of effective controls on the availability of arms and ammunition, and an end to the human tragedy caused by anti-personnel landmines.

#### Actions proposed

Final goal 1.1. Full compliance by all the parties to an armed conflict with their obligations under international humanitarian law to protect and assist the civilian population and other victims of the conflict and to respect protected objects.

1. All the parties to an armed conflict take effective measures to respect and ensure respect for international humanitarian law and to ensure, in particular, in accordance with their relevant obligations under international humanitarian law, that:

(a) in the conduct of hostilities, every effort is made - in addition to the total ban on directing attacks against the civilian population as such or against civilians not taking a direct part in hostilities or against civilian objects - to spare the life, protect and respect the civilian population, with particular protective measures for women and girls, and groups with special vulnerabilities such as children, the elderly, persons with disabilities and displaced persons and to protect civilian objects including cultural property, places of worship and diplomatic facilities;

(b) strict orders are given to prevent all serious violations of international humanitarian law, including massacres, summary executions, torture, gender-based violence in particular rape and other forms of sexual violence,

harassment, enforced disappearances, collective punishment, looting, wanton property destruction, and threats to carry out such actions; effective mechanisms are established to ensure that these orders are duly implemented at all levels and perpetrators punished;

(c) actions provoking unwarranted population displacements are avoided and if displacement occurs, that displaced persons are respected and protected, appropriate assistance is provided to them and they are able to return voluntarily, in peaceful conditions and in safety to their home or to resettle voluntarily elsewhere;

(d) all persons deprived of their liberty for reasons related to the armed conflict are fully respected and protected; prisoners of war are released and repatriated without delay after the cessation of active hostilities, unless subject to due judicial process; the prohibition of taking hostages is strictly respected; the detention of prisoners and internees is not prolonged for bargaining purposes which practice is prohibited by the Geneva Conventions;

(e) every effort is made to clarify the fate of all persons unaccounted for and to inform the families accordingly, and to identify dead persons, inform their families and return their bodies to them; in order to ensure this, appropriate procedures be put into place at the latest from the beginning of an armed conflict;

(f) children receive the special protection, care and assistance, including access to educational and recreational facilities, to which they are entitled under national and international law;

all measures, including penal measures, are taken to stop the participation of children under the age of 15 years in armed hostilities and their recruitment into the armed forces or into armed groups which constitute a violation of international humanitarian law;

and, in this context, recall Resolution 2 C (d) of the 26th International Conference of the Red Cross and Red Crescent of 1995, which recommends that : "parties to conflict refrain from arming children under the age of 18 years and take every feasible step to ensure that children under the age of 18 years do not take part in hostilities".

(g) every possible effort is made to provide the civilian population with all essential goods and services for its survival; rapid and unimpeded access to the civilian population is given to impartial humanitarian organisations in accordance with international humanitarian law in order that they can provide



assistance and protection to the population; the reports and recommendations of impartial humanitarian organisations are seriously taken into account.

(h) an attempt is made wherever possible to enhance the safety of protected persons, and in the framework of international humanitarian law or the United Nations Charter, to create a humanitarian space through the establishment of safety zones, demilitarised zones, humanitarian corridors, and other forms of special protection for civilian populations and other persons protected under international humanitarian law.

2. States stress the provisions of international humanitarian law prohibiting the use of starvation of civilians as a method of warfare and on attacking, destroying, removing or rendering useless, for that purpose, objects indispensable to the survival of the civilian population.

3. Organised armed groups in non-international armed conflict are urged to respect international humanitarian law. They are called upon to declare their intention to respect that law and teach it to their forces.

4. Parties to an armed conflict use their best endeavours to ensure that conditions of security are guaranteed in order that the ICRC, in accordance with international humanitarian law, has access to, and can remain present in, all situations of armed conflict to protect the victims thereof and, in co-operation with National Societies and the International Federation, to provide them with the necessary assistance. Furthermore, the ICRC continues its efforts to seek to engage in a constructive dialogue with all parties to an armed conflict, in co-operation with them and with their consent in regard to which full account of the Geneva Conventions has to be taken, with a view to assisting them in meeting their obligations under international humanitarian law.

5. Contributing States, the United Nations or regional organisations ensure as appropriate that personnel under the command of the United Nations or regional organisations are instructed in international humanitarian law and observe the relevant principles and rules of this law.

6. In situations of serious violations of international humanitarian law, States party to the Geneva Conventions act, jointly or individually, in co-operation with the United Nations and in conformity with the United Nations Charter. Regional intergovernmental organisations may participate in these efforts on the same legal basis.

7. The International Federation, National Societies and the ICRC will continue

their efforts in pursuance of decisions taken within the International Movement and notably the Plan of Action for Children Affected by Armed Conflict (CABAC), to "promote the principle of non-recruitment and non-participation of children below the age of 18 years in armed conflicts"; meet the physical, psychological and social needs of children who have been affected by an armed conflict; and to contribute to the reintegration into their communities and social environment of children who have participated in armed conflicts.

States are encouraged to engage in a constructive dialogue with the International Federation, National Societies and the ICRC on the Plan of Action for Children Affected by Armed Conflict (CABAC).

8. The ICRC formulates a set of guidelines aimed at better addressing the protection and assistance needs of women and girls affected by armed conflict.

9. States take into consideration the report and recommendations of the United Nations Secretary General on the Protection of Civilians in Armed Conflict (S/1999/957 of 8 September 1999).

Final goal 1.2. An effective barrier against impunity through the combination of relevant international treaties and national laws concerning the repression of violations of international humanitarian law, and the examination of an equitable system of reparations.

10. States vigorously implement their international obligations regarding the repression of war crimes, co-operating with each other in doing so where necessary. States search for persons alleged to have committed, or to have ordered to be committed, grave breaches and bring them, regardless of their nationality, before their own courts or if they prefer, and in accordance with the provisions of their own legislation, hand over such persons for trial to another State with jurisdiction and consider taking similar action pursuant to international law in respect of other war crimes. States are invited actively to consider contributing to the setting up of the International Criminal Court and to adhere to its Statute.

11. States examine mechanisms for making reparations for damage inflicted on the victims of violations of international humanitarian law.

Final goal 1.3. Universal acceptance of international humanitarian law and the adoption of all necessary measures by States at the national level to ensure the implementation of their obligations under international law.

12. States consider or reconsider, in order to enhance the universal character of international humanitarian law, becoming party to the relevant treaties concluded since the adoption of the 1949 Geneva Conventions. States express their appreciation of the ICRC's continued efforts to promote universal adherence to these treaties. States re-examine ratified instruments with a view to considering the possibility of withdrawing existing reservations.

13. States adopt the necessary implementing measures, in particular national legislation for the repression of war crimes, genocide and crimes against humanity and for the protection of the red cross and red crescent emblems. States are encouraged to create or further develop national committees or other mechanisms, with the support of National Societies, in order to facilitate co-ordination between ministries. Co-operation also takes place at the regional and international levels. An information exchange system on implementation of international humanitarian law is to be considered.

14. The ICRC Advisory Service on International Humanitarian Law, with the assistance of National Societies, strengthens its capacity to advise and assist States, with their consent, in their efforts to adopt national measures of implementation and further develop the database on such measures. States and national committees or other mechanisms are encouraged to send information on legislation, case law and other measures taken and planned to the ICRC Advisory Service.

15. States party to Additional Protocol I to the Geneva Conventions which have not yet recognised the competence of the International Fact-Finding Commission pursuant to Article 90 thereof consider again the possibility of doing so. Parties to armed conflicts are called upon to examine systematically the utility and the possibility of resorting to the Commission in order to clarify facts or facilitate respect for international humanitarian law through its good offices. The International Fact-Finding Commission acts in accordance with international law.

Final goal 1.4. Integration, by States, of their obligations under international humanitarian law in relevant procedures and training. Promotion of this law among relevant persons and bodies.

16. States examine their educational and training curricula to ensure that international humanitarian law is integrated in an appropriate manner in their training programmes for armed and security forces and relevant civil servants. States promote knowledge of international humanitarian law among decision-makers and the media and work for the inclusion of international humanitarian law in the general educational programmes of relevant

organisations, professional bodies and educational institutions. To facilitate these tasks, the ICRC will provide, where required, guidelines and material for international humanitarian law training. National Societies will co-operate in providing such training where necessary.

17. States ensure that the rules of international humanitarian law are incorporated into the operational procedures of their armed and security forces and applied by their forces when they are engaged in operations to which the rules apply. To this effect, international humanitarian law will be integrated into their field manuals and, as appropriate, into command procedures, and become a standard norm in command post and staff exercises as well as in military manoeuvres.

18. The ICRC, in co-operation with National Societies and the International Federation, develops innovative ways, in collaboration with bodies such as the media, and religious and other comparable institutions, to promote the acceptance of international humanitarian law and Red Cross and Red Crescent principles by all relevant actors in armed conflict situations. States facilitate this analysis and action by the Movement as appropriate.

Final goal 1.5. Conformity of weapons with international humanitarian law, the establishment of effective controls on the availability of arms and ammunition, and an end to the human tragedy caused by anti-personnel landmines.

19. States make all possible efforts to end the human tragedy caused by anti-personnel landmines through concrete steps towards their elimination, for example, considering adherence to relevant international legal instruments and prohibiting the transfer of anti-personnel landmines, and through national and international measures and co-operative efforts in the fields of mine clearance, mine awareness and assistance to mine victims and their communities.

The Movement implements the long-term "Movement Strategy on Landmines" adopted by the 1999 Council of Delegates.

20. States should endeavour, wherever appropriate, to engage in post-conflict discussions with respect to aiding the victims of war.

21. States which have not done so are encouraged to establish mechanisms and procedures to determine whether the use of weapons, whether held in their inventories or being procured or developed, would conform to the obligations binding on them under international humanitarian law. States are encouraged to promote, wherever possible, exchange of information and

transparency in relation to these mechanisms, procedures and evaluations.

States and the ICRC may engage in consultations to promote these mechanisms, and in this regard analyse the extent to which the ICRC SIRUS (Superfluous Injury or Unnecessary Suffering) Project Report to the 27th Conference and other available information may assist States.

22. States take all possible measures for the negotiation of international instruments in order to adequately address the problems caused by weapons. States will make all efforts towards the successful conclusion of the negotiations on a protocol to strengthen the Biological and Toxin Weapons Convention.

23. States enhance the protection of civilians in armed conflict and post-conflict situations by seeking to strengthen controls on the availability of arms, in particular small arms and ammunition, at the national, regional and international levels, including by improving national export regulations. States examine the establishment of means to integrate consideration of respect for international humanitarian law into national decision-making on transfers of arms and ammunition, and, where relevant, examine ways of integrating such considerations into "codes of conduct".

The Movement will promote public awareness of the human costs of unregulated arms transfers and widespread arms availability and continue to promote the ratification, and faithful implementation, of the relevant norms of international humanitarian law governing weapons.

## 2. HUMANITARIAN ACTION IN TIMES OF ARMED CONFLICT AND OTHER DISASTERS

### Final goals

2.1. Effective response in disaster situations through improved national and international preparedness.

2.2. Strengthened mechanisms of co-operation and co-ordination amongst States, the Movement and other humanitarian actors.

2.3. Provision for the rights and acute needs of the most vulnerable people as the first priority for humanitarian action.

2.4. Understanding of the respective roles of political, military and humanitarian actors, and protection of humanitarian personnel.

## Actions proposed

Final goal 2.1. Effective response in disaster situations through improved national and international preparedness.

### 1. States will:

(a) establish or update national disaster preparedness plans which incorporate linkages, where necessary, to international systems of disaster response and have clearly defined and agreed roles and responsibilities for National Societies, including representation on appropriate national policy and co-ordination bodies;

(b) examine the vulnerability of their disaster response systems to disaster damage and take steps to ensure that these systems can continue to operate effectively in responding to the needs created by disasters;

(c) help, as appropriate, National Societies, in co-operation with the International Federation, to access and benefit from international funding within the multilateral context, with a view to strengthening disaster preparedness.

### 2. National Societies, supported by their respective governments, the International Federation and the ICRC, will:

(a) strengthen their disaster preparedness and response capacities, including the raising of community awareness and support, both nationally and internationally, in response to changing patterns of risk and vulnerability, and through lessons learned from experience gained over the past decade, including those within the framework of the International Decade for Natural Disaster Reduction (IDNDR);

(b) examine the vulnerability of their disaster response systems to disaster damage and take steps to ensure that these systems can continue to operate effectively in responding to the needs created by disasters.

3. The International Federation, while drawing upon existing research and the competence of relevant international bodies, will undertake a study to assess the future impact of climatic changes upon the frequency and severity of disasters and the implications for humanitarian response and preparedness.

Final goal 2.2. Strengthened mechanisms of co-operation and co-ordination amongst States, the Movement and other humanitarian actors.

4. The Movement, supported where appropriate by States, undertakes to improve co-operation and co-ordination in its international activities, both internally as set out in the 1997 Seville Agreement, and with States, the United Nations system, regional, national and sub-national authorities, international organisations and other actors, based upon the "Code of Conduct for the International Red Cross and Red Crescent Movement and Non-Governmental Organisations in Disaster Relief".

5. States and the Movement will support efforts to develop minimum practical standards for the delivery of humanitarian assistance, such as those elaborated in the Sphere project (Humanitarian Charter and Minimum Standards in Disaster Response).

6. The Movement will develop its activities in post-conflict situations. In particular, the International Federation will develop its strategy to guide post-conflict relief and rehabilitation programming based on National Societies' capacity for social mobilisation and service provision. States and the Movement will promote better co-ordination between States, international organisations, the Movement, NGOs and other organisations in managing the transition from emergency humanitarian assistance to longer term development assistance.

7. States and the Movement will co-operate to further develop:

(a) response mechanisms that are, above all, rapid, flexible and effective in responding to needs of victims and vulnerable people;

(b) funding mechanisms that provide more predictable and appropriate funding while recognising the accountability requirements of all parties.

Final goal 2.3. Provision for the rights and acute needs of the most vulnerable people as the first priority for humanitarian action.

8. States and all parties to an armed conflict will take all necessary measures to ensure the civilian character of refugee and internally displaced persons camps, and that appropriate conditions are met regarding location, environment, camp security, law and order, and registration. The Movement will offer its services, where required, in assisting to meet these responsibilities.

9. National Societies, the International Federation and the ICRC, according to their respective mandates and in accordance with international humanitarian law, may offer their services on behalf of refugees and asylum seekers in

co-operation with UNHCR, and, taking note of the Guiding Principles on Internal Displacement, may also offer their services on behalf of internally displaced persons, and will:

- (a) extend support to States in fulfilling their obligations to assist and protect refugees, asylum seekers and internally displaced persons;
- (b) ensure that their programmes support host government efforts to seek durable solutions for displaced populations, including voluntary repatriation in safety and dignity, in dialogue with countries of origin;
- (c) promote efforts to develop solidarity and understanding between host communities and refugees, asylum seekers and internally displaced persons.

10. States and the Movement encourage the United Nations Security Council, before applying economic sanctions, to take into account the needs of the civilian population and apply humanitarian exemptions, as appropriate. States welcome the note by the President of the Security Council of 29 January 1999 on the work of the sanctions committees, in particular the paragraphs relating to the humanitarian impact of sanctions.

Final goal 2.4. Understanding of the respective roles of political, military and humanitarian actors, and protection of humanitarian personnel.

11. Political and military actors and humanitarian organisations, while acknowledging and respecting the clear distinction between their different missions and modes of operations, will undertake at the national and international levels to strengthen their dialogue in order to ensure a clear understanding of, and respect for, each others' mandates and roles.

12. Humanitarian personnel will be respected and protected at all times. Threats to, and attacks on, such personnel will be duly investigated and those alleged to have committed such attacks will be brought to justice under due process of law. In this context, States are encouraged to consider becoming parties to the 1994 Convention on the Safety of United Nations and Associated Personnel.

### 3. STRATEGIC PARTNERSHIP TO IMPROVE THE LIVES OF VULNERABLE PEOPLE

Final goals

3.1. Improved health for vulnerable people based on strengthened



co-operation between States and National Societies.

3.2. New initiatives to meet the needs of vulnerable people and to reduce discrimination and violence in the community.

3.3. Increased National Society capacities and effective partnership with States, and co-operation with relevant humanitarian and development organisations.

#### Actions proposed

Final goal 3.1. Improved health for vulnerable people based on strengthened co-operation between States and National Societies.

1. States note the important role of National Societies in providing and advocating for improved health and social services particularly for vulnerable groups, and will strengthen their co-operation with their National Societies to further this end. States will provide opportunities, where appropriate, for National Societies to be represented in policy, planning and implementation bodies.

2. States, National Societies, and the International Federation, together with the appropriate international and national bodies, will develop their collaboration to increase promotion and provision of primary health care, with particular emphasis on preventative primary health care and the well-being of vulnerable people in inaccessible and under-served areas, and in the most deprived sections of large cities

3. States recognise that blood service provision as part of health care is the overall responsibility of governments. National Societies will support national blood programmes as needed through the provision of high quality and safe blood services based upon voluntary, non-remunerated blood donation. To this end, States will strive to ensure, where appropriate, that adequate resources are made available to National Societies involved in such programmes.

4. The International Federation and National Societies will, in co-operation with States, and appropriate national and international bodies, further strengthen their capacity to prevent, treat and control communicable diseases (including emerging and re-emerging diseases), especially tuberculosis, HIV/AIDS and other sexually transmitted diseases, malaria and vaccine-preventable diseases.

5. States recognise the intrinsic value of first aid training for the public as an effective means for prevention, preparedness and response to emergencies as well as day-to-day health problems. Accordingly, States, where appropriate, will give consideration to providing opportunities for first aid training for school children, public servants, health professionals and members of the community, utilising in particular the expertise and capacity of their National Societies.

6. States will respond to the growing global problem of road accidents through, for example, the further development of road safety measures in collaboration with all concerned partners, in particular National Societies. Concerned National Societies will develop their role in support of first aid training and public awareness activities to reduce levels of road accidents and the resulting casualties, especially amongst vulnerable populations.

Final goal 3.2. New initiatives to meet the needs of vulnerable people and to reduce discrimination and violence in the community.

7. The ICRC, the International Federation and National Societies, with the support of States where applicable, will develop innovative ways to explain and communicate the Fundamental Principles of the Red Cross and Red Crescent, inside the Movement and externally to local authorities and the community, as a means of:

(a) ensuring that all volunteers and staff of the Movement understand and act on the basis of the Fundamental Principles in their day-to-day work;

(b) ensuring that public authorities understand the role of the Movement, use its capacity and facilitate its access to vulnerable people in peaceful and violent circumstances, in accordance with applicable international law;

(c) developing mutual understanding and fostering initiatives in the community, taking into account the diversity of its cultural, religious and other representative features, to protect life and health and to ensure respect for the human being.

8. States, where appropriate, will facilitate access to schools and universities for National Societies, the International Federation and the ICRC, and will contribute to the development of communication and teaching materials which foster understanding of the Fundamental Principles

9. National Societies will review and adjust their service delivery and communication programmes to ensure that they fully represent the application

of the Fundamental Principles, with particular reference to advocacy for, and services to, the most vulnerable people in the community

10. National Societies, in reviewing their programmes, will pay special attention to the needs of children living in difficult circumstances, in particular street children. With the support of the International Federation, they will develop their activities and advocacy, where appropriate, to contribute to meeting these needs. States, where appropriate, will draw on the capacities of National Societies, and support their actions in meeting the needs of street children.

11. States will seek to improve the plight of children living in difficult circumstances by meeting their special needs, with emphasis on prevention of sexual exploitation and physical and other forms of abuse and the sale of children with the ultimate objective of the reintegration of these children into their families and society. States will strive to achieve the rapid conclusion of the work of the United Nations Working Group on an Optional Protocol to the Convention on the Rights of the Child, on the Sale of Children, Child Prostitution and Child Pornography.

12. National Societies and States will co-operate and, as appropriate, take initiatives to promote tolerance, non-violence in the community and respect for cultural diversity.

Final goal 3.3. Increased National Society capacities and effective partnership with States, and co-operation with relevant humanitarian and development organisations.

13. States, recognising the auxiliary role of National Societies and the growing significance of their work in the provision of services and the fostering of respect for the human being, will:

(a) where necessary, commit to further strengthening the capacity of the National Society of their own country, facilitating and supporting its role in response to new challenges in the national context;

(b) recognise the growing importance of volunteers as providers of practical and emotional support to vulnerable people in the community, thus complementing the coverage of needs not met by the formal service delivery system. States consequently review, and where necessary, introduce or update legislation so as to facilitate the efficient work of relevant voluntary organisations;

(c) increase their support for building a stronger, global National Society network, better able to respond to needs in the community and to disasters. In this they will give due recognition to the experience of the "Tripartite Process" launched by the International Federation in follow-up to the 26th International Conference;

(d) as appropriate, increase their support for co-ordination between the National Society network and relevant humanitarian and development organisations.

14. National Societies, in order to ensure their capacity to respond more effectively to new challenges, will:

(a) take new initiatives to ensure a well-balanced participation by people from all sectors of society in their organisation and programmes, and promote their integration into National Society decision-making processes and leadership positions;

(b) review their legal base and statutes to determine whether they need to be updated. As part of this process they will consider the draft model law prepared by the International Federation and the ICRC, the guidelines for National Society statutes and other relevant decisions of Movement and International Federation statutory bodies;

(c) commit themselves to increased co-ordination and co-operation with relevant humanitarian and development organisations.

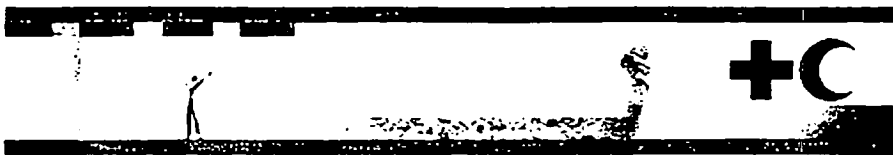
15. The International Federation will:

(a) continue its research, in co-operation with National Societies, on specific aspects of voluntarism, in order to develop updated policy and guidelines;

(b) initiate, in co-operation with National Societies and the ICRC, an in-depth study into the working relationship between States and National Societies, taking into account the changing needs in the humanitarian, health and social fields, the auxiliary role of National Societies and the evolving role of the State, the private sector and voluntary organisations in service provision;

(c) implement "Strategy 2010", adopted by its General Assembly in October 1999, which seeks to build the individual and collective actions of National Societies, in co-operation with States, in order to improve the lives of vulnerable people.

*Canadian Pledge on War-Affected Children  
and Nordic Pledge*



## Pledges

[Red Cross Red Crescent Movement](#)

[Governments](#)

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Pledge on war-affected children

(version française ci-dessous, versión española abajo)  
We pledge, unilaterally and in co-operation,

1. To protect and assist children affected by armed conflict and to prevent the targeting of such children, inter alia :

- by respecting and promoting the rights and welfare of all children affected by armed conflict, including the right to education, birth registration, family reintegration and protection from violence and exploitation,
- by addressing psycho-social as well as physical needs of war-affected children,
- by adopting a child-centered approach to humanitarian assistance.

2. To work to ensure the successful completion of a strong Optional Protocol on the Involvement of Children in armed Conflict for the 10th Anniversary of the coming into force of the Convention on the Rights of the Child.

In so doing, we invite all governments, the red Cross/Red Crescent Movement, civil society and other relevant actors to work in partnership to realize these goals.

Nous nous engageons, unilatéralement et en coopération,

1. A protéger et à porter assistance aux enfants affectés par les conflits armés et prévenir que ces enfants soient pris pour cible, entre autre :

- en respectant et en faisant la promotion des droits et du bien-être de tous les enfants affectés par les conflits armés, y compris le droit à l'éducation, à la santé, à l'inscription des naissances, à la réintégration au sein de la famille et à la protection contre la violence et l'exploitation,
- en s'adressant tant aux besoins psycho-sociaux que physiques des enfants affectés par les conflits armés,
- en adoptant une approche centrée sur l'enfant au sein des efforts déployés par l'assistance humanitaire.

2. A oeuvrer pour qu'un Protocole Facultatif concernant le Rôle des Enfants dans le cadre des Conflits Armés soit dûment complété pour le 10<sup>e</sup>me Anniversaire de la ratification de la Convention sur les Droits de l'Enfant.

En nous engageant de la sorte, nous invitons tous les gouvernements, ainsi que le Mouvement de la Croix-Rouge et du Croissant-Rouge, la société civile et les autres agences humanitaires à travailler en tant que partenaire dans la réalisation de ces objectifs.

Nos comprometemos unilateralmente y en cooperación :

1. A proteger y asistir a los niños afectados por la guerra y a impedir la selección de dichos niños como blancos de ataque, inter alia :

- mediante el respeto y la promoción de los derechos y el bienestar de todos los niños afectados por el conflicto armado, incluyendo los siguientes derechos : educación, salud, inscripción de nacimiento, reinserción familiar y protección contra la violencia y la explotación,

- mediante el abordaje de las necesidades psicosociales y físicas de los niños afectados por la guerra,

- mediante la adopción, en la asistencia humanitaria, de un enfoque centrado en los derechos de los niños.

2. A trabajar para garantizar la finalización exitosa de un fuerte Protocolo Opcional sobre la Participación de los Niños en Conflictos Armados para el 10o Aniversario de la entrada en vigor de la Convención sobre los Derechos del Niño.

Al hacer esto, invitamos a todos los gobiernos, al Movimiento de la Cruz Roja/Medialuna Roja, a la sociedad civil y otros actores relevantes a trabajar conjuntamente para realizar estos objetivos.

Signed :

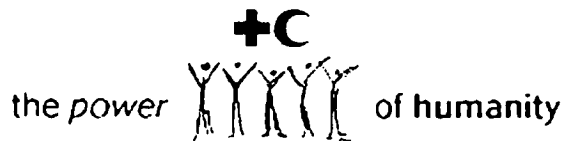
National Societies :

Barbados, Brazil, Canada, Croatia, Czech Republic, Equatorial Guinea, Gambia, Ghana, Guyana, Haiti, Hungary, Kenya, Lesotho, Liberia, Lithuania, Madagascar, Malawi, Mali, Morocco, Mozambique, Namibia, Niger, Poland, Sierra Leone, Slovakia, South Africa, Suriname, Togo, Tunisia

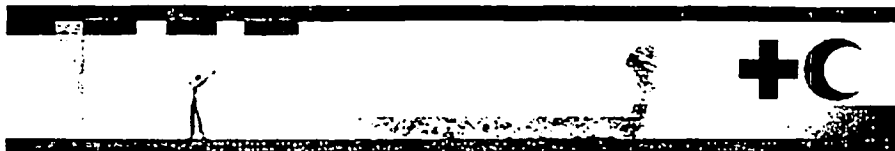
Governments :

Argentina, Brazil, Bulgaria, Canada, Chile, Colombia, Costa Rica, Czech Republic, Hungary, Ireland, Jamaica, Japan, Germany, Ghana, Guatemala, Lithuania, Luxembourg, Madagascar, Mexico, Morocco, Mozambique, Niger, Norway, Poland, Portugal, Slovakia, South Africa, Spain, Sweden, Switzerland, Thailand, Uruguay, Venezuela

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## Pledges

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Nordic pledge

### **National Societies :**

Barbados, Croatia, Denmark, Ecuador, Equatorial Guinea, Finland, Ghana, Guinea, Haiti, Iceland, Jamaica, Lesotho, Liberia, Malawi, Mozambique, Norway, Saint Kitts and Nevis, Senegal, South Africa, Suriname, Sweden, Togo

### **Governments :**

Canada, Denmark, Finland, Guinea, Iceland, Mexico, Mozambique, Norway, South Africa, Sweden, Uruguay

pledge:

To promote the adoption of national and international standards prohibiting the military recruitment and participation in armed conflicts of persons under 18 years of age;

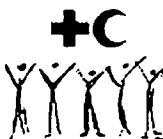
To support comprehensive measures for the prevention, protection and assistance of child victims of armed conflict by, among other things :

- respecting and promoting respect for the rights of the child, paying attention also to the girl child, in times of armed conflict. These include the right to education, health, birth registration and family reunifications;
- addressing the psycho-social as well as physical needs of child victims of armed conflict;
- promoting a child-rights perspective of humanitarian assistance and protection in the context of armed conflict.

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the power  of humanity

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**REGIONAL INSTRUMENTS  
& STANDARDS**



Africa

## *Organization of African Unity (OAU)*

### *1. African Charter on the Rights and Welfare of the Child (1990)*

The Charter came into force on November 29, 1999. The following countries have ratified the Charter: Angola, Benin, Burkina Faso, Cameroon, Cape Verde, Lesotho, Malawi, Mali, Mauritius, Mozambique, Niger, Senegal, Seychelles, Togo, Uganda and Zimbabwe.

### *2. Resolution on the Plight of African Children in Situation of Armed Conflicts (1996)*

### *3. Decision on the "African Conference on the Use of Children as Soldiers" (July 1999)*



**African Human Rights  
Resource Center**

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**African Charter on the Rights and Welfare of the Child, OAU Doc.  
CAB/LEG/24.9/49 (1990).**

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**PREAMBLE**

The African Member States of the Organization of African Unity, Parties to the present Charter entitled 'African Charter on the Rights and Welfare of the Child',

CONSIDERING that the Charter of the Organization of African Unity recognizes the paramountcy of Human Rights and the African Charter on Human and People's Rights proclaimed and agreed that everyone is entitled to all the rights and freedoms recognized and guaranteed therein, without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status,

RECALLING the Declaration on the Rights and Welfare of the African Child (AHG/ST.4 Rev.1) adopted by the Assembly of Heads of State and Government of the Organization of African Unity, at its Sixteenth Ordinary Session in Monrovia, Liberia, from 17 to 20 July 1979, recognized the need to take appropriate measures to promote and protect the rights and welfare of the African Child,

NOTING WITH CONCERN that the situation of most African children, remains critical due to the unique factors of their socio-economic, cultural, traditional and developmental circumstances, natural disasters, armed conflicts, exploitation and hunger, and on account of the child's physical and mental immaturity he/she needs special safeguards and care,

RECOGNIZING that the child occupies a unique and privileged position in the African society and that for the full and harmonious development of his personality, the child should grow up in a family environment in an atmosphere of happiness, love and understanding,

RECOGNIZING that the child, due to the needs of his physical and mental development requires particular care with regard to health, physical, mental, moral and social development, and requires legal protection in conditions of freedom, dignity and security,

TAKING INTO CONSIDERATION the virtues of their cultural heritage, historical background and the values of the African civilization which should inspire and characterize their reflection on the concept of the rights and welfare of the child,

CONSIDERING that the promotion and protection of the rights and welfare of the child also implies the performance of duties on the part of everyone,

REAFFIRMING ADHERENCE to the principles of the rights and welfare of the child contained in the declaration, conventions and other instruments of the Organization of African Unity and in the United Nations and in particular the United Nations Convention on the Rights of the Child; and the OAU Heads of State and Government's Declaration on the Rights and Welfare of the African Child.

HAVE AGREED AS FOLLOWS:

## **PART 1: RIGHTS AND DUTIES**

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### **CHAPTER ONE: RIGHTS AND WELFARE OF THE CHILD**

#### **Article 1: Obligation of States Parties**

1. Member States of the Organization of African Unity Parties to the present Charter shall recognize the rights, freedoms and duties enshrined in this Charter and shall undertake to the necessary steps, in accordance with their Constitutional processes and with the provisions of the present Charter, to adopt such legislative or other measures as may be necessary to give effect to the provisions of this Charter.
2. Nothing in this Charter shall affect any provisions that are more conducive to the realization of the rights and welfare of the child contained in the law of a State Party or in any other international Convention or agreement in force in that State.
3. Any custom, tradition, cultural or religious practice that is inconsistent with the rights, duties and obligations contained in the present Charter shall to the extent of such inconsistency be discouraged.

#### **Article 2: Definition of a Child**

For the purposes of this Charter, a child means every human being below the age of 18 years.

#### **Article 3: Non-Discrimination**

Every child shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in this Charter irrespective of the child's or his/her parents' or legal guardians' race, ethnic group, colour, sex, language, religion, political or other opinion, national and social origin, fortune, birth or other status.

#### **Article 4: Best Interests of the Child**

1. In all actions concerning the child undertaken by any person or authority the best interests of the child shall be the primary consideration.
2. In all judicial or administrative proceedings affecting a child who is capable of communicating his/her own views, and opportunity shall be provided for the views of the child to be heard either directly or through an impartial representative as a party to the proceedings, and those views shall be taken into consideration by the relevant authority in accordance with the provisions of appropriate law.

#### **Article 5: Survival and Development**

1. Every child has an inherent right to life. This right shall be protected by law.
2. States Parties to the present Charter shall ensure, to the maximum extent possible, the survival, protection and development of the child.
3. Death sentence shall not be pronounced for crimes committed by children.

#### **Article 6: Name and Nationality**

1. Every child shall have the right from his birth to a name.

2. Every child shall be registered immediately after birth.
3. Every child has the right to acquire a nationality.
4. States Parties to the present Charter shall undertake to ensure that their Constitutional legislation recognize the principles according to which a child shall acquire the nationality of the State in the territory of which he has been born if, at the time of the child's birth, he is not granted nationality by any other State in accordance with its laws.

#### **Article 7: Freedom of Expression**

Every child who is capable of communicating his or her own views shall be assured the rights to express his opinions freely in all matters and to disseminate his opinions subject to such restrictions as are prescribed by laws.

#### **Article 8: Freedom of Association**

Every child shall have the right to free association and freedom of peaceful assembly in conformity with the law.

#### **Article 9: Freedom of Thought, Conscience and Religion**

1. Every child shall have the right to freedom of thought conscience and religion.
2. Parents, and where applicable, legal guardians shall have a duty to provide guidance and direction in the exercise of these rights having regard to the evolving capacities, and best interests of the child.
3. States Parties shall respect the duty of parents and where applicable, legal guardians to provide guidance and direction in the enjoyment of these rights subject to the national laws and policies.

#### **Article 10: Protection of Privacy**

No child shall be subject to arbitrary or unlawful interference with his privacy, family home or correspondence, or to the attacks upon his honour or reputation, provided that parents or legal guardians shall have the right to exercise reasonable supervision over the conduct of their children. The child has the right to the protection of the law against such interference or attacks.

#### **Article 11: Education**

1. Every child shall have the right to an education.
2. The education of the child shall be directed to:
  - (a) the promotion and development of the child's personality, talents and mental and physical abilities to their fullest potential;
  - (b) fostering respect for human rights and fundamental freedoms with particular reference to those set out in the provisions of various African instruments on human and peoples' rights and international human rights declarations and conventions;
  - (c) the preservation and strengthening of positive African morals, traditional values and cultures;
  - (d) the preparation of the child for responsible life in a free society, in the spirit of understanding tolerance, dialogue, mutual respect and friendship among all peoples ethnic, tribal and religious groups;

- (e) the preservation of national independence and territorial integrity;
- (f) the promotion and achievements of African Unity and Solidarity;
- (g) the development of respect for the environment and natural resources;
- (h) the promotion of the child's understanding of primary health care.

3. States Parties to the present Charter shall take all appropriate measures with a view to achieving the full realization of this right and shall in particular:

- (a) provide free and compulsory basic education;
- (b) encourage the development of secondary education in its different forms and to progressively make it free and accessible to all;
- (c) make the higher education accessible to all on the basis of capacity and ability by every appropriate means;
- (d) take measures to encourage regular attendance at schools and the reduction of drop-out rates;
- (e) take special measures in respect of female, gifted and disadvantaged children, to ensure equal access to education for all sections of the community.

4. States Parties to the present Charter shall respect the rights and duties of parents, and where applicable, of legal guardians to choose for their children's schools, other than those established by public authorities, which conform to such minimum standards may be approved by the State ensure the religious and moral education of the child in a manner with the evolving capacities of the child.

5. States Parties to the present Charter shall take all appropriate measures to ensure that a child who is subjected to schools or parental discipline shall be treated with humanity and with respect for the inherent dignity of the child and in conformity with the present Charter.

6. States Parties to the present Charter shall have all appropriate measures to ensure that children who become pregnant before completing their education shall have an opportunity to continue with their education on the basis of their individual ability.

7. No part of this Article shall be construed as to interfere with the liberty of individuals and bodies to establish and direct educational institutions subject to the observance of the principles set out in paragraph 1 of this Article and the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the States.

#### **Article 12: Leisure, Recreation and Cultural Activities**

- 1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.
- 2. States Parties shall respect and promote the right of the child to fully participate in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

#### **Article 13: Handicapped Children**



1. Every child who is mentally or physically disabled shall have the right to special measures of protection in keeping with his physical and moral needs and under conditions which ensure his dignity, promote his self-reliance and active participation in the community.
2. States Parties to the present Charter shall ensure, subject to available resources, to a disabled child and to those responsible for his care, of assistance for which application is made and which is appropriate to the child's condition and in particular shall ensure that the disabled child has effective access to training, preparation for employment and recreation opportunities in a manner conducive to the child achieving the fullest possible social integration, individual development and his cultural and moral development.
3. The States Parties to the present Charter shall use their available resources with a view to achieving progressively the full convenience of the mentally and physically disabled person to movement and access to public highway buildings and other places to which the disabled may legitimately want to have access to.

#### **Article 14: Health and Health Services**

1. Every child shall have the right to enjoy the best attainable state of physical, mental and spiritual health.
2. States Parties to the present Charter shall undertake to pursue the full implementation of this right and in particular shall take measures:
  - (a) to reduce infant and child mortality rate;
  - (b) to ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;
  - (c) to ensure the provision of adequate nutrition and safe drinking water;
  - (d) to combat disease and malnutrition within the framework of primary health care through the application of appropriate technology;
  - (e) to ensure appropriate health care for expectant and nursing mothers;
  - (f) to develop preventive health care and family life education and provision of service;
  - (g) to integrate basic health service programmes in national development plans;
  - (h) to ensure that all sectors of the society, in particular, parents, children, community leaders and community workers are informed and supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of domestic and other accidents;
  - (i) to ensure the meaningful participation of non-governmental organizations, local communities and the beneficiary population in the planning and management of a basic service programme for children;
  - (j) to support through technical and financial means, the mobilization of local community resources in the development of primary health care for children.

#### **Article 15: Child Labour**

1. Every child shall be protected from all forms of economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's physical, mental, spiritual, moral, or social development.

2. States Parties to the present Charter take all appropriate legislative and administrative measures to ensure the full implementation of this Article which covers both the formal and informal of employment and having regard to the relevant provisions of the International Labour Organization's instruments relating to children, States Parties shall in particular:

- (a) provide through legislation, minimum wages for admission to every employment;
- (b) provide for appropriate regulation of hours and conditions of employment;
- (c) provide for appropriate penalties or other sanctions to ensure the effective enforcement of this Article;
- (d) promote the dissemination of information on the hazards of child labour to all sectors of the community.

#### **Article 16: Protection Against Child Abuse and Torture**

1. States Parties to the present Charter shall take specific legislative, administrative, social and educational measures to protect the child from all forms of torture, inhuman or degrading treatment and especially physical or mental injury or abuse, neglect or maltreatment including sexual abuse, while in the care of the child.

2. Protective measures under this Article shall include effective procedures for the establishment of special monitoring units to provide necessary support for the child and for those who have the care of the child, as well as other forms of prevention and for identification, reporting referral investigation, treatment, and follow-up of instances of child abuse and neglect.

#### **Article 17: Administration of Juvenile Justice**

1. Every child accused or found guilty of having infringed penal law shall have the right to special treatment in a manner consistent with the child's sense of dignity and worth and which reinforces the child's respect for human rights and fundamental freedoms of others.

2. States Parties to the present Charter shall in particular:

- (a) ensure that no child who is detained or imprisoned or otherwise deprived of his/her liberty is subjected to torture, inhuman or degrading treatment or punishment;
- (b) ensure that children are separated from adults in their place of detention or imprisonment;
- (c) ensure that every child accused in infringing the penal law:
  - (i) shall be presumed innocent until duly recognized guilty;
  - (ii) shall be informed promptly in a language that he understands and in detail of the charge against him, and shall be entitled to the assistance of an interpreter if he or she cannot understand the language used;
  - (iii) shall be afforded legal and other appropriate assistance in the preparation and presentation of his defence;
  - (iv) shall have the matter determined as speedily as possible by an impartial tribunal and if found guilty, be entitled to an appeal by a higher tribunal;
- (d) prohibit the press and the public from trial.

3. The essential aim of treatment of every child during the trial and also if found guilty of infringing the penal law shall be his or her reformation, re-integration into his or her family and social rehabilitation.
4. There shall be a minimum age below which children shall be presumed not to have the capacity to infringe the penal law.

#### **Article 18: Protection of the Family**

1. The family shall be the natural unit and basis of society. It shall enjoy the protection and support of the State for its establishment and development.
2. States Parties to the present Charter shall take appropriate steps to ensure equality of rights and responsibilities of spouses with regard to children during marriage and in the event of its dissolution. In case of the dissolution, provision shall be made for the necessary protection of the child.
3. No child shall be deprived of maintenance by reference to the parents' marital status.

#### **Article 19: Parent Care and Protection**

1. Every child shall be entitled to the enjoyment of parental care and protection and shall, whenever possible, have the right to reside with his or her parents. No child shall be separated from his parents against his will, except when a judicial authority determines in accordance with the appropriate law, that such separation is in the best interest of the child.
2. Every child who is separated from one or both parents shall have the right to maintain personal relations and direct contact with both parents on a regular basis.
3. Where separation results from the action of a State Party, the State Party shall provide the child, or if appropriate, another member of the family with essential information concerning the whereabouts of the absent member or members of the family. States Parties shall also ensure that the submission of such a request shall not entail any adverse consequences for the person or persons in whose respect it is made.
4. Where a child is apprehended by a State Party, his parents or guardians shall, as soon as possible, be notified of such apprehension by that State Party.

#### **Article 20: Parental Responsibilities**

1. Parents or other persons responsible for the child shall have the primary responsibility of the upbringing and development of the child and shall have the duty:
  - (a) to ensure that the best interests of the child are their basic concern at all times-
  - (b) to secure, within their abilities and financial capacities, conditions of living necessary to the child's development; and
  - (c) to ensure that domestic discipline is administered with humanity and in a manner consistent with the inherent dignity of the child.
2. States Parties to the present Charter shall in accordance with their means and national conditions take all appropriate measures;
  - (a) to assist parents and other persons responsible for the child and in case of need provide material assistance and support programmes particularly with regard to nutrition, health,

education, clothing and housing;

(b) to assist parents and others responsible for the child in the performance of child-rearing and ensure the development of institutions responsible for providing care of children; and

(c) to ensure that the children of working parents are provided with care services and facilities.

#### **Article 21: Protection against Harmful Social and Cultural Practices**

1. States Parties to the present Charter shall take all appropriate measures to eliminate harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child and in particular:

(a) those customs and practices prejudicial to the health or life of the child; and

(b) those customs and practices discriminatory to the child on the grounds of sex or other status.

2. Child marriage and the betrothal of girls and boys shall be prohibited and effective action, including legislation, shall be taken to specify the minimum age of marriage to be 18 years and make registration of all marriages in an official registry compulsory.

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

1. States Parties to this Charter shall undertake to respect and ensure respect for rules of international humanitarian law applicable in armed conflicts which affect the child.

2. States Parties to the present Charter shall take all necessary measures to ensure that no child shall take a direct part in hostilities and refrain in particular, from recruiting any child.

3. States Parties to the present Charter shall, in accordance with their obligations under international humanitarian law, protect the civilian population in armed conflicts and shall take all feasible measures to ensure the protection and care of children who are affected by armed conflicts. Such rules shall also apply to children in situations of internal armed conflicts, tension and strife.

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

1. States Parties to the present Charter shall take all appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law shall, whether unaccompanied or accompanied by parents, legal guardians or close relatives, receive appropriate protection and humanitarian assistance in the enjoyment of the rights set out in this Charter and other international human rights and humanitarian instruments to which the States are Parties.

2. States Parties shall undertake to cooperate with existing international organizations which protect and assist refugees in their efforts to protect and assist such a child and to trace the parents or other close relatives or an unaccompanied refugee child in order to obtain information necessary for reunification with the family.

3. Where no parents, legal guardians or close relatives can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his family environment for any reason.

4. The provisions of this Article apply mutatis mutandis to internally displaced children whether through natural disaster, internal armed conflicts, civil strife, breakdown of economic and social

order or howsoever caused.

**Article 24: Adoption**

States Parties which recognize the system of adoption shall ensure that the best interest of the child shall be the paramount consideration and they shall:

- (a) establish competent authorities to determine matters of adoption and ensure that the adoption is carried out in conformity with applicable laws and procedures and on the basis of all relevant and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and guardians and that, if necessary, the appropriate persons concerned have given their informed consent to the adoption on the basis of appropriate counselling;
- (b) recognize that inter-country adoption in those States who have ratified or adhered to the International Convention on the Rights of the Child or this Charter, may, as the last resort, be considered as an alternative means of a child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;
- (c) ensure that the child affected by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;
- (d) take all appropriate measures to ensure that in inter-country adoption, the placement does not result in trafficking or improper financial gain for those who try to adopt a child;
- (e) promote, where appropriate, the objectives of this Article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework to ensure that the placement of the child in another country is carried out by competent authorities or organs;
- (f) establish a machinery to monitor the well-being of the adopted child.

**Article 25: Separation from Parents**

1. Any child who is permanently or temporarily deprived of his family environment for any reason shall be entitled to special protection and assistance;
2. States Parties to the present Charter:
  - (a) shall ensure that a child who is parentless, or who is temporarily or permanently deprived of his or her family environment, or who in his or her best interest cannot be brought up or allowed to remain in that environment shall be provided with alternative family care, which could include, among others, foster placement, or placement in suitable institutions for the care of children;
  - (b) shall take all necessary measures to trace and re-unite children with parents or relatives where separation is caused by internal and external displacement arising from armed conflicts or natural disasters.
3. When considering alternative family care of the child and the best interests of the child, due regard shall be paid to the desirability of continuity in a child's up-bringing and to the child's ethnic, religious or linguistic background.

**Article 26: Protection Against Apartheid and Discrimination**

1. States Parties to the present Charter shall individually and collectively undertake to accord the

highest priority to the special needs of children living under Apartheid and in States subject to military destabilization by the Apartheid regime.

2. States Parties to the present Charter shall individually and collectively undertake to accord the highest priority to the special needs of children living under regimes practising racial, ethnic, religious or other forms of discrimination as well as in States subject to military destabilization.

3. States Parties shall undertake to provide whenever possible, material assistance to such children and to direct their efforts towards the elimination of all forms of discrimination and Apartheid on the African Continent.

#### **Article 27: Sexual Exploitation**

1. States Parties to the present Charter shall undertake to protect the child from all forms of sexual exploitation and sexual abuse and shall in particular take measures to prevent:

- (a) the inducement, coercion or encouragement of a child to engage in any sexual activity;
- (b) the use of children in prostitution or other sexual practices;
- (c) the use of children in pornographic activities, performances and materials.

#### **Article 28: Drug Abuse**

States Parties to the present Charter shall take all appropriate measures to protect the child from the use of narcotics and illicit use of psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the production and trafficking of such substances.

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

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

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

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

1. States Parties to the present Charter shall undertake to provide special treatment to expectant mothers and to mothers of infants and young children who have been accused or found guilty of infringing the penal law and shall in particular:

- (a) ensure that a non-custodial sentence will always be first considered when sentencing such mothers;
- (b) establish and promote measures alternative to institutional confinement for the treatment of such mothers;
- (c) establish special alternative institutions for holding such mothers;
- (d) ensure that a mother shall not be imprisoned with her child;
- (e) ensure that a death sentence shall not be imposed on such mothers;
- (f) the essential aim of the penitentiary system will be the reformation, the integration of the

mother to the family and social rehabilitation.

### **Article 31: Responsibility of the Child**

Every child shall have responsibilities towards his family and society, the State and other legally recognized communities and the international community. The child, subject to his age and ability, and such limitations as may be contained in the present Charter, shall have the duty;

- (a) to work for the cohesion of the family, to respect his parents, superiors and elders at all times and to assist them in case of need;
- (b) to serve his national community by placing his physical and intellectual abilities at its service;
- (c) to preserve and strengthen social and national solidarity;
- (d) to preserve and strengthen African cultural values in his relations with other members of the society, in the spirit of tolerance, dialogue and consultation and to contribute to the moral well-being of society;
- (e) to preserve and strengthen the independence and the integrity of his country;
- (f) to contribute to the best of his abilities, at all times and at all levels, to the promotion and achievement of African Unity.

## **PART 11**

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### **CHAPTER TWO: ESTABLISHMENT AND ORGANIZATION OF THE COMMITTEE ON THE RIGHTS AND WELFARE OF THE CHILD**

#### **Article 32: The Committee**

An African Committee of Experts on the Rights and Welfare of the Child hereinafter called 'the Committee' shall be established within the Organization of African Unity to promote and protect the rights and welfare of the child.

#### **Article 33: Composition**

1. The Committee shall consist of 11 members of high moral standing, integrity, impartiality and competence in matters of the rights and welfare of the child.
2. The members of the Committee shall serve in their personal capacity.
3. The Committee shall not include more than one national of the same State.

#### **Article 34: Election**

As soon as this Charter shall enter into force the members of the Committee shall be elected by secret ballot by the Assembly of Heads of State and Government from a list of persons nominated by the States Parties to the present Charter.

#### **Article 35: Candidates**

Each State Party to the present Charter may nominate not more than two candidates. The candidates must have one of the nationalities of the States Parties to the present Charter. When two candidates are nominated by a State, one of them shall not be a national of that State.

### **Article 36**

1. The Secretary-General of the Organization of African Unity shall invite States Parties to the present Charter to nominate candidates at least six months before the elections.
2. The Secretary-General of the Organization of African Unity shall draw up in alphabetical order a list of persons nominated and communicate it to the Heads of State and Government at least two months before the elections.

### **Article 37: Term of Office**

1. The members of the Committee shall be elected for a term of five years and may not be re-elected, however, the term of four of the members elected at the first election shall expire after two years and the term of six others, after four years.
2. Immediately after the first election, the Chairman of the Assembly of Heads of State and Government of the Organization of African Unity shall draw lots to determine the names of those members referred to in sub-paragraph 1 of this Article.
3. The Secretary-General of the Organization of African Unity shall convene the first meeting of the Committee at the Headquarters of the Organization within six months of the election of the members of the Committee, and thereafter the Committee shall be convened by its Chairman whenever necessary, at least once a year.

### **Article 38: Bureau**

1. The Committee shall establish its own Rules of Procedure.
2. The Committee shall elect its officers for a period of two years.
3. Seven Committee members shall form the quorum.
4. In case of an equality of votes, the Chairman shall have a casting vote.
5. The working languages of the Committee shall be the official languages of the OAU.

### **Article 39: Vacancy**

If a member of the Committee vacates his office for any reason other than the normal expiration of a term, the State which nominated that member shall appoint another member from among its nationals to serve for the remainder of the term - subject to the approval of the Assembly.

### **Article 40: Secretariat**

The Secretary-General of the Organization of African Unity shall appoint a Secretary for the Committee.

### **Article 41: Privileges and Immunities**

In discharging their duties, members of the Committee shall enjoy the privileges and immunities provided for in the General Convention on the Privileges and Immunities of the Organization of African Unity.

## **CHAPTER THREE: MANDATE AND PROCEDURE OF THE COMMITTEE**

### **Article 42: Mandate**



The functions of the Committee shall be:

(a) To promote and protect the rights enshrined in this Charter and in particular to:

(i) collect and document information, commission inter-disciplinary assessment of situations on African problems in the fields of the rights and welfare of the child, organize meetings, encourage national and local institutions concerned with the rights and welfare of the child, and where necessary give its views and make recommendations to Governments;

(ii) formulate and lay down principles and rules aimed at protecting the rights and welfare of children in Africa;

(iii) cooperate with other African, international and regional Institutions and organizations concerned with the promotion and protection of the rights and welfare of the child.

(b) To monitor the implementation and ensure protection of the rights enshrined in this Charter.

(c) To interpret the provisions of the present Charter at the request of a State Party, an Institution of the Organization of African Unity or any other person or Institution recognized by the Organization of African Unity, or any State Party.

(d) Perform such other task as may be entrusted to it by the Assembly of Heads of State and Government, Secretary-General of the OAU and any other organs of the OAU or the United Nations.

#### **Article 43: Reporting Procedure**

1. Every State Party to the present Charter shall undertake to submit to the Committee through the Secretary-General of the Organization of African Unity, reports on the measures they have adopted which give effect to the provisions of this Charter and on the progress made in the enjoyment of these rights:

(a) within two years of the entry into force of the Charter for the State Party concerned: and

(b) and thereafter, *every three years*.

2. Every report made under this Article shall:

(a) contain sufficient information on the implementation of the present Charter to provide the Committee with comprehensive understanding of the implementation of the Charter in the relevant country; and

(b) shall indicate factors and difficulties, if any, affecting the fulfilment of the obligations contained in the Charter.

3. A State Party which has submitted a comprehensive first report to the Committee need not, in its subsequent reports submitted in accordance with paragraph I (a) of this Article, repeat the basic information previously provided.

#### **Article 44: Communications**

1. The Committee may receive communication, from any person, group or non-governmental organization recognized by the Organization of African Unity, by a Member State, or the United

Nations relating to any matter covered by this Charter.

2. Every communication to the Committee shall contain the name and address of the author and shall be treated in confidence.

#### **Article 45: Investigations by the Committee**

1. The Committee may, resort to any appropriate method of investigating any matter falling within the ambit of the present Charter, request from the States Parties any information relevant to the implementation of the Charter and may also resort to any appropriate method of investigating the measures the State Party has adopted to implement the Charter.

2. The Committee shall submit to each Ordinary Session of the Assembly of Heads of State and Government every two years, a report on its activities and on any communication made under Article [44] of this Charter.

3. The Committee shall publish its report after it has been considered by the Assembly of Heads of State and Government.

4. States Parties shall make the Committee's reports widely available to the public in their own countries.

### **CHAPTER FOUR: MISCELLANEOUS PROVISIONS**

#### **Article 46: Sources of Inspiration**

The Committee shall draw inspiration from International Law on Human Rights, particularly from the provisions of the African Charter on Human and Peoples' Rights, the Charter of the Organization of African Unity, the Universal Declaration on Human Rights, the International Convention on the Rights of the Child, and other instruments adopted by the United Nations and by African countries in the field of human rights, and from African values and traditions.

#### **Article 47: Signature, Ratification or Adherence**

1. The present Charter shall be open to signature by all the Member States of the Organization of African Unity.

2. The present Charter shall be subject to ratification or adherence by Member States of the Organization of African Unity. The instruments of ratification or adherence to the present Charter shall be deposited with the Secretary-General of the Organization of African Unity.

3. The present Charter shall come into force 30 days after the reception by the Secretary-General of the Organization of African Unity of the instruments of ratification or adherence of 15 Member States of the Organization of African Unity.

#### **Article 48: Amendment and Revision of the Charter**

1. The present Charter may be amended or revised if any State Party makes a written request to that effect to the Secretary-General of the Organization of African Unity, provided that the proposed amendment is not submitted to the Assembly of Heads of State and Government for consideration until all the States Parties have been duly notified of it and the Committee has given its opinion on the amendment.

2. An amendment shall be approved by a simple majority of the States Parties.

# ***Resolution on the Plight of African Children in Situation of Armed Conflicts Yaounde, 1996***

The Council of Ministers of the Organization of African Unity meeting in its Sixty-Fourth Ordinary Session, in Yaounde, Cameroon, from 1 to 5 July, 1996,

Having carefully listened to the report of the Secretary-General on conflict situations in Africa, and to the UNICEF statement on the Situation of Children under Armed Conflicts and its Anti-War Agenda,

Noting with deep concern that the negative effects of armed conflicts are jeopardizing the survival and development of African children and hence the future of the continent,

Painfully aware that civil strife and armed conflicts have been impeding the tangible progress achieved through Member States' programmes on child survival, protection and development,

Recalling the strong commitment of African Heads of State and Government towards the eradication of wars and armed conflicts in Africa as demonstrated by the establishment, within the OAU General Secretariat, in 1993, of a Mechanism for Conflict Prevention, Management and Resolution,

Convinced that dialogue is one of the most effective tool for creating conditions of peace, security and stability on the continent,

Mindful that Africa has committed itself to ensuring its children's welfare on the occasion of the World Summit for Children in 1990 as well as the OAU International Conference on Assistance to African Children, and through adopting several declarations and resolutions on child survival, protection and development, including the Consensus of Dakar and the African Charter on the Rights and Welfare of the Child;

1. TAKES NOTE of the UNICEF Anti-War Agenda, aimed at protecting children and women from the scourge of armed conflicts;
2. APPEALS to OAU Member States which have not yet done so to sign and ratify the African Charter on the Rights and Welfare of the Child;
3. APPEALS FURTHER to OAU Member States to fulfil their commitments to children by fully implementing the Consensus of Dakar and the Convention on the Rights of the Child especially the articles on the protection of children under armed conflicts;

- 4. CALLS ON UNICEF and the international community as a whole to assist African countries concerned in clearing land-mines, and in rehabilitating people and lands affected by these deadly weapons;**
- 5. EXHORTS all African countries, in particular the warring parties in those countries embroiled in civil wars, to keep children out of war situations and to refrain from recruiting children under the age of 18 in armed conflict or violent activities of any kind whatsoever;**
- 6. URGES all the warring parties, Governments and others release child combatants from the army and give them adequate educations and training, rehabilitate and reintegrate them in civil society so as to make them once more productive and responsible citizens of their respective countries;**
- 7. REAFFIRMS that the use of children in armed conflicts constitutes a violation of their rights and should be considered as war crimes;**
- 8. REQUESTS the Secretary-General, in cooperation with international organizations and NGOs to consider modalities for organizing regional training programmes for members of the armed forces relating to the respect of basic human rights and international humanitarian law and to the protection of civilians, most of whom are children and women, during military operations;**
- 9. RECOMMENDS that, zones and corridors of peace be established during armed conflicts to protect children and mothers in order to facilitate both the delivery of humanitarian aid and the provision of social services, such as education and health, and, in particular immunizations;**
- 10. INVITES warring parties to pay special attention to the protection of girls and women;**
- 11. REQUESTS, ONCE MORE, the UNICEF and the OAU General Secretariat to recommit themselves to the existing Cooperation Agreement as well as all earlier Resolutions which call upon UNICEF to assist the OAU with the necessary financial, logistical as well as material support aimed at promoting the welfare, survival, protection and development of African Children;**
- 12. COMMENDS the active participation of children in the 1996 celebration of the Day of the African Child, and recommends that an Annual Children's Parliamentary Session to be held in each OAU Member States, for the Day of the African Child, in order to enable children discuss issues not only affecting their welfare, but also their respective countries;**
- 13. CALLS UPON the Secretary-General of the OAU to follow-up closely the working relations between UNICEF and OAU and to submit a Report relating to the implementation of this resolution to the Council of Ministers as appropriate.**

## Organization of African Unity

### CM/Dec.482(LXX) Decision on the "African Conference on the Use of Children as Soldiers"

**Council:**

1. **COMMENDS** the "African Conference on the Use of Children as Soldiers", held in Maputo, Mozambique, from 19-22 April 1999;
2. **REITERATES** its Resolution 1659 (LXIV), on the plight of African Children in situations of armed conflicts, adopted in Yaounde, Cameroon, in July 1996, and **WELCOMES** the outcome of the OAU/African Network for Prevention and Protection Against Child Abuse and Neglect Continental Conference on Children in Situations of Armed Conflict of June 1997;
3. **EXPRESSES ITS SATISFACTION** at the outcome of the Maputo Conference;
4. **URGES** all Member States to ratify the African Charter on the Rights and Welfare of the Child;
5. **RECOMMENDS** the setting up of a Special Committee on the Situation of Children in Armed Conflicts;
6. **FURTHER URGES** Member States to adopt and promote norms in respective countries prohibiting recruitment and use as soldiers, children under 18 years of age;
7. **COMMENDS** the Secretary-General for his efforts in the dissemination of the African Charter on the Rights and Welfare of the Child and other relevant documents, and for sensitizing African Governments for the eradication of the use of children as soldiers.
8. **INVITES** the OAU Secretary-General to put in place the appropriate mechanisms in order to set in motion the process of combatting this phenomenon in anticipation of the elaboration of an International Convention on this issue.

*Endorsed by the OAU Assembly of Heads of State and Government without amendment, July 1999.*

*Maputo Declaration on the Use of Children as Soldiers*  
*(April 1999)*

## **AFRICAN CONFERENCE ON THE USE OF CHILDREN AS SOLDIERS**

### **Maputo Declaration on the Use of Children as Soldiers**

Participants in the African Conference on the Use of Children as Soldiers, held in Maputo, Mozambique, from 19-22 April 1999,

*Appalled that more than 300,000 children under 18 years of age are currently participating in armed conflicts worldwide;*

*Mindful that the African Charter on the Rights and Welfare of the Child prohibits the recruitment and use as soldiers of children under 18 years of age;*

*Welcoming the fact that the national legislation of the overwhelming majority of African States has set 18 years as the minimum age for military recruitment;*

*Welcoming Resolution 1650 (LXIV) on the Plight of African Children in Situations of Armed Conflict, adopted by the Council of Ministers of the OAU in July 1996, Yaounde, Cameroon;*

*Welcoming the adoption of the Statute of the International Criminal Court that makes the recruitment or use of children under 15 years of age as soldiers a war crime, both in international and internal armed conflict and whether by armed forces or armed groups;*

*Acknowledging with deep regret that despite these standards at least 120,000 African children, including many girls, are currently taking part in armed conflicts across the continent in both governmental armed forces and non-governmental armed groups, and that in many cases this also includes children under 15 years of age ;*

*Determined to put an end to the use of children as soldiers;*

1) Solemnly declare that the use of any child under 18 years of age by any armed force or armed group is wholly unacceptable, even where that child claims or is claimed to be a volunteer.

2) Call upon all African States to take all possible measures to ensure that no child under 18 years of age takes part in armed conflict, in particular by:

- *ending the recruitment of all children under 18 years of age into their armed forces and ensuring that measures are in place to prevent re-recruitment;*
- *establishing thorough recruitment procedures in particular for determining age;*
- *ensuring that birth registration is systematized;*
- *demobilising into safety all children, including girls, currently serving in their armed forces;*
- *taking all necessary measures to promote the physical and psycho-social rehabilitation and effective reintegration into society of demobilised soldiers recruited as children;*
- *prohibiting the recruitment of all children into government-supported militia forces;*
- *bringing to justice, and imposing effective sanctions on, those who continue to recruit or use children as soldiers;*
- *ensuring that children enrolled into military schools are not members of the armed forces and treated in full accord with international and regional human rights law, in particular the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child;*
- *ratifying without delay the African Charter on the Rights and Welfare of the Child and the Statute of the International Criminal Court, to ensure their entry into force without delay.*

3) Condemn the use of children as soldiers by armed opposition groups and call upon these groups to end the recruitment of children and to demobilise into safety children already

being used as soldiers.

4) Call upon African States to use their influence to bring pressure to bear on any government or armed opposition group which uses children as soldiers or where children are likely to be used as soldiers by refraining from providing them, whether directly or indirectly, with security, equipment, arms, training or personnel which may be used for military purposes;

5) Call upon African States to respect fully the provisions of international human rights and humanitarian law, in particular in the case of captured child soldiers, especially by ensuring that neither the death penalty nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age and that child participants in armed groups are not charged with or convicted of treason .

6) Call upon African States actively to support

1. the adoption of an Optional Protocol to the Convention on the Rights of the Child setting 18 years as the minimum age for military recruitment and participation in hostilities; and

2. the inclusion in the ILO Convention on the Worst Forms of Child Labour of a specific provision prohibiting the use of children as soldiers.

7) Call upon the Organization of African Unity to reinforce its action to promote an end to the use of children as soldiers across the continent, in particular by:

- *intensifying its efforts to ensure the early entry into force of, and universal adherence to, the African Charter on the Rights and Welfare of the Child;*
- *submitting this Declaration to the next meeting of the Council of Ministers;*
- *ensuring that the issue of child soldiers is taken up on a systematic basis at the Council of Ministers and other relevant meetings in Africa;*

8) Call upon Governments outside Africa to provide adequate assistance to ensure the implementation of the above aims, in particular by:

- providing resources for alternatives to children induced by circumstance to volunteer to join forces or armed groups, and for facilitating the demobilisation, rehabilitation and reintegration of child soldiers;

9) Call upon governments outside Africa to use their influence to bring pressure to bear on any government or armed opposition group which uses children as soldiers or where children are likely to be used as soldiers by refraining from providing them, whether directly or indirectly, with security, equipment, arms, training or personnel which may be used for military purposes.

10) Call upon the United Nations system, in particular the ILO, UNESCO, UNICEF, UNHCR, OHCHR and WHO, as well as the Special Representative of the Secretary-General for Children and Armed Conflict, to intensify their efforts to ensure an end to the use of children as soldiers.

11) Express their appreciation to the government of Mozambique for hosting this Conference.





**Europe**

*Declaration by the Nordic Foreign Ministers  
Against the Use of Child Soldiers (August 1999)*

# **DECLARATION BY THE NORDIC FOREIGN MINISTERS AGAINST THE USE OF CHILD SOLDIERS**

## **Children shall not be soldiers and have no part in armed conflicts**

**We, the signatories of this Declaration**

**Aware that more than 300 000 children are actively involved in today's armed conflicts**

**Proclaim our genuine conviction that children shall be protected from taking any part in armed conflict**

**Noting that the protection of children in armed conflict given in existing international conventions is insufficient and that international standards must be raised**

**Attach crucial importance to the work of the UN Working Group on a draft optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict in order to strengthen the protection of children**

**Acknowledge the practical and promotional work done in this field by States, the United Nations and other international and regional organizations as well as by non-governmental organizations**

**Undertake to support the urgent finalization of an Optional Protocol on the occasion of the 10<sup>th</sup> anniversary of the Convention on the Rights of the Child**

**Are determined to have an optional protocol stipulating**

- ☛ that States Parties shall ensure that persons below the age of 18 years are not recruited into armed forces nor allowed to take any part in hostilities**
- ☛ that State parties to the protocol shall take all feasible measures to prevent that persons below the age of 18 years shall not be recruited into armed groups distinct from government force be allowed to take any part in their hostilities**
- ☛ that the regulations shall be applicable in both international and internal armed conflicts**

**Finally urge all States and Organizations to join in the efforts to end the use of children as soldiers.**

**Signed in Reykjavik on 29 August 1999**

***Niels Helveg Petersen (Denmark), Tarja Halonen (Finland), Halldor Ásgrímsson (Iceland), Knut Vollebaek (Norway), Anna Lindh (Sweden)***

## **Nordisk utrikesministerdeklaration mot barnsoldater**

**BARN SKALL INTE VARA SOLDATER OCH INTE ENGAGERAS I VÄPNADE KONFLIKTER**

**Vi, som undertecknat denna deklaration,**

**medvetna om att mer än 300 000 barn utnyttjas i dagens väpnade konflikter**

**uttalar vår starka övertygelse att barn skall skyddas från att på något sätt användas i väpnade konflikter**

**medvetna om att skyddet för barn i väpnade konflikter i internationella konventioner är otillräckligt och att de internationella normerna måste förstärkas**

**fäster avgörande vikt vid det arbete som utförs av FN:s arbetsgrupp om ett fakultativt protokoll till barnkonventionen om barn i väpnade konflikter för att förstärka skyddet av barn**

**uppskattar det praktiska och främjande arbete på detta område som görs av stater, FN och andra internationella och regionala organisationer samt av enskilda organisationer**

åtar oss att stödja ett snart slutförande av ett internationellt protokoll, särskilt med 10-årsdagen av barnkonventionen i åtanke

är beslutsamma att få till stånd ett internationellt protokoll som fastställer

- ☞ att fördragsslutande parter skall tillse att barn under 18 års ålder inte rekryteras till väpnade styrkor eller tillåts delta i väpnade konflikter
- ☞ att fördragsslutande parter skall vidta alla tillgängliga åtgärder för att hindra att barn under ålder rekryteras till eller används av väpnade grupper som står utanför regeringskontroll
- ☞ att reglerna skall vara tillämpliga i såväl mellanstatliga som interna väpnade konflikter

uppmannar slutligen andra stater och organisationer att gå samman i ansträngningarna för att nå ett slut på utnyttjandet av barn som soldater.

Undertecknat i Reykjavik den 29 augusti 1999

*Hague Appeal for Peace Declaration on the Use of  
Children in Armed Forces and Armed Groups  
(May 1999)*

## **HAGUE APPEAL FOR PEACE DECLARATION ON THE USE OF CHILDREN IN ARMED FORCES AND ARMED GROUPS**

Participants in the Hague Appeal for Peace Workshop on Stopping the Use of Children as Soldiers held in The Hague, Netherlands, on 12 May 1999

Appalled that more than 300,000 children under 18 years of age, girls as well as boys are currently being used as soldiers, sex slaves and labourers in armed conflicts across the continents in both governmental armed forces, including militia, and armed opposition groups. The children are often subject to violence, exploitation and abuse and in many cases these children are under 15 years of age.

Welcoming and supporting the work of the Special Representative of the Secretary-General for Children and Armed Conflict to prohibit the recruitment and use of children under the age of 18 years in armed conflict.

Determined to put an end to the use of children as soldiers, the participants to the Hague Appeal for Peace solemnly declare that the use of any child under 18 years of age by any armed force or armed group is wholly unacceptable, even where that child claims or is claimed to be a volunteer.

1. Call upon all States to promote an environment that favours the safe and healthy development of children and prevents their recruitment into armed forces by:

- \* respecting fully the provisions of the Convention on the Rights of the Child;
- \* ensuring universal birth registration and universal access to primary education;
- \* promoting worldwide awareness of children's rights;
- \* establishing thorough recruitment procedures in particular for determining the age of children.

2. Call upon all States to:

- \* end the recruitment and use of all children under 18 years of age into the armed forces;
- \* facilitate the demobilization and physical and psycho-social reintegration of all child soldiers, well as boys, currently serving in the armed forces;
- \* refrain from conscripting demobilised child soldiers;
- \* prohibit the recruitment of all children into militia forces under their control;
- \* bring to justice those who continue to recruit or use children as soldiers;
- \* ensure that children enrolled into military schools are not members of the armed forces and are treated in full accord with international and regional human rights law;
- \* ratify without delay the Statute of the International Criminal Court, to ensure its entry into force as soon as possible.

3. Call upon armed opposition groups to end the recruitment of children and to demobilise or release into safety children already being used as soldiers.

4. Call upon all States to use their influence to bring pressure to bear on any government or armed opposition group which recruits or uses children as soldiers by refraining from providing them, whether directly or indirectly, with arms, military equipment, training or personnel.

Call upon all States actively to support:

- \* the adoption of an Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts;
- \* the inclusion in the ILO Convention on the Worst Forms of Child Labour of a specific provision prohibiting the use of children as soldiers.

6. Call upon all governments, with the support of the United Nations system and the NGO community, to provide adequate assistance and resources to ensure the implementation of the above aims, in particular by providing resources for alternatives to children induced by circumstance to volunteer to join armed forces or armed groups, and for facilitating the demobilisation, rehabilitation and reintegration of child soldiers.





*European Parliament Resolution B4-1078  
on Child Soldiers (December 1998)*

European Parliament

Resolution B4-1078, passed 17 December 1998

The European Parliament,

- having regard to the 1989 UN Convention on the Rights of the Child,
- having regard to the 1996 UN report of Mrs Graca Machal (A/51/306) and the appointment of Mr Olara Otunnu as UN Special Representative on the impact of armed conflict on children,

A. whereas more than 300 000 children under the age of 18 are currently taking part in hostilities around the world and many more have been recruited, B. whereas children suffer disproportionately from the general rigours of military life, both physically and emotionally,

C. whereas since 1993 a UN working group has been considering an optional protocol to the UN Convention on the Rights of the Child, establishing 18 as the minimum age for recruitment in armed forces,

D. welcomes the creation of an 'international coalition' to put an end to the use of child soldiers in the world,

E. whereas four EU Member States to date have a minimum age for recruitment set at 18: Belgium, Denmark, Spain and Sweden,

F. whereas the July 1998 Rome Statute of an International Criminal Court for the first time established that the recruitment and use of child soldiers under the age of 15 constitute a war crime,

G. welcoming the new UN policy regarding minimum ages for participation in UN operations by UN peacekeepers, military observers and civilian police,

1. Rejects the use in hostilities of child soldiers, be it by regular government forces or by armed opposition groups;
2. Believes that an additional protocol to the international Convention on the Rights of the Child should urgently be adopted which bans the recruitment of children under 18 and their participation in armed conflicts, and calls on the European Union to support international initiatives to this end and to adopt the same laws in their own countries;
3. Calls on the UN working group to urgently complete its task of drafting an optional protocol to the UN Convention on the Rights of the Child and calls on the Council to agree a Joint Action in order to promote the adoption of this optional protocol and make the fight against the use of child soldiers part of the Union's policy;
4. Calls on the European Commission to direct resources for the demobilization and reintegration into society of children who have participated in armed conflicts;
5. Instructs its President to forward this resolution to the Council, the Commission, the Member States, the UN Special Representative on the impact of armed conflict on children and the UN Human Rights Commission.

*Berlin Declaration  
on the  
Use of Children as Soldiers*

*(October 1999)*

# EUROPEAN CONFERENCE ON THE USE OF CHILDREN AS SOLDIERS

## Berlin Declaration on the Use of Children as Soldiers

The European Conference on the Use of Children as Soldiers, held in Berlin, Germany, from 18 to 20 October 1999:

*Appalled* that more than 300,000 children under 18 years of age are currently participating in armed conflicts worldwide, including thousands in Europe;

*Recalling* the principles of the best interests of the child, non-discrimination and comprehensive protection promoted in the Convention on the Rights of the Child, ratified by 191 states, including all the states in Europe;

*Welcoming* UN Security Council resolution 1261 and the work of the Special Representative of the Secretary-General for Children and Armed Conflict to prohibit the recruitment and use of children as soldiers;

*Welcoming* the UN Secretary-General's recommendation to the Security Council that the minimum age for recruitment and participation in hostilities should be 18 years, as well as his decision that UN peacekeepers should be at least 21 years and in no case less than 18 years;

*Welcoming* the adoption of the Statute of the International Criminal Court which makes the conscripting or enlisting of children under the age of 15 years or using them to participate actively in hostilities a war crime, both in international and internal armed conflict and whether by armed forces or armed groups;

*Welcoming* the inclusion of forced or compulsory recruitment of children under 18 for use in armed conflict as one of the worst forms of child labour in the ILO Worst Forms of Child Labour Convention (182);

*Welcoming* the Maputo (April 1999) and Montevideo (July 1999) Declarations on the Use of Children as Soldiers;

*Welcoming* the statement by the UN High Commissioner for Human Rights to the UN Working Group in 1998, that "national legislation should not be presented as an obstacle to the elaboration of more advanced international standards."

*Encouraged* by the changes in recruitment and deployment practices by some countries;

*Welcoming* the Declaration by the Nordic Foreign Ministers against the use of child soldiers (Reykjavik, Iceland, August 1999);

*Concerned* by the difficulties of peacekeeping operations in situations where child soldiers are present;

*Recalling* that all parties to an armed conflict are bound by their obligations under international humanitarian law, including the prohibition on the recruitment and use in hostilities of children under 15 years;

Determined to put an end to the use of children under 18 in armed conflicts and internal strife:

- 1) Solemnly declares their commitment to establish international standards that prohibit all participation in armed conflict of persons under 18 years;

Respect and implementation of existing international law

2) Call on European States:

- (i) to ratify and implement the 1949 Geneva Conventions on the Protection of Victims of War and their two Additional Protocols, the 1951 Geneva Convention on the Status of Refugees and 1967 Protocol, the Convention on the Rights of the Child, the Statute of the International Criminal Court, and ILO Convention 182, and that the relevant national authorities consider designating all recruitment and use in hostilities of under-18s as "work likely to harm the health, safety or morals of children" under Article 3(d) of that Convention;
- (ii) to provide encouragement and technical assistance to other states to ratify and implement these standards and relevant regional standards;
- (iii) to support the wide dissemination within their own countries and elsewhere of these standards;
- (iv) who currently recruit under-18s to consider raising their recruitment age to at least 18 years and in the meantime to give priority to the oldest in accordance with Article 38(3) of the Convention on the Rights of the Child;
- (v) to take steps to protect child soldiers from extrajudicial, summary or arbitrary execution, arbitrary detention and ill-treatment by any party to the conflict;
- (vi) to ensure that neither capital punishment nor life imprisonment without the possibility of release shall be imposed for offences committed by persons below 18 years of age;
- (vii) to ensure that any emergency legislation restricting civil liberties provides under-18s with adequate protections compatible with international standards on juvenile justice;

- 3) Encourages all relevant United Nations human rights mechanisms to work, within their mandate, with the issue of children in armed conflict.

Development of and adherence to new standards

- 4) Agrees that States shall ensure that no person under 18 years, within their armed forces, participates in armed conflict;
- 5) Calls on all European Governments:
  - (i) to take measures to ensure that children under their jurisdiction are protected against recruitment by non-state actors;

- (ii) to train members of all peacekeeping forces in child rights and issues relating to child soldiers such as disarmament, demobilisation and reintegration;
- (iii) to implement the UN Secretary-General's minimum age limits for UN Peacekeepers in all peacekeeping operations;

#### Programmatic issues

- 6) Recommends that an international conference be held during the year 2000 to address all programmatic and implementation issues related to war affected children.
- 7) Calls on European Governments and appropriate regional organisations to provide assistance with:
  - (i) adopting early-warning mechanisms to enable advanced monitoring of any attempts to recruit or use children in armed conflict from vulnerable sectors of the population;
  - (ii) creating an international monitoring mechanism, which can provide yearly updates and national analysis on the legal standards on recruitment and deployment of children and the actual use of children in armed conflict;
  - (iii) adopting and implementing national plans to end recruitment of children under the age of 18, as well as their use in armed conflict;
  - (iv) promoting prevention programmes for children under 18 years who have participated in hostilities, focusing on
    - risk analysis
    - awareness raising
    - advocacy
    - providing alternatives such as education/vocational training/leisure activities
    - birth registration
    - incorporating the local community and the family in prevention work
    - understanding the local cultural, economic, social and political context of the region and taking it into full consideration in the planning and implementation of programmes benefitting children in armed conflict
    - family reunification in cases of separation
    - providing food and security to the children living in refugee camps and in conflict areas
    - relocating refugee camps away from conflict areas;
  - (v) supporting information and awareness campaigns on the Convention on the Rights of the Child aimed at civil society, the armed forces, armed groups and peacekeeping forces focusing on the negative consequences that recruitment and deployment of children have on their development;
  - (vi) recognising the link between the availability of small arms and child soldiers, urging governments and the EU to use political and economic influence on trade of small arms to prevent the use of child soldiers;
  - (vii) carrying out effective international dialogue on the use of children as soldiers and the implementation of international standards;
  - (viii) using development aid as means of protection of children in armed conflict.

- (ix) underlining the need to secure financial assistance to programmes for children in armed conflict, on a long term basis as well as an integral part of emergency responses;
  - (x) ensuring that peace agreements recognise and make appropriate provision for the demobilisation, rehabilitation and reintegration of child soldiers, in the context of the programmes covering the needs of all war-affected children; in particular, that demobilised child soldiers are exempted from any future requirement to undertake compulsory military service, and that sensitive and gender-specific provision is made for girl soldiers.
- 8) Calls on European Governments, in their external relations, to bring pressure to bear to prevent the recruitment of children and to bring about the demobilisation into safety of child soldiers, including during on-going conflict.
- 9) Calls on all participants to disseminate this Declaration widely and to draw it to the attention of the relevant decision-makers, including OSCE, Council of Europe and European Union.
- 10) Encourages States to support the work of the Special Representative of the Secretary General on Children and Armed Conflict, the OHCHR, UNHCR, UNICEF, the components of the Red Cross and Red Crescent Movement and other humanitarian and human rights organisations and mechanisms with regard to children in armed conflict.

#### Optional Protocol

- 11) Urges all States to support and actively participate in the work of the UN working Group drafting the optional protocol on involvement of children in armed conflicts, with the aim of finalizing a strong and effective protocol in accordance with the principles of this declaration and applicable to both international and internal armed conflicts.

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12) Thanks all those who have enabled this conference to take place, including ECHO, UNICEF and other donors.

13) Express their warm appreciation to the Government of Germany for hosting this Conference.

*OSCE Istanbul Summit Declaration*  
*(November 1999)*

Paragraph 28 contains language on the rights of children in situations of armed conflict. Also of interest is paragraph 42, which explicitly references the Ottawa Convention.



**ISTANBUL SUMMIT DECLARATION**

SUM.DOC/2/99  
19 November 1999

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## ISTANBUL SUMMIT DECLARATION

1. We, the Heads of State or Government of the participating States of the OSCE, have assembled in Istanbul on the eve of the twenty-first century and of the twenty-fifth anniversary of the Helsinki Final Act. Since we last met we have transformed the OSCE to meet unprecedented challenges. When we met in Lisbon, the first large-scale OSCE field operation had just been established, in Bosnia and Herzegovina. During the three intervening years, we have increased dramatically the number and size of our field operations. Our common institutions have grown in number and in the level of their activities. The OSCE has expanded the scale and substance of its efforts. This has greatly strengthened the OSCE's contribution to security and co-operation across the OSCE area. We pay special tribute to the women and men whose dedication and hard work have made the Organization's achievements possible.

2. Today, we adopted a Charter for European Security in order to strengthen security and stability in our region and improve the operational capabilities of our Organization. We task the OSCE Permanent Council to take the necessary decisions to implement promptly the new steps agreed upon in this Charter. We need the contribution of a strengthened OSCE to meet the risks and challenges facing the OSCE area, to improve human security and thereby to make a difference in the life of the individual, which is the aim of all our efforts. We reiterate unreservedly our commitment to respect human rights and fundamental freedoms and to abstain from any form of discrimination. We also reiterate our respect for international humanitarian law. We pledge our commitment to intensify efforts to prevent conflicts in the OSCE area, and when they occur to resolve them peacefully. We will work closely with other international organizations and institutions on the basis of the Platform for Co-operative Security, which we adopted as a part of our Charter.

3. The situation in Kosovo, FRY, in particular the humanitarian situation, remains a major challenge for the OSCE. Our thoughts still go out to the large number of Kosovo Albanians and others who lost their lives, those who saw their property destroyed and the hundreds of thousands who were expelled from and abandoned their homes. Now most of these refugees have returned. As the difficult work of

rehabilitation advances, remaining refugees will be able to return. The OSCE Mission in Kosovo forms an essential part of the broader United Nations Mission working under United Nations Security Council Resolution 1244. The OSCE Mission today has more than 1,400 staff members, and plays a vital role in the process of rebuilding a multi-ethnic society in Kosovo; the first class from the OSCE Police School has graduated, and the OSCE training of judicial and administrative personnel has started. The Organization assists in developing a civil society, in supporting the formation of a pluralistic political party landscape, free media and a viable NGO community. The OSCE plays a leading role in promoting and protecting human rights, and establishing respect for the rule of law. The success of this work is essential if democracy is to take root. We pledge to give it our full support. As we advance in these areas, we accelerate our work towards creating the necessary conditions for the first free elections in Kosovo, which the OSCE has been tasked to organize. We will seek to involve the local population increasingly in the efforts of the OSCE Mission.

4. Against the background of years of repression, intolerance and violence in Kosovo, the challenge is to build a multi-ethnic society on the basis of substantial autonomy respecting the sovereignty and territorial integrity of the Federal Republic of Yugoslavia, pending final settlement in accordance with UNSCR 1244. We expect this Resolution to be fully implemented and strictly adhered to by all concerned. We will assist all inhabitants of Kosovo. But they, and those who aspire to be their leaders, must work together towards a multi-ethnic society where the rights of each citizen are fully and equally respected. They must fight decisively against the cycle of hate and revenge and bring about reconciliation among all ethnic groups. Over the recent months, we have witnessed a new exodus from Kosovo, this time of Serbs and other non-Albanians. The necessary conditions must be restored so that those who have fled recently can return and enjoy their rights. Those who fought and suffered for their rights must now stand up for the equal rights of others. We firmly reject any further violence and any form of ethnic discrimination. Failure to oppose such acts will affect the security of the region.

5. The democratic shortcomings in the Federal Republic of Yugoslavia remain one of the fundamental sources of grave concern in the region. The leaders and people of the Federal Republic of Yugoslavia must put the country firmly on the path towards

democracy and respect for human rights and fundamental freedoms. When conditions permit, the OSCE stands ready to assist in order to accelerate democratization, promote independent media and hold free and fair elections in the Federal Republic of Yugoslavia. We emphasize our desire to see the Federal Republic of Yugoslavia as a full partner. Real progress towards democracy will be a positive step towards equal participation of the Federal Republic of Yugoslavia in the international community, including in the OSCE, and will create a new basis for growth and prosperity.

6. We remain committed to a democratic, multi-ethnic Bosnia and Herzegovina based on the General Framework Agreement for Peace. We underline the importance of improving the functioning of common institutions, and of the continued assumption by those and other institutions of tasks undertaken by the international community. We expect Bosnia and Herzegovina to rapidly adopt the permanent election law, so that it can be implemented prior to the general elections scheduled for the autumn of 2000. We appeal to all the leaders of Bosnia and Herzegovina to take decisive steps towards bringing its two entities closer together and to create a situation where persons, goods and services can circulate freely within a single State to the benefit of stability and prosperity. We underline the importance of respect for the rule of law and of vigorous efforts to fight organized crime and corruption, which constitute a great threat to economic reform and prosperity. We remain committed to the return of refugees and internally displaced persons, in particular minority returns.

7. We underscore the importance of working with Croatian authorities to intensify efforts towards reconciliation in Croatia. The OSCE pledges to continue its assistance to a multi-ethnic Croatia through post-war confidence-building and reconciliation. We look forward to faster progress towards the return of refugees and displaced persons and the implementation of relevant international standards, particularly those related to equal treatment without regard to ethnicity, freedom of the media, and free and fair elections. The OSCE's police monitoring in the Danubian region of Croatia, which has played a valuable role in protecting the rights of individuals, demonstrates the OSCE's ability to develop new operational capabilities quickly and efficiently.

8. We reaffirm our commitment to assist Albania as it continues its social, political and economic reform process following the setbacks caused by the upheaval of 1997 and

the Kosovo refugee crisis of 1999. Noting the recent progress, we call upon the Government and all political parties to improve the political atmosphere, thereby strengthening democratic institutions. We encourage the new Government of Albania to continue its fight against crime and corruption. The OSCE is committed to continue its assistance and to work closely with the European Union and international organizations within the framework of the "Friends of Albania".

9. We commend the Government of the former Yugoslav Republic of Macedonia for its commitment to domestic reforms designed to enhance stability and economic prosperity. We reaffirm the OSCE's determination to support its efforts in this process, and emphasize the importance of continued attention to the development of inter-ethnic relations.

10. We pay tribute to the Governments and peoples of Albania and the former Yugoslav Republic of Macedonia, as most affected countries, as well as those of other neighbouring countries for their hospitality during the Kosovo refugee crisis and for their generosity in shouldering a heavy political and economic burden during this period.

11. Our experiences in South Eastern Europe demonstrate the need for a broader view of the region. We therefore welcome the adoption by the Cologne Ministerial Conference on 10 June 1999 of the Stability Pact for South-Eastern Europe, launched on the initiative of the European Union, which plays a leading role in co-operation with other participating and facilitating States, international organizations and institutions. We reinforce the message from the Sarajevo Summit: regional co-operation will serve as a catalyst for the integration of countries in the region into broader structures. The OSCE, under whose auspices the Stability Pact is placed, has a key role to play in contributing to its success, and we task the Permanent Council to develop a regional strategy to support its aims. We welcome the reports provided to us by the Special Co-ordinator for the Stability Pact and the Special Envoy of the OSCE Chairman-in-Office. The OSCE will work in close concert with our participating States and with non-governmental organizations in the region.

12. We consider that the work of the International Criminal Tribunal for the former Yugoslavia is crucial to achieving lasting peace and justice in the region, and reiterate the obligation of all to co-operate fully with the Tribunal.

13. During this year we have witnessed a significant increase in our co-operation with the five participating States in Central Asia. Political dialogue has gained from a growing number of high-level visits from the Central Asian States to the OSCE and by OSCE representatives to Central Asia. With the continuing support of our partners in Central Asia, the OSCE has now established offices in all five States. This in particular has contributed to an expansion of our co-operative activities in all OSCE dimensions. Reiterating our target of achieving comprehensive security throughout the OSCE area, we strongly welcome these positive developments. We are convinced that necessary progress in the difficult and complex transition process will be stimulated by an increase in our efforts based on co-operation and our common commitments. Strengthening the rule of law, the respect for human rights and fundamental freedoms as well as the development of civil societies constitute one of the centrepieces in our broad framework of co-operative efforts. In this regard, we welcome the process of signing of Memoranda of Understanding between the ODIHR and the Central Asian participating States.

14. We share the concerns expressed by the participating States in Central Asia regarding international terrorism, violent extremism, organized crime and drug and arms trafficking. We agree that national, regional and joint action by the international community is necessary to cope with these threats, including those stemming from areas neighbouring the OSCE participating States. We further recognize the importance of addressing economic and environmental risks in the region, such as issues related to water resources, energy and erosion. We are convinced that strengthening regional co-operation will promote stability and security in Central Asia, and we welcome the active approach taken by the Chairman-in-Office to this effect.

15. Reaffirming our strong support for the sovereignty and territorial integrity of Georgia, we stress the need for solving the conflicts with regard to the Tskhinvali region/South Ossetia and Abkhazia, Georgia, particularly by defining the political status of these regions within Georgia. Respect for human rights and development of

joint democratic institutions as well as the prompt, safe and unconditional return of refugees and internally displaced persons will contribute to peaceful settlement of these conflicts. We underscore the importance of taking concrete steps in this direction. We welcome progress reached at this Summit Meeting in the Georgian-Russian negotiations on the reduction of Russian military equipment in Georgia.

16. With regard to the Tskhinvali region/South Ossetia, Georgia, some progress has been made towards solving the conflict. We emphasize the importance of maintaining and intensifying the dialogue which is now under way. In light of further progress, we believe that an early meeting in Vienna, with participation of experts from this region, should be used to take decisive steps towards a solution. The establishment by the parties concerned of a legal framework for refugee and internally displaced persons housing and property restitution will facilitate the early return of refugees and internally displaced persons to the region. We also urge the early signing of the Georgian-Russian economic rehabilitation agreement and encourage further international economic assistance.

17. We continue to support the leading role of the United Nations in Abkhazia, Georgia. We emphasize the importance of breaking the current deadlock with regard to finding a peaceful solution to the conflict. In this respect we - and in particular those of us who belong to the Friends of the United Nations Secretary-General - are ready to work with the United Nations to prepare and submit a draft document addressing the distribution of constitutional competencies between the central authorities of Georgia and authorities of Abkhazia, Georgia. We reiterate our strong condemnation as formulated in the Budapest and Lisbon Summit Documents, of the "ethnic cleansing" resulting in mass destruction and forcible expulsion of predominantly Georgian population in Abkhazia, Georgia, and of the violent acts in May 1998 in the Gali region. In light of the precarious situation of the returnees, we recommend that a fact-finding mission with the participation of the OSCE and the United Nations be dispatched early next year to the Gali region to assess, *inter alia*, reported cases of continued "ethnic cleansing". Such a mission would provide a basis for increased international support for the unconditional and safe return of refugees and internally displaced persons and contribute to the general stability in the area. We consider the so-called presidential



elections and referendum in Abkhazia, Georgia, this year as unacceptable and illegitimate.

18. We welcome the encouraging steps which have been recently taken in the process of the settlement of the Trans-Dniestrian problem. The Summit in Kiev (July 1999) became an important event in this regard. However, there have been no tangible shifts on the major issue - defining the status of the Trans-Dniestrian region. We reaffirm that in the resolution of this problem the sovereignty and territorial integrity of the Republic of Moldova should be ensured. We stand for the continuation and deployment of the negotiation process and call on all sides and in particular the Trans-Dniestrian authorities to demonstrate the political will required to negotiate a peaceful and early elimination of the consequences of the conflict. We appreciate the continuation of the mediating efforts of the Russian Federation, Ukraine and the OSCE in the negotiation process on the future status of the Trans-Dniestrian region within the Republic of Moldova. We take note of the positive role of the joint peacekeeping forces in securing stability in the region.

19. Recalling the decisions of the Budapest and Lisbon Summits and Oslo Ministerial Meeting, we reiterate our expectation of an early, orderly and complete withdrawal of Russian troops from Moldova. In this context, we welcome the recent progress achieved in the removal and destruction of the Russian military equipment stockpiled in the Trans-Dniestrian region of Moldova and the completion of the destruction of non-transportable ammunition.

We welcome the commitment by the Russian Federation to complete withdrawal of the Russian forces from the territory of Moldova by the end of 2002. We also welcome the willingness of the Republic of Moldova and of the OSCE to facilitate this process, within their respective abilities, by the agreed deadline.

We recall that an international assessment mission is ready to be dispatched without delay to explore removal and destruction of Russian ammunition and armaments. With the purpose of securing the process of withdrawal and destruction, we will instruct the Permanent Council to consider the expansion of the mandate of the OSCE Mission to Moldova in terms of ensuring transparency of this process and co-

ordination of financial and technical assistance offered to facilitate withdrawal and destruction. Furthermore, we agree to consider the establishment of a fund for voluntary international financial assistance to be administered by the OSCE.

20. We received the report of the Co-Chairmen of the OSCE Minsk Group on the evolving situation and recent developments connected with the Nagorno-Karabakh conflict and commend their efforts. We applaud in particular the intensified dialogue between the Presidents of Armenia and Azerbaijan, whose regular contacts have created opportunities to dynamize the process of finding a lasting and comprehensive solution to the problem. We firmly support this dialogue and encourage its continuation, with the hope of resuming negotiations within the OSCE Minsk Group. We also confirm that the OSCE and its Minsk Group, which remains the most appropriate format for finding a solution, stand ready to further advance the peace process and its future implementation, including by providing all necessary assistance to the parties.

21. We welcome the opening of an OSCE Office in Yerevan this year and the decision to open a similar office in Baku. These steps will enable the OSCE to strengthen our co-operation with Armenia and Azerbaijan.

22. We strongly support the work of the Advisory and Monitoring Group in Belarus, which has worked closely with the Belarusian authorities as well as with opposition parties and leaders and NGOs in promoting democratic institutions and compliance with OSCE commitments, thus facilitating a resolution of the constitutional controversy in Belarus. We emphasize that only a real political dialogue in Belarus can pave the way for free and democratic elections through which the foundations for real democracy can be developed. We would welcome early progress in this political dialogue with the OSCE participation, in close co-operation with the OSCE Parliamentary Assembly. We stress the necessity of removing all remaining obstacles to this dialogue by respecting the principles of the rule of law and the freedom of the media.

23. In connection with the recent chain of events in North Caucasus, we strongly reaffirm that we fully acknowledge the territorial integrity of the Russian Federation

and condemn terrorism in all its forms. We underscore the need to respect OSCE norms. We agree that in light of the humanitarian situation in the region it is important to alleviate the hardships of the civilian population, including by creating appropriate conditions for international organizations to provide humanitarian aid. We agree that a political solution is essential, and that the assistance of the OSCE would contribute to achieving that goal. We welcome the willingness of the OSCE to assist in the renewal of a political dialogue. We welcome the agreement of the Russian Federation to a visit by the Chairman-in-Office to the region. We reaffirm the existing mandate of the OSCE Assistance Group in Chechnya. In this regard, we also welcome the willingness of the Russian Federation to facilitate these steps, which will contribute to creating conditions for stability, security, and economic prosperity in the region.

24. In a year which has seen the deployment of our largest ever mission, we have been able to welcome the successful conclusion of the work of one of our smallest, the OSCE Representative to the Joint Committee on the Skrunda Radar Station. We congratulate the parties involved in decommissioning the Radar Station on their efforts, undertaken in a spirit of constructive co-operation.

25. We welcome the successful completion of the work of the OSCE Mission to Ukraine. This work has been an important contribution by the OSCE to the process of stabilization in its Autonomous Republic of Crimea. We look forward to continued co-operation between Ukraine and the OSCE, including through the OSCE Project Coordinator in Ukraine, on the basis of its mandate and the Memorandum of Understanding.

26. With a large number of elections ahead of us, we are committed to these being free and fair, and in accordance with OSCE principles and commitments. This is the only way in which there can be a stable basis for democratic development. We appreciate the role of the ODIHR in assisting countries to develop electoral legislation in keeping with OSCE principles and commitments, and we agree to follow up promptly ODIHR's election assessments and recommendations. We value the work of the ODIHR and the OSCE Parliamentary Assembly - before, during and after elections - which further contributes to the democratic process. We are committed to secure the full right of persons belonging to minorities to vote and to facilitate the right

of refugees to participate in elections held in their countries of origin. We pledge to ensure fair competition among candidates as well as parties, including through their access to the media and respect for the right of assembly.

27. We commit ourselves to ensuring the freedom of the media as a basic condition for pluralistic and democratic societies. We are deeply concerned about the exploitation of media in areas of conflict to foment hatred and ethnic tension and the use of legal restrictions and harassment to deprive citizens of free media. We underline the need to secure freedom of expression, which is an essential element of political discourse in any democracy. We support the Office of the Representative on Freedom of the Media in its efforts to promote free and independent media.

28. In the year of the 10<sup>th</sup> anniversary of the adoption of the Convention on the Rights of the Child, and putting the OSCE's Copenhagen commitments into practice, we commit ourselves to actively promote children's rights and interests, especially in conflict and post-conflict situations. We will regularly address the rights of children in the work of the OSCE, including by organizing a special meeting dedicated to children in armed conflict during the year 2000. We will pay particular attention to the physical and psychological well-being of children involved in or affected by armed conflict.

29. The Co-ordinator of OSCE Economic and Environmental Activities should, under the authority of the Chairman-in-Office and the Secretary General and in close co-operation with the relevant OSCE field operations, develop regular reports concerning economic and environmental risks to security. These reports should include questions of promoting public awareness of the relationship between economic and environmental problems and security and the relationship between our Organization and others concerned with the promotion of economic and environmental security within the OSCE area. Such reports will be discussed by the Permanent Council.

30. We reaffirm our commitment to ensure that laws and policies fully respect the rights of persons belonging to national minorities, in particular in relation to issues affecting cultural identity. Specifically, we emphasize the requirement that laws and policies regarding the educational, linguistic and participatory rights of persons belonging to national minorities conform to applicable international standards and

conventions. We also support the adoption and full implementation of comprehensive anti-discrimination legislation to promote full equality of opportunities for all. We commend the essential work of the High Commissioner on National Minorities. We reaffirm that we will increase our efforts to implement the recommendations of the High Commissioner on National Minorities.

31. We deplore violence and other manifestations of racism and discrimination against minorities, including the Roma and Sinti. We commit ourselves to ensure that laws and policies fully respect the rights of Roma and Sinti and, where necessary, to promote anti-discrimination legislation to this effect. We underline the importance of careful attention to the problems of the social exclusion of Roma and Sinti. These issues are primarily a responsibility of the participating States concerned. We emphasize the important role that the ODIHR Contact Point for Roma and Sinti issues can play in providing support. A further helpful step might be the elaboration by the Contact Point of an action plan of targeted activities, drawn up in co-operation with the High Commissioner on National Minorities and others active in this field, notably the Council of Europe.

32. In line with our commitment to ensure full equality between women and men, we look forward to an early approval and implementation of an OSCE gender action plan.

33. In the framework of our commitment to further strengthening of the operational capacities of the OSCE Secretariat, we will improve the OSCE employment conditions so that it can better compete for and retain well qualified personnel to enable the Secretariat to carry out its tasks and fulfil its other responsibilities. We will take into account the need for geographic diversity and gender balance when recruiting personnel to OSCE institutions and field operations.

34. We note that a large number of participating States have not been able to implement the 1993 Rome Ministerial Council decision on legal capacity of the OSCE institutions and on privileges and immunities. With a view to improve this situation, a determined effort should be made to review issues related to the implementation of commitments under the 1993 Rome Ministerial decision. To this end, we task the Permanent Council, through an informal open-ended working group to draw up a

report to the next Ministerial Council Meeting, including recommendations on how to improve the situation.

35. To address the challenges in the OSCE area quickly and efficiently new instruments are required. We welcome the establishment, in the Charter, of a Rapid Expert Assistance and Co-operation Teams (REACT) programme for the OSCE. We commit ourselves to make this concept fully operational at the shortest possible time. We are determined as a matter of priority to implement the decision made in the Charter. We will provide the expertise required and commit the necessary resources according to established procedures. We take note of the letter from the Secretary General to the Permanent Council concerning the rapid deployment of expertise. We request the Permanent Council and the Secretary General to establish a task force within the Conflict Prevention Centre aimed at developing the REACT programme and a budget that will enable REACT to be fully operational by 30 June 2000.

36. We task the Permanent Council and the Secretary General to implement within the same time frame, our decision in the Charter to set up an Operation Centre within the Conflict Prevention Centre, with a small core staff having expertise relevant for all kinds of OSCE operations, which can be expanded rapidly when required, and the decisions made to strengthen the Secretariat and our field operations.

37. We have in the Charter reaffirmed our commitment to the rule of law and stressed the need to combat corruption. We task the Permanent Council to examine how best to contribute to efforts to combat corruption, taking into account efforts of other organizations such as the Organization for Economic Co-operation and Development, Council of Europe and the United Nations. The results of this work will be reported to the 2000 Ministerial Meeting.

38. The fact that we are meeting in Turkey, which only recently suffered terrible earthquakes, brings home to us the major impact of natural disasters. We need to strengthen the international community's ability to respond to such events, by improving the co-ordination of the efforts of participating States, international organizations and NGOs. We task the Permanent Council to discuss this matter further.

39. We welcome the successful adaptation of the Treaty on Conventional Armed Forces in Europe. The adapted Treaty will provide a greater degree of military stability through a stricter system of limitations, increased transparency and lower levels of conventional armed forces in its area of application. We hope the States Parties will move forward expeditiously to facilitate completion of national ratification procedures, taking into account their common commitment to, and the central importance of, full and continued implementation of the Treaty and its associated documents until and following entry into force of the Agreement on Adaptation. Upon entry into force of the Agreement on Adaptation, OSCE participating States with territory in the area between the Atlantic Ocean and the Ural Mountains may apply for accession to the adapted Treaty, thereby providing an important additional contribution to European stability and security.

40. We welcome the OSCE Forum for Security Co-operation's efforts to advance security dialogue, co-operation, transparency and mutual confidence, as well as its work on the OSCE concept of comprehensive and indivisible security in accordance with its mandate of Helsinki 1992. We welcome the conclusion of the review process resulting in the adoption of the Vienna Document 1999 on confidence- and security-building measures, a key element of politico-military co-operation and stability. It improves current CSBMs and emphasizes the importance of regional co-operation. We remain fully committed to the principles contained in the Code of Conduct on politico-military aspects of security. We welcome the decision of the FSC to launch a broad and comprehensive discussion on all aspects of the problem of the spread of small arms and light weapons and to study concrete measures to deal with this issue, in order to respond to the challenge to peace and stability stemming from the excessive and destabilizing accumulation and uncontrolled spread of these weapons.

41. We note with satisfaction that the negotiations on regional stability, as foreseen under Article V of Annex 1-B of the General Framework Agreement for Peace have entered their substantive phase. A successful outcome to the on-going Article V negotiations would make a significant contribution to security and stability in the region. We urge the states participating in the Article V negotiations to aim to conclude their work by the end of 2000. We appreciate the OSCE's active role in facilitating the

implementation of the Agreement on Confidence- and Security-Building Measures in Bosnia and Herzegovina and the Agreement on Sub-Regional Arms Control negotiated under Annex 1-B of the General Framework Agreement for Peace in Bosnia and Herzegovina.

42. We reaffirm the significance of the Open Skies Treaty: in this respect, convinced that trial flights are in no way a substitute for the regime of observation flights as set forth in the Treaty, we urge early completion of the process of its ratification and entry into force.

43. We note the widespread human suffering caused by anti-personnel mines and note the entry into force on 1 March 1999 of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction. We also note the entry into force on 3 December 1998 of the Amended Mines Protocol to the UN Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to have Indiscriminate Effects. We reaffirm our support for international co-operation in promoting global humanitarian action against anti-personnel mines, including promoting mine clearance activities, mine awareness programs, and the care, rehabilitation and social and economic reintegration of mine victims.

44. We take note of the report of the Chairman-in-Office on discussions held this year with regard to reviewing the scale and criteria for financing OSCE activities and instruct the Permanent Council to continue its discussions with a view to reaching agreement before the OSCE Ministerial Council Meeting in November/December 2000, so that this agreement can be applied after 31 December 2000, in accordance with the decision taken at the 1997 Copenhagen Ministerial Council Meeting.

45. We reconfirm the importance we attach to the relationship with our Partners for Co-operation as set out in the Charter for European Security. In light of our relationship with our Mediterranean Partners, Algeria, Egypt, Israel, Jordan, Morocco and Tunisia, we reaffirm that strengthening security and co-operation in the Mediterranean area is of major importance to the stability in the OSCE area. We therefore intend to enhance our dialogue and joint activities with them. We will



**furthermore strengthen our relationship with Japan and the Republic of Korea. We appreciate the contributions made by Japan to OSCE activities.**

**46. We express our gratitude to the High Commissioner on National Minorities, Mr. Max van der Stoel, for his willingness to continue in his position until a new High Commissioner on National Minorities has been appointed at the latest at the OSCE Ministerial Meeting in Vienna in November/December 2000.**

**47. The next Ministerial Council will take place in Vienna in November/December 2000, and will take a decision on the time and place of the next meeting of the Heads of State or Government of the OSCE participating States.**

**48. We welcome and accept the offer of Romania to exercise the function of Chairman-in-Office in 2001.**

*OSCE Charter for European Security*  
*(November 1999)*

Paragraph 24 contains language on the rights of children in situations of armed conflict.

The logo features the acronym "OSCE" in a bold, sans-serif font, where each letter is contained within a separate black square. To the right of this text is a thick, textured, diagonal brushstroke that tapers from the top left towards the bottom right.

**OSCE**

ISTANBUL SUMMIT

**Organization for Security and Co-operation in Europe**

**CHARTER FOR EUROPEAN SECURITY**

**Istanbul, November 1999**

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Original: ENGLISH

# CHARTER FOR EUROPEAN SECURITY

Istanbul, November 1999

1. At the dawn of the twenty-first century we, the Heads of State or Government of the OSCE participating States, declare our firm commitment to a free, democratic and more integrated OSCE area where participating States are at peace with each other, and individuals and communities live in freedom, prosperity and security. To implement this commitment, we have decided to take a number of new steps. We have agreed to:

- Adopt the Platform for Co-operative Security, in order to strengthen co-operation between the OSCE and other international organizations and institutions, thereby making better use of the resources of the international community;
- Develop the OSCE's role in peacekeeping, thereby better reflecting the Organization's comprehensive approach to security;
- Create Rapid Expert Assistance and Co-operation Teams (REACT), thereby enabling the OSCE to respond quickly to demands for assistance and for large civilian field operations;
- Expand our ability to carry out police-related activities in order to assist in maintaining the primacy of law;
- Establish an Operation Centre, in order to plan and deploy OSCE field operations;
- Strengthen the consultation process within the OSCE by establishing the Preparatory Committee under the OSCE Permanent Council.

We are committed to preventing the outbreak of violent conflicts wherever possible. The steps we have agreed to take in this Charter will strengthen the OSCE's ability in this respect as well as its capacity to settle conflicts and to rehabilitate societies ravaged by war and destruction. The Charter will contribute to the formation of a common and indivisible security space. It will advance the creation of an OSCE area free of dividing lines and zones with different levels of security.

## I. OUR COMMON CHALLENGES

2. The last decade of the twentieth century has brought great achievements in the OSCE area, co-operation has replaced previous confrontation, but the danger of conflicts between States has not been eliminated. We have put Europe's old divisions behind us, but new risks and challenges have emerged. Since we signed the Charter of Paris it has become more obvious that threats to our security can stem from conflicts within States as well as from conflicts between States. We have experienced conflicts which have often resulted from flagrant violations of OSCE norms and principles. We have witnessed atrocities of a kind we had thought were relegated to the past. In this decade it has become clear that all such conflicts can represent a threat to the security of all OSCE participating States.

3. We are determined to learn from the dangers of confrontation and division between States as well as from tragedies of the last decade. Security and peace must be enhanced through an approach which combines two basic elements, we must build confidence among

people within States and strengthen co-operation between States. Therefore, we will strengthen existing instruments and develop new ones to provide assistance and advice. We will reinforce our efforts to ensure full respect for human rights and fundamental freedoms, including the rights of persons belonging to national minorities. In parallel, we will strengthen our capacity to enhance confidence and security between States. We are determined to develop the means at our disposal to settle peacefully disputes between them.

4. International terrorism, violent extremism, organized crime and drug trafficking represent growing challenges to security. Whatever its motives, terrorism in all its forms and manifestations is unacceptable. We will enhance our efforts to prevent the preparation and financing of any act of terrorism on our territories and deny terrorists safe havens. The excessive and destabilizing accumulation and uncontrolled spread of small arms and light weapons represent a threat to peace and security. We are committed to strengthening our protection against these new risks and challenges; strong democratic institutions and the rule of law are the foundation for this protection. We are also determined to co-operate more actively and closely with each other to meet these challenges.

5. Acute economic problems and environmental degradation may have serious implications for our security. Co-operation in the fields of economy, science and technology and the environment will be of critical importance. We will strengthen our responses to such threats through continued economic and environmental reforms, by stable and transparent frameworks for economic activity and by promoting market economies, while paying due attention to economic and social rights. We applaud the unprecedented process of economic transformation taking place in many participating States. We encourage them to continue this reform process, which will contribute to security and prosperity in the entire OSCE area. We will step up our efforts across all dimensions of the OSCE to combat corruption and to promote the rule of law.

6. We confirm that security in areas nearby, in particular in the Mediterranean area as well as areas in direct proximity to participating States, such as those of Central Asia, is of increasing importance to the OSCE. We recognize that instability in these areas creates challenges that directly affect the security and prosperity of OSCE States.

## **II. OUR COMMON FOUNDATIONS**

7. We reaffirm our full adherence to the Charter of the United Nations, and to the Helsinki Final Act, the Charter of Paris and all other OSCE documents to which we have agreed. These documents represent our common commitments and are the foundation for our work. They have helped us to bring about an end to the old confrontation in Europe and to foster a new era of democracy, peace and solidarity throughout the OSCE area. They established clear standards for participating States' treatment of each other and of all individuals within their territories. All OSCE commitments, without exception, apply equally to each participating State. Their implementation in good faith is essential for relations between States, between governments and their peoples, as well as between the organizations of which they are members. Participating States are accountable to their citizens and responsible to each other for their implementation of their OSCE commitments. We regard these commitments as our common achievement and therefore consider them to be matters of immediate and legitimate concern to all participating States.

We reaffirm the OSCE as a regional arrangement under Chapter VIII of the Charter of the United Nations and as a primary organization for the peaceful settlement of disputes

within its region and as a key instrument for early warning, conflict prevention, crisis management and post-conflict rehabilitation. The OSCE is the inclusive and comprehensive organization for consultation, decision-making and co-operation in its region.

8. Each participating State has an equal right to security. We reaffirm the inherent right of each and every participating State to be free to choose or change its security arrangements, including treaties of alliance, as they evolve. Each State also has the right to neutrality. Each participating State will respect the rights of all others in these regards. They will not strengthen their security at the expense of the security of other States. Within the OSCE no State, group of States or organization can have any pre-eminent responsibility for maintaining peace and stability in the OSCE area or can consider any part of the OSCE area as its sphere of influence.

9. We will build our relations in conformity with the concept of common and comprehensive security, guided by equal partnership, solidarity and transparency. The security of each participating State is inseparably linked to that of all others. We will address the human, economic, political and military dimensions of security as an integral whole.

10. We will continue to uphold consensus as the basis for OSCE decision-making. The OSCE's flexibility and ability to respond quickly to a changing political environment should remain at the heart of the OSCE's co-operative and inclusive approach to common and indivisible security.

11. We recognize the primary responsibility of the United Nations Security Council for the maintenance of international peace and security and its crucial role in contributing to security and stability in our region. We reaffirm our rights and obligations under the Charter of the United Nations, including our commitment on the issue of the non-use of force or the threat of force. In this connection, we also reaffirm our commitment to seek the peaceful resolution of disputes as set out in the Charter of the United Nations.

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Based on these foundations we will strengthen our common response and improve our common instruments in order to meet the challenges confronting us more efficiently.

### **III. OUR COMMON RESPONSE**

#### **CO-OPERATION WITH OTHER ORGANIZATIONS: THE PLATFORM FOR CO-OPERATIVE SECURITY**

12. The risks and challenges we face today cannot be met by a single State or organization. Over the last decade, we have taken important steps to forge new co-operation between the OSCE and other international organizations. In order to make full use of the resources of the international community, we are committed to even closer co-operation among international organizations.

We pledge ourselves, through the Platform for Co-operative Security, which is hereby adopted as an essential element of this Charter, to further strengthen and develop co-operation with competent organizations on the basis of equality and in a spirit of partnership. The principles of the Platform for Co-operative Security, as set out in the operational document attached to this Charter, apply to any organization or institution whose

members individually and collectively decide to adhere to them. They apply across all dimensions of security; politico-military, human and economic. Through this Platform we seek to develop and maintain political and operational coherence, on the basis of shared values, among all the various bodies dealing with security, both in responding to specific crises and in formulating responses to new risks and challenges. Recognizing the key integrating role that the OSCE can play, we offer the OSCE, when appropriate, as a flexible co-ordinating framework to foster co-operation, through which various organizations can reinforce each other drawing on their particular strengths. We do not intend to create a hierarchy of organizations or a permanent division of labour among them.

We are ready in principle to deploy the resources of international organizations and institutions of which we are members in support of the OSCE's work, subject to the necessary policy decisions as cases arise.

13. Subregional co-operation has become an important element in enhancing security across the OSCE area. Processes such as the Stability Pact for South-Eastern Europe, which has been placed under the auspices of the OSCE, help to promote our common values. They contribute to improved security not just in the subregion in question but throughout the OSCE area. We offer the OSCE, in accordance with the Platform for Co-operative Security, as a forum for subregional co-operation. In this respect, and in accordance with the modalities in the operational document, the OSCE will facilitate the exchange of information and experience between subregional groups and may, if so requested, receive and keep their mutual accords and agreements.

#### SOLIDARITY AND PARTNERSHIP

14. Peace and security in our region is best guaranteed by the willingness and ability of each participating State to uphold democracy, the rule of law and respect for human rights. We individually confirm our willingness to comply fully with our commitments. We also have a joint responsibility to uphold OSCE principles. We are therefore determined to co-operate within the OSCE and with its institutions and representatives and stand ready to use OSCE instruments, tools and mechanisms. We will co-operate in a spirit of solidarity and partnership in a continuing review of implementation. Today we commit ourselves to joint measures based on co-operation, both in the OSCE and through those organizations of which we are members, in order to offer assistance to participating States to enhance their compliance with OSCE principles and commitments. We will strengthen existing co-operative instruments and develop new ones in order to respond efficiently to requests for assistance from participating States. We will explore ways to further increase the effectiveness of the Organization to deal with cases of clear, gross and continuing violations of those principles and commitments.

15. We are determined to consider ways of helping participating States requesting assistance in cases of internal breakdown of law and order. We will jointly examine the nature of the situation and possible ways and means of providing support to the State in question.

16. We reaffirm the validity of the Code of Conduct on Politico-Military Aspects of Security. We will consult promptly, in conformity with our OSCE responsibilities, with a participating State seeking assistance in realizing its right to individual or collective self-defence in the event that its sovereignty, territorial integrity and political independence



are threatened. We will consider jointly the nature of the threat and actions that may be required in defence of our common values.

## OUR INSTITUTIONS

17. The Parliamentary Assembly has developed into one of the most important OSCE institutions continuously providing new ideas and proposals. We welcome this increasing role, particularly in the field of democratic development and election monitoring. We call on the Parliamentary Assembly to develop its activities further as a key component in our efforts to promote democracy, prosperity and increased confidence within and between participating States.

18. The Office for Democratic Institutions and Human Rights (ODIHR), the High Commissioner on National Minorities (HCNM) and the Representative on Freedom of the Media are essential instruments in ensuring respect for human rights, democracy and the rule of law. The OSCE Secretariat provides vital assistance to the Chairman-in-Office and to the activities of our Organization, especially in the field. We will also strengthen further the operational capacities of the OSCE Secretariat to enable it to face the expansion of our activities and to ensure that field operations function effectively and in accordance with the mandates and guidance given to them.

We commit ourselves to giving the OSCE institutions our full support. We emphasize the importance of close co-ordination among the OSCE institutions, as well as our field operations, in order to make optimal use of our common resources. We will take into account the need for geographic diversity and gender balance when recruiting personnel to OSCE institutions and field operations.

We acknowledge the tremendous developments and diversification of OSCE activities. We recognize that a large number of OSCE participating States have not been able to implement the 1993 decision of the Rome Ministerial Council, and that difficulties can arise from the absence of a legal capacity of the Organization. We will seek to improve the situation.

## THE HUMAN DIMENSION

19. We reaffirm that respect for human rights and fundamental freedoms, democracy and the rule of law is at the core of the OSCE's comprehensive concept of security. We commit ourselves to counter such threats to security as violations of human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief and manifestations of intolerance, aggressive nationalism, racism, chauvinism, xenophobia and anti-semitism.

The protection and promotion of the rights of persons belonging to national minorities are essential factors for democracy, peace, justice and stability within, and between, participating States. In this respect we reaffirm our commitments, in particular under the relevant provisions of the Copenhagen 1990 Human Dimension Document, and recall the Report of the Geneva 1991 Meeting of Experts on National Minorities. Full respect for human rights, including the rights of persons belonging to national minorities, besides being an end in itself, may not undermine, but strengthen territorial integrity and sovereignty. Various concepts of autonomy as well as other approaches outlined in the above-mentioned documents, which are in line with OSCE principles, constitute ways to preserve and promote the ethnic, cultural, linguistic and religious identity of national minorities within an existing

State. We condemn violence against any minority. We pledge to take measures to promote tolerance and to build pluralistic societies where all, regardless of their ethnic origin, enjoy full equality of opportunity. We emphasize that questions relating to national minorities can only be satisfactorily resolved in a democratic political framework based on the rule of law.

We reaffirm our recognition that everyone has the right to a nationality and that no one should be deprived of his or her nationality arbitrarily. We commit ourselves to continue our efforts to ensure that everyone can exercise this right. We also commit ourselves to further the international protection of stateless persons.

20. We recognize the particular difficulties faced by Roma and Sinti and the need to undertake effective measures in order to achieve full equality of opportunity, consistent with OSCE commitments, for persons belonging to Roma and Sinti. We will reinforce our efforts to ensure that Roma and Sinti are able to play a full and equal part in our societies, and to eradicate discrimination against them.

21. We are committed to eradicating torture and cruel, inhumane or degrading treatment or punishment throughout the OSCE area. To this end, we will promote legislation to provide procedural and substantive safeguards and remedies to combat these practices. We will assist victims and co-operate with relevant international organizations and non-governmental organizations, as appropriate.

22. We reject any policy of ethnic cleansing or mass expulsion. We reaffirm our commitment to respect the right to seek asylum and to ensure the international protection of refugees as set out in the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, as well as to facilitate the voluntary return of refugees and internally displaced persons in dignity and safety. We will pursue without discrimination the reintegration of refugees and internally displaced persons in their places of origin.

In order to enhance the protection of civilians in times of conflict, we will seek ways of reinforcing the application of international humanitarian law.

23. The full and equal exercise by women of their human rights is essential to achieve a more peaceful, prosperous and democratic OSCE area. We are committed to making equality between men and women an integral part of our policies, both at the level of our States and within the Organization.

24. We will undertake measures to eliminate all forms of discrimination against women, and to end violence against women and children as well as sexual exploitation and all forms of trafficking in human beings. In order to prevent such crimes we will, among other means, promote the adoption or strengthening of legislation to hold accountable persons responsible for these acts and strengthen the protection of victims. We will also develop and implement measures to promote the rights and interests of children in armed conflict and post-conflict situations, including refugees and internally displaced children. We will look at ways of preventing forced or compulsory recruitment for use in armed conflict of persons under 18 years of age.

25. We reaffirm our obligation to conduct free and fair elections in accordance with OSCE commitments, in particular the Copenhagen Document 1990. We recognize the assistance the ODIHR can provide to participating States in developing and implementing electoral legislation. In line with these commitments, we will invite observers to our

elections from other participating States, the ODIHR, the OSCE Parliamentary Assembly and appropriate institutions and organizations that wish to observe our election proceedings. We agree to follow up promptly the ODIHR's election assessment and recommendations.

26. We reaffirm the importance of independent media and the free flow of information as well as the public's access to information. We commit ourselves to take all necessary steps to ensure the basic conditions for free and independent media and unimpeded transborder and intra-State flow of information, which we consider to be an essential component of any democratic, free and open society.

27. Non-governmental organizations (NGOs) can perform a vital role in the promotion of human rights, democracy and the rule of law. They are an integral component of a strong civil society. We pledge ourselves to enhance the ability of NGOs to make their full contribution to the further development of civil society and respect for human rights and fundamental freedoms.

#### THE POLITICO-MILITARY DIMENSION

28. The politico-military aspects of security remain vital to the interests of participating States. They constitute a core element of the OSCE's concept of comprehensive security. Disarmament, arms control and confidence- and security-building measures (CSBMs) are important parts of the overall effort to enhance security by fostering stability, transparency and predictability in the military field. Full implementation, timely adaptation and, when required, further development of arms control agreements and CSBMs are key contributions to our political and military stability.

29. The Treaty on Conventional Armed Forces in Europe (CFE) must continue to serve as a cornerstone of European security. It has dramatically reduced equipment levels. It provides a fundamental contribution to a more secure and integrated Europe. The States Parties to this Treaty are taking a critical step forward. The Treaty is being strengthened by adapting its provisions to ensure enhanced stability, predictability and transparency amidst changing circumstances. A number of States Parties will reduce further their equipment levels. The adapted Treaty, upon its entry into force, will be open to voluntary accession by other OSCE participating States in the area between the Atlantic Ocean and the Ural Mountains and thereby will provide an important additional contribution to European stability and security.

30. The OSCE Vienna Document 1999, together with other documents adopted by the Forum for Security Co-operation (FSC) on politico-military aspects of security, provide valuable tools for all OSCE participating States in building greater mutual confidence and military transparency. We will continue to make regular use of and fully implement all OSCE instruments in this field and seek their timely adaptation in order to ensure adequate response to security needs in the OSCE area. We remain committed to the principles contained in the Code of Conduct on politico-military aspects of security. We are determined to make further efforts within the FSC in order to jointly address common security concerns of participating States and to pursue the OSCE's concept of comprehensive and indivisible security so far as the politico-military dimension is concerned. We will continue a substantial security dialogue and task our representatives to conduct this dialogue in the framework of the FSC.

## THE ECONOMIC AND ENVIRONMENTAL DIMENSION

31. The link between security, democracy and prosperity has become increasingly evident in the OSCE area, as has the risk to security from environmental degradation and the depletion of natural resources. Economic liberty, social justice and environmental responsibility are indispensable for prosperity. On the basis of these linkages, we will ensure that the economic dimension receives appropriate attention, in particular as an element of our early warning and conflict prevention activities. We will do so, *inter alia*, with a view to promoting the integration of economies in transition into the world economy and to ensure the rule of law and the development of a transparent and stable legal system in the economic sphere.

32. The OSCE is characterized by its broad membership, its comprehensive approach to security, its large number of field operations and its long history as a norm-setting organization. These qualities enable it to identify threats and to act as a catalyst for co-operation between key international organizations and institutions in the economic and environmental areas. The OSCE stands ready to play this role, where appropriate. We will foster such co-ordination between the OSCE and relevant international organizations in accordance with the Platform for Co-operative Security. We will enhance the OSCE's ability to address economic and environmental issues in ways that neither duplicate existing work nor replace efforts that can be more efficiently undertaken by other organizations. We will focus on areas in which the OSCE has particular competence. The OSCE's efforts within the human dimension have significant economic effects and vice versa, for example by mobilizing human resources and talents and by helping to build vibrant civil societies. In the spirit of the 1998 Århus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, we will in particular seek to ensure access to information, public participation in decision-making and access to justice in environmental matters.

## RULE OF LAW AND FIGHT AGAINST CORRUPTION

33. We reaffirm our commitment to the rule of law. We recognize that corruption poses a great threat to the OSCE's shared values. It generates instability and reaches into many aspects of the security, economic and human dimensions. Participating States pledge to strengthen their efforts to combat corruption and the conditions that foster it, and to promote a positive framework for good government practices and public integrity. They will make better use of existing international instruments and assist each other in their fight against corruption. As part of its work to promote the rule of law, the OSCE will work with NGOs that are committed to a strong public and business consensus against corrupt practices.

## IV. OUR COMMON INSTRUMENTS

### ENHANCING OUR DIALOGUE

34. We are determined to broaden and strengthen our dialogue concerning developments related to all aspects of security in the OSCE area. We charge the Permanent Council and the FSC within their respective areas of competence to address in greater depth security concerns of the participating States and to pursue the OSCE's concept of comprehensive and indivisible security.

35. The Permanent Council, being the regular body for political consultations and decision-making, will address the full range of conceptual issues as well as the day-to-day operational work of the Organization. To assist in its deliberations and decision-making and to strengthen the process of political consultations and transparency within the Organization, we will establish a Preparatory Committee under the Permanent Council's direction. This open-ended Committee will normally meet in informal format and will be tasked by the Council, or its Chairman, to deliberate and to report back to the Council.

36. Reflecting our spirit of solidarity and partnership, we will also enhance our political dialogue in order to offer assistance to participating States, thereby ensuring compliance with OSCE commitments. To encourage this dialogue, we have decided, in accordance with established rules and practices, to make increased use of OSCE instruments, including:

- Dispatching delegations from the OSCE institutions, with the participation of other relevant international organizations, when appropriate, to provide advice and expertise for reform of legislation and practices;
- Dispatching Personal Representatives of the Chairman-in-Office, after consultations with the State concerned, for fact-finding or advisory missions;
- Bringing together representatives of the OSCE and States concerned in order to address questions regarding compliance with OSCE commitments;
- Organizing training programmes aimed at improving standards and practices, *inter alia*, within the fields of human rights, democratization and the rule of law;
- Addressing matters regarding compliance with OSCE commitments at OSCE review meetings and conferences as well as in the Economic Forum;
- Submitting such matters for consideration by the Permanent Council, *inter alia*, on the basis of recommendations by the OSCE institutions within their respective mandates or by Personal Representatives of the Chairman-in-Office;
- Convening meetings of the Permanent Council in a special or reinforced format in order to discuss matters of non-compliance with OSCE commitments and to decide on appropriate courses of action;
- Establishing field operations with the consent of the State concerned.

#### OSCE FIELD OPERATIONS

37. The Permanent Council will establish field operations. It will decide on their mandates and budgets. On this basis, the Permanent Council and the Chairman-in-Office will provide guidance to such operations.

38. The development of OSCE field operations represents a major transformation of the Organization that has enabled the OSCE to play a more prominent role in promoting peace, security and compliance with OSCE commitments. Based on the experience we have acquired, we will develop and strengthen this instrument further in order to carry out tasks according to their respective mandates, which may, *inter alia*, include the following:

- Providing assistance and advice or formulating recommendations in areas agreed by the OSCE and the host country;
- Observing compliance with OSCE commitments and providing advice or recommendations for improved compliance;
- Assisting in the organization and monitoring of elections;
- Providing support for the primacy of law and democratic institutions and for the maintenance and restoration of law and order;
- Helping to create conditions for negotiation or other measures that could facilitate the peaceful settlement of conflicts;
- Verifying and/or assisting in fulfilling agreements on the peaceful settlement of conflicts;
- Providing support in the rehabilitation and reconstruction of various aspects of society.

39. Recruitment to field operations must ensure that qualified personnel are made available by participating States. The training of personnel is an important aspect of enhancing the effectiveness of the OSCE and its field operations and will therefore be improved. Existing training facilities in OSCE participating States and training activities of the OSCE could play an active role in achieving this aim in co-operation, where appropriate, with other organizations and institutions.

40. In accordance with the Platform for Co-operative Security, co-operation between OSCE and other international organizations in performing field operations will be enhanced. This will be done, *inter alia*, by carrying out common projects with other partners, in particular the Council of Europe, allowing the OSCE to benefit from their expertise while respecting the identity and decision-making procedures of each organization involved.

41. The host country of an OSCE field operation should, when appropriate, be assisted in building its own capacity and expertise within the area of responsibility. This would facilitate an efficient transfer of the tasks of the operation to the host country, and consequently the closure of the field operation.

#### RAPID RESPONSE (REACT)

42. We recognize that the ability to deploy rapidly civilian and police expertise is essential to effective conflict prevention, crisis management and post-conflict rehabilitation. We are committed to developing a capability within the participating States and the OSCE to set up Rapid Expert Assistance and Co-operation Teams (REACT) that will be at the disposal of the OSCE. This will enable OSCE bodies and institutions, acting in accordance with their respective procedures, to offer experts quickly to OSCE participating States to provide assistance, in compliance with OSCE norms, in conflict prevention, crisis management and post-conflict rehabilitation. This rapidly deployable capability will cover a wide range of civilian expertise. It will give us the ability to address problems before they become crises and to deploy quickly the civilian component of a peacekeeping operation when needed. These Teams could also be used as surge capacity to assist the OSCE with the rapid

deployment of large-scale or specialized operations. We expect REACT to develop and evolve, along with other OSCE capabilities, to meet the needs of the Organization.

#### OPERATION CENTRE

43. Rapid deployment is important for the OSCE's effectiveness in contributing to our conflict prevention, crisis management and post-conflict rehabilitation efforts and depends on effective preparation and planning. To facilitate this, we decide to set up an Operation Centre within the Conflict Prevention Centre with a small core staff, having expertise relevant for all kinds of OSCE operations, which can be expanded rapidly when required. Its role will be to plan and deploy field operations, including those involving REACT resources. It will liaise with other international organizations and institutions as appropriate in accordance with the Platform for Co-operative Security. The Centre's core staff will, to the extent possible, be drawn from personnel with appropriate expertise seconded by participating States and from existing Secretariat resources. This core will provide the basis for rapid expansion, to deal with new tasks as they arise. The precise arrangements will be decided in accordance with existing procedures.

#### POLICE-RELATED ACTIVITIES

44. We will work to enhance the OSCE's role in civilian police-related activities as an integral part of the Organization's efforts in conflict prevention, crisis management and post-conflict rehabilitation. Such activities may comprise:

- Police monitoring, including with the aim of preventing police from carrying out such activities as discrimination based on religious and ethnic identity;
- Police training, which could, *inter alia*, include the following tasks:
  - Improving the operational and tactical capabilities of local police services and reforming paramilitary forces;
  - Providing new and modern policing skills, such as community policing, and anti-drug, anti-corruption and anti-terrorist capacities;
  - Creating a police service with a multi-ethnic and/or multi-religious composition that can enjoy the confidence of the entire population;
  - Promoting respect for human rights and fundamental freedoms in general.

We will encourage the provision of modern equipment appropriate to police services that receive training in such new skills.

In addition, the OSCE will examine options and conditions for a role in law enforcement.

45. We shall also promote the development of independent judicial systems that play a key role in providing remedies for human rights violations as well as providing advice and assistance for prison system reforms. The OSCE will also work with other international organizations in the creation of political and legal frameworks within which the police can perform its tasks in accordance with democratic principles and the rule of law.

## PEACEKEEPING

46. We remain committed to reinforcing the OSCE's key role in maintaining peace and stability throughout our area. The OSCE's most effective contributions to regional security have been in areas such as field operations, post-conflict rehabilitation, democratization, and human rights and election monitoring. We have decided to explore options for a potentially greater and wider role for the OSCE in peacekeeping. Reaffirming our rights and obligations under the Charter of the United Nations, and on the basis of our existing decisions, we confirm that the OSCE can, on a case-by-case basis and by consensus, decide to play a role in peacekeeping, including a leading role when participating States judge it to be the most effective and appropriate organization. In this regard, it could also decide to provide the mandate covering peacekeeping by others and seek the support of participating States as well as other organizations to provide resources and expertise. In accordance with the Platform for Co-operative Security, it could also provide a co-ordinating framework for such efforts.

## THE COURT OF CONCILIATION AND ARBITRATION

47. We reiterate that the principle of the peaceful settlement of disputes is at the core of OSCE commitments. The Court of Conciliation and Arbitration, in this respect, remains a tool available to those, a large number of participating States, which have become parties to the 1992 Convention of Stockholm. We encourage them to use this instrument to resolve disputes between them, as well as with other participating States which voluntarily submit to the jurisdiction of the Court. We also encourage those participating States which have not yet done so to consider joining the Convention.

## V. OUR PARTNERS FOR CO-OPERATION

48. We recognize the interdependence between the security of the OSCE area and that of Partners for Co-operation, as well as our commitment to the relationship and the dialogue with them. We emphasize in particular the long-standing relations with our Mediterranean partners, Algeria, Egypt, Israel, Jordan, Morocco and Tunisia. We recognize the increased involvement in and support for the work of the OSCE by our Partners for Co-operation. Building on this interdependence, we are ready to develop this process further. Implementing and building on the Helsinki Document 1992 and the Budapest Document 1994, we will work more closely with the Partners for Co-operation to promote OSCE norms and principles. We welcome their wish to promote the realization of the Organization's norms and principles, including the fundamental principle of resolving conflicts through peaceful means. To this end, we will invite the Partners for Co-operation on a more regular basis to increased participation in the work of the OSCE as the dialogue develops.

49. The potential of the Contact Group and the Mediterranean seminars must be fully explored and exploited. Drawing on the Budapest mandate, the Permanent Council will examine the recommendations emerging from the Contact Group and the Mediterranean seminars. We will encourage the Mediterranean Partners for Co-operation to draw on our expertise in setting up structures and mechanisms in the Mediterranean for early warning, preventive diplomacy and conflict prevention.

50. We welcome the increased participation in our work by Japan and the Republic of Korea. We welcome the contribution by Japan to OSCE field activities. We will seek to



strengthen further our co-operation with our Asian partners in meeting challenges of common interest.

## VI. CONCLUSION

51. This Charter will benefit the security of all participating States by enhancing and strengthening the OSCE as we enter the twenty-first century. Today we have decided to develop its existing instruments and to create new tools. We will use them fully to promote a free, democratic and secure OSCE area. The Charter will thus underpin the OSCE's role as the only pan-European security organization entrusted with ensuring peace and stability in its area. We appreciate the completion of the work of the Security Model Committee.

52. The original of the present Charter, drawn up in English, French, German, Italian, Russian and Spanish, will be transmitted to the Secretary General of the Organization, who will transmit a certified true copy of this Charter to each of the participating States.

We, the undersigned High Representatives of the participating States, mindful of the high political significance that we attach to the present Charter and declaring our determination to act in accordance with the provisions contained in the above text, have subscribed our signatures below.

Geschehen zu Istanbul am 19. November 1999 namens	Done at Istanbul, on 19 November 1999, in the name of	Hecho en Estambul, el 19 de noviembre de 1999 en nombre de	Fait à Istanbul, le 19 novembre 1999 au nom	Fatto a Istanbul il 19 novembre 1999 in nome	Совершено в Стамбуле 19 ноября 1999 года от имени
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## I. The Platform

1. The goal of the Platform for Co-operative Security is to strengthen the mutually reinforcing nature of the relationship between those organizations and institutions concerned with the promotion of comprehensive security within the OSCE area.
2. The OSCE will work co-operatively with those organizations and institutions whose members individually and collectively, in a manner consistent with the modalities appropriate to each organization or institution, now and in the future:
  - Adhere to the principles of the Charter of the United Nations and the OSCE principles and commitments as set out in the Helsinki Final Act, the Charter of Paris, the Helsinki Document 1992, the Budapest Document 1994, the OSCE Code of Conduct on politico-military aspects of security and the Lisbon Declaration on a Common and Comprehensive Security Model for Europe for the twenty-first century;
  - Subscribe to the principles of transparency and predictability in their actions in the spirit of the Vienna Document 1999 of the Negotiations on Confidence- and Security-Building Measures;
  - Implement fully the arms control obligations, including disarmament and CSBMs, to which they have committed themselves;
  - Proceed on the basis that those organizations and institutions of which they are members will adhere to transparency about their evolution;
  - Ensure that their membership in those organizations and institutions is based on openness and free will;
  - Actively support the OSCE's concept of common, comprehensive and indivisible security and a common security space free of dividing lines;
  - Play a full and appropriate part in the development of the relationships between mutually reinforcing security-related institutions in the OSCE area;
  - Are ready in principle to deploy the institutional resources of international organizations and institutions of which they are members in support of the OSCE's work, subject to the necessary policy decisions as cases arise. In this regard, participating States note the particular relevance of co-operation in the areas of conflict prevention and crisis management.
3. Together these principles and commitments form the Platform for Co-operative Security.

## II. Modalities for Co-operation

1. Within the relevant organizations and institutions of which they are members, participating States will work to ensure the organizations' and institutions' adherence to the

Platform for Co-operative Security. Adherence, on the basis of decisions taken by each member State within relevant organizations and institutions, will take place in a manner consistent with the modalities appropriate to each organization or institution. Contacts and co-operation of the OSCE with other organizations and institutions will be transparent to participating States and will take place in a manner consistent with the modalities appropriate to the OSCE and those organizations and institutions.

2. At the 1997 Ministerial Meeting in Copenhagen, a decision was taken on the Common Concept for the Development of Co-operation between Mutually Reinforcing Institutions. We acknowledge the extensive network of contacts elaborated since then, in particular the growing co-operation with organizations and institutions active both in the politico-military field and in the human and economic dimensions of security, and the strengthening of co-operation between the OSCE and the various United Nations bodies and agencies, recalling the OSCE's role as a regional arrangement under the Charter of the United Nations. We are determined to develop this further.
3. The growing importance of subregional groupings in the work of the OSCE is another important area, and we support the growth in co-operation with these groups based on this Platform.
4. Development of co-operation can be further enhanced through extensive use of the following instruments and mechanisms:
  - Regular contacts, including meetings; a continuous framework for dialogue; increased transparency and practical co-operation, including the identification of liaison officers or points of contact; cross-representation at appropriate meetings; and other contacts intended to increase understanding of each organization's conflict prevention tools.
5. In addition, the OSCE may engage in special meetings with other organizations, institutions and structures operating in the OSCE area. These meetings may be held at a political and/or executive level (to co-ordinate policies or determine areas of co-operation) and at a working level (to address the modalities of co-operation).
6. The development of the OSCE field operations in recent years has represented a major transformation of the Organization. In view of the adoption of the Platform for Co-operative Security, existing co-operation between the OSCE and other relevant international bodies, organizations and institutions in field operations should be developed and built upon in accordance with their individual mandates. Modalities for this form of co-operation could include: regular information exchanges and meetings, joint needs assessment missions, secondment of experts by other organizations to the OSCE, appointment of liaison officers, development of common projects and field operations, and joint training efforts.
7. Co-operation in responding to specific crises:
  - The OSCE, through its Chairman-in-Office and supported by the Secretary General, and the relevant organizations and institutions are encouraged to keep each other informed of what actions they are undertaking or plan to undertake to deal with a particular situation;

- To this end, participating States encourage the Chairman-in-Office, supported by the Secretary General, to work with other organizations and institutions to foster co-ordinated approaches that avoid duplication and ensure efficient use of available resources. As appropriate, the OSCE can offer to serve as a flexible framework for co-operation of the various mutually reinforcing efforts. The Chairman-in-Office will consult with participating States on the process and will act in accordance with the results of these consultations.
  
- 8. The Secretary General shall prepare an annual report for the Permanent Council on interaction between organizations and institutions in the OSCE area.



**Americas**

*Inter-American Children's Institute Resolution in  
Support for Ending the Use of Children and Young  
People Under 18 as Soldiers, CD/RES. 03 (74-R799)  
(September 1999)*

*Inter-American Children's Institute*

CD/RES. 03 (74-R799)

SUPPORT FOR ENDING THE USE OF CHILDREN AND YOUNG PEOPLE UNDER 18 AS  
SOLDIERS

THE DIRECTING CONCIL,

CONSIDERING:

That according to UNICEF more than 300,000 children under the age of eighteen are currently participating in armed conflicts worldwide;

That children who participate in armed conflicts frequently suffer emotional and psychological trauma, are denied an education and separated from their families, and are subject to injury, permanent disability and death;

That the Latin American and Caribbean Conference on the Use of Child Soldiers, held in Montevideo, Uruguay, July 5-8 1999, hosted by the Uruguayan government, organized by the Coalition to Stop the Use of Child Soldiers in cooperation with the Inter-American Children's Institute and attended by representatives of governments, international organizations and non-governmental organizations, adopted a Declaration calling for an end to the recruitment of children under the age of eighteen, or their use in armed conflict;

RESOLVES:

1. To take note of the Montevideo Declaration on the Use of Child Soldiers.
2. To request the Executive Committee to include a draft resolution on child soldiers in the Institute's annual report to the Permanent Council, highlighting the importance of the issue and proposing specific steps to be taken to end the use of children as soldiers.
3. To encourage all the Member States of the OAS to support efforts to end the use of children under the age of eighteen years in armed conflict by any armed forces or armed group, and where appropriate, to adopt and implement national plans to end any recruitment of children under the age of eighteen.
4. To request the Director General of the IACI and all of its principal delegates to take all necessary steps to encourage discussion on the use of children as soldiers and children affected by war during the III Summit of the Americas to be held in Canada in the year 2001.



*OAS General Assembly Resolution on the Promotion of  
and Respect for International Humanitarian Law  
AG/RES. 1619 (June 1999)*

Language on war-affected children is contained in operational paragraph 4.

## PROMOTION OF AND RESPECT FOR INTERNATIONAL HUMANITARIAN LAW

(Adopted at the first plenary session, held on June 7, 1999,  
and pending review by the Style Committee)

The General Assembly,

Recalling its resolutions AG/RES. 1270 (XXIV-O/94), AG/RES. 1335 (XXV-O/95), AG/RES. 1408 (XXVI-O/96), AG/RES. 1503 (XXVII-O/97), and AG/RES. 1565 (XXVIII-O/98),

Deeply concerned about the persistent violations of international humanitarian law occurring throughout the world, and, in particular, about the fate of the civilian population which is increasingly the target of attacks that contravene the applicable fundamental standards,

Recalling that it is the obligation of all states to observe and enforce in all circumstances the standards established in the 1949 Geneva Conventions and, where applicable, for the States that are Party, those contained in the 1977 Additional Protocols thereto,

Underscoring the need to strengthen the principles of international humanitarian law by achieving its universal acceptance, its widest dissemination, and integral application of its provisions,

Aware of the need to punish those responsible for war crimes and other serious violations of international humanitarian law, especially the customary violations, and noting, within this context, that the Statute of the International Criminal Court was opened for signature in Rome, on July 17, 1998, at the close of the Conference of Plenipotentiaries, held under United Nations auspices,

Recognizing once more the ongoing efforts of the International Committee of the Red Cross (ICRC) to promote and disseminate knowledge of international humanitarian law and the activities it carries out in its capacity as an independent, neutral, and impartial organization under any and all circumstances,

Having considered the report of the Permanent Council (CP/CAJP-1599/99),

1. Urges the member states that have not yet done so to consider ratification of, or, if applicable, accession to, the 1977 Additional Protocols I and II to the 1949 Geneva Conventions.

2. Also urges the member states that have not yet done so to consider ratification of, or, if applicable, accession to, the following instruments relating to weapons which may be excessively harmful or have indiscriminate effects:

a. The 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects (and Protocols);

b. The 1997 Convention on the Prohibition of the Use, Stockpiling, Production, and Transfer of Anti-personnel Mines and on their Destruction; and

c. The 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict.

3. Underscores how important it is for the states, in implementing the body of international humanitarian law, to pay special attention to the following provisions:

- a. The widest possible dissemination of international humanitarian law among the armed forces and security forces, by including it in official instruction programs and in training permanent staff in this field in the armed forces ;
  - b. The promulgation of the criminal laws required to punish those responsible for war crimes and other serious violations of international humanitarian law;
  - c. The promulgation of legislation to regulate the use of symbols protected under international humanitarian law and to punish abuses thereof; and
  - d. The obligation, when studying, developing, acquiring, or adopting a new weapon, to determine if its use would violate international humanitarian law, and, if it would, to desist from procuring it for use by the armed forces or security forces and from manufacturing it for other purposes;
4. Calls upon the member states and all parties to an armed conflict to prevent the participation of children in hostilities, as well as their recruitment in the armed forces and in organized armed groups;
  5. Urges member states to take the necessary steps to ensure that the staff of humanitarian organizations are respected and protected in their territories;
  6. Urges the member states and all parties in an armed conflict to help preserve the impartiality, independence, and neutrality of humanitarian action in accordance with the guiding principles adopted by the United Nations General Assembly in its resolution 46/182 dated December 19, 1991;
  7. Urges the member states to participate actively in the Twenty-seventh International Conference of the Red Cross and Red Crescent to be held in Geneva, from October 31 to November 6, 1999,
  8. Invites the member states to continue to cooperate with the International Committee of the Red Cross in its various spheres of responsibility and to facilitate its work.
  9. Invites the Permanent Council, in close coordination with the International Committee of the Red Cross (ICRC), to hold a high-level seminar in the second half of 1999 on the commemoration of the 50th anniversary of the 1949 Geneva Conventions, in accordance with the funding allocated in the program-budget and other resources;
  10. Requests the Secretary General to collect reports from the member states on the implementation of resolution and to present a report to the Permanent Council before the General Assembly's thirtieth regular session.

*OAS General Assembly Resolution on the Promotion of  
and Respect for International Humanitarian Law  
AG/RES. 1565 (June 1998)*

Language on war-affected children is contained in operational paragraph 9.



**ORGANIZATION OF AMERICAN STATES  
INTER-AMERICAN SYSTEM OF LEGAL INFORMATION**

**SECRETARIAT FOR LEGAL AFFAIRS  
DEPARTMENT OF LEGAL COOPERATION AND INFORMATION**



AG/RES. 1565 (XXVIII-O/98)

**PROMOTION OF AND RESPECT FOR INTERNATIONAL  
HUMANITARIAN LAW**

(Resolution adopted at the third plenary session, held on June 2, 1998)

THE GENERAL ASSEMBLY,

CONSIDERING its resolutions AG/RES. 1270 (XXIV-O/94), AG/RES. 1335 (XXV-O/95), AG/RES. 1408 (XXVI-O/96), and AG/RES. 1503 (XXVII-O/97) regarding international humanitarian law;

CONCERNED about the large number of armed conflicts still taking place in various parts of the world, and about persistent violations of international humanitarian law, particularly against children, women, displaced persons, and civilians in general;

CONVINCED of the continuing value of the fundamental principles and established rules of international humanitarian law, and of the need and obligation of the states parties to the 1949 Geneva Conventions, and to the 1977 Additional Protocols thereto, not only to respect, but also to enforce, in all circumstances, the provisions of those treaties;

CONSIDERING that international humanitarian law prohibits the use of weapons, projectiles, materiel, and methods of warfare that have indiscriminate effects or cause excessive injury or unnecessary suffering;

NOTING that all states are bound to respect the relevant rules of customary international humanitarian law;

STRESSING the need to strengthen the existing body of international humanitarian law by achieving its universal acceptance, the need for wide dissemination and full implementation of that law at the national level, and the need to punish all violations of its provisions;

CONSIDERING:

That the Organization of American States proclaims the fundamental rights of the individual and encourages the promotion of those rights; and

That the Organization's member states should spread awareness of international humanitarian law in their countries and take all measures necessary to facilitate its effective implementation;

RECOGNIZING the continuing effort of the International Committee of the Red Cross (ICRC) to promote and disseminate knowledge of international humanitarian law, and the activities it carries out in its capacity as a neutral and independent organization in situations of armed conflict and of internal armed violence; CONSIDERING the first report submitted by the ICRC to the Committee on Juridical and Political Affairs of the OAS Permanent

Council (March 1998) on the status of efforts undertaken by the member states to promote the national application of international humanitarian law in their legal and administrative systems;

RECALLING the cooperation agreement signed by the General Secretariat of the OAS and the ICRC in Washington, D.C., on May 10, 1996, as well as the seminars on international humanitarian law organized jointly by the OAS and the ICRC; and

CONSIDERING that the international conference to establish an International Criminal Court will be held in Rome from June 15 to July 17, 1998,

RESOLVES:

1. To call upon all member states that have not yet done so to consider becoming parties to the 1977 Additional Protocols I and II to the Geneva Conventions at the earliest possible date.
2. To call upon all member states that are already parties to Additional Protocol I, and those that intend to become parties, to consider making the declaration provided for under Article 90 of that Protocol.
3. To call upon member states:
  - a. That have not yet done so to consider acceding to the 1980 United Nations Convention on Conventional Weapons and its annexed Protocols;
  - b. That are already parties to the aforementioned convention to consider ratifying its amended Protocols II and IV thereto, and to request them to inform the Secretary General when they have done so;
  - c. That have signed the 1997 Convention on the Prohibition of the Use, Stockpiling, Production, and Transfer of Anti-personnel Mines and on their Destruction to consider at the earliest stage the national ratification thereof and to declare at the time of ratification that they will provisionally apply its core prohibitions; and
  - d. That have not signed the 1997 Convention on the Prohibition of the Use, Stockpiling, Production, and Transfer of Anti-personnel Mines and on their Destruction to observe the new standards established by the Convention and to consider signing and ratifying it at an early date.
4. To invite those member states that have not yet done so to consider becoming parties to the 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict.
5. To call on member states to continue to consider the adoption, as necessary, of national enabling law and regulations pertaining to international humanitarian law, and to apply and disseminate international humanitarian law as widely as possible and monitor its implementation, with particular emphasis on:
  - a. the adoption of appropriate criminal law to punish war crimes and other violations of international humanitarian law;
  - b. the adoption of laws and other measures to prevent the misuse of the Red Cross and Red Crescent emblems and other symbols provided for in the principal humanitarian law instruments; and
  - c. the widest possible dissemination of the humanitarian treaties among their armed forces, security forces, and other relevant groups, the incorporation of international humanitarian

law instruction into their official training programs, and the appointment and training of persons qualified in international humanitarian law, including legal advisers within the armed forces.

6. To call upon member states to consider the establishment of national advisory committees or similar bodies to facilitate and ensure the effective implementation of international humanitarian law and, where these exist, to facilitate the exchange of information on their tasks and activities.

7. To urge the member states to participate actively in the conference to be held soon in Rome, with a view to the establishment of an International Criminal Court to punish war crimes and crimes against humanity.

8. To urge the member states to take all necessary measures to ensure that the personnel of humanitarian organizations are protected and respected within their territories.

9. To urge member states and all other parties to armed conflicts to adopt all necessary measures to end the use of children as soldiers, which violates international humanitarian law, and to ensure their demobilization and reintegration into society, including proper education and training, in a manner that fosters their self-respect and dignity.

10. To urge member states, as conflicts and other complex crises unfold, to preserve the independence, neutrality, and impartiality of humanitarian action and, to the extent possible, to separate humanitarian responses from political and military actions.

11. To invite member states to continue to cooperate with the International Committee of the Red Cross (ICRC) in its various areas of responsibility and to facilitate its work.

12. To instruct the Permanent Council to organize, in collaboration with the ICRC, a special meeting of the Committee on Juridical and Political Affairs on the promotion of and respect for international humanitarian law, in keeping with resources allocated in the program-budget to be adopted at the special session held by the General Assembly after its twenty-eighth regular session, and with other resources.

13. To request the Permanent Council to report on the implementation of this resolution to the General Assembly at its twenty-ninth regular session.

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*Montevideo Declaration  
on the  
Use of Children as Soldiers (July 1999)*



# LATIN AMERICAN AND CARIBBEAN CONFERENCE ON THE USE OF CHILDREN AS SOLDIERS

## Montevideo Declaration on the Use of Children as Soldiers

The Latin American and Caribbean Conference on the Use of Children as Soldiers, held in Montevideo, Uruguay, from 5 to 8 July 1999:

Appalled that more than 300,000 children under 18 years of age are currently participating in armed conflicts worldwide;

Recalling the principles of the best interests of the child, non-discrimination and comprehensive protection promoted in the Convention on the Rights of the Child, ratified by 191 states;

Recalling that the UN Commission on Human Rights, in its resolution 1999/80 on the Rights of the Child, has reaffirmed "the urgent need to raise the current minimum age limit set by article 38 of the Convention on the Rights of the Child on the recruitment and participation of any person in armed conflicts" and that the Special Rapporteur on extrajudicial, summary or arbitrary executions, among other recommendations, "strongly supports the adoption of an optional protocol to the Convention on the Rights of the Child aimed at prohibiting the recruitment of children under 18 years of age into the armed forces and armed groups and their participation in armed conflict. She further urges States to take immediate unilateral action to raise the age of enlistment to 18 years." ( E/CN.4/1999/39, para 97);

Recalling that the forced or voluntary recruitment of children under 18 years of age and their use for direct or indirect participation in international and non-international armed conflict, as well as in situations of internal violence, whether by the armed forces or any armed group, constitutes a violation of the human rights of boys and girls;

Taking into account the economic, social, political and cultural causes of the phenomenon of child soldiers and *considering* that the recruitment of children under 18 years of age, whether by national armed forces or by armed groups, can in no circumstances be considered "voluntary";

Welcoming the adoption of the Statute of the International Criminal Court which makes "conscripting or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities" a war crime, both in international and internal armed conflict, whether by armed forces or armed groups, and *hopeful* that in future the minimum age will be raised to 18 years;

Welcoming Convention No. 182 of the International Labour Organisation (ILO) concerning the prohibition and immediate action for the elimination of the worst forms of child labour, adopted unanimously by the International Labour Conference in June 1999, which includes "forced or compulsory recruitment of children for use in armed conflict" as one of the worst forms of child labour;

Welcoming the proclamation by the United Nations General Assembly of the year 2000 as the International Year for a Culture of Peace;

Welcoming *and supporting* the work of the Special Representative of the Secretary-General for Children and Armed Conflict to prohibit the recruitment and use of children in armed conflict;

Welcoming the presence as participants or observers at this Conference of diplomatic delegations and defence ministry representatives from several Latin American and Caribbean countries and from other regions of the world, as well as that of inter-governmental organisations and national and international non-governmental organisations;

Determined to put an end to the use of children under 18 years of age as soldiers;

1) Solemnly declares that the use of any child under 18 years of age by any national armed force or armed group is, without exception, in peacetime as in war, contrary to the spirit of comprehensive protection promoted in the Convention on the Rights of the Child, even where the child under 18 years claims or is claimed to be a volunteer;

2) Considers it a priority aim to achieve the eradication of forced or voluntary recruitment of children under 18 years of age by the armed forces and any armed group, or their use for direct or indirect participation in international and non-international armed conflict, as well as in situations of internal violence;

- 3) Urges all national armed forces and all armed groups operating at the instigation of the State or with its consent or acquiescence to stop recruiting children under 18 years of age or using them to participate directly or indirectly in armed conflict or in any situation of internal violence;**
- 4) Urges all armed opposition groups and dissident armed forces to stop recruiting children under 18 years of age or using them to participate directly or indirectly in armed conflict or in any situation of internal violence;**
- 5) Urges all Latin American and Caribbean States:**
- a) in compliance with their obligations under the Convention on the Rights of the Child, to promote an environment that favours the full, safe and healthy development of children and to take all necessary measures to ensure that no child under 18 years of age participates in international or non-international armed conflict, nor in situations of internal violence;**
  - b) actively to support the adoption of an Optional Protocol to the Convention on the Rights of the Child setting 18 years as the minimum age for all military recruitment and participation in international and non-international armed conflict, as well as in situations of internal violence;**
  - c) to ratify the Statute of the International Criminal Court;**
  - d) to ratify ILO Convention No. 182 concerning the prohibition and immediate action for the elimination of the worst forms of child labour and to report to the American Regional Labour Conference, to be held in Lima in August 1999, on the measures taken towards ratification;**
  - e) to make the recruitment of children under 18 years of age into the armed forces or into armed groups, or their use for direct or indirect participation in international and non-international armed conflict, as well as in situations of internal violence, a crime under domestic law and to bring those responsible for ordering or carrying out these crimes before the appropriate judicial authorities;**
  - f) to take necessary measures to ensure that their Constitutions and national legislation adequately incorporate the Convention on the Rights of the Child, as well as the four Geneva Conventions of 1949 and their Additional Protocols I and II of 1977, and that these are implemented effectively;**
  - g) to promote a culture of peace and to take necessary measures to ensure that the teaching received by children under 18 years of age in military schools and academies is in line with the provisions of the Convention on the Rights of the Child and other international human rights and humanitarian law instruments, and not to allow education to be militarized;**
  - h) to carry out information and awareness-raising campaigns aimed at civil society, the armed forces and/or armed groups as appropriate on the negative consequences that recruiting children under 18 years of age and using them to participate directly or indirectly in armed conflict have on the child's full development, as well as to promote and disseminate educational programmes for a culture of peace through the formal and informal education system;**
  - i) to carry out national analyses of the situation of children under 18 years as soldiers and to adopt and implement national plans to end recruitment of children under the age of 18, as well as their use for direct or indirect participation in armed conflict, and to adopt early-warning mechanisms to enable advanced monitoring of any attempts to recruit or use children from vulnerable sectors of the population. In particular, such plans should include maintaining up-to-date child registration and documentation systems;**
  - j) to create and/or strengthen national human rights institutions with a particular responsibility for the issue of children under 18 years as soldiers, in accordance with the UN Principles Relating to the Status of National Human Rights Institutions;**
  - k) to recognize as refugees those under 18 years of age who are compelled to leave their country of origin because they fear persecution owing to their refusal to be recruited as soldiers or to be used to participate in internal conflict;**

**l) to take necessary measures for mutual and reciprocal collaboration so as to achieve the above goals;**

**m) to recognize the right to conscientious objection to military service as a fundamental human right which is exercised from the very moment it is expressed and to ensure that conscientious objection is recognized in accordance with Resolution 1998/77 of the UN Commission on Human Rights. Provision for conscientious objection should always be under civilian regulation and the objector should at no stage be obliged to prove his or her convictions;**

**n) to include from the start in any peace process the issue of demobilization of children under 18 years who have been soldiers and their complete rehabilitation and reintegration into society;**

**o) to undertake demobilization and full reintegration programmes for children under 18 years who have been soldiers, taking gender equity into account and systematically integrating prevention programmes at the local and community level, with the fundamental aim of achieving family reunification and full social rehabilitation, particularly into the formal education system;**

**p) to grant amnesties or other similar measures to children under 18 years of age who have participated directly or indirectly in armed conflict; and**

**q) to grant full, prompt and effective reparation to children under 18 years who have been soldiers;**

**6) Calls upon the Organization of American States and its member states to promote an end to the forced or voluntary recruitment of children under 18 years of age and their use for direct or indirect participation in international and non-international armed conflict as well as in situations of internal violence, by the armed forces or any armed group across the continent, and in particular calls upon:**

**a) the Permanent Council to take up the issue of children under 18 years as soldiers in its work;**

**b) the General Assembly to adopt a resolution on the eradication of the use of children under 18 years as soldiers;**

**c) the Inter-American Commission on Human Rights to adopt a recommendation on the eradication of the use of children under 18 years as soldiers;**

**d) the Rapporteur on the Rights of the Child of the Inter-American Commission on Human Rights to incorporate in his annual report the issue of the use of children under 18 years in armed conflict;**

**e) the Inter-American Children's Institute to include in its activities the issue of the use of children under 18 years in armed conflict;**

**f) the Inter-American bodies and conferences on defence, security and military affairs to incorporate into their activities the issue of children under 18 years as soldiers; and,**

**g) the Inter-American Development Bank to give priority in its assistance policies and programmes to respecting the economic, social and cultural rights of children under the age of 18 and their families, and to support projects aimed at promoting the rehabilitation of children under the age of 18 affected by armed conflict into productive and family life and into the educational system;**

**7) Calls upon all States around the world:**

**a) actively to support the adoption of an Optional Protocol to the Convention on the Rights of the Child setting 18 years as the minimum age for all military recruitment and participation in international and non-international armed conflict, as well as in situations of internal violence;**

**b) to provide the fullest possible international cooperation and assistance towards the fulfilment of the aims of this Declaration;**

**c) to stop the sale of arms and/or the transfer of military technology to countries where children under 18 years of age are recruited or used for direct or indirect participation in armed conflict;**

**d) to ratify the Convention on the Rights of the Child;**

**8) Calls upon the United Nations system to provide adequate assistance to ensure the implementation of the above aims, in particular by:**

**a) providing financial, technical and other resources so as to offer alternatives to children under the age of 18 induced by circumstance to join armed forces or armed groups and to facilitate the demobilisation, rehabilitation and reintegration of child soldiers;**

**b) intensifying efforts to ensure an end to the use of children under 18 years of age as soldiers, in particular the efforts of the Special Representative of the Secretary-General for Children and Armed Conflict, the United Nations Children's Fund, the Office of the High Commissioner for Refugees, the Office of the High Commissioner for Human Rights and the United Nations Organization for Education, Science and Culture (UNESCO) Culture of Peace Programme;**

**c) carrying out a campaign for the universal ratification of Convention No. 182 through the International Labour Organisation's programme for the eradication of child labour;**

**d) giving priority in assistance policies and programmes, particularly those of the World Bank and the International Monetary Fund, to respecting the economic, social and cultural rights of children under the age of 18 and their families, and to support projects aimed at promoting the rehabilitation of children under the age of 18 affected by armed conflict into productive and family life and into the educational system;**

**9) Calls on civil society and non-governmental organisations, particularly those in Latin America and the Caribbean:**

**a) to commit themselves to work for the fulfilment and implementation of this Declaration and to disseminate it broadly; and,**

**b) to set up mechanisms, with the active participation of children under 18 years of age, for social mobilization on the issue, particularly at the local level, strengthening networks of community organisations working against the recruitment of children under 18 years of age or their use for direct or indirect participation in armed conflict;**

**10) Calls on non-governmental organisations to submit alternative reports to the Committee on the Rights of the Child in order to foster a constructive dialogue with States parties and other international organisations dealing with issues relating to the promotion and protection of the rights of the child and to transmit information to the Special Representative of the Secretary-General for Children and Armed Conflict;**

**11) Calls upon Latin American, Caribbean and international media to support efforts to end the use of children under 18 years of age as soldiers, bearing in mind the imperative need to protect children from stigmatisation and to preserve their dignity, safety and self-respect;**

**12) Decides to present this Declaration to the Organisation of American States and to request the Secretariat of the Organisation to forward it to the Foreign Ministries of member states;**

**13) Expresses its warmest appreciation to the people and government of Uruguay for hosting this Conference.**

**Adopted in Montevideo, Uruguay, on 8 July 1999.**



**Commonwealth**

*Final Communique (November 1999)*

Paragraphs 34 and 35 contain language on war-affected children.



Commonwealth

Heads of Government Meeting  
Durban '99

## COMMUNIQUÉ

Commonwealth Secretariat  
International Convention Centre  
Durban

15 November 1999



**50** THE MODERN  
COMMONWEALTH  
CELEBRATING  
FIFTY YEARS



# COMMUNIQUE

1. Commonwealth Heads of Government met in Durban from 12 to 15 November 1999. Of the 52 countries which attended the Meeting, 47 were represented by Heads of State or Prime Ministers. The Meeting was chaired by His Excellency Mr Thabo Mbeki, President of the Republic of South Africa.

2. The Opening Session of the Meeting included an address by Her Majesty Queen Elizabeth II, Head of the Commonwealth.

3. Heads of Government believed that their Meeting was highly symbolic, being their first meeting on the soil of a democratic South Africa, and recalling in this context the leading role which the Commonwealth had played in the global campaign to eradicate *apartheid*. They deemed it particularly appropriate that their meeting in South Africa should also mark the 50<sup>th</sup> Anniversary of the modern Commonwealth. They recognised the significance of the Meeting as one which would launch the Commonwealth into the next millennium.

4. They extended a warm welcome to President Olusegun Obasanjo as the democratically elected leader of Nigeria and expressed satisfaction at the full return of the country to the Commonwealth fold. They also welcomed Nauru's participation in the Commonwealth Heads of Government Meeting for the first time following its accession to full Commonwealth membership.

5. Heads of Government conveyed their appreciation for the excellent arrangements for their Meeting and the warm hospitality extended by the Government and people of South Africa, as well as for the Chairman's admirable stewardship.

6. Heads of Government adopted the *Fancourt Declaration on Globalisation and People-Centred Development*.

## Review of the Role of the Commonwealth

7. Heads of Government decided that a High-Level Group should be established to review the role of the Commonwealth and advise on how best it could respond to the challenges of the new century. The group would be chaired by the President of South Africa and include the Heads of Government of Australia, Fiji, India, Malta, Singapore, Tanzania, Trinidad and Tobago, United Kingdom and Zimbabwe. It would report to the next CHOGM in Australia in 2001.

## Chairperson-in-Office

8. Heads of Government believed that the Chairperson of each CHOGM should be able to play a representational role, especially in other intergovernmental organisations in the period between Heads of Government Meetings.

## Fifty Years of the Modern Commonwealth

9. Heads of Government recalled that the modern Commonwealth traced its origin to the 1949 London Declaration. They celebrated the completion of 50 years since that landmark and believed that this Anniversary marked another important milestone in the history of the association. They noted that the sustained increase in the membership of the Commonwealth, including the return of old members and interest from aspiring members, was testimony to the growing strength and relevance of the association.

## Fundamental Political Values

10. Heads of Government renewed their commitment to the Commonwealth's fundamental political values of democracy, human rights, the rule of law, independence of the judiciary and good governance. They reiterated that fundamental political values and sustainable development were interdependent and mutually reinforcing, and that economic and social progress worked to enhance the sustainability of democracy. They called for increased international co-operation to support democracies in achieving benefits for the poor.

11. Heads of Government noted that the Commonwealth had made commendable progress in making democracy a way of life in the association and believed that it needed to be deepened. They felt that not only governments but all political parties, other organs of civil society and the public at large also had equal responsibility for upholding and promoting the democratic ethic. They recognised the parliaments and legislatures of the Commonwealth as essential elements in the exercise of democratic government, and endorsed the efforts of the Commonwealth Parliamentary Association as the parliamentary partner of the Commonwealth's governmental and non-governmental sectors in advancing the democratic culture of the Commonwealth.

12. Heads of Government commended the valuable contribution made by the Secretary-General's good offices role, at the request of the concerned member governments, to peace, democratic order and political stability, through the prevention and resolution of conflict situations in member countries. They also commended the effective use of Special Envoys by the Secretary-General in this context.

13. Heads of Government reaffirmed gender equality as an essential component of human equality and basic human rights and as a particular Commonwealth challenge. They urged member governments to take action for the promotion and advancement of women by strengthening their national machineries to implement gender mainstreaming for the acceleration of women's empowerment in political, economic and social activities in the 21<sup>st</sup> Century.

14. Heads of Government received with appreciation the Report of the Commonwealth Ministerial Action Group on the Harare Commonwealth Declaration.

15. Heads of Government expressed concern at the continued existence of the Schedule to Decree no. 89, which proscribes the political activities of certain political parties and individuals in The Gambia and urged its repeal. They welcomed an invitation extended by the President of The Gambia for CMAG to visit that country and assess first-hand The Gambia's compliance with the Harare Principles. They requested the Secretary-General to continue the provision of technical assistance to The Gambia to consolidate democratic processes and institutions.

16. Heads of Government expressed their support for the Lomé Peace Agreement on Sierra Leone and called for its immediate, full and effective implementation. They deplored the recent violations of the Agreement and called upon all parties to fulfill their commitments, urging the co-operation of all groups with the process of disarmament, demobilisation and reintegration. They commended the efforts of ECOWAS and its Monitoring Group, ECOMOG, in bringing peace and stability to Sierra Leone and upholding the legitimacy of the elected government. They expressed the Commonwealth's support for the United Nations Mission in Sierra Leone (UNAMSIL) in its role of consolidating the Lomé Peace Agreement.

17. Heads of Government requested CMAG to remain engaged with the post-conflict reconstruction and development and peace-building in Sierra Leone. They also requested the Secretary-General to continue his good offices role in consultation with the United Nations, and that the Commonwealth Secretariat should remain in close liaison with other members of the international community through the International Contact Group on Sierra Leone. They called on the international community to assist Sierra Leone in the task of national reconstruction within the framework of the Commonwealth Action Plan for Sierra Leone.

18. Heads of Government condemned the unconstitutional overthrow of the democratically elected Government in Pakistan on 12 October 1999. They believed that no legitimacy should be accorded to the military regime and called for the restoration of civilian democratic rule without delay. They endorsed CMAG's decision to suspend the military regime in Pakistan from the councils of the Commonwealth, pending the restoration of democracy in that country.

19. Heads of Government requested CMAG to keep the situation in Pakistan under review and be prepared to recommend further measures to be taken by the Commonwealth if progress to democracy is not made speedily.

20. Recognising the unconstitutionality of the regime, Heads of Government urged that Prime Minister Nawaz Sharif and others detained with him be released immediately and that the rule of law in Pakistan be duly observed.

21. Heads of Government commended the role played by CMAG as a custodian of the Harare Principles. They agreed that CMAG should continue to address serious or

persistent violation of these principles and that its future mandate should be considered further by the Commonwealth High-Level Group. They decided that, for the ensuing biennium, CMAG should consist of Ministers from Australia, Bangladesh, Barbados, Botswana, Canada, Malaysia, Nigeria and the United Kingdom. They further agreed that, beginning with the new membership of CMAG, no country should serve for more than two consecutive two-year terms.

### Cyprus

22. Heads of Government reaffirmed their support for the independence, sovereignty, unity and territorial integrity of the Republic of Cyprus. They called for the implementation of United Nations Resolutions on Cyprus, and in particular Security Council Resolutions 365 (1974), 550 (1984), 1250 and 1251 (1999), and for the withdrawal of all Turkish forces and settlers, the return of the refugees to their homes, the restoration and respect for human rights of all Cypriots, and the accounting for all missing persons. They emphasised that the demand for recognition of a separate state in the occupied part of Cyprus is unacceptable.

23. Reiterating their deep concern that continued efforts to achieve a just and lasting solution should at last bear fruit, they strongly endorsed the United Nations Security Council's request to the United Nations Secretary-General to invite the two communities on Cyprus to negotiations under his auspices before the end of 1999. They noted that these negotiations would be comprehensive and based on the four principles of: no preconditions, all issues being on the table, commitment in good faith to continue the negotiations until a settlement is reached, and full consideration of relevant United Nations Resolutions and Treaties. They pledged their full support for the United Nations Secretary-General in pursuit of this objective, and expressed their warm appreciation for the willingness of the Government of the Republic of Cyprus to respond positively to an invitation to negotiations based on the four principles endorsed by the United Nations Security Council.

24. They requested the Secretary-General to convene the Commonwealth Action Group on Cyprus whenever appropriate.

### Belize

25. Heads of Government reaffirmed their support for the territorial integrity, security and sovereignty of Belize and expressed the hope for continued improvement in relations between Belize and Guatemala. They called for dialogue at the highest levels with a view to reaching a mutually beneficial and definitive solution. They mandated the Secretary-General to convene the Commonwealth Ministerial Committee on Belize whenever necessary.

### Guyana

26. Heads of Government expressed their firm support for and solidarity with the Government and people of Guyana in the maintenance of their territorial integrity and sovereignty. They also commended the continued commitment to a peaceful settlement to the controversy between Guyana and Venezuela.

27. Heads of Government took note that relations between the two countries had been conducted over recent years in an atmosphere of mutual understanding and respect, and through the development of programmes of functional co-operation. They expressed the hope that both countries would resolve their differences on this matter peacefully, and welcomed the good offices process of the United Nations Secretary-General.

28. Heads of Government mandated the Commonwealth Secretary-General to establish a ministerial group on Guyana to monitor further developments in respect of the existing controversy.

#### East Timor

29. Heads of Government acknowledged the contribution of Commonwealth countries, at the request of concerned member governments, to conflict resolution and the promotion of democracy not only within member countries but also in their respective regions. They acknowledged the contribution of Commonwealth and other countries to the success achieved by INTERFET, the multinational force led by Australia under a UN mandate, in restoring peace and security in East Timor and in facilitating the delivery of humanitarian assistance. They thanked the wide range of Commonwealth members including Canada, Kenya, Malaysia, New Zealand, Singapore and the United Kingdom and other countries who contributed contingents to the multinational force or other resources. They welcomed the current discussions with the Fiji Islands and Mozambique about possible contributions from those members.

30. Heads of Government welcomed the establishment of the United Nations Transitional Administration in East Timor (UNTAET) and looked forward to the early transition from INTERFET to a United Nations peacekeeping force. They noted the significant scale of international assistance required for reconstruction in East Timor and called for further contributions to this effort from Commonwealth and other countries. They also urged all parties in East Timor to work strenuously towards reconciliation.

#### Democratic Republic of Congo (DRC)

31. Heads of Government welcomed the signing of the Lusaka Ceasefire Agreement on the DRC and urged all the parties to the conflict to strictly adhere to the letter and spirit of the agreement. They appealed to the international community to extend the necessary support to the Organisation of African Unity and the Joint Military Commission to enable them to carry out their mandate without further delay. They further urged the United Nations to speedily deploy a peacekeeping force in the DRC in accordance with the Lusaka Ceasefire Agreement. They encouraged the Congolese people to expedite the national dialogue.

## Angola

32. Heads of Government expressed their grave concern over the continuing suffering of the people of Angola due to UNITA's non-compliance with the Lusaka Protocol and the relevant United Nations Security Council resolutions on Angola. In this respect, they urged the international community to increase, as a matter of urgency, the humanitarian assistance, especially to the displaced persons. Recognising that UNITA is largely responsible for the breakdown of the peace process they urged the international community to fully support and respect the implementation of the United Nations Security Council Sanctions imposed on UNITA. They further called upon the international community to support the work of the United Nations Security Council Sanctions Committee on Angola.

## Terrorism

33. Heads of Government reaffirmed their strongest condemnation of acts of terrorism in all its forms and manifestations, which destabilise the political, economic and social order of sovereign states. They reiterated their determination to promote international and regional co-operation and to strengthen the international legal framework to ensure that terrorists do not find safe haven in any part of the world. They welcomed the adoption of the Convention on the Suppression of Terrorist Bombings as the latest in the series of United Nations enactments on this subject and United Nations Security Council Resolution 1269 of 19 October 1999. They called for the adoption at the current session of the United Nations General Assembly, of the International Convention on the Suppression of Acts of Terrorist Financing, and welcomed the agreement on elaborating, on a priority basis, a Comprehensive Convention Against International Terrorism. Recognising the linkages between terrorism, illegal trafficking in drugs, arms, and of persons, and money laundering, they further called on all states to enact laws to prevent financing of terrorists and terrorist organisations. They also called for firm deterrent measures by the United Nations Security Council against states, entities and organisations which harbour and train terrorists or promote international terrorism.

## Children and Armed Conflict

34. Heads of Government expressed grave concern at the harmful and widespread impact of armed conflict on children and the long-term consequences of this for peace, security and development. They strongly condemned the targeting and abuse of children in situations of armed conflict and the recruitment and use of children in armed conflict in violation of international law, calling on all parties concerned to put an end to such practices. They welcomed United Nations Security Council Resolution 1261 of 25 August 1999, and the current efforts to draft an Optional Protocol to the Convention on the Rights of the Child and Involvement of Children in Armed Conflicts and encouraged efforts by all relevant actors at the national and international level to develop more coherent and effective approaches to the issue of children and armed conflict.

35. In the same context, Heads of Government also welcomed the adoption in June 1999 by the International Labour Organisation of the Convention on the Worst Forms of Child Labour. They noted that a large number of Commonwealth countries had signed the Convention and urged its ratification by as many member governments as possible.

#### Small Arms

36. Heads of Government expressed concern at the destabilising accumulation and proliferation of small arms, ammunition, and light weapons, which had contributed to the intensity and duration of armed conflicts as well as to international terrorism. They noted that many Commonwealth governments were adversely affected by the excessive and destabilising accumulation, and the uncontrolled flows of these lethal weapons. They believed that the challenge posed by the proliferation of small arms involved security, humanitarian and development dimensions. They welcomed the Statement made by the President of the United Nations Security Council on this subject on 29 September 1999 and emphasised the need for urgent action by the international community to curb and prevent illicit production and trafficking. They urged member countries to support and encourage the initiatives underway globally and regionally, and particularly in the United Nations on this complex problem, including the international conference scheduled to be held in 2001.

#### Protection of Civilians in Armed Conflict

37. Heads of Government expressed their deep concern at the targeting of civilians, especially women and children, including recent attacks on humanitarian personnel, noting that these acts which violate international law are often undertaken with impunity. Recognising the negative impact this can have on the building of durable peace, reconciliation and sustainable development, they encouraged all Commonwealth countries to promote compliance with international humanitarian, human rights and refugee law.

#### Debt

38. Heads of Government stressed that the Commonwealth should continue to be a driving force in international efforts to secure a lasting exit from debt for the poorest and most indebted countries in the world. They welcomed the enhanced HIPC initiative, agreed at the autumn 1999 meetings of the Interim and Development Committees. They reiterated the Commonwealth commitment to support the swift implementation of the recent agreements to provide deeper, wider and faster debt relief, with the overarching aim of reducing poverty in HIPC countries. It is important that the procedures relating to the poverty reduction strategies should not delay access to timely debt relief.

39. To this end, they called for the enhanced HIPC framework to be financed in a way that provided additional resources and also avoided adverse effects on other poor developing countries. They emphasised the need for adequate debt relief and technical assistance from the international community to reinforce poverty reduction

strategies in debtor countries and help them achieve internationally agreed poverty reduction and development targets by 2015.

40. They also requested that consideration be given to strengthening of the focus on the fiscal burden of debt in assessing sustainability and the shortening of the required track record of reform of up to six years.

### **Good Governance and the Elimination of Corruption**

41. Heads of Government emphasised that corruption has become global in reach and that it must be tackled comprehensively through action at both national and international levels. They welcomed the report of the Commonwealth Expert Group on Good Governance, and endorsed the Framework for Principles for Promoting Good Governance and Combating Corruption, proposed by the Group, as the basis for pursuing concerted strategies based on zero tolerance for all types of corruption at national and global levels. They underscored that the Commonwealth commitment and work in promoting good governance and preventing corruption must be credible, tangible and visible. They instructed the Secretary-General to formulate strategies to facilitate the implementation of the Framework and for reviews of its progress to be reported at regular intervals.

### **Civil Society**

42. Heads of Government declared that people-centred development implied that people must be directly involved in the decision-making process and in the implementation of development plans and programmes through their own organisations. They noted the significance of civil society in empowering people to benefit from globalisation, in contributing towards our goals of poverty elimination, equal opportunity and fair distribution of resources and in helping to deal more effectively with ethnic, racial and religious conflicts. They acknowledged the need to enable capacity-building efforts of local and regional non-governmental organisations. They noted the report of the Commonwealth Foundation on Citizens and Governance and the Communiqué of the Third Commonwealth NGO Forum and asked Senior Officials at their next meeting to study the issue of the Forum presenting its views to the next CHOGM.

### **Financial Services**

43. Heads of Government affirmed the right of member countries to compete in the international financial markets, through the provision of both onshore and offshore financial services. They recognised the substantial importance of financial services to the economies of certain member countries. They also recognised the need for improvements in the existing framework to regulate international financial transactions and markets, given their increasing volume, size and complexity occasioned by globalisation. They requested the Secretariat to offer assistance to member countries to improve, where appropriate, their operating practices and regulatory standards relating to this activity, in order to safeguard the international banking and financial system and to prevent financial crime, notably money laundering.



## Environment and Development

44. Heads of Government agreed that the Commonwealth should continue to help to build consensus and strengthen international co-operation towards the conservation of biological diversity to avert existing and new threats to the global environment especially to small island and other vulnerable states from the impact of climate change. They emphasised the need to resolve outstanding issues and to bring the Kyoto Protocol into force as soon as possible. They expressed concern about the effects of deforestation and called upon the Commonwealth Secretariat and other international organisations, upon request by member states, to initiate studies to increase the availability of alternative, sustainable and affordable sources of energy especially in Africa south of the Sahara.

45. They called for the adoption of a balanced and effective Biosafety Protocol under the Convention on Biological Diversity at the resumed Extraordinary Conference of the Parties (ExCOP) which takes place from 24 to 28 January 2000.

## Commonwealth Business Council

46. Heads of Government warmly commended the efforts of the Commonwealth Business Council and received the report of the Commonwealth Business Forum, held in Johannesburg from 9 to 11 November 1999. They recognised the essential role of the private sector as a partner in shaping globalisation with equity. They noted the Forum's recommendations on trade, investment, ethics, corruption and corporate governance, infrastructure development and Commonwealth-CBC co-operation. Heads of Government expressed support for the work of the Commonwealth Business Council and for the proposed Commonwealth guidelines on corporate governance developed by the Commonwealth Association for Corporate Governance.

## Small States

47. Heads of Government received with appreciation the attached Report of the Chairperson of the Ministerial Group on Small States.

48. Heads of Government recognised the vulnerability of small states and the development needs they face. They called for the Commonwealth to continue to take a leading role in promoting the interests of small states. They welcomed the Interim Report of the Commonwealth Secretariat/World Bank Task Force, *Small States: Meeting Challenges in the Global Economy*, as a landmark document that confirmed these special problems, vulnerabilities and needs. They noted the areas identified in the Interim Report for further work, including the criteria for the classification of small states and called on the Joint Task Force to complete its report in time for the meeting of the Development Committee of the World Bank and the IMF in Spring 2000 after the fullest consultations with governments of small states, and key multilateral agencies.

49. They agreed that members of the Ministerial Mission should continue to act as a monitoring mechanism and play an advisory role until completion of the work of the

Task Force and its final report, and that implementation of the final report's recommendations be similarly tracked.

50. Heads of Government underscored the need for the Secretary-General to continue the Commonwealth's collaborative efforts with all partner organisations to ensure the implementation of the Report.

51. Heads of Government urged the next WTO Ministerial Meeting in Seattle to consider special measures, including special and differential treatment, for vulnerable small states.

#### **Multilateral Trade Issues**

52. Recalling their Fancourt Declaration on Globalisation and People-Centred Development, Heads requested the Secretariat to continue its support of multilateral trade issues to Commonwealth developing countries, especially small states, in building their capacities for negotiating, updating legislation and strengthening domestic trade policy institutions. They welcomed the contribution which the Trade and Investment Access Facility has made to providing this support, and hoped to expand its resources. In addition, they called on the Secretariat to work with other multilateral bodies and bilateral donors to give practical effect to pledges in international fora and to co-ordinate with others in developing effective, practical programmes of capacity-building for trade, for example by extending the principles of the Integrated Framework more widely.

53. They also requested the Secretary-General to increase the contribution of the Commonwealth to multilateral trade negotiations through the use of expert groups and other methods to explore issues and promote consensus; and to consult Commonwealth governments about convening a meeting of Commonwealth ministers responsible for international trade at an appropriate time to promote progress in WTO negotiations.

54. Heads of Government recognised the importance for a large number of Commonwealth countries of ACP-EU negotiations on post-Lomé-IV arrangements, and urged during a transitional period that the historical benefits upon which ACP countries depend for access to EU markets be retained.

#### **HIV/AIDS**

55. Heads of Government expressed grave concern over the devastating social and economic impact of HIV/AIDS, particularly in sub-Saharan Africa. They agreed that this constituted a Global Emergency, and pledged personally to lead the fight against HIV/AIDS within their countries and internationally. They urged all sectors in government, international agencies and the private sector to co-operate in increased efforts to tackle the problem, with greater priority given to research into new methods of prevention, the development of an effective vaccine and effective ways of making affordable drugs for the treatment of HIV/AIDS accessible to the affected population.

56. Heads of Government reaffirmed their commitment to education and training as essential foundations of human development and emphasised their central importance in equipping people with the knowledge and skills to meet the challenges of development and to take advantage of the opportunities presented by globalisation. They recognised the contribution of the Commonwealth of Learning in supporting the efforts of Commonwealth developing countries to benefit fully from the new information and communication technologies in developing their human potential through distance education.

#### **Commonwealth Functional Co-operation**

57. Heads of Government considered various aspects of Commonwealth functional co-operation, which they reaffirmed as essential for translating the benefits of membership, particularly to developing member states. They approved the attached Report of the Committee of the Whole. They requested the Secretariat to intensify its efforts to establish priorities in its areas of responsibility based on the Commonwealth's comparative advantage.

#### **New Secretary-General**

58. Heads of Government unanimously elected Mr Don McKinnon to succeed Chief Anyaoku as Commonwealth Secretary-General for a four-year term beginning 1 April 2000. They paid warm tribute to Chief Emeka Anyaoku for his exceptional services to the Commonwealth as Secretary-General over the last ten years and during his near 34 years of service to the Commonwealth. They believed that his contribution to the strengthening of the Commonwealth would be long remembered.

#### **Next Meeting**

59. Heads of Government reaffirmed their earlier decision to accept the kind offer of the Government of Australia to host their next Meeting in 2001.

International Convention Centre  
Durban

15 November 1999



# Francophonie

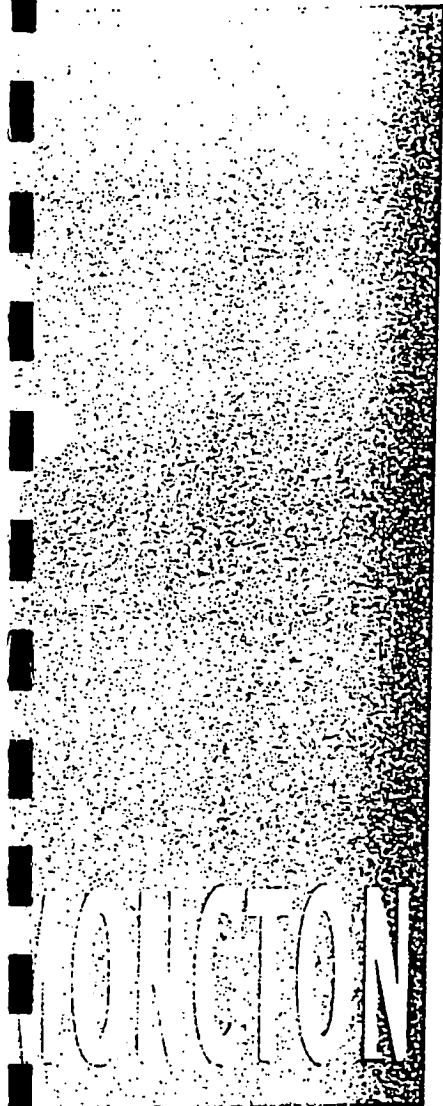
*Moncton Project Action Plan (September 1999)*

War-affected children are referenced in subsection 1.1.1 on Building Peace and in subsection 1.1.2 on Enhancing Civilian Security.

# VIII<sup>e</sup> SOMMET DE LA FRANCOPHONIE

3 - 5 septembre 1999

Plan d'action de Moncton



NOUVEAU-BRUNSWICK  
CANADA

Organisation Internationale de la Francophonie  
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# VIIIème Conférence des chefs d'Etat et de gouvernement des pays ayant le français en partage

(Moncton, 3-5 septembre 1999)

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## Projet de Plan d'action

Version résultant des travaux de la CMF  
Moncton, 31 août - 1<sup>er</sup> septembre 1999

### PREAMBULE

Nous avons voulu consacrer ce Sommet à la jeunesse parce que nous estimons que les jeunes représentent non seulement la relève, mais aussi une force qui peut et doit agir aujourd'hui, et être partie prenante de nos choix.

Dans chaque axe d'intervention prioritaire, nous demandons aux opérateurs de porter une attention particulière à la jeunesse et d'intégrer cet objectif dans toutes nos actions.

### I. AXES D'INTERVENTION PRIORITAIRES

#### AXE N°1 : CONSOLIDATION DE LA PAIX, DE LA DEMOCRATIE ET DE L'ETAT DE DROIT

Contribuer à la réalisation, dans l'espace francophone, de l'aspiration universelle à la paix, à la démocratie et au respect des droits de l'Homme, constitue une mission essentielle de la Francophonie. Notre mouvement doit aider les Francophones à cheminer ensemble sur cette voie en conjuguant ses efforts avec ceux des organisations internationales compétentes. Pour l'accomplissement de cette tâche prioritaire, il est important que le Secrétaire général dispose des moyens humains et financiers nécessaires, tels que déterminés par les Etats et gouvernements.

##### 1.1. Intensifier les actions en faveur de la paix et en appui aux populations civiles

###### 1.1.1. Appui à la Paix

Nous réaffirmons que la paix et la sécurité sont indispensables au développement durable. La démocratie, les droits de l'Homme; les libertés fondamentales, la primauté du droit et la bonne gouvernance sont essentielles à la prévention et au règlement des conflits dans les pays et entre les pays. Notre coopération sur ces thèmes devra s'adresser particulièrement aux enfants, aux femmes et à la société civile en général, en privilégiant les actions conjointes et multilatérales.



Nous nous engageons à renforcer la collaboration avec les institutions multilatérales qui jouent un rôle dans la prévention et le règlement des conflits, notamment l'Organisation des Nations unies, l'Organisation de l'unité africaine et l'Organisation pour la sécurité et la coopération en Europe, et à appuyer les Initiatives de consolidation de la paix dans les pays francophones.

Nous nous félicitons des actions politiques et diplomatiques entreprises par le Secrétaire général depuis Hanoi. Nous l'invitons à poursuivre ses actions en faveur du maintien de la paix et du règlement des crises. Nous renforcerons et systématiserons le dialogue entre le Secrétaire général et nos représentants sur la préparation et le déroulement de ses actions dans ce domaine.

Nous appuyons tous les efforts visant à aboutir à un traité de paix juste et globale au Moyen-Orient dans le cadre d'une réactivation du processus de Madrid basé sur les Résolutions 242 et 338 du Conseil de Sécurité des Nations Unies et sur le principe de « Terre contre Paix ». Nous réaffirmons notre appui à l'application de la résolution 425 du Conseil de Sécurité des Nations Unies qui exige le retrait total, immédiat et inconditionnel des forces israéliennes du territoire libanais.

Nous appuyons aussi les efforts entrepris pour un règlement des conflits qui prévalent encore dans la région des Grands Lacs et dans la région des Balkans et ce, conformément aux résolutions ad hoc des instances internationales.

Nous nous félicitons de l'Accord de Lusaka, avancée essentielle en direction d'une paix juste et globale dans la Région des Grands Lacs. Nous appelons toutes les parties et tous les signataires à en appliquer l'ensemble des dispositions. Nous en appuierons l'application et invitons la communauté Internationale à faciliter cette œuvre de réconciliation, notamment par la mise en œuvre des résolutions pertinentes des Nations Unies.

Nous avons noté avec satisfaction l'aboutissement du dialogue inter-togolais qui a conduit à l'Accord-cadre en vue de la réconciliation nationale. Nous demandons à tous ses signataires d'en appliquer l'ensemble des dispositions et invitons la communauté internationale, notamment sa composante européenne, à apporter au Togo le concours nécessaire à la réussite de ce processus.

Nous apporterons également notre appui, dans le cadre de notre coopération multilatérale, aux processus en cours au Niger et en Guinée Bissau et appelons au respect des calendriers électoraux afin de rétablir les processus constitutionnels dans ces pays.

Enfin, nous souhaitons que la mise en œuvre des Accords de Tananarive permettent aux Comores d'avancer rapidement sur le chemin de la paix, de la démocratie, et du développement, et invitons la communauté internationale à soutenir ce processus.

### **1.1.2. Appui à la sécurité des populations civiles**

Nous souhaitons mener de front des actions en faveur de la paix et de la sécurité internationale et des politiques d'appui à la protection des populations civiles affectées par les conflits armés. Pour mettre fin aux pressions psychologiques et physiques que ces populations subissent dans les régions sous occupation étrangère, nous demandons aux puissances occupantes de respecter les conventions de Genève de 1949 et de s'abstenir de toute action mettant en danger la vie et la condition des jeunes en particulier. Nous soutenons les efforts visant à renforcer les capacités nationales à gérer les conflits sans recourir à la violence et permettant d'assurer la sécurité des personnes, par la mise en place de stratégies mixtes axées sur la prévention des conflits, le respect des conventions internationales et l'élaboration de nouvelles normes, le droit humanitaire, ainsi que la promotion des processus démocratiques et des droits de l'Homme.

Pour manifester notre commune volonté, nous nous engageons à promouvoir le respect de la convention des Nations Unies relative aux Droits de l'Enfant, et en particulier, à œuvrer en vue de l'élaboration d'un Protocole facultatif à cette convention, concernant l'implication d'enfants dans les conflits armés. A cet égard, nous soutiendrons l'action du Représentant du Secrétaire général des Nations Unies en faveur de la protection des enfants en période de conflits armés, ainsi que la Coalition d'ONG constituée à cet effet, pour mettre fin à l'utilisation d'enfants soldats, et nous veillerons à la protection des enfants dans les opérations d'aide humanitaire et de maintien de la paix. Nous oeuvrerons également en vue de l'élaboration du deuxième Protocole facultatif concernant la vente d'enfants, la prostitution des enfants et la pornographie impliquant des enfants.

Nous réitérons notre appui à la Convention sur l'interdiction de l'emploi, du stockage, de la production et du transfert des mines antipersonnel en vigueur depuis mai 1999. Nous nous assurons qu'elle obtienne le soutien le plus large possible et veillerons à son application, en collaboration avec nos partenaires et les ONG concernées. Nous apporterons notre appui à l'universalisation de la Convention, dès que possible, et aux programmes de déminage et d'aide aux victimes des mines antipersonnel.

Nous continuerons de sensibiliser nos populations aux effets nuisibles de la diffusion incontrôlée des armes de petit calibre. Nous appuyons la décision de l'ONU de convoquer une Conférence internationale sur toutes les formes de commerce illicite d'armes. Nous appuyons en particulier la proclamation d'un Moratoire ouest-africain sur l'importation, l'exportation et la fabrication des armes légères. Nous souscrivons, en outre, aux Principes énoncés sur la question par l'Union européenne en décembre 1998. Nous favoriserons l'élaboration d'un instrument international destiné à combattre la fabrication illicite et le trafic d'armes à feu dans le cadre de la Convention des Nations Unies sur la lutte contre la criminalité organisée transnationale.

Par ailleurs, nous continuerons à appuyer la Cour pénale internationale sur les affaires de génocide, de crimes contre l'humanité et de crimes de guerre, en exigeant qu'elle reçoive toutes les garanties possibles d'indépendance et d'efficacité. Nous invitons tous les Etats à devenir parties au statut de Rome du 17 juillet 1998 afin d'en accélérer l'entrée en vigueur.

## **1.2. Approfondir les processus démocratiques, promouvoir les Droits de l'Homme et renforcer l'Etat de droit**

### **1.2.1. Culture démocratique**

Nous organiserons au début de l'an 2000 un symposium international sur le bilan des pratiques de la démocratie, des droits et des libertés dans l'espace francophone qui permettra, en liaison avec le Centre des droits de l'Homme des Nations unies à Genève, d'approfondir la concertation et la coopération autour de l'Etat de droit et de la culture démocratique. Ce symposium constituera une étape nouvelle dans notre dialogue sur l'approfondissement de la démocratie et le respect des libertés. Il devra permettre de faire ressortir les axes principaux de notre expérience et de notre spécificité que nous ferons valoir lors de la 4<sup>ème</sup> Conférence des Nations Unies sur les démocraties nouvelles et rétablies prévue au Bénin en l'an 2000.

Nous renforcerons la collecte et l'analyse d'informations juridiques, institutionnelles et politiques destinées à éclairer l'action des instances politiques de la Francophonie. Cette fonction d'observatoire dévolue à l'Agence intergouvernementale de la Francophonie sera conduite en étroite concertation avec les institutions nationales et internationales, et avec la société civile à travers les organisations internationales non gouvernementales compétentes.

Les missions d'observation des élections seront poursuivies, chaque fois que cela sera possible et nécessaire, en coopération avec d'autres organisations internationales. Ces interventions devront s'inscrire dans le cadre d'une coopération à long terme, tant en amont qu'en aval des consultations électorales, avec les pays concernés. L'accompagnement nécessaire à l'organisation des consultations électorales démocratiques sera privilégié, notamment dans le secteur juridique, ainsi que l'appui aux institutions de contrôle et à la société civile.

Nous encourageons l'Assemblée parlementaire de la Francophonie à poursuivre ses actions, en particulier les séminaires de parlementaires et les stages de fonctionnaires francophones, l'appui aux services documentaires des parlements du Sud et l'aide à l'installation de services de comptes-rendus des débats parlementaires. Nous l'invitons à conduire des actions de sensibilisation sur le rôle et les activités des parlements en direction des jeunes.

Convaincus que la démocratie locale est l'une des conditions de l'approfondissement de la démocratie, nous inciterons les collectivités territoriales de nos Etats membres à s'engager dans la voie de la coopération décentralisée francophone. Nous invitons l'AIMF à poursuivre son action en matière d'informatisation des municipalités partenaires et de tenue de l'état-civil.

### **1.2.2 Droits de l'Homme**

Nous nous emploierons à promouvoir tous les droits de l'Homme et à agir pour que ces droits, civils et politiques, mais aussi économiques, sociaux et culturels, ainsi que le droit au développement, trouvent leur protection dans la vie quotidienne des individus. Nous appuierons à cette fin la ratification et la mise en œuvre des instruments juridiques internationaux qui régissent les obligations des Etats dans la mise en œuvre de ces droits. Nous prêterons une attention particulière aux droits des femmes et aux droits des enfants et sensibiliserons les jeunes aux droits de l'Homme.

Nous demandons au Secrétaire général d'œuvrer de concert avec les organisations internationales compétentes à l'établissement d'un rapport sur l'état des ratifications des grands instruments juridiques internationaux et sur leur mise en œuvre. Nous favoriserons la mise en œuvre de la Déclaration de l'Organisation internationale du travail (OIT), relative aux principes et droits fondamentaux du travail de 1998.

Nous apporterons une assistance technique aux Etats qui en exprimeraient le désir pour accompagner leur dialogue avec la Commission des droits de l'Homme des Nations-Unies et le Haut Commissariat aux droits de l'Homme, ainsi que pour la mise en œuvre des recommandations des comités conventionnels.

Nous participerons activement à la préparation des grandes conférences internationales dans le domaine des droits de l'Homme, notamment la Conférence de suivi du Sommet social de Copenhague à Genève. Nous nous préparerons également à la Conférence mondiale des femmes de juin 2000 à New York, par la tenue d'une conférence francophone intitulée « Femmes, Pouvoir et Développement » à Luxembourg, en février de la même année.

### **1.2.3 Etat de droit**

Nous proclamons notre attachement à l'indépendance de la magistrature et notre volonté de renforcer les systèmes de justice nationaux et de promouvoir la diffusion du droit.

Nous privilégierons en particulier l'accompagnement de plans d'action nationaux de réforme de la justice en veillant à ce que l'accent soit mis sur la justice des mineurs dans toutes ses composantes (politiques d'insertion des jeunes et de prévention de la criminalité juvénile, organisation de la justice des mineurs, politiques répressives, dimension pénitentiaire).

Nous encourageons l'harmonisation du droit, notamment dans le cadre du traité de l'Organisation pour l'harmonisation en Afrique du droit des affaires (OHADA).

Nous apportons notre soutien à la constitution de réseaux francophones, notamment pour ce qui concerne les cours constitutionnelles, ainsi que les instances de contrôle, de régulation et de médiation, les médiateurs et les hautes autorités de l'audiovisuel. Nous nous appliquerons à étendre ces réseaux à d'autres institutions.

Nous soutenons le développement des banques de données juridiques et judiciaires sur la base d'une évaluation systématique et d'une relance qualitative du programme en cours.

## **AXE N°2 : PROMOTION DE LA DIVERSITE LINGUISTIQUE ET CULTURELLE**

### **2.1. La langue**

**2.1.1** Nous renouvelons notre engagement à défendre et à promouvoir l'utilisation de la langue française dans les organisations et enceintes internationales. Nous apporterons notre concours à la formation des diplomates en langue française. Nous veillerons au respect du plurilinguisme et de l'utilisation du français dans les organismes de normalisation tels l'AFNOR (Association française de normalisation) et l'ISO (Organisation internationale de normalisation). Nous soutiendrons la participation de francophones aux réunions d'experts de ces organismes, et la coopération internationale en matière de terminologie française.

**2.1.2.** Nous invitons tous les opérateurs de la Francophonie à articuler davantage leurs programmes de soutien à l'enseignement du et en français, y compris dans le cadre de classes bilingues. Une large utilisation de la formation à distance et le recours massif aux nouvelles technologies de la communication et de l'information doivent être encouragés, tout comme les échanges linguistiques entre pays francophones. Dans ce cadre, la Francophonie devra prendre appui sur les relais locaux déjà mis en place, tels les Centres de lecture et d'animation culturelle (CLAC) et le programme de radios locales.

**2.1.3.** Au Sommet de Hanoi, nous avons mis en place un plan d'urgence pour la relance du français dans les organisations internationales. Nous désirons renforcer ce plan par la présence accrue de jeunes experts francophones associés dans des postes à effets multiplicateurs, ainsi qu'en soutenant la concertation et la participation de fonctionnaires francophones à des conférences internationales.

**2.1.4.** Nous poursuivrons la promotion des langues partenaires en favorisant la concertation sur les politiques nationales et la traduction de et vers les langues partenaires. Dans ce sens, les efforts devront se poursuivre pour la mise en ligne du français et des langues partenaires.

### **2.2. La culture**

**2.2.1.** Nous croyons que le contexte actuel de mondialisation rend plus que jamais indispensable la contribution de la Francophonie à la promotion de la diversité culturelle et de sa reconnaissance par tous les acteurs de la scène internationale. Dans cette perspective, nous considérons que les biens et services culturels, y compris audiovisuels, reflets des identités nationales et régionales, ne doivent pas être traités comme de simples marchandises, notamment dans le cadre des négociations commerciales multilatérales. Nous réaffirmons, en outre, le droit des Etats, des gouvernements et, le cas échéant, des collectivités publiques et territoriales d'établir librement leurs politiques culturelles, et notamment, les moyens et instruments nécessaires à leur mise en œuvre. Afin de faire prévaloir ces convictions, nous estimons nécessaire de mobiliser de façon accrue et concertée les sociétés civiles autour de ces enjeux, de

systematiser les concertations entre francophones permettant d'élaborer des positions communes sur ces questions et, enfin, de sensibiliser l'ensemble de nos partenaires non francophones à l'importance de la promotion de la diversité culturelle dans un contexte de mondialisation.

2.2.2. Afin notamment d'explorer plus à fond cette problématique de la mondialisation au regard de la diversité culturelle telle qu'elle est vécue par les Etats et les gouvernements membres de la Francophonie, et de faire le point sur les enjeux essentiels dont la prise en compte avait motivé les signataires du traité de Niamey en 1970, nous décidons, également, dix années après celle de Liège, que la Conférence ministérielle thématique du biennium 2000-2001 sera consacrée à la culture.

2.2.3. Dans le but de promouvoir le dialogue entre les cultures, nous encouragerons les échanges entre artistes, et entre industries culturelles, et nous faciliterons la circulation des œuvres. Nous favoriserons également l'appui à la formation aux métiers de la culture. Nous procéderons à une évaluation approfondie du Marché des arts et du spectacle africain (MASA) afin d'en faire un véritable tremplin pour la diffusion des spectacles et un pôle structurant où s'articulent encore mieux cadre institutionnel et milieux professionnels.

La Francophonie devra prendre des mesures pour aider le financement de la participation d'artistes à des manifestations en contribuant au rayonnement de la création culturelle, et poursuivra les actions engagées grâce au Fonds de soutien à la production audiovisuelle du Sud. Enfin, elle aidera les télévisions et le cinéma du Sud, à travers leurs productions, à être présents dans les grands marchés internationaux et les festivals du film francophone.

2.2.4. Nous invitons l'Agence intergouvernementale de la Francophonie à étudier l'intérêt et la faisabilité d'un Fonds d'investissement pour les industries culturelles. Nous lui demandons également d'intensifier le programme des CLAC en leur confiant une nouvelle mission axée sur le développement et la solidarité.

### 2.3. Les médias

2.3.1. Nous encourageons TV5 à être le reflet de la diversité culturelle de la Francophonie, à faire une large place à l'expression de toutes ses composantes et à renforcer la présence d'images du Sud sur tout son réseau. Nous saluons la nouvelle dynamique mise en œuvre par TV5 et nous donnons notre appui au plan d'action arrêté par la dernière Conférence des Ministres responsables de TV5 réunie à Bruxelles. Nous appuyons les efforts de développement de TV5 Afrique et encourageons les pays africains à favoriser sa croissance.

2.3.2. Nous poursuivrons les efforts déployés pour soutenir le développement et la diffusion de la presse écrite francophone.

## **AXE N°3 : EDUCATION ET FORMATION**

Nous appuyons le rôle dévolu à la CONFEMEN pour contribuer à l'élaboration et à l'évaluation des politiques éducatives au sein des Etats et gouvernements membres et l'invitons à s'élargir à l'ensemble des pays ayant le français en partage.

Nous demandons aux opérateurs compétents de la Francophonie de mettre leur savoir-faire au service des Etats afin de faciliter la coopération de nos Etats avec les institutions internationales qui, telles la Banque mondiale et l'Union européenne, ont reçu mandat de développer leurs programmes dans le domaine de l'éducation.

### 3.1. Education de base et formation professionnelle et technique

Nous sommes déterminés à apporter à la jeunesse une éducation primaire et secondaire ainsi qu'un système universitaire efficaces. Nous sommes particulièrement attentifs à créer les conditions susceptibles de favoriser la motivation des jeunes pour ces diverses formations.

Nous encourageons les opérateurs francophones à concentrer leur action en matière d'alphabétisation, d'éducation de base et de formation professionnelle et technique sur l'information et la concertation. La poursuite de cet objectif suppose en particulier une meilleure participation de la coopération francophone à toutes les concertations menées dans ce secteur et le développement des partenariats entre enseignants, administrations de l'Education, parents, collectivités, ONG, associations, acteurs économiques et sociaux. Nous demandons à l'Agence intergouvernementale de la Francophonie d'assurer, comme une priorité, le suivi des Assises de Bamako sur la formation professionnelle et technique.

Nous appuyons la mise en place d'une politique d'édition capable d'assurer l'émergence de filières de production de manuels scolaires dans les pays du Sud.

### 3.2. Enseignement supérieur et recherche

En matière d'enseignement supérieur, nous préconisons le développement des actions en faveur de la reconnaissance mutuelle des diplômes, de la mobilité des étudiants et chercheurs, du Plan d'urgence pour les universités africaines, de la recherche, des filières universitaires francophones, ainsi que de l'information scientifique et technique et du recours accru aux nouvelles technologies de l'information et de la communication.

Nous souhaitons le renforcement de l'Université Senghor d'Alexandrie et son ouverture à de nouveaux partenariats.

Nous félicitons le Secrétaire général d'avoir commencé le processus d'évaluation externe par celle de l'Agence universitaire de la Francophonie, en raison de l'importance cruciale que revêt notre coopération multilatérale dans les domaines de l'enseignement supérieur et de la recherche. Cette évaluation globale, intervenant après une dizaine d'années de forte croissance de l'AUF, met l'accent sur les points forts et les points faibles de cet opérateur et sur la nécessité de le remobiliser dans un cadre multilatéral.

Nous donnons mandat au Secrétaire général d'engager, en étroite liaison avec le CPF, une réflexion prospective sur les orientations de la coopération multilatérale universitaire pour le moyen terme, en accordant une attention particulière à la régionalisation et à la spécificité des actions.

Cette réflexion devra déboucher sur une proposition de réforme des structures chargées de l'élaboration et de la mise en œuvre de la coopération universitaire multilatérale. Elle visera, en particulier, une meilleure identification des priorités et stratégies, le resserrement des dispositifs administratif et financier, l'amélioration des dispositifs d'évaluation et de suivi des programmes. Elle s'appuiera sur les travaux d'évaluation de l'AUF et sur un dialogue avec l'AUF elle-même.

La prochaine conférence ministérielle de la Francophonie devra être saisie du projet de réforme, en vue de son adoption et de son application, dès 2000.

## **AXE N°4 : COOPERATION ECONOMIQUE**

### **4.1. Concertation**

La Conférence des ministres de l'Economie et des Finances de la Francophonie, réunie à Monaco en avril 1999, a adopté une Déclaration qui guidera l'action des différents opérateurs et acteurs de la Francophonie en matière de coopération économique à trois niveaux : Etats et gouvernements, entreprises et ressources humaines.

Nous avons décidé de renforcer la concertation francophone tant au sein des organisations multilatérales que dans la perspective des conférences internationales particulièrement importantes.

Cette concertation, politique et technique, nous permettra de partager et d'accroître notre information mutuelle, afin, lorsque cela sera possible, d'aboutir à des propositions communes.

A cet égard, nous convenons de nous concerter dans la perspective du prochain cycle de négociations à l'OMC et tout au long de ce cycle.

Soucieux de favoriser l'intégration régionale en cours, nous appuyons les efforts destinés à renforcer la compétitivité des économies des Etats et gouvernements membres, à favoriser le développement des échanges intrarégionaux et la cohérence des politiques macro-économiques, et à harmoniser les règles juridiques applicables à la vie économique.

Nous poursuivons nos efforts pour lutter contre la pauvreté. Nous nous emploierons à persuader la communauté internationale d'adopter une attitude plus équitable sur la question de la dette, particulièrement celle des Pays les moins avancés.

### **4.2. Aide au commerce et à l'investissement**

Nous invitons les opérateurs de la Francophonie à développer leur action économique là où leur expérience offre aux pays membres une véritable plus-value : l'information, la formation, et l'aide à l'intégration au système économique mondial. La Francophonie devrait également promouvoir différentes formes de coopération : Nord-Sud; Sud-Sud et tripartite.

Dans cet esprit, nous approuvons les projets suivants, dont nous demandons la mise en œuvre lors du biennium 2000-2001 :

- Création d'un dispositif francophone d'information économique destiné notamment à éclairer les acteurs économiques sur les possibilités d'investissement ;
- Constitution d'un réseau d'institutions de formation au commerce international ;
- Etablissement d'un fonds destiné à l'intégration et à la pleine participation des pays les moins avancés au système économique mondial.

### **4.3. Aide au développement des entreprises**

Nous rappelons, par ailleurs, notre appui aux actions que la Francophonie mène pour la création, le développement, le partenariat et le soutien des entreprises, notamment au Sud et dans les économies en transition. Cet appui doit se manifester plus particulièrement par l'encouragement des transferts de technologies, la formation technique et un accès facilité au crédit, notamment grâce à la poursuite des programmes de mobilisation de l'épargne locale.

Nous convenons de renforcer les programmes destinés à favoriser une plus grande implantation de la Francophonie dans les domaines des nouvelles technologies et des industries culturelles.

Nous invitons l'Agence intergouvernementale et les opérateurs à inscrire leur programmation en matière économique dans le cadre défini par la Conférence de Monaco, et à rechercher systématiquement une concertation et une coopération efficaces avec les organisations internationales spécialisées.

### **4.4. Aide au développement durable**

Nous renouvelons notre appui aux actions que mène l'Agence intergouvernementale, par le biais de son Institut de l'Énergie et de l'Environnement, notamment pour assurer une présence active de la communauté francophone dans les négociations pour les conventions internationales en matière d'environnement.

En matière d'énergie, il s'agit de poursuivre les efforts en vue d'une maîtrise endogène du développement et de la gestion des systèmes énergétiques nationaux.

## **AXE N°5 : NOUVELLES TECHNOLOGIES DE L'INFORMATION ET DE LA COMMUNICATION**

### **5.1. Fonds francophone des Inforoutes**

Le Fonds francophone des Inforoutes mis en place à la suite de la conférence de Montréal et du Sommet de Hanoi, fait la preuve de son efficacité, alliant à la fois souplesse et rigueur de gestion. Sur la base de son succès et de son expérience, nous demandons que ce programme prioritaire se développe avec plus de moyens, notamment par un accroissement du nombre des pays contributeurs et en encourageant les États et gouvernements à doter le Fonds francophone des Inforoutes en contributions déliées.

En adaptant ses critères, le Fonds francophone des Inforoutes devra mettre l'accent sur la production et la diffusion de contenus en langue française dans les secteurs reconnus prioritaires en Francophonie. Une partie du Fonds sera consacrée aux initiatives et aux projets présentés par et pour les jeunes.

### **5.2. Accès aux nouvelles technologies de la communication et de l'information.**

L'accès aux nouvelles technologies de la communication et de l'information, et particulièrement l'accès à Internet devra être facilité. Pour ce faire, la Francophonie s'appuiera sur des structures existantes pour établir des points d'accès à Internet, afin d'augmenter le volume des échanges entre tous les partenaires de la Francophonie.



### 5.3. Formation et développement des contenus

Un effort significatif devra être consenti par les opérateurs de la Francophonie à la sensibilisation et à la formation des nouveaux utilisateurs des technologies de la communication et de l'information. Les opérateurs de la Francophonie devront aussi appuyer des Initiatives de développement des contenus en français largement accessibles aux francophones et non francophones.

## II – JEUNESSE

Un dialogue fructueux a eu lieu à Moncton entre les Chefs d'Etat et de gouvernement d'une part et des représentants de la jeunesse francophone d'autre part. Ce dialogue a été nourri par la tenue de plusieurs concertations nationales et multilatérales, entre autres à Bamako, Genève et Shippagan-Ouagadougou. Parmi les recommandations des jeunes Issues de ces rencontres préalables, nous retenons les suivantes : nécessité de démocratiser la Francophonie par une concertation et une participation accrues des jeunes ; soutien à l'insertion sociale et professionnelle ; encouragement à la mobilité ; accès facilité aux nouvelles technologies.

Nous invitons, à ces fins, le Secrétaire général à intensifier la collaboration entre la CONFEJES, l'Agence intergouvernementale et les autres opérateurs, ainsi qu'avec les ONG actives dans le domaine de la jeunesse. Nous considérons la CONFEJES comme lieu de référence et d'avis en matière d'appui multilatéral aux politiques destinées à la jeunesse.

### 1. Concertation et participation des jeunes

Nous nous proposons de poursuivre le dialogue de la Francophonie avec la jeunesse tel qu'amorcé. Il pourrait être renforcé par la création d'un réseau virtuel, mais aussi à travers des mécanismes de concertation entre organisations représentatives de jeunes. Nous favoriserons également une meilleure consultation des jeunes, notamment à travers la création d'un site jeunesse incluant une base de données sur les programmes « jeunesse » existant auprès des institutions internationales et des bailleurs de fonds, ainsi qu'au niveau national.

Nous attachons une grande importance à ce que le dialogue entre les jeunes et les institutions de la Francophonie soit respectueux de la représentativité réelle des jeunes. A cette fin notamment, nous encourageons l'ensemble des pays à se doter de structures représentatives de la jeunesse. Nous voulons que ces instruments de concertation soient souples et proches des populations.

### 2. Insertion sociale et professionnelle

Afin de soutenir l'insertion sociale et professionnelle des jeunes, notamment par le biais de la formation, nous invitons l'Agence intergouvernementale de la Francophonie et la CONFEJES à renforcer conjointement le Fonds d'insertion des Jeunes. Nous réaffirmons la finalité d'insertion sociale et économique et d'accès à des programmes de création d'emplois de ce Fonds, en relation étroite avec les politiques nationales et multilatérales en faveur de la jeunesse. Ce Fonds aura, entre autres, pour vocation de faire partager et de confronter la diversité des expériences francophones d'insertion sociale et professionnelle des jeunes.

Parallèlement, nous encourageons les initiatives qui favorisent l'expression des jeunes, tant au niveau collectif qu'au niveau individuel. Nous soutiendrons la production et la diffusion des activités artistiques, culturelles et sportives des jeunes.

### **3. Mobilité**

Nous encourageons la mobilité des jeunes à l'intérieur de l'espace francophone par des programmes d'échanges culturels, scolaires et universitaires, de stagiaires et de professionnels. Cette mobilité permettra aux jeunes de l'espace francophone de mieux connaître la diversité et la richesse, d'être davantage informés des opportunités qu'offre la Francophonie et donc de mieux y participer.

Nous décidons la création d'un programme de soutien à la mobilité des jeunes francophones, sous les auspices de l'Agence intergouvernementale de la Francophonie et auquel la CONFEJES sera associée. Ce programme de mobilité valorisera et renforcera les programmes existants dans ce domaine. Sans se superposer aux actions en cours, il permettra d'élargir l'offre francophone en matière de mobilité des jeunes.

### **4. Nouvelles technologies de l'information et de la communication**

Nous encourageons l'accès des jeunes aux nouvelles technologies, sans lesquelles ils ne pourraient faire face aux défis du prochain millénaire. Nous devons faciliter la maîtrise de ces technologies, l'échange d'expertise et leur utilisation dans le plus grand nombre d'applications possibles, au niveau scolaire, mais aussi comme outil de concertation, instrument de travail, d'échanges et de coopération.

A cette fin, nous nous efforcerons de mieux promouvoir le Fonds des Inforoutes auprès des jeunes francophones et, par conséquent, de le leur rendre plus accessible. Nous consacrerons une partie du Fonds des Inforoutes aux initiatives et aux projets présentés par et pour des jeunes.

## **III – RENOVER LES INSTRUMENTS ET LES METHODES**

Nous invitons les instances et les opérateurs de la Francophonie à s'engager résolument dans un processus nécessaire de rénovation de leur mode de fonctionnement, qui donne toute son efficacité au cadre institutionnel approuvé à Hanoï.

Nous saluons ainsi la démarche modernisatrice engagée par l'Agence intergouvernementale de la Francophonie, qui constitue la première étape de ce processus.

Nous demandons aux instances et aux opérateurs de la Francophonie de coordonner leurs actions et de rationaliser leurs méthodes de travail en les fondant sur la hiérarchisation de leurs objectifs, la recherche de partenariats, le choix de modes adaptés de coopération et le recours généralisé à l'évaluation des programmes.

### **1. Hiérarchisation des objectifs**

La Francophonie doit concentrer son action sur des secteurs prioritaires, en leur affectant les moyens financiers et humains adéquats provenant de l'ensemble des opérateurs francophones, ainsi que les concours externes qui pourraient être fournis. Ces secteurs sont ceux où la Francophonie dispose d'un avantage comparatif déterminant par rapport aux autres systèmes de coopération et peut mettre en œuvre des programmes atteignant une masse critique suffisante.

A cet égard, nous demandons qu'il soit systématiquement tenu compte des programmes de coopération bi- et multilatérale existants dans l'élaboration des actions envisagées.

## **2. Recherche de partenariats**

La capacité d'attraction de la Francophonie, à travers ses programmes, sera renforcée par le resserrement de ses liens avec les coopérations bilatérales, les organisations internationales compétentes, les collectivités territoriales, les ONG, les associations, les syndicats et les entreprises privées.

Nous demandons que chaque opérateur élabore un plan spécifique de recherche de partenariats.

## **3. Choix des modes de coopération**

Nous avons identifié quatre modes de coopération auxquels les instances et les opérateurs francophones devront se référer afin d'adapter leurs actions :

**3.1. L'information réciproque et volontaire** par laquelle les Etats et gouvernements francophones éclairent les choix qui président à la définition de leurs politiques nationales ; elle justifie la constitution de banques de données susceptibles de fournir des éléments de référence et de comparaison.

**3.2. La concertation entre Etats et gouvernements francophones**, pour harmoniser les politiques nationales et rechercher des positions communes dans les secteurs où la programmation ne saurait, à elle seule, fournir une réponse adaptée.

Cette concertation, technique ou politique, pourra s'appuyer sur l'organisation de symposiums et de conférences thématiques, comme ce fut le cas à Bamako et à Monaco, ou prendre la forme de rencontres préalables ou d'échanges de vue avant et pendant les grandes négociations internationales, ainsi que l'ont démontré la préparation du Sommet de Rio en 1992 et les discussions autour de la Convention instituant la Cour pénale internationale.

**3.3. La mobilisation de ressources financières externes**, grâce à laquelle la Francophonie renforcera ses programmes ou appuiera ses membres dans la définition de projets susceptibles de recevoir un financement des grands bailleurs de fonds internationaux.

**3.4. La programmation**, réservée aux domaines où la Francophonie dispose d'une véritable valeur ajoutée, doit être servie par une maîtrise des coûts et des mécanismes décisionnels transparents et efficaces. Elle doit, également, respecter des critères de régionalisation, de multilatéralité et de synergie.

Le rôle des Etats et des gouvernements doit être renforcé au sein des instances, particulièrement dans les Commissions du Conseil permanent qui devront faire l'objet d'une réflexion approfondie, tout comme les Comités de programme. Les efforts de réduction des dépenses de fonctionnement des opérateurs doivent être poursuivis au profit des dépenses actives de programmation.

La programmation devra recourir, chaque fois que cela est possible, à des instruments comme le Fonds francophone des Inforoutes qui démontre son efficacité, tant pour la gestion que pour la mobilisation de ressources financières. Enfin elle doit être inscrite dans un cadre temporel précis.

## **4. Evaluation des opérateurs et des programmes**

Au terme de l'évaluation de l'Agence universitaire de la Francophonie, nous souhaitons que ce processus soit étendu à l'ensemble des opérateurs et des programmes de la Francophonie. Parallèlement, nous demandons qu'à cette fin les ressources nécessaires figurent dans les budgets de chaque nouveau programme et que les opérateurs procèdent à l'examen critique des programmes existants dont ils assurent la gestion.

*Moncton Declaration (September 1999)*

War-affected children are referenced in paragraph 7 on International Security and the Safety of Civilians.



# VIII<sup>e</sup> SOMMET DE LA FRANCOPHONIE

3 - 5 septembre 1999

Déclaration de Moncton

MONCTON

NOUVEAU-BRUNSWICK  
CANADA

Organisation Internationale de la Francophonie  
Service des Conférences  
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# VIII<sup>ème</sup> Conférence des chefs d'Etat et de gouvernement des pays ayant le français en partage

(Moncton, 3-5 septembre 1999)

## Déclaration

Moncton, 5 septembre 1999

1. Nous, Chefs d'Etat et de Gouvernement des pays ayant le français en partage, réunis du 3 au 5 septembre 1999 à Moncton, au Nouveau-Brunswick, Canada, avons décidé de consacrer ce VIII<sup>ème</sup> Sommet de la Francophonie à la  
jeunesse,

car c'est sur son engagement et son adhésion que repose la pérennité du projet francophone.

2. Nous avons écouté les jeunes dans nos pays. Nous avons appuyé les efforts nationaux et régionaux de concertation, ainsi que ceux du Secrétaire général. Nous sommes déterminés à répondre aux attentes que les jeunes de la Francophonie ont exprimées dans la préparation de ce Sommet, en les associant plus étroitement à notre action. Nous ferons en sorte que les jeunes puissent recevoir une formation adéquate, notamment professionnelle et technique, trouver un emploi, libérer leur créativité, vivre dans la liberté et la sécurité, et s'épanouir dans leurs cultures, tout en s'ouvrant aux autres.
3. Nous réaffirmons que la paix, la démocratie et le développement durable sont non seulement des objectifs interdépendants, mais aussi des valeurs que nous partageons. La Francophonie ne peut s'accommoder de crises, de conflits, de situations d'occupation, de déplacements de populations et d'atteintes aux droits de l'Homme et à la démocratie, qui sont des freins au développement et nuisent aux efforts de coopération visant le mieux-être de nos populations.
4. Nous entendons promouvoir, dans le processus d'intégration mondiale en cours, le respect de la diversité culturelle, facteur indéniable de l'enrichissement du patrimoine universel.
5. Nous réitérons, à la veille du 30<sup>ème</sup> anniversaire de la création de l'Agence intergouvernementale de la Francophonie, que la Francophonie forme un espace culturel et linguistique, fondant son action de coopération multilatérale sur la solidarité agissante de ses membres. Nous entendons poursuivre l'action désormais multidimensionnelle de la Francophonie dans la continuité de la réforme engagée par les Sommets de Cotonou et de Hanoi, afin qu'elle s'affirme parmi les principaux acteurs du monde de demain.

...

### La Francophonie, un enjeu politique d'égalité, de sécurité et de démocratie

6. **Mondialisation** : La mondialisation touche à tous les aspects de la vie des peuples. Ses effets sur les plans politiques, économiques, sociaux et culturels, dont certains sont préoccupants surtout pour les pays les moins favorisés et les moins avancés, justifient une attention particulière au rôle régulateur des Etats. Notre communauté, en étroite concertation avec tous les acteurs des relations internationales, notamment les Nations Unies, est déterminée à contribuer à en assurer la maîtrise, pour que la mondialisation bénéficie à tous, de manière équitable.

7. **Sécurité Internationale et sécurité des populations civiles** : En étroite collaboration avec les Nations Unies et les autres organisations internationales et régionales, et dans le respect du droit international, des résolutions et des accords internationaux, nous poursuivrons notre action en faveur de la prévention des conflits et du maintien et de la consolidation de la paix. Nous condamnons particulièrement le recrutement et l'implication des enfants dans les conflits armés. Nous nous engageons à tout mettre en œuvre pour favoriser la réinsertion des jeunes dans la société civile des pays en situation de post-conflit.
8. **Processus démocratiques et droits de l'Homme** : Nous réitérons notre volonté de consolider l'Etat de droit et les processus démocratiques, ainsi que les valeurs et les comportements éthiques qui s'y rattachent, le respect des droits de l'Homme, le respect des droits des peuples et celui des minorités et l'égalité entre les femmes et les hommes. Nous condamnons toutes formes de traitements inhumains et dégradants et lutterons tout particulièrement contre l'exploitation des enfants.

Conscients de nos responsabilités à l'intérieur de l'espace francophone, nous réaffirmons le mandat confié au Secrétaire général sur ces questions. Nous renforcerons les moyens consacrés à ses missions et préciserons les modalités de notre concertation politique.

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### La Francophonie, une dynamique culturelle d'ouverture et de pluralité

9. **Langue et culture** : La pluralité des langues et la diversité des cultures constituent des réalités qu'il faut valoriser. Dans cet esprit, nous devons continuer à soutenir la promotion et la diffusion de la langue française qui nous rassemble, comme celles des cultures et des langues partenaires qui font nos identités et la richesse de notre communauté. Nous y veillerons plus particulièrement dans le domaine des inforoutes.
10. **Diversité culturelle** : Convaincus que les biens culturels ne sont en aucune façon réductibles à leur seule dimension économique, nous affirmons le droit pour nos Etats et gouvernements de définir librement leur politique culturelle et les instruments d'intervention qui y concourent ; nous entendons favoriser l'émergence d'un rassemblement le plus large possible à l'appui de cette diversité et œuvrer à la mobilisation de l'ensemble des gouvernements en sa faveur. Cette question de la diversité et toutes autres qui suscitent des débats internationaux auxquels la Francophonie doit apporter sa contribution originale, feront l'objet de concertations au sein de la Francophonie mobilisant l'ensemble des Etats et gouvernements membres.
11. **Education et formation** : Nous sommes déterminés à apporter à la jeunesse une éducation de base, un enseignement primaire et secondaire, ainsi qu'un système universitaire efficaces. Nous rechercherons l'appui constant des organisations internationales compétentes pour y parvenir. Nous favoriserons le recours aux nouvelles technologies pour moderniser les systèmes éducatifs. Nous faisons nôtres les conclusions des Assises francophones de la formation professionnelle et technique tenues à Bamako.

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## **La Francophonie, une ambition pour un développement économique durable et solidaire**

12. **Solidarité francophone :** La Francophonie est un pont entre les peuples, entre le Nord et le Sud. L'usage d'une langue commune facilite les échanges économiques, les transferts d'expériences, les coopérations et l'aide au développement. La Conférence des ministres de l'Economie et des Finances de Monaco a manifesté la solidarité qui anime notre espace de coopération et nous nous félicitons de ses résultats. Nous appelons à la mise en œuvre de ses recommandations ainsi qu'à l'intensification de notre concertation.
  13. **Espace de coopération et de concertation :** Conscients des bénéfices qu'apporte une mondialisation économique aux effets maîtrisés, nous soutenons les efforts en vue du renforcement et de l'aménagement du système financier mondial et voulons consolider la libéralisation des échanges commerciaux autour de l'OMC. Cependant, conscients aussi des risques de marginalisation que la mondialisation comporte pour les pays en développement, nous entendons faciliter l'intégration du plus grand nombre de nos pays au système du commerce mondial, dans le cadre d'un environnement favorable à la croissance, équitable et respectueux de la primauté de l'Homme. Nous encourageons donc le développement de processus d'intégration régionale de coopération économique, et appelons la communauté internationale à adopter une attitude positive pour l'aide au développement et pour le traitement de la dette, en particulier celle des Pays les moins avancés.
  14. **Société de l'information :** Le développement des systèmes d'information et de communication ouvre à l'économie mondiale de très grandes perspectives d'emploi et de développement économique et social pour nos pays. Nous favoriserons les échanges de savoir et les transferts de compétences dans les domaines technologiques et scientifiques. Nous accroîtrons, en particulier en direction des jeunes, les efforts déjà consentis par les institutions francophones dans ce domaine, afin de leur dispenser une formation professionnelle et technique qui favorise leur intégration économique et sociale.
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15. Nous encourageons la participation des jeunes aux programmes de la Francophonie et l'établissement d'un dialogue régulier. Nous les inviterons, sur une base représentative, à participer à l'orientation de notre action et les soutiendrons comme acteurs du développement.
  16. Nous demandons au Secrétaire général de poursuivre sa mission de porte-parole politique de la Francophonie et de responsable de l'animation de la coopération multilatérale francophone, dans le cadre défini par la Charte, et de développer la concertation avec les autres organisations régionales et internationales.
  17. Nous mobiliserons les moyens nécessaires aux missions de la Francophonie. Nous adoptons un Plan d'action, qui doit permettre à l'Organisation internationale de la Francophonie de disposer d'un cadre approprié à la réalisation de nos objectifs.



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