

The Role of the North Atlantic Treaty Organization in Promoting and Enforcing the Rights of Children in and Affected by Armed Conflict



**Universiteit
Leiden
The Netherlands**

Anneli Groen

Master of Laws: Advanced Studies in International Children's Rights
Leiden University, 2024-2025

20.000 words



Date: 1 July 2025

Location: The Hague, The Netherlands

Declaration Statement

I further hereby certify that this is an original work, that this thesis does not contain any materials from other sources unless these sources have been clearly identified in footnotes, and any and all quotations have been properly marked as such and full attribution made to the author('s) thereof.

I further authorise Leiden University, the Faculty of Law, the Master of Laws: Advanced Studies in International Children's Rights, its Programme Board and Director, and/or any authorised agents of the Institution, and persons named here in and above, to place my thesis in a library or other repository including but not limited to associated websites, for the use of the visitors to or personnel of said library or other repository. Access shall include but not be limited to hard copy or electronic media.

Name: Anneli Groen

Signature:

A handwritten signature in black ink, appearing to read 'Anneli Groen', written over a horizontal line.

Contents

Executive Summary	iv
Keywords	v
Overview of Main Findings	vi
List of Abbreviations	vii
1. Introduction	1
1.1. Children in Armed Conflict and NATO	1
1.2. Methodology and Scope	4
1.3. Structure	5
2. International Legal Framework on Children's Rights in Armed Conflict	6
2.1. United Nations Convention on the Rights of the Child	6
2.2. International Humanitarian Law	8
2.3. International Criminal Law	10
2.4. Non-Legally Binding Documents and Concepts	11
2.5. Conclusion International Legal Framework	12
3. The North Atlantic Treaty Organization and the Children and Armed Conflict Policy	14
3.1. Introduction to the North Atlantic Treaty Organization	14
3.2. Background to the NATO CAAC Policy	15
3.3. The NATO CAAC Policy Dissected	16
3.3.1. Background, Aim and Scope, Definitions	16
3.3.2. Preventing Violations against Children in Armed Conflict	18
3.3.3. Responding to Violations against Children in Armed Conflict	19
3.3.4. Reporting and Information Sharing	20
3.3.5. Education and Training	21
3.4. Conclusion NATO and the CAAC Policy	24
4. Accountability for Children	25
4.1. International Accountability Mechanisms	25
4.1.1. CRC Framework	25
4.1.2. Other Quasi-Judicial International Mechanisms	27
4.1.3. Judicial Mechanisms	28
4.2. NATO and Internal Accountability	30
4.2.1. NATO's Internal Dispute Resolution System and Command Structure	30
4.2.2. NATO's Policy on the Recruitment and Use of Children	31
4.2.3. Accountability for NATO's CAAC Policy	32
4.3. Access to Justice for Children	33
4.4. Conclusion Accountability for Children	35
5. Conclusion and Recommendations	37
5.1. Conclusion	37

5.2. Recommendations	38
6. Bibliography.....	41
Annex I. Table overview of NATO Member States, ratification of treaties, and their Voluntary Minimum Recruitment Age.....	50
Annex II. Analysis of CRC Committee Concluding Observations to NATO Member States: National Recruitment Practices.....	52
Annex III. Analysis of CRC Committee Concluding Observations to NATO Member States: military operations.....	55

Executive Summary

2024 was “one of the worst years on record for children in conflict,” with over 473 million children, more than one in six globally, living in an area affected by conflict. Child-survivors of conflicts often suffer long-term consequences, such as losing crucial years of socialisation and education, safety and stability, physical injuries, psychological trauma, and notably, losses of loved ones. Children’s lives and rights are increasingly under threat. Against this backdrop of geopolitical instability and insecurity, the North Atlantic Treaty Organization (NATO) has received increased international attention. With direct jurisdiction over more than 970 million people, and even more, including its effective control in external operations, thus reaching millions of children, now is the time to examine NATO’s role in promoting and enforcing children’s rights. This study aims to analyse NATO’s Policy on Children and Armed Conflict (CAAC Policy) and its relation to the protection of children in armed conflict under the framework of the United Nations Convention on the Rights of the Child (CRC). It examines how NATO and its Member States are held accountable for protecting or violating children’s rights in armed conflict. Furthermore, it identifies how NATO can further enforce international children’s rights and protect children affected by armed conflict.

The following research question guides the study:

What is the role of NATO in promoting and enforcing the protections offered to children in and affected by armed conflict in international children’s rights?

The following sub-questions support this research question:

1. What is the international legal framework for children in armed conflict?
2. What is NATO’s Children and Armed Conflict Policy?
3. What are the legal implications of NATO’s CAAC Policy for NATO?
4. How does the CRC Committee hold states accountable for protecting children’s rights in armed conflict?
5. How is NATO held accountable for protecting or violating children’s rights?
6. How is NATO accountable for its CAAC Policy?
7. What can NATO do to strengthen and uphold its CAAC Policy and to promote and protect children’s rights in armed conflict?

Chapter one introduces the context of NATO and children in armed conflict, the research questions, and the methodology.

Chapter two sets out the relevant international legal framework. NATO’s CAAC Policy alludes to several relevant non-legally binding documents, which are included. It starts with the UN Convention on the Rights of the Child of 1989 and its Optional Protocol on the Involvement of Children in Armed Conflict, followed by (customary) International Humanitarian Law, and International Criminal Law.

Chapter three explores NATO and its CAAC Policy. It introduces the organisation and provides the background leading up to the development of this policy. Then, it examines the content of the Policy and its relation to the international legal framework as outlined in chapter two. It includes examples of NATO’s implementation of the Policy.

Chapter four considers accountability from three different approaches. At the international level, it reviews international legal mechanisms that address States’ national recruitment practices and conduct in military or peacekeeping operations. It also examines how, internationally, NATO, as an organisation, versus NATO Member States as states, are held accountable. At the organisational level, it examines

NATO's recruitment policies, its internal dispute resolution system and command structure, and how NATO itself reports on the CAAC Policy. Finally, it underlines access to justice for children.

Chapter five concludes with key findings and recommendations. The study finds that the aims and language of NATO's CAAC Policy align with relevant international laws; however, its practice lags and leaves room for improvement. Recommendations include 1) the systemic inclusion of remedial action and child-friendly access to justice for victims of NATO's Human Security Policies and international laws; 2) increased utilisation of the legal immunity waiver; 3) increased transparency on the Policy to support (comparative) research, assessment and identification of best practices; and 4) attention for children in other areas of NATO's work, such as defence capacity building and civil preparedness and resilience. Failure to do so risks unnecessarily damaging children's resilience before, during, and after a conflict, to the detriment of children's rights and the stable and secure future NATO envisions.

Keywords

Access to justice – accountability – children and armed conflict – child soldiers – human security – international humanitarian law – NATO – protection of civilians

Overview of Main Findings

This research aims to understand and clarify the role of NATO in promoting and enforcing protections offered to children in and affected by armed conflict as outlined in international children's rights. Provisions protecting children's rights in armed conflict are commonly accepted and complement one another. The CRC Committee, international courts, and other (non-legally binding) guiding documents have further developed the interpretation and raised standards of many issues affecting children.

NATO's CAAC Policy of 2023 was developed against the backdrop of the Human Security Agenda. It aims to provide an integrated political framework for NATO's efforts in preventing, monitoring, reporting, and responding to violations against children in armed conflict; prescribing measures, relevant frameworks and guides, as well as identifying relevant actors. The Policy refers to relevant international treaties and other guiding documents on the protection of CAAC, using the same definitions and phrases. It takes an active role in collecting, developing, and sharing lessons learned and best practices with staff and relevant partners, for example, by contributing to international investigations and reporting mechanisms. Thereby, it advances global efforts to protect children's rights in armed conflict. NATO itself complies with the highest standards for the use and recruitment of children, as this Policy prevents children from participating in NATO operations. On a national level, states can monitor, request investigations into, and provide recommendations to other states to hold states accountable for their violations against children in armed conflict. Moreover, multiple pathways enable international legal mechanisms to have jurisdiction over provisions that protect children in armed conflict, to determine whether states have effective control over civilians in their military or security operations, and to hold states accountable for any violations of these provisions.

Notwithstanding the Policy's incorporation of lessons learned from before 2023, the study identifies multiple gaps. First, the non-legally binding language of the Policy, NATO's immunity in the international legal system, and legal interoperability issues in operations all lead to limited legal implications, applicability, and accountability. Second, the Policy recognises NATO staff's possible role in violating children's rights. Yet, the organisation does not allow victims of violations committed by NATO staff to access dispute resolution or remedial action, and existing efforts for compensation do not adequately address children's specific needs. Third, transparency in the implementation of this Policy is limited, hindering an assessment of its effectiveness. Finally, in practice, the Policy is applied in a limited scope of NATO's activities and work areas, excluding a significant group of children who could benefit from this Policy.

The role of NATO in promoting and enforcing children's rights is thus nuanced. It advances global efforts to protect children in armed conflict, but it lacks accountability for its role in violating children's rights. To strengthen and uphold its CAAC Policy and promote and protect children's rights in armed conflict, NATO must incorporate and mainstream children's rights principles across its entire scope and activities, advancing its objectives to build trust, prevent conflict, and support a human rights-based order. Recommendations include 1) the systemic inclusion of remedial action and child-friendly access to justice for victims of NATO's Human Security Policies and international laws; 2) a strengthened CAAC-mandate and increased utilisation of the legal immunity waiver; 3) increased transparency on the Policy to support (comparative) research, assessment and identification of best practice; and 4) attention for children in other areas of NATO's work, such as in defence capacity building and national civil preparedness and resilience. Failure to do so risks unnecessarily damaging children's resilience before, during, and after a conflict, to the detriment of children's rights and the stable and secure future NATO envisions.

List of Abbreviations

CAAC	Children and Armed Conflict/Children affected by Armed Conflict
CO	Concluding Observation
CRC	Convention on the Rights of the Child
GC	General Comment
IHL	International Humanitarian Law
IHRL	International Human Rights Law
MRM	Monitoring and Reporting Mechanism
NATO	North Atlantic Treaty Organization
NAC	North Atlantic Council
OPAC	Optional Protocol on the Involvement of Children in Armed Conflict
OPIC	Optional Protocol on a Communications Procedure
PKO	Peacekeeping Operation
UN	United Nations

1. Introduction

1.1. Children in Armed Conflict and NATO

2024 was “one of the worst years on record for children in conflict,” with over 473 million children, more than one in six globally, living in an area affected by conflict.¹ Over 36.200 children became victims of grave violations.² Almost 16.500 children received release and reintegration support from armed forces and armed groups, yet over 7.000 children were newly recruited and used in armed conflicts.³ Child-survivors of conflicts often suffer long-term consequences, such as losing crucial years of socialisation and education, safety and stability, physical injuries, psychological trauma, and notably, losses of loved ones.⁴ Global cutbacks on development and humanitarian aid, rising political tensions leading to an increase in national spending on military and defence, and increasing room for impunity of violations in armed conflict paint a bleak picture for the future. This chapter first presents an overview of the literature on children in armed conflict and the North Atlantic Treaty Organization (NATO). NATO is recognised as a relevant actor in global security and peacekeeping, yet limited attention has been devoted to children so far. The chapter then outlines the research questions and methods used to address this gap.

Children and armed conflict have received international attention since the 1990s. The United Nations Convention on the Rights of the Child (CRC) was adopted in 1989. In 1996, Graça Machel’s report, “Promotion and Protection of the Rights of Children: Impact of Armed Conflict on Children” advanced international attention and served as the driving force behind what is known as the Children and Armed Conflict (CAAC) agenda, encompassing numerous United Nations (UN) initiatives. These initiatives include the appointment of a UN Special Representative for the Secretary-General for Children Affected by Armed Conflict, multiple resolutions, a Monitoring and Reporting Mechanism (MRM), and development and recognition of six grave violations against children.⁵ The six grave violations are recruitment or use of child-soldiers, killing or maiming, rape and other forms of sexual violence, abduction, attacks against schools or hospitals, and denial of humanitarian access.⁶ In 2002, the CRC expanded with the Optional Protocol on the Involvement of Children in Armed Conflict (OPAC).

Aptel presents the international legal framework for atrocity crimes against children and analyses how international courts have responded to atrocity crimes.⁷ She provides recommendations to enhance accountability for children and to create a more child rights-compliant international court environment. The *Research Handbook on Child Soldiers* similarly addresses how (international) courts treat child

¹ “Not the new normal” – 2024 “one of the worst years in UNICEF’s history” for children in conflict” (UNICEF 24 December 2024) <https://www.unicef.org/press-releases/not-new-normal-2024-one-worst-years-unicefs-history-children-conflict> accessed 9 April 2025

² ‘Children and armed conflict Report of the Secretary-General’ (UN General Assembly Security Council, 17 June 2025) A/79/878-S/2025 para 5.

³ ‘Reintegration: Release of new publication by the Office of the SRSG for Children and Armed Conflict’ (Office of the Special Representative of the Secretary-General for Children and Armed Conflict 28 May 2025) <https://childrenandarmedconflict.un.org/2025/05/release-of-new-publication-by-the-office-of-the-srsg-for-children-and-armed-conflict/> accessed 10 June 2025

⁴ Cécile Aptel, *Atrocity Crimes, Children and International Criminal Courts: Killing Childhood* (1st edn, Routledge 2023) 25.

⁵ Cécile Aptel, ‘The Protection of Children in Armed Conflicts’ in Ursula Kilkelly and Ton Liefwaard (eds), *International Human Rights of Children* (Springer Dordrecht 2019) 530-531.

⁶ *ibid* 531.

⁷ Aptel (n 4).

soldiers, as victims, witnesses, and perpetrators. This book covers child soldiers from multiple angles, including where, when, how, and why children become involved in armed conflicts as child soldiers.⁸ It explains what tasks children fulfil, how they are treated during and after demobilisation, and how it affects them in later life.

Literature on the laws of armed conflict (International Humanitarian Law, IHL) primarily focuses on the obligations of parties to a conflict. Nonetheless, States that are not a party to the conflict play a significant role. In her study on the obligation to ensure respect for IHL in UN peacekeeping operations (PKO), Smith poses questions about the role of troop-contributing states in this obligation, including when one troop witnesses another troop violating IHL.⁹ Regretfully, this question remains unanswered. To illustrate, for child soldiers in Afghanistan, the security context shaped and upheld traditional, religious, cultural, and customary behaviours, making it acceptable for children to be recruited and for security actors (like peacekeeping forces) to go along with such practices.¹⁰ Human rights violations by peacekeeping forces have devastating effects on victims and the credibility and effectiveness of the intervention. Yet, as military personnel for such operations are recruited at the national level, they can only be prosecuted in their home country, often leaving victims, if there is access to redress at all, in the unknown about their legal case.¹¹

Then, NATO is a political and military alliance among 32 states in North America and Europe. Together, its Member States contain about 972.26 million people.¹² NATO's operations and missions extend beyond its Member States' geographic areas, such as Afghanistan and Iraq. The Alliance first addressed the protection of children in armed conflict in 2012. In 2023, NATO published its Policy on Children and Armed Conflict (CAAC). This Policy seeks to align NATO's political and operational considerations with advances in international best practices and guidance, as well as progress in the UN Security Council related to children and armed conflict.¹³ The CAAC Policy is part of a broader Human Security agenda, which addresses the risks and threats to civilian populations that may arise from all of NATO's activities. A key guiding principle for this agenda is consistency with international law. Mayer provides an extensive *Research Handbook on NATO*, approaching the organisation from political, legal, policy, and operational perspectives.¹⁴ The handbook covers eight areas of operation, but not Human Security.¹⁵

Conform the authority-legitimation mechanism, NATO's human rights focus can be explained by 1) its growing relevance and legitimacy in PKO since the 1990s, 2) an increase in incidents of civilian harm, 3) international backlash from civil society and from commanders, who noted that civilian harm violations

⁸ Mark A. Drumbl and Jastine C. Barrett, *Research Handbook on Child Soldiers* (Edward Elgar Publishing 2019)

⁹ Laura Smith, 'The obligation to ensure respect for IHL in the peacekeeping context', in Eve Massingham and Annabel McConnachie (eds), *Ensuring Respect for International Humanitarian Law* (1st edn, Routledge 2020) 153–154.

¹⁰ Anicée Van Engeland, 'The Voiceless Child Soldiers of Afghanistan' in Drumbl and Barrett (n 8) 176.

¹¹ Rocío Alamillos-Sánchez and Laura García-Martín, 'Child Protection in Peacekeeping Operations', in Pablo A Fernández-Sánchez (eds), *Peacekeeping: Global Perspectives, Challenges and Impacts* (Nova Science Publishers, Inc. 2018) 556–557.

¹² 'Members of the NATO: North Atlantic Treaty Organization' (WorldData.info, n.d.) <https://www.worlddata.info/alliances/nato.php> accessed 13 June 2025.

¹³ 'NATO Policy on Children and Armed Conflict' (NATO 12 July 2023) para 12 [hereafter "CAAC Policy"] https://www.nato.int/cps/en/natohq/official_texts_217691.htm?selectedLocale=en accessed 16 January 2025

¹⁴ Sebastian Mayer, *Research Handbook on NATO* (Edward Elgar Publishing 2023)

¹⁵ *ibid*, see 'Part IV: Fields of action'

affected the effectiveness of operations, leading to 4) a need to renew legitimacy and authority.¹⁶ The impact of organisational dynamics on how international organisations translate human rights into policies and practices within their organisations has received limited attention.¹⁷ Organisational obstacles to effective implementation are identified in studies on NATO's Women, Peace and Security Policy.¹⁸ Hill and Manea conducted a legal analysis of NATO's Protection of Civilians Policy.¹⁹ Casey-Maslen and Vestner built upon this, including later developments.²⁰ They furthermore wrote about the protection of children in armed conflict, highlighting the international legal framework, enlistment, the six grave violations, and the death penalty for children.²¹

Alamillos-Sánchez and García-Martin address child protection in PKO, focusing on UN and European Union frameworks about responsibility and accountability for violations by their peacekeeping staff.²² In a brief institutional view of NATO PKO, Muñoz-Mosquera and Chalanouli conclude that NATO is not a regional organisation, which has implications for the application of the "effective control" criterion and the attribution of responsibility.²³ They find that NATO itself is "a corporate body whose actions and omissions are the direct result of member states, so any remedial actions must be made based on state responsibility."²⁴

The literature above recognises NATO's relevance in the international arena and in PKO. Yet, it insufficiently addresses NATO's role in protecting children's rights as outlined in its Children and Armed Conflict Policy. Children's lives and rights are increasingly under threat.²⁵ The current geopolitical state of the world leads NATO to shift its focus more inward to its Member States and their territories. The CAAC Policy "applies to all NATO personnel in all phases of Alliance operations, missions and activities, wherever NATO operates, from peacetime to crisis and conflict, including stabilisation and post-conflict."²⁶ Children in Europe and North America are thus increasingly expected to be affected by

¹⁶ Monika Heupel, Gisela Hirschmann and Michael Zürn, 'International Organisations and Human Rights: What Direct Authority Needs for Its Legitimation' (2018) 44 *Review of International Studies*, 347-348; Mary Kaldor, 'Global Governance and Human Security' in Richard Falk and Augusto Lopez-Claros, *Global Governance and International Cooperation* (1st edn, Routledge India 2024) 184.

¹⁷ Hans-Otto Sano and Tomas Max Martin, '11. Inside the Organization. Methods of Researching Human Rights and Organizational Dynamics' in Bård A. Andreassen, Hans-Otto Sano, and Siobhán McInerney-Lankford (eds) *Research Methods in Human Rights* (Edward Elgar Publishing 2017) 253.

¹⁸ Katharine A.M. Wright and Annika Bergman Rosamond, 'Sweden, NATO and the Gendered Silencing of Feminist Foreign Policy' (2024) 100 *International Affairs* 589; Katharine A.M. Wright, 'Moving beyond a "Hollow Concept": Realising Women, Peace and Security at NATO under a Trump Presidency' (2025) *Defence Studies* 1.

¹⁹ Steven Hill and Andreea Manea, 'Protection of Civilians: A NATO Perspective' (2018) 34 *Utrecht Journal of International and European Law* 146-160.

²⁰ Stuart Casey-Maslen and Tobias Vestner, 'NATO and the Protection of Civilians', in *International Law and Policy on the Protection of Civilians* (1st edn, Cambridge University Press 2022) 190-200.

²¹ Stuart Casey-Maslen and Tobias Vestner, 'Protection of Children in Armed Conflict', in *International Law and Policy on the Protection of Civilians* (1st edn, Cambridge University Press 2022) 115-125.

²² Alamillos-Sánchez and García-Martín in Fernández-Sánchez (n 11) 549-557.

²³ Andrés B. Muñoz-Mosquera and Nikoleta P. Chalanouli, 'NATO Peace Support Operations', in Fernández-Sánchez (n 11) 302-303.

²⁴ *ibid* 303.

²⁵ 'Prospects for Children: Building Resilient Systems for Children's Futures' (UNICEF Innocenti Research Centre 2025) 15-17.

²⁶ CAAC Policy, para 13.

NATO's work. Debates over budget caps and allocations undermine the public perception of NATO's credibility and authority, particularly among youth.²⁷ Moreover, attention must be given to accountability for violations committed by peacekeeping forces against children. Thus, now is the time to analyse NATO's role in promoting and enforcing children's rights and to explore the relationship between NATO's CAAC Policy and international children's rights. This study argues that NATO must protect children and that it can and must leverage its position vis-à-vis its Member States and its partners to promote the enforcement of children's rights in armed conflict.

The following research question guides the study:

What is the role of NATO in promoting and enforcing protections offered to children in and affected by armed conflict in international children's rights?

The following sub-questions support this research question:

1. What is the international legal framework for children in armed conflict?
2. What is NATO's Children and Armed Conflict Policy?
3. What are the legal implications of NATO's CAAC Policy for NATO?
4. How does the CRC Committee hold states accountable for protecting children's rights in armed conflict?
5. How is NATO held accountable for protecting or violating children's rights?
6. How is NATO accountable for its CAAC Policy?
7. What can NATO do to strengthen and uphold its CAAC Policy and to promote and protect children's rights in armed conflict?

1.2. Methodology and Scope

The study takes a socio-legal approach to examine the impact of the law in action and the role played by organisational policy. It consists of desk research, starting with a literature review of the current academic debate and an overview of the relevant legal framework. Then, a legal analysis is conducted to assess whether the terminology, definitions, and interpretations used in the NATO CAAC Policy correspond with the aforementioned legal framework. Chapter four analyses how states, and NATO as an organisation, are held accountable for their practices regarding children and armed conflict. Annex I provides an overview of ratification statuses of international treaties by NATO Member States. An analysis of CRC jurisprudence in NATO Member States is presented in Annexes II and III of this study.

NATO's publication platforms contain a plethora of relevant information. Its policies, guidelines, handbooks, news publications and press releases are analysed to understand NATO's approaches to CAAC. The classified nature of certain documents limits the research. To address this limitation, the author visited the NATO Archives and Library in Brussels. This visit, however, has not resulted in more available information on children and armed conflict. Through the socio-legal approach, the study finds that, notwithstanding the language of NATO's CAAC Policy aligning with relevant international laws, practice remains behind and leaves room for improvement.

²⁷ "From Legacy to Leadership: Bridging Generations in International Security" (NATO Public Forum 25 June 2025) The livestream of this event is available here <https://www.natopublicforum.org/>. In this session, NATO's Youth Advisory Board (youth aged 18-34) indicated they would rather see budgets allocated in areas that contribute to the stabilisation of societies, such as education, rather than investments in weapons and other forms of militarisation.

Bodies with recognised governments as primary members or parties use different terminology, such as Member States, States Parties, and Contracting Parties. This thesis uses Member States when referring to NATO specifically, and states in other instances.

1.3. Structure

The current chapter introduces the context of NATO and children in armed conflict, the research questions, and the methodology. Chapter two outlines the relevant international legal framework and relevant non-legally binding documents. It includes International Human Rights Law (IHRL), (customary) International Humanitarian Law (IHL), and International Criminal Law. Chapter three explores NATO and its CAAC Policy. It introduces the organisation and provides the background leading up to the development of this policy. Then, it examines the content of the Policy and its relation to the international legal framework as outlined in chapter two. Chapter four considers accountability from three different approaches. At the international level, it reviews international legal mechanisms that address states' national recruitment practices and conduct in military or peacekeeping operations. It also focuses on how, internationally, NATO, as an organisation, versus NATO Member States as states, are held accountable. At the organisational level, it examines NATO's recruitment policies, its internal dispute resolution system and command structure, and how NATO itself reports on the CAAC Policy. Finally, it underlines access to justice for children. Chapter five finishes with the key findings and recommendations. The study finds that NATO's CAAC Policy aligns with relevant international laws; however, its practice lags and leaves room for improvement. Recommendations include implementing remedial action for children, increasing transparency on the effectiveness of the CAAC Policy, and providing concrete examples to mainstream children's rights in other areas of the organisation's work.

2. International Legal Framework on Children's Rights in Armed Conflict

This chapter presents the content of the relevant international legal framework for children in armed conflict, aiming to provide an overview of the legal framework that NATO's policy may refer to. It starts with the United Nations Convention on the Rights of the Child of 1989 and its Optional Protocol on the Involvement of Children in Armed Conflict. The framework continues with (customary) International Humanitarian Law and International Criminal Law. The NATO CAAC Policy refers to several non-binding yet guiding documents and concepts, which are succinctly addressed.

2.1. United Nations Convention on the Rights of the Child

The United Nations Convention on the Rights of the Child (CRC) is the guiding international human rights law (IRHL) instrument for children. It is ratified by almost all states, excluding the United States. The CRC Committee is responsible for promoting, monitoring, and enforcing the Convention. This Committee provides non-binding guidance and interpretation to States Parties through General Comments (GCs), Days of Discussion, and a periodic reporting cycle. It expanded its legislative instruments with the adoption of three Optional Protocols. The provisions of the CRC are applicable in times of peace, during armed conflict, and in emergencies, as the CRC has no derogation clause.²⁸ The CRC framework recognises four general principles: the right to non-discrimination (article 2), the principle of the best interests of the child (article 3), the right to life, survival and development (article 6), and the right to participation (article 12). These general principles must always be taken into account when SPs implement other provisions. The General Comments guide these principles.²⁹

Articles 38 and 39 of the CRC concern children in and affected by armed conflict. Article 38(1) obliges states to undertake and ensure respect for child-relevant rules of international humanitarian law. States must take all feasible measures to ensure that children under the age of 15 do not take direct part in hostilities (para 2). They must refrain from recruiting children below 15, and in recruitment among 15 to 17-year-olds, older children must receive priority (para 3). Finally, states must take all feasible measures to protect and care for children affected by armed conflict, as part of their responsibility to protect civilians (para 4). Under article 39, states must "take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of," *inter alia*, armed conflicts. This recovery and reintegration must occur in an environment that promotes children's health, self-respect, and dignity.

During a Day of Discussion in 1992, the Committee underlined that children's rights in armed conflict must not be limited to article 38 CRC.³⁰ The Committee elaborated that children's rights must include protection of the family environment; access to (humanitarian) aid, care and basic needs; protection against violence, abuse, deprivation of liberty, and the death penalty; and preservation of their culture.³¹ Practical realisation of article 39 CRC requires resources and goods for recovery and social integration, and a coherent plan for implementation by multiple (non-)governmental stakeholders, including families and local communities.³²

²⁸ 'Report of the UN Committee on the Rights of the Child, Second Session (28 September-9 October 1992)' (UNCRC Committee 19 October 1992) CRC/C/10 para 67. [hereafter "CRC/C/10"]

²⁹ Jaap Doek, 'The Human Rights of Children: An Introduction' in Kilkelly and Liefwaard (n 5) 14.

³⁰ CRC/C/10, para 62(d).

³¹ CRC/C/10, para 73.

³² CRC/C/10, para 74.

The Optional Protocol on the Involvement of Children in Armed Conflict (OPAC, 2000) was adopted to protect children from recruitment and use in hostilities, thereby raising the standards of articles 38 and 39 CRC.³³ Under article 1, states must ensure that no minor members of their armed forces take direct part in hostilities. Article 2 raises the threshold for compulsory recruitment into national armed forces to 18 years. Article 3 provides safeguards for situations where the minimum age for voluntary recruitment is below 18, including the requirement for free and informed consent and the provision of reliable proof of age.³⁴ Article 4 prohibits non-state armed groups from recruiting or using minors in hostilities and obliges states to prevent such recruitment and use, including through prohibition and criminalisation of such practices. Thus, while OPAC permits voluntary recruitment, the use of children under the age of 18 is not allowed.

Two General Comments address children and recruitment by and use of children in armed forces and groups. In GC 20 (2016), the Committee asserts concerns for the recruitment of adolescents into armed forces, armed groups, and militias by states, and urges them to ratify OPAC.³⁵ Furthermore, “States should ensure the recovery and gender-sensitive reintegration” of these adolescents and prohibit their recruitment or use in all hostilities, peace or ceasefire negotiations and agreements with armed groups.³⁶ Moreover, in post-conflict situations, such as those involving non-violent conflict resolution, states should support adolescents’ participation.³⁷ GC 24 (2019) provides guidance on the recruitment and use of children by non-state armed groups, including those designated as terrorist groups.³⁸ Possible violations affecting children under the control of these groups include “conscription; military training; being used in hostilities and/or terrorist acts, including suicide attacks; being forced to carry out executions; being used as human shields; abduction; sale; trafficking; sexual exploitation; child marriage; being used for the transport or sale of drugs; or being exploited to carry out dangerous tasks, such as spying, conducting surveillance, guarding checkpoints, conducting patrols or transporting military equipment.”³⁹ The Committee refers to UN Security Council Resolution 2427 about the need to establish standard operating procedures for the rapid handover of children who are (allegedly) associated with non-state armed groups to relevant civilian child protection actors.⁴⁰ Here, the Committee reiterates that “children who had been recruited in violation of applicable international law by armed forces and armed groups and were accused of having committed crimes during armed conflicts should be treated primarily as victims of violations of international law.”⁴¹ Notably, GC 13 on the right to freedom from all forms of violence, identifies armed conflict and stressors originating from armed conflict as one vulnerability driver for violence by parents/caregivers.⁴² Nevertheless, this GC

³³ Siwnan Rasakandan and Pardis Moslemzadeh Tehrani, ‘Protection of Children from Recruitment and Use in Armed Conflict: Role of International Legal Framework’ (2022) 15 *Journal of Politics and Law*, 237.

³⁴ OPAC, art. 3(3)(b), (c) and (d)

³⁵ ‘General comment No. 20 on the implementation of the rights of the child during adolescence’ (UNCRC Committee 2016) CRC/C/GC/20 para 81.

³⁶ *ibid* para 82.

³⁷ *ibid*

³⁸ ‘General comment No. 24 on children’s rights in the child justice system’ (UNCRC Committee 2019) CRC/C/GC/24

³⁹ *ibid* para 98.

⁴⁰ *Ibid* para 100.

⁴¹ *ibid*

⁴² ‘General comment No. 13 (2011) The right of the child to freedom from all forms of violence’ (UNCRC Committee 2013) CRC/C/GC/13 para 3(i).

only notes the Committee's awareness of violence against children in armed conflict, yet refrains from addressing it as a violation in itself.⁴³

Other relevant GCs are No. 14 and draft No. 27. GC 14 stipulates that "assessment of the child's best interests must also include consideration of the child's safety, that is, the right of the child to protection against ... armed conflicts."⁴⁴ Draft GC 27's addresses children's right to access to justice and to an effective remedy, applicable to children who come into contact with the law as victims, witnesses, and as (alleged) perpetrators. In light of best interests principle, child victims of rights violations "should be regarded as victims and not be persecuted when reporting such violations, due to their status or by being accused of being themselves involved in criminal acts;"⁴⁵ The draft GC recognises the challenges children in armed conflict situations face in accessing adequate justice systems and institutions, and proposes the International Criminal Court's Policy on Children as a guidance tool for the involvement of children in justice mechanisms.⁴⁶ On reparations, it presents examples of individual and collective reparations in conflict and humanitarian contexts, specifying individual recovery and reintegration and "the creation of an environment conducive to children's rights."⁴⁷ Moreover, an effective remedy for children in conflict situations and their aftermath is important for "development and a better future and building sustainable peace."⁴⁸ Finally, measures to prevent the recurrence of armed conflict must consider the intergenerational impact of such crimes.⁴⁹

2.2. International Humanitarian Law

Article 38 of the CRC refers to International Humanitarian Law (IHL), which complements and reinforces it.⁵⁰ IHL is found in the four Geneva Conventions of 1949 and their Additional Protocols. These treaties provide more detailed protections to children during armed conflicts. Geneva Convention IV contains provisions on children in the context of evacuations; the provision of medical supplies, food and clothing; child and family welfare measures; the treatment of children deprived of liberty, whether unaccompanied or accompanied by family; care and education of children; protection against enlistment for labour for children; exemption of children from the death penalty.⁵¹ For children deprived of liberty, however, IHL provides fewer protections than IHRL, as the latter stipulates that detention must be a measure of last resort.⁵² IHL distinguishes between "expectant mothers and maternity cases", "pregnant women and mothers of children under seven years", "children under twelve", "children under fifteen", and "children".⁵³ As previously described, the CRC framework distinguishes between children below 15 and children from 15 to 18.

⁴³ *ibid* para 72(g).

⁴⁴ 'General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 2, para. 1)' (UNCRC Committee 2013) CRC/C/GC/14, para 73.

⁴⁵ 'Draft general comment No. 27 on children's right to access to justice and to an effective remedy' (UNCRC Committee 2024) CRC/C/GC/27 para 15(b).

⁴⁶ *ibid* para 49.

⁴⁷ *ibid* para 52.

⁴⁸ *ibid* para 64.

⁴⁹ *ibid* para 67.

⁵⁰ Aptel in Kilkelly and Liefwaard (n 5) 519.

⁵¹ *ibid* 520.

⁵² *ibid* 520-521.

⁵³ Geneva Convention IV, arts. 23, 24, 38(5), 50

The Additional Protocols to the Geneva Conventions elaborate on the protection of civilians in international (AP I) and non-international (AP II) armed conflicts. According to article 77 AP I, "Children shall be the object of special respect and shall be protected against any form of indecent assault. The Parties to the conflict shall provide them with the care and aid they require." Although the recruitment of children below 15 is forbidden, if children participate in hostilities and fall under an adverse party's control, they must continue to benefit from special protection.⁵⁴ If children are detained, they must be kept separately from adults who are not family, and the death penalty cannot apply to children.⁵⁵ AP II contains similar provisions for children concerning the reception of aid and care, education, family reunification, evacuation, and prohibitions on recruitment and use of children below 15 in hostilities, and the death penalty.⁵⁶ AP I only obliges states to refrain from recruiting and using children. In contrast, in non-international armed conflicts, both state and non-state actors are prohibited from recruiting and using children.⁵⁷

The International Committee of the Red Cross (ICRC) established customary rules of IHL, which are binding on all states.⁵⁸ Rule 135 specifies that children affected by armed conflict are entitled to special respect and protection in both international and non-international armed conflicts. Many military manuals reiterate the requirement to respect and protect children in armed conflict. Accordingly, practice indicates that this special respect and protection includes protection against all forms of sexual violence, separation from non-family adults when deprived of liberty, access to education, food and health care, evacuation, and family reunification. Furthermore, customary IHL prescribes that children must not be recruited into armed forces or armed groups, and children below 15 must not be recruited or used in hostilities.⁵⁹ There is no uniform practice on a minimum age for recruitment, although it is customary that in the recruitment of 15 to 18-year-olds, the oldest must receive priority. Rule 137 reaffirms that children must not be allowed to take part in hostilities, both in international and non-international armed conflicts. This prohibition is found in many military manuals and state-level legislation. Notably, the ICRC study found that none of the practices supporting this prohibition stipulate that such children should be deprived of their special protection as children if they participate in hostilities.⁶⁰ Other rules provide children with extra protection in, for example, receiving aid and assistance, family reunification, and protection against sexual violence and when they are deprived of liberty.⁶¹

IHRL can thus be considered complementary to IHL. Proponents note that this works in two ways. First, through the incorporation of IHRL principles and methodology into IHL concepts, as IHRL arguably offers more safeguards to persons and provides more restrictions on parties to a conflict in the conduct of war.⁶² Second, as IHRL accountability mechanisms increasingly include compliance with IHL, they

⁵⁴ AP I, art. 77(2) and (3)

⁵⁵ AP I, art. 77(4) and (5)

⁵⁶ AP II, arts. 4(3) and 6(4)

⁵⁷ Aptel (n 4) 42.

⁵⁸ Aptel in Kilkelly and Liefwaard (n 5) 522.

⁵⁹ International Committee of the Red Cross, *Study on customary International Humanitarian Law (IHL)* (Cambridge University Press 2005) rule 136.

⁶⁰ *ibid* rule 137.

⁶¹ *ibid* rules 55, 93, 117, 120.

⁶² Kirby Abbott, 'A Brief Overview of Legal Interoperability Challenges for NATO Arising from the Interrelationship between IHL and IHRL in Light of the European Convention on Human Rights' (2014) 96 *International Review of the Red Cross* 107, 120.

(partly) fill an IHL accountability gap.⁶³ Where IHRL concerns a state obligation, the Additional Protocols of IHL also account for non-state actors. Regardless of which IH(R)L treaties a state is bound by, customary IHL obliges them to provide children with special protection. (Customary) IHL furthermore reflect the CRC Committee's expansion of children's rights in armed conflict, as (customary) IHL already considers children's rights beyond provisions on recruitment and use, and specifies what protections are specifically relevant for children as civilians.

2.3. International Criminal Law

International Criminal Law is found in multiple sources. Under the Rome Statute of the International Criminal Court (ICC), the ICC has jurisdiction over four crimes: genocide, crimes against humanity, war crimes, and the crime of aggression.⁶⁴ All crimes can affect children. Genocide can include forcibly transferring the children of the group to another group.⁶⁵ Conscripting or enlisting children below the age of 15 into armed forces or armed groups amounts to a war crime in international and non-international armed conflicts.⁶⁶ Other provisions address the protection of educational buildings.⁶⁷ From the 1990s onwards, the ICC and other special courts and tribunals have included jurisdiction over crimes affecting children in armed conflict, and guided interpretation and monitoring thereof.⁶⁸

The Special Court for Sierra Leone (SCSL) was the first to focus on a child-specific crime: the recruitment and use of children below the age of 15 for active participation in hostilities.⁶⁹ The Court prosecuted prominent members of three non-state armed groups for the crimes of conscripting and using children under 15, and for aiding, abetting, and planning conscription, enlistment, or use of children.⁷⁰ The SCSL was, however, also criticised for neglecting other crimes affecting children in armed conflict, such as sexual violence and forced marriage.⁷¹ While the training conditions for child soldiers, including physical punishments, forced drug consumption, and being used as human shields, were not recognised as separate violations by the SCSL, these training conditions highlighted the need to treat such children as victims of armed conflict who have a right to and require physical and psychological recovery and social reintegration.⁷²

The ICC included children in its first case regarding the Democratic Republic of the Congo. It prosecuted and convicted eight people for enlisting and conscripting children below 15 and using them for active participation in hostilities. Dominic Ongwen's case was noteworthy due to his history as a former child soldier from the age of 9.⁷³ For the ICC, active participation required "a link between the activity for which the child is used and the combat in which the armed force or group of the perpetrator is engaged", elaborating that it involves both direct participation in combat and support roles to combat of military

⁶³ *ibid*

⁶⁴ Rome Statute, art. 5

⁶⁵ Rome Statute, art. 6(e)

⁶⁶ Rome Statute, art. 8(2)(b)(xxvi) and art. 8(2)(e)(vii)

⁶⁷ *Aptel* in *Kilkelly and Liefwaard* (n 5) 523.

⁶⁸ *Aptel* (n 4).

⁶⁹ *ibid* 70.

⁷⁰ *ibid* 70-73.

⁷¹ *ibid* 73.

⁷² *Ibid* 139-141.

⁷³ *ibid* 74-81.

operations which expose the child as a potential target in hostilities, which required assessment on a case-by-case-basis.⁷⁴ Whether to broaden this definition of active participants is a contentious subject. Expansion would offer a larger group of children associated with armed conflict benefits and reparations, such as reintegration measures.⁷⁵ However, as active participants enjoy fewer protections under IHL, more children could be legitimately targeted and killed in direct hostilities.⁷⁶ It is beyond the scope of this study to address the legality of the use of force against children; however, this legality is of relevance to any force participating in hostilities.

To illustrate, in the International Criminal Tribunal for the former Yugoslavia (ICTY), the defence of Milošević argued that three boys carrying arms were mistaken for combatants and therefore legally targeted as military objectives, causing the death of one of the boys.⁷⁷ The court dismissed this argument, but that is of no relevance to the boy who died. Furthermore, the ICTY found that the supposed consent of a child under 15 to join an armed group could not be legitimate; therefore, the distinction between conscription (forced) and enlistment (voluntary) was unnecessary, as all forms of child recruitment are illegal.⁷⁸

Children have been detained and sometimes tried and convicted for their participation or association with armed forces.⁷⁹ Whether persecution of such children is possible depends on the penal code and the minimum age of criminal responsibility of a state. There is no minimum age of criminal responsibility for international crimes. So far, no international courts have actively tried and prosecuted children. While the SCSL's Statute provides jurisdiction over persons who were 15 to 18 years old at the time of the alleged commission, the prosecutors at the SCSL argued that children were not among those bearing the most responsibility in committing atrocity crimes.⁸⁰ Under article 7(2) SCSL Statute, a person who is tried as alleged child offender "shall be treated with dignity and a sense of worth, taking into account his or her young age and the desirability of promoting his or her rehabilitation, reintegration into and assumption of a constructive role in society, and per international human rights standards, in particular the rights of the child." The ICC explicitly excludes jurisdiction over crimes allegedly committed when the individual was below 18 years old.⁸¹ The ICTY found that "there can be no criminal liability for a war crime committed by an individual below the age of 18 ... is ... completely unfounded in law, as no such rule exists in conventional or customary international law."⁸²

2.4. Non-Legally Binding Documents and Concepts

The NATO Policy alludes to a few non-legally binding yet guiding documents and concepts, which are part of the international efforts to stop child recruitment and use.⁸³ The Paris Principles and

⁷⁴ *ibid* 89.

⁷⁵ *ibid* 90.

⁷⁶ *ibid* 90-91.

⁷⁷ *ibid* 126; Prosecutor v. Dragomir Milošević (Judgment, Appeals Chamber) IT-98-29 / 1-A, paras 202-203 (ICTY 2009)

⁷⁸ *ibid* 82-84.

⁷⁹ *ibid* 171.

⁸⁰ *Aptel* (n 4) 182-184.

⁸¹ Rome Statute, art. 26

⁸² *Aptel* (n 4) 176; Prosecutor v. Naser Orić (Judgment) IT-03-68-T 20, para 400 (ICTY 2006)

⁸³ *Aptel* in Kilkelly and Liefwaard (n 5) 525.

Commitments on Children Associated with Armed Forces and Armed Groups (2007) were adopted to prevent the unlawful recruitment and use of children, to support the release and reintegration of children associated with armed forces or armed groups, and to ensure the most protective environment for children.⁸⁴ The Principles provide practical tools and guidelines. In line with the SCSL's approach, the Commitments endorse that "children under 18 years of age who are or who have been unlawfully recruited or used by armed forces or groups and who are accused of crimes against international law are considered primarily as victims of violations against international law and not only as alleged perpetrators."⁸⁵ This child-soldiers-as-victim approach is criticised, as it risks bypassing the needs of the community the child returns to and of the victims of the child soldier's actions, and fails to consider the changed behaviour of the child soldier, who may continue to be violent.⁸⁶ The Vancouver Principles on Peacekeeping and the Prevention of Recruitment and Use of Child Soldiers expand on the Paris Principles and Commitments by including the context of UN peacekeeping operations (PKO). They highlight measures specific to PKO, such as disarmament, demobilisation, and reintegration, as well as the UN mechanism for monitoring, reporting, and sanctioning.⁸⁷ NATO sometimes partners with the UN in PKO; therefore, they are also guided by these principles on disarming and demobilising child soldiers.

2.5. Conclusion International Legal Framework

It is thus widely recognised through different strands of international law that children in armed conflict must benefit from special protections. These special protections range from receiving priority in accessing humanitarian relief and care and treatment and support in family reunification, to safeguards for if children are detained in the context of conflict, to protections against the recruitment and use of children. Recruitment of children below the age of 15 is prohibited, while voluntary recruitment of children between 15 and 18 is permitted. Those children must, however, not be used in hostilities. Children who are recruited and used must be treated primarily as victims.

International criminal jurisprudence reflects these principles, as children accused of crimes are not prosecuted in the same manner as adults. Practice furthermore shows that children below 15 cannot consent to their recruitment and use in armed conflict, hence there is no "voluntariness" to it. However, the CRC framework permits voluntary recruitment after 15, provided that safeguards are in place. This permission leaves legislative gaps for lawfully recruited children who (allegedly) violated laws. The Paris Principles do not account for lawfully recruited children. This leaves the question of how national courts must treat such children. They are unlikely to be held accountable in international courts. Still, at local and national levels, this approach is criticised for not sufficiently considering the needs of victims of violations committed by children. As the SCSL neglected crimes beyond recruitment and use, the CRC Committee's GCs offer guidance on what other violations affect children in armed conflict, and can thus be included in investigations. The Committee has already raised standards of its provisions through GCs, other opinions, and decisions. In developing draft GC 27 on children's access to justice, it must provide guidance on the treatment of lawfully recruited children. A suggested starting point is whether anyone below 18 can be presumed to be lawfully recruited and used.

⁸⁴ 'The Paris Principles, Principles and Guidelines on Children Associated with Armed Forces or Armed Groups' (UNICEF February 2007) 6.

⁸⁵ 'The Paris Commitments - Consolidated version' (UNICEF 1 March 2007) para 11.

⁸⁶ Grace Akello, 'Child Agency and Resistance to Discourses within the Paris Principles in Rehabilitation and Reintegration Processes of Former Child Soldiers in Northern Uganda' in Drumbl and Barrett (n 8) 450.

⁸⁷ 'Vancouver Principles on Peacekeeping and the Prevention of the Recruitment and Use of Child Soldiers' (Global Affairs Canada 15 November 2017) paras 1, 4, 5, 12, 15.

Almost all states have ratified the CRC, OPAC, and the Geneva Conventions or their Additional Protocols.⁸⁸ Furthermore, customary IHL is binding on states and includes limitations on non-state armed groups. Arguably, there is no shortage of legislation to protect children in armed conflict. Instead, gaps lie more with enforcement, as adjudication for such crimes is not equivalent to the prevalence and scope of crimes affecting children.⁸⁹ International Criminal Law illustrates how courts interact with and apply this legislation. Cognisant of the role of other actors in a conflict context, states are increasingly committing to non-binding principles that aim to guide the protection of children in the context of PKO. The increasing connection between IHL and IHRL leaves potential for IHRL mechanisms such as the CRC Committee to hold actors accountable for violations against children in armed conflict, and for parties to a conflict to comply with more restrictive interpretations of the laws of armed conflict. Chapter four further explores this reciprocal interaction.

⁸⁸ See Annex I for an overview of ratification statuses for NATO Member States.

⁸⁹ Aptel in Kilkelly and Liefwaard (n 9) 531-532.

3. The North Atlantic Treaty Organization and the Children and Armed Conflict Policy

This chapter introduces the North Atlantic Treaty Organization (NATO). It aims to answer two questions: *What is NATO's Children and Armed Conflict Policy?* and *What are the legal implications of NATO's CAAC Policy for NATO?* It starts with general information about the organisation and locates the CAAC Policy within NATO, particularly within the Human Security Agenda. Then, it explores historic developments leading up to this 2023 Policy, clarifying why and how NATO chose to include a CAAC focus in its work. Finally, the chapter dissects the Policy's provisions, evaluating it against another Human Security policy and identifying the implications of these provisions. In support of identifying NATO's role in promoting and enforcing children's rights, the chapter finishes with a conclusion on the alignment between NATO's ambitions and the CRC framework.

3.1. Introduction to the North Atlantic Treaty Organization

The North Atlantic Treaty Organization is a political and military alliance between 32 states in North America and Europe.⁹⁰ This Alliance consults and cooperates on defence and security matters, and conducts multinational crisis management operations together to solve problems, build trust, and prevent conflict.⁹¹ It was founded after the Second World War as a collective self-defence entity, based on the principle of collective defence: an armed attack on any Member State is an armed attack on all of them, allowing NATO to take collective action against the attacker.⁹² If peaceful measures fail, NATO can take military action. Together, its member states contain about 972.26 million people.⁹³

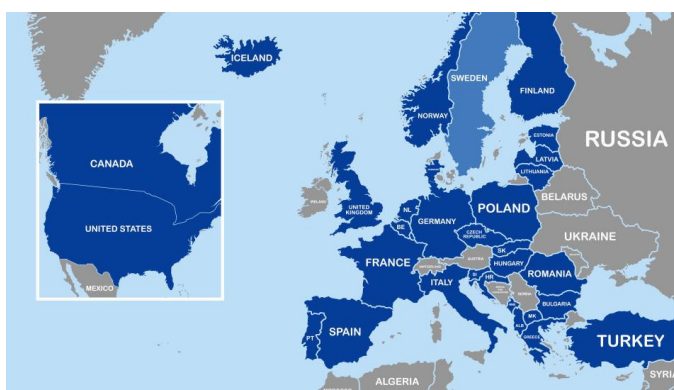


Figure 1. Although marked by a different colour of blue, Sweden is a member of NATO since 2024.

The North Atlantic Council (NAC) is NATO's primary decision-making entity. Each Member State has one representative and one vote in the Council, and decisions are based on consensus.⁹⁴ The NAC is responsible for requesting and endorsing NATO Policies. NATO activities include providing active-duty troops and peacekeeping forces in conflict-affected and post-conflict States, assisting with the governance of refugees and preventing and detecting online and offline piracy and potential terrorist threats.⁹⁵ The organisation is divided into military and civilian branches. One civilian branch, the International Staff, supports the NAC through advice and administration and is headed by the Secretary-

⁹⁰ In order of accession, its Member States on 23 April 2025 are Belgium, Canada, Denmark, France, Iceland, Italy, Luxembourg, the Netherlands, Norway, Portugal, the United Kingdom, the United States (founding members, 1949); Greece, Türkiye (1952); West Germany (1955); Spain (1982); German reunification (1990); Czech Republic, Hungary, Poland (1999); Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, Slovenia (2004); Albania, Croatia (2009); Montenegro (2017); North Macedonia (2020); Finland (2023); Sweden (2024). The Ukrainian application for membership is pending.

⁹¹ 'What is NATO' (NATO, n.d.) <https://www.nato.int/nato-welcome/index.html> accessed 19 May 2025

⁹² North Atlantic Treaty, art. 5

⁹³ *Supra* (n 12)

⁹⁴ Alexandra R Harrington, *International Organizations and the Law* (2nd edn, Routledge 2023) 237.

⁹⁵ *ibid* 238.

General.⁹⁶ The Secretary-General's Special Representative for Women, Peace and Security heads the Human Security Unit within this Office of the Secretary-General. Many of the developments discussed in the following sections take place within the Human Security Unit.

In 2022, NATO published its Human Security Agenda.⁹⁷ The Human Security Agenda or Approach is mainstreamed across NATO activities and therefore not limited to one branch or division within the organisation. For NATO, *human security* refers to “the risks and threats to civilian populations which may arise in all that the Alliance does.”⁹⁸ It comprises five areas of work and corresponding policies: Protection of Civilians (2016), Preventing and Responding to Conflict-Related Sexual Violence (2021), Children and Armed Conflict (2023), Combatting Trafficking in Human Beings (2023) and Cultural Property Protection (draft policy underway). In 2022, the NAC



Figure 2: The NATO Human Security framework

also adopted the Human Security Approach and Guiding Principles to provide a coherent and consistent understanding of human security for NATO, encompassing “a multisectoral approach to security that identifies and addresses widespread and cross-cutting challenges to the survival, livelihood and dignity of the people.”⁹⁹ The Guiding Principles include being people-centred, actively integrating gender perspectives and addressing the differentiated impacts of conflict and crisis on different people; being prevention and protection oriented; taking into account local customs and social norms; consistency with international law; respecting and providing space for the neutral, independent and impartial work of humanitarian actors; respecting the sovereignty and territorial integrity of States; and through pursuing two-way staff level engagement on human security related issues with relevant actors as appropriate.¹⁰⁰ More concretely, human security interventions aim to establish a legitimate and inclusive political authority and a human rights-based order. In contrast, military operations without this human security focus aim to protect national security and defeat an enemy actor.¹⁰¹

3.2. Background to the NATO CAAC Policy

“NATO’s approach to protecting children in armed conflict is based on legal, moral and political imperatives and contributes to the operational success, credibility and legitimacy of NATO’s missions, operations and activities.” – NATO Policy on Children and Armed Conflict, para 3

Recognising that grave violations and other serious violations affect children in armed conflict may violate international laws, affecting children’s full enjoyment of their rights and entire generations, NATO first addressed violations against children in armed conflict at the 2012 Chicago Summit.¹⁰² Here, it

⁹⁶ ‘International Staff’ (NATO, n.d.) https://www.nato.int/cps/en/natohq/topics_58110.htm accessed 23 April 2025

⁹⁷ ‘Human Security Agenda’ (NATO 2022) https://www.nato.int/nato_static_fl2014/assets/pdf/2024/8/pdf/240830-human-security-en.pdf

⁹⁸ *ibid* 6.

⁹⁹ ‘Human Security Approach and Guiding Principles’ (NATO 20 October 2022) paras 5-6 https://www.nato.int/cps/en/natohq/official_texts_208515.htm?selectedLocale=us accessed 23 April 2025

¹⁰⁰ *ibid* para 10.

¹⁰¹ Kaldor (n 16) 186-188.

¹⁰² CAAC Policy, paras 4 and 6.

declared its commitment to the protection of CAAC and appointed a NATO Focal Point for CAAC, who was responsible for maintaining contact with the UN.¹⁰³ Later in 2012, NATO adopted the Military Guidelines on Children and Armed Conflict, aiming to integrate the CAAC commitment into the Alliance's military doctrine, training, operational planning, and conduct.¹⁰⁴ Military and civilian branches in NATO appointed multiple CAAC focal points. In cooperation with non-governmental organisations and international organisations, these focal points were trained on child protection, human rights, and the rights of children, as well as UN Security Council Resolution 1612 and related resolutions.¹⁰⁵

In 2015, the NAC endorsed the policy paper *Protection of Children in Armed Conflict – Way Forward*. The Policy's priorities included: "a) Supporting UN efforts to monitor instances of grave violations committed against children affected by armed conflict; b) When participating in NATO-led operations or missions, military leadership and personnel are trained to recognize and respond to possible grave violations identified by the United Nations Secretary General; c) When training local forces, NATO ensures that the protection of children affected by armed conflict is given the right attention; NATO also promotes adequate reporting and monitoring mechanisms focusing on the six grave violations; d) The development of standard operating procedures for reporting violations."¹⁰⁶ In 2016, NATO reaffirmed its commitment to protecting CAAC, announcing it would "assess how to ensure it is sufficiently prepared whenever and wherever the issue of Children and Armed Conflict is likely to be encountered."¹⁰⁷ This year, the Focal Point for engagement with the UN transferred to the Office of the Secretary-General's Special Representative for Women, Peace and Security.¹⁰⁸ In 2018, in the Joint NATO-UN Declaration on Cooperation, the parties committed to further develop cooperation and advance the CAAC agenda.¹⁰⁹ The NAC endorsed the CAAC Policy in 2023 as part of the Human Security Agenda.

3.3. The NATO CAAC Policy Dissected

This section analyses the content of the CAAC Policy, consisting of 35 paragraphs. It aims to highlight the role NATO envisions for itself in CAAC, and what NATO does to implement this Policy. Paragraphs 1-16 are dedicated to the background (as discussed above), aim and scope, and definitions. Paragraphs 17-24 address measures and commitments towards the prevention of CAAC violations. Paragraphs 25-27 address responses to violations, and 28-32 examine reporting and information sharing. Finally, paragraphs 33-35 discuss education and training.

3.3.1. Background, Aim and Scope, Definitions

"Grave violations and other serious violations or abuses against children in armed conflict are a global phenomenon with demonstrated implications for international peace and security. They can amount to serious violations of international law, including International Humanitarian Law (IHL) and International Human Rights Law (IHRL), as applicable. These

¹⁰³ 'Chicago Summit Declaration' (NATO 20 May 2012) para 17.

https://www.nato.int/cps/en/natohq/official_texts/87593.htm?selectedLocale=en accessed 24 April 2025

¹⁰⁴ CAAC Policy, para 6.

¹⁰⁵ 'NATO and Children in Armed Conflict Fact Sheet' (NATO July 2016)

https://www.nato.int/nato_static_fl2014/assets/pdf/pdf_2016_10/20161018_1610-children-armed-conflict-en.pdf

¹⁰⁶ *ibid*

¹⁰⁷ 'Wales Summit Declaration' (NATO 5 September 2014) para 91.

https://www.nato.int/cps/en/natohq/official_texts/112964.htm accessed 24 April 2025

¹⁰⁸ CAAC Policy, para 8.

¹⁰⁹ 'Updated joint declaration on UN-NATO secretariat cooperation' (NATO 31 October 2018) para 5

https://www.nato.int/cps/en/natohq/official_texts/160004.htm?selectedLocale=en accessed 30 April 2025

violations and abuses can resonate in a negative way on the full enjoyment by children of their rights in the immediate to long term and adversely impact an entire generation. Certain violations can amount to crimes under International Criminal Law.” – NATO CAAC Policy, para 4

After a brief introduction, the Policy references the applicable legal frameworks of IHL, IHRL, and ICL. A footnote in paragraph 4 explains that the Policy applies beyond the six grave violations. The Policy aims to provide “a coherent, consistent and integrated political framework for NATO” and to provide NATO personnel with “a framework to strengthen compliance with international law and to better protect children in its missions, operations and activities.”¹¹⁰ The Policy “applies to all NATO personnel in all phases of Alliance operations, missions and activities, wherever NATO operates, from peacetime to crisis and conflict, including stabilisation and post-conflict,” and should be understood as part of the wider Human Security Approach.¹¹¹ Conform the CRC’s definition, the Policy considers any human being under 18 years old a child.¹¹² It also refers to the six grave violations against CAAC: the recruitment and use of children; killing and maiming of children; sexual violence against children; attacks against schools and hospitals; abduction of children; and denial of humanitarian access to children, as defined by multiple UN Resolutions.¹¹³

These paragraphs raise the question of which legal frameworks apply to NATO’s Policy and the implications thereof. First, similar to NATO’s Protection of Civilians Policy, the linguistic formulation of the CAAC Policy emphasises that it is based on legal imperatives; however, it does not contain expressions that can be interpreted to create new legal obligations.¹¹⁴ Similarly, the Human Security Guiding Principle to “be consistent with international law” contains no binding language.¹¹⁵ Second, NATO has no doctrinal definition of legal interoperability. Abbott conceptualises legal interoperability as “the acquisition of a generally shared international legal regime or paradigm.”¹¹⁶ NATO members may be subject to different international and domestic legal frameworks. Consequently, applicable legal frameworks for an operation depend on which states participate in that operation.¹¹⁷ Moreover, states can have diverging preferences about operating in an IHL versus an IHRL framework, where the latter is considered more restrictive for national forces, therefore directly impacting their operability.¹¹⁸ States can interpret extraterritorial application of IH(R)L treaties differently, and thus diverge on whether their obligations apply to the conduct of their military operations abroad.¹¹⁹ As described in one of NATO’s legal gazettes, “A NATO or NATO-led operation ... is, after all, nothing more than a collection of national units ... which remain under national command but have been transferred temporarily to NATO ... they never lose their national character, nor do they ever “escape” from being subject to their national laws, policies, and constraints.”¹²⁰ Moelle’s analysis of the applicable legal frameworks in peacekeeping

¹¹⁰ CAAC Policy, paras 10 and 12.

¹¹¹ *ibid* para 13.

¹¹² *ibid* para 15.

¹¹³ *ibid* para 16.

¹¹⁴ Hill and Manea (n 19) 149.

¹¹⁵ Human Security Approach and Guiding Principles (n 97) para 10(d) .

¹¹⁶ Abbott (n 62) 111.

¹¹⁷ Hill and Manea (n 19) 150.

¹¹⁸ Abbott (n 62) 110.

¹¹⁹ *ibid* 113.

¹²⁰ Thomas E. Randall, ‘Legal Authority of NATO Commanders’ (2014) 34 NATO Legal Gazette 41. https://www.act.nato.int/wp-content/uploads/2023/05/legal_gazette_34.pdf accessed 7 June 2025

operations (PKO) of international organisations confirms these complicating factors. It reveals that there is no conclusive answer to what laws apply to international organisations such as NATO.¹²¹ Nevertheless, Hill and Manea argue that the classification of being party to a conflict does not affect the implementation of the Protection of Civilians Policy.¹²² Moreover, states are, in any event, bound by customary IHL.¹²³ It then follows that the same principles apply to the CAAC Policy.

One NATO body explains about legal obligations that:

“CAAC is extensively covered in international law. Recruitment is prohibited under international law in accordance to international human rights, and offenders can be prosecuted by the International Criminal Court (ICC). Violence against civilians, including children, is prohibited under the Geneva Conventions. This is universally applicable and is binding for government and non-government military actors. When confronted with child soldiers, military personnel may legally defend themselves, but have to take into account the principle of proportionality. The Commander needs to be aware of these prohibitions. Armed forces/ persons committing one or more of the six grave violations can be prosecuted. It is imperative that these violations, when observed, are reported. These reports can later be used as evidence within the ICC.”¹²⁴

To summarise, while the Policy refers to the frameworks as described in chapter two of this study, it contains no legally binding language. The content of such applicable legal frameworks depends on the national obligations of each state participating in an operation. As the child and the six grave violations are explicitly defined, one can conclude that within the applicable IHRL framework, those definitions are uncontested and apply to all activities. NATO's policy does not distinguish between age groups of children, unlike the frameworks discussed previously. Moreover, the scope is broadly defined, encompassing all that NATO does. The following sections will provide insight into how NATO implements this scope in practice.

3.3.2. Preventing Violations against Children in Armed Conflict

To prevent violations against CAAC, NATO forces will “respect applicable legal frameworks and will avoid violating children’s rights while conducting operations, missions and activities.”¹²⁵ To this end, it will conduct awareness-raising and expertise-strengthening activities, including those focused on preventive measures, targeted monitoring, reporting, and information exchange.¹²⁶ NATO will apply a CAAC Risk Assessment to its missions, operations and activities, with support from internal or external expertise and a mandate from the NAC.¹²⁷ On best practices, the Policy refers to multiple international CAAC initiatives such as the Vancouver Principles on Peacekeeping and the Prevention of Recruitment and Use of Child Soldiers and the Safe Schools Declaration, “while noting that these are non-legally binding documents to which some Allies and partners have committed.”¹²⁸ It seeks to adopt the highest

¹²¹ Moritz Peter Moelle, ‘Cooperation of international organisations in peacekeeping operations and issues of international responsibility’ (Law PhD thesis, Leiden University 18 December 2014) 241-242.

<https://hdl.handle.net/1887/30250>

¹²² *ibid* 153.

¹²³ Casey-Maslen and Vestner (n 20) 197.

¹²⁴ ‘Children and Armed Conflict (CAAC) Factsheet’ (Civil-Military Cooperation Centre of Excellence 2018) 2. [factsheet-caac.pdf](#) accessed 12 June 2025

¹²⁵ CAAC Policy, para 17.

¹²⁶ *ibid* para 18.

¹²⁷ *ibid* paras 19 and 20.

¹²⁸ *ibid* para 21.

standards to protect educational affairs, pursuant to IHL.¹²⁹ NATO commits to preventing the creation of real or perceived demand for children's sexual exploitation or forced labour, in line with other relevant Human Security Policies.¹³⁰ Finally, to support and inform prevention measures, NATO will continue to engage, inter alia, with UN actors and other international (non-governmental) organisations, civil society, and at-risk populations.¹³¹

Section 3.3.1. discusses the implications of applicable legal frameworks. Section 3.3.5. provides examples of awareness-raising and expertise-strengthening activities. This section on prevention, its language regarding the CAAC Risk Assessment, and the use of prevention measures indicate that the Policy seeks to protect children from the harmful effects that may arise from NATO's conduct. It refers to the responsibility of NATO forces and staff. What prevention measures derived from the CAAC Risk Assessment may encompass is dependent on "a clear mandate that must be provided for by the NAC," arguably risking the strength of such prevention measures. The Policy notes the non-legally binding nature of some guiding documents or commitments. Again, this alludes to the fact that while the CAAC Policy is endorsed by consensus, its contents and applicability do not necessarily apply to all Member States within its scope of operations. Whether children are directly included and represented in engagement with relevant actors, such as "at-risk populations" or through civil society platforms, remains unclear.

3.3.3. Responding to Violations against Children in Armed Conflict

To respond to violations against children in armed conflict, "NATO will adjust its civilian harm mitigation efforts to include specific guidance on prevention/reduction/response to child casualties in its missions, operations, and activities."¹³² It stipulates that "children associated with armed forces or armed groups, including terrorist organizations, who have been recruited in violation of applicable international law and come into temporary custody or are otherwise handed over to NATO operational forces, should be considered primarily as victims of violations of international law, even if not deemed appropriate for immediate release and reintegration, should be treated in a gender-responsive, age-sensitive, victim-centred and trauma-informed manner and in conformity with international law, including IHL and IHRL, as applicable."¹³³ These provisions apply to children who are recruited or used in any capacity, not only to those who take direct part in hostilities, as posited by the Paris Principles and Guidelines.¹³⁴ Activity-specific handover protocols must be developed for when relevant non-NATO armed forces or armed groups involved in the conflict are known to recruit and use children.¹³⁵ Furthermore, NATO must ensure that when it transfers children associated with armed groups or armed forces to a receiving authority, this authority will treat them according to international law, including procedural protections and humane treatment.

This section primarily addresses the protection of children from harm inflicted by the actions of other individuals or entities. The Policy first addresses child casualties in the context of civilian harm mitigation efforts, that is, child casualties due to NATO's conduct. Then it considers children associated with armed forces and armed groups, who come into temporary custody or otherwise fall within the responsibility of NATO operational forces, and agreements about the transfer of children from the armed forces they are

¹²⁹ *ibid* para 22.

¹³⁰ *ibid* para 23.

¹³¹ *ibid* para 24.

¹³² *ibid* para 25.

¹³³ *ibid* para 26.

¹³⁴ *ibid* footnote 16 in para 26.

¹³⁵ *ibid* para 27.

associated with to other actors, such as the government or child protection actors.¹³⁶ The Policy leaves unclear what NATO operational forces will do when they face children in combat, before a handover or transfer takes place, as civilian harm mitigation efforts do not protect such children. This leads back to the discussion on active participants and the legitimate use of force against children in chapter 2.3., where children benefit from fewer protections. Again, military personnel may legally defend themselves, but they must consider the principle of proportionality and applicable prohibitions.¹³⁷ This understanding of proportionality can depend on national preferences for an IHL framework versus an IHRL framework in operations. The wording of the Policy aligns with international guidelines; accordingly, children associated with armed forces or armed groups, while in the care or custody of NATO operational forces, are presumed to be treated in accordance with IHL and IHRL, such as provisions on the detention of children. Finally, the Policy refers to “adversaries or other relevant non-NATO armed forces or armed groups parties to conflict,” implying that the recruitment and use of children are not limited to hostile parties to NATO, but can also include NATO-friendly parties to conflict.

3.3.4. Reporting and Information Sharing

Pursuant to the Policy, all personnel in NATO’s missions, operations and activities are obliged to report “any incidents of observed or suspected grave violations and other serious violations or abuses against children in accordance with established reporting mechanisms, through the NATO chain of command.”¹³⁸ Commanders will report to NATO Headquarters in a timely manner.¹³⁹ NATO will engage with staff in two ways on CAAC-related issues, including with relevant actors such as the UN, regional intergovernmental agencies, host nations of missions, partners and civil society.¹⁴⁰ Furthermore, it will exchange CAAC-related information with the UN Resolution 1612 Group of Friends when this group is involved in missions or operational areas.¹⁴¹ Finally, suspected and identified child victims must be protected from public curiosity and retaliation: their privacy and dignity must be protected and safeguarded, and NATO staff must refrain from publishing images of these children to the public.¹⁴²

The reporting mechanism thus focuses on what NATO staff can and must do to report incidents of observed or suspected violations of the rights of children. The NATO chain of command refers to the permanent, integrated military command structure, where the reporting structure depends on the type of activity.¹⁴³ NATO separates its information into three classification categories: non-classified (publicly accessible and available on the internet), unclassified (NATO’s intellectual property, which may be released upon authorisation) and classified.¹⁴⁴ The NATO Standardization Office (NSO) publishes Allied Joint Doctrine, which serve as guidance and a framework for NATO staff and commanders at the operational level. The *Allied Joint Doctrine for the Military Contribution to Peace Support*, dated March 2024, mentions CAAC in one paragraph, yet refers to the *2015 Protection of Children and Armed Conflict*

¹³⁶ Watchlist on Children and Armed Conflict, ‘Operational Guidance: Negotiating and Implementing Handover Protocols’ (Watchlist 2022) <https://watchlist.org/publications/operational-guidance-negotiating-and-implementing-handover-protocols/>

¹³⁷ *Supra* (n 125).

¹³⁸ CAAC Policy, para 28.

¹³⁹ *ibid* para 29.

¹⁴⁰ *ibid* para 30.

¹⁴¹ *ibid* para 31.

¹⁴² *ibid* para 32.

¹⁴³ ‘NATO’s Command Structure’ (NATO 2015) <https://www.nato.int/cps/en/natohq/126245.htm> accessed 20 May 2025

¹⁴⁴ Ian Davis, ‘23. Accountability and Transparency’ in Mayer (n 14) 343.

– *The Way Forward* document, rather than the 2023 CAAC Policy.¹⁴⁵ It discusses CAAC objectives in broad terms, explaining NATO's interest in this subject and defining the six grave violations. The established reporting mechanisms of the CAAC Policy are not part of NATO's non-classified information. The NAC receives one general report on CAAC per year, and the subsidiary working group on CAAC processes between 10 and 13 reports per year.¹⁴⁶ Engagement with the UN and other relevant actors reflect in, for example, the annual reports of the UN Special Representative to the Secretary-General on CAAC, which include a specific paragraph on NATO.¹⁴⁷

3.3.5. Education and Training

The Policy's final section addresses education and training. All personnel deployed to NATO activities receive information, guidance and mandatory CAAC training, either before or during deployment.¹⁴⁸ This training should cover identifying, preventing and responding to grave and other serious violations and abuses against children, as well as effective monitoring and reporting tools. For troop-contributing states, their education and training should include minimum standards.¹⁴⁹ NATO will seek to incorporate CAAC issues into all relevant exercises, as appropriate, and, where applicable, with assistance from child protection organisations with CAAC expertise.¹⁵⁰ NATO will be prepared to provide training on and awareness of the six grave violations and other serious violations or abuses against children in armed conflict, taking note of best practices, when invited to train security forces from a host or partner nation.¹⁵¹

Education and training require a threefold response. Firstly, NATO's reporting on such education and training. Secondly, the response provides three examples of training and education activities. Thirdly, a short analysis on NATO's approach to lessons learned from operations. First, although "all personnel deployed" must receive CAAC training, implementation of this measure remains unclear. Only three states address CAAC training in their 2022 summary report.¹⁵² Canada and Hungary report that their pre-deployment training includes training on child protection.¹⁵³ Lithuania highlights that their staff receive training and lectures on the conditions of children in war-affected areas, including the role of peacekeepers and the Vancouver Principles on the recruitment and use of children.¹⁵⁴ This 2022 report, however, predates the publication of the CAAC Policy, and no summary reports were published after 2022.

Second, examples of actions and activities for training and education purposes. First, in September 2017, LANDCOM, NATO's primary land warfare advisory body, organised the first CAAC training in

¹⁴⁵ 'NATO Standard AJP-3.24, Allied Joint Doctrine for the Military Contribution to Peace Support Edition A, Version 1' (NSO March 2024) 58. <https://nso.nato.int/nso/nsdd/main/standards/ap-details/3272/EN>

¹⁴⁶ Email from Alec Wargo to author (11 June 2025)

¹⁴⁷ See, for example, UNGA Human Rights Council, 'Children and armed conflict, Report of the Special Representative of the Secretary-General for Children and Armed Conflict (8 January 2025) A/HRC/58/18 para 75.

¹⁴⁸ CAAC Policy, para 33.

¹⁴⁹ *ibid*

¹⁵⁰ *ibid* para 34.

¹⁵¹ *ibid* para 35.

¹⁵² See for a full list of Summaries of the National Reports https://www.nato.int/cps/en/natohq/topics_132342.htm accessed 16 June 2025

¹⁵³ 'Summary of the National Reports' (NATO 2022) 28; 58. https://www.nato.int/nato_static_fl2014/assets/pdf/2025/1/pdf/2022-ncgp-summary.pdf

¹⁵⁴ *ibid* 70.

Türkiye.¹⁵⁵ The objective of this training was to enhance and integrate knowledge of the impacts of armed conflict on children, the six grave human rights violations, and the responsibilities under the international legal framework into the planning, execution, and assessment processes. Participants, instructors, and observers came from multiple NATO bodies and missions, as well as relevant UN actors, the International Committee of the Red Cross, and other international non-governmental organisations. Second, in November 2022, a NATO-led Human Security in Operations training in Romania focused on the protection of civilians, including children. The training scenarios included parameters related to UN Resolution 1612 and the six grave violations.¹⁵⁶ Third, in January 2023, a deep dive session focused on children and armed conflict and a gender perspective facilitated exchange between NATO and civil society actors on current actions and measures NATO takes to address CAAC, coordination with child protection actors, training opportunities, and accountability mechanisms.¹⁵⁷

Third, the Joint Analysis and Lessons Learned Centre (JALLC) provides analyses, lessons learned, and training opportunities to NATO entities and partners, with two examples to be discussed.¹⁵⁸ A conference from June 2023, right before the adoption of the CAAC Policy, focused on Human Security, including CAAC, and NATO Stability Policing.¹⁵⁹ Stability Policing is “the NATO expeditionary military capacity that aims to restore public order and security, protect human rights and support the rule of law, ... by reinforcing indigenous police forces or temporarily replacing them.”¹⁶⁰ On CAAC, discussions and workshops focused on four themes. First, political dialogue: participants emphasised the necessity of cooperation between NATO and other child-relevant stakeholders from the start of operations.¹⁶¹ Second, training of allies and operational partner nations’ forces, to prepare NATO Stability Policing Units to recognise and handle situations involving child soldiers and the six grave violations.¹⁶² Third, awareness raising of local security forces: as a preventive tool, to facilitate identification of the six grave violations by local stakeholders.¹⁶³ Fourth, reporting violations and support of monitoring: participants discussed general confusion surrounding reporting and monitoring measures and frameworks. They highlighted the need for implementing a reporting mechanism and a monitoring plan.¹⁶⁴ This need is reflected in the 2023 CAAC Policy, as described in the same-titled section above. The Conference’s report furthermore shows a discussion on the scope of application of measures protecting children in armed conflict. To illustrate, NATO did not have an official stance on the definition of a child within its doctrine and training at the time of the conference, despite a need for a precise limit. The NATO CAAC

¹⁵⁵ ‘LANDCOM HOSTS NATO CHILDREN AND ARMED CONFLICT TRAINING’ (NATO LANDCOM 2017) <https://lc.nato.int/media-center/news/2017/landcom-hosts-nato-children-and-armed-conflict-training> accessed 14 May 2025

¹⁵⁶ ‘PROTECTION OF CIVILIANS AND CHILDREN KEY SUBJECTS DURING NATO-LED HUMAN SECURITY TRAINING’ (NATO SHAPE 2022) <https://shape.nato.int/news-archive/2022/protection-of-civilians-and-children-key-subjects-during-natoled-human-security-training> accessed 14 May 2025

¹⁵⁷ ‘Deep Dive Recap: Children and Armed Conflict and the Gender Perspective’ (NATO 17 January 2023) https://www.nato.int/cps/en/natohq/news_211158.htm?selectedLocale=en accessed 14 May 2025

¹⁵⁸ ‘Who we are’, (JALLC, n.d.) <https://jallc.nato.int/organization/who-we-are> accessed 10 June 2025

¹⁵⁹ ‘Report of the Conference: The role of Stability Policing within Human Security’ (NATO Stability Policing Centre of Excellence 2023) https://nllp.jallc.nato.int/iks/sharing%20public/20231011_664!2023nspcoe_humansecurityconference_report.pdf accessed 20 May 2025

¹⁶⁰ *ibid* 3.

¹⁶¹ *ibid* 14.

¹⁶² *ibid* 14-15.

¹⁶³ *ibid* 15.

¹⁶⁴ *ibid*

Policy presented and adopted in Vilnius provided a precise position, defining a child as “any human being below the age of 18 years.”¹⁶⁵

The second example of lessons learned stems from two NATO-led missions, which the CAAC Policy’s background alludes to: the International Security and Assistance Force (ISAF) and the succeeding Resolute Support Mission (RSM) in Afghanistan.¹⁶⁶ The first specialised CAAC Adviser was deployed to the RSM in 2016, and worked together with stakeholders to “address unlawful recruitment, other grave violations and other serious violations or abuses against children.”¹⁶⁷ One 2017 Lessons Learned derived from the ISAF operation. In 2011, an American soldier witnessed an Afghan police commander raping a boy, under the guise of *bacha bazi*.¹⁶⁸ American soldiers were instructed to look away for such incidents, yet two soldiers spoke out and confronted the Afghan perpetrator. The American soldiers were both reprimanded for their involvement in this confrontation.¹⁶⁹ This led to the proposal of three recommendations: 1) cultural norms should not be used as an excuse for failure to hold perpetrators of human rights abuses accountable, 2) training on conflict-related sexual violence, gender-based violence and other threats of sexual exploitation and abuse is necessary to give staff tools to respond constructively, and 3) clear policies on human and children’s rights abuses, which cover responsible authorities and steps, are required, particularly in the context of when local authorities are implicit or fail to respond.¹⁷⁰ Finally, the Lessons Learned addressed the implications of a lack of clear policy.¹⁷¹ Lessons learned on the RSM remain classified beyond a two-page factsheet, which predated the NATO Human Security Agenda. Nonetheless, key conclusions include, first, that “Allies should ... seek to avoid taking on commitments that go well beyond assigned tasks. NATO should establish realistic and achievable goals and seek increased participation by other international actors who are better suited to deliver those non-military effects.”¹⁷² Second, “Future NATO train, advise and assist missions should carefully consider the political and cultural norms of the host nation and the ability of that society to absorb capacity building and training.”¹⁷³ These two conclusions may allude to ISAF’s lessons on child sexual abuse and cultural norms and the need to work with child protection actors in the delivery of non-military effects, as well as the requirement for mandates to be provided for by the NAC.

Education and training thus play a significant role in achieving the Policy’s aim to mainstream CAAC considerations across its work. Activities and lessons from before 2023 informed the development of the Policy. Additionally, the Policy acknowledges that violations against children can be committed by all relevant actors in an operation, including friendly forces from host nations.

¹⁶⁵ *ibid* 16.

¹⁶⁶ CAAC Policy, para 7.

¹⁶⁷ *ibid*

¹⁶⁸ ‘SOLLIMS LESSONS LEARNED SAMPLER, Operationalizing Women, Peace, and Security’ (November 2017) 8(2) Stability Operations Lessons Learned & Information Management System, 27 *bacha bazi* is explained as a cultural practice constituting of “boy play, where powerful Afghan men use teenage boys as sex slaves for dancing and entertainment” https://nlp.jallc.nato.int/iks/sharing%20public/sollims_sampler_operationalizing-wps_nov2017.pdf accessed 20 May 2025

¹⁶⁹ *ibid* 27-28.

¹⁷⁰ *ibid* 29.

¹⁷¹ *ibid*

¹⁷² ‘Afghanistan Lessons Learned Process’, (NATO November 2021) 1. https://www.nato.int/nato_static_fl2014/assets/pdf/2021/12/pdf/2112-factsheet-afgh-lessons-en.pdf accessed 20 May 2025

¹⁷³ *ibid*

3.4. Conclusion NATO and the CAAC Policy

Since 2012, NATO has given considerable attention to protecting children in armed conflict. A growing mandate to address CAAC, provided for by the NAC, led to measures and activities aimed at mainstreaming children's rights in NATO's missions, operations, and activities. Such measures and activities both shape and contribute to the implementation and enforcement of the 2023 CAAC Policy. At face value, the language of the Policy aligns with other international children's rights discourse on children and armed conflict, by referring to IHL, IHRL, ICL, the six grave violations and other guiding documents. Yet, non-legally binding language reveals the limited legal implications of the Policy and reflects that for endorsement by the NAC, the language must be acceptable for all Allies. The legal interoperability issues NATO faces due to its Command Structure, where national obligations and preferences prevail, exacerbate these limitations. Nonetheless, recognition of children's position in armed conflict is a positive development, and NATO takes an active role in collecting, developing and sharing lessons learned and best practices. This role applies beyond NATO staff, as its Policy implementation measures include raising awareness among host nations and other relevant partners.

This study identifies multiple gaps in the Policy. To start with, the Policy acknowledges that its staff can violate children's rights. The Policy provides no instructions or reporting mechanism for external actors or non-NATO staff to report incidents of observed or suspected violations against children by NATO staff. Furthermore, children as passive subjects that staff receive training on, but not as active stakeholders in this Policy. The analysis therefore identifies a severe gap in what NATO offers for victims of violations committed by NATO staff, let alone what it offers to children.

Additionally, the availability of the data collected for the reports made under this Policy is limited. On the one hand, the classification of reports aligns with safeguards for children's privacy; yet, disaggregated data on the number of reports, gender, age, and even the type of violation could shed light on the prevalence of the issue and effectiveness of this Policy in preventing or addressing violations. By comparison, the annual UN CAAC report provides concrete numbers on violations affecting children, which helps emphasise the scope of the issue and hold perpetrators accountable.

Moreover, while the scope is said to encompass all of NATO's work, the Policy does not indicate that NATO applies this Policy in the work aimed at its Member States; it is primarily targeted at operations beyond its territories. This leaves out the adequate inclusion of children in, for example, defence capacity building and national civil preparedness and resilience, should NATO Member States become actively involved in an armed conflict taking place in their geographic territories.

Finally, while the Policy recognises and utilises the CRC's definition of a child and is presumed to refer to the CRC's Articles 38 and 39, as well as the Optional Protocol, it fails to refer to other relevant articles and guiding principles. Particularly, consideration of the best interests and the participation principle could enhance the Policy's sections on prevention and on reporting and information sharing.

4. Accountability for Children

This chapter considers accountability for children through multiple approaches. The overarching question is *How is NATO held accountable for protecting or violating children's rights?* At the international level, the chapter considers the international accountability mechanisms in place to hold NATO Member States accountable. Then, it identifies internal accountability mechanisms of NATO. Finally, the chapter discusses access to justice for children. Accountability is conceptualised separately in each section.

4.1. International Accountability Mechanisms

This part outlines the most relevant available pathways for international accountability mechanisms for violations against children in armed conflict, at both the state and organisational levels. It distinguishes between judicial and quasi-judicial mechanisms. Judicial mechanisms are courts, where individuals or groups can bring a case, and a perpetrator can be held accountable for the areas of law within that court's jurisdiction.¹⁷⁴ Quasi-judicial mechanisms also promote implementation and compliance with treaty obligations, but do not necessarily have a dispute resolution mechanism.¹⁷⁵

4.1.1. CRC Framework

How does the CRC Committee hold states accountable for protecting children's rights in armed conflict?

The CRC Committee monitors states through its monitoring and reporting mechanism. Optional Protocols are first considered in a separate report and then included in the state's periodic reporting cycle.¹⁷⁶ The reporting cycle includes constructive dialogue with government delegations, and the Committee's task is perceived "to convince and persuade rather than to judge."¹⁷⁷ This cycle results in Concluding Observations (COs), reports in which the Committee notes positive developments, expresses concerns, and provides recommendations. COs are considered soft law, but their impact is limited by the Committee's lack of judicial powers, lack of follow-up on implementation, the time between each CO to a state, and the generic level of recommendations.¹⁷⁸ All NATO Member States, except the United States, are parties to the CRC.¹⁷⁹

Two Optional Protocols are relevant. All NATO Member States are parties to the Optional Protocol on the Involvement of Children in Armed Conflict (OPAC), and many have made declarations and reservations to this Protocol. No state has a mandatory conscription age below 18, and many states used their declaration to confirm that their voluntary military recruitment age is above 18.¹⁸⁰ Canada, France, Italy, the Netherlands, the US, the United Kingdom (UK), Türkiye, and Germany, however, made reservations regarding this age. Following article 3 OPAC, all states require parental consent for a child to apply for military enrolment. A review of the COs reveals that the CRC Committee recommends,

¹⁷⁴ Christina Voigt and Caroline Foster (eds), 'Introduction', *International Courts Versus Non-Compliance Mechanisms* (1st edn, Cambridge University Press 2024) 1.

¹⁷⁵ *ibid*

¹⁷⁶ Doek in Kilkelly and Liefwaard (n 5) 21.

¹⁷⁷ Sloth-Nielsen, 'Monitoring and Implementation of Children's Rights' in Kilkelly and Liefwaard (n 5) 41.

¹⁷⁸ *ibid* 44-47.

¹⁷⁹ See Annex I for a full overview of ratification statuses.

¹⁸⁰ Belgium, Denmark, Iceland, Luxembourg, Norway, Portugal, Greece, Spain, Czech Republic, Hungary, Poland, Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, Slovenia, Albania, Croatia, Montenegro, North Macedonia, Finland, and Sweden https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11-b&chapter=4&clang=en#EndDec accessed 10 June 2025

structurally, raising the voluntary military recruitment age to 18 years old.¹⁸¹ States that permit the voluntary recruitment of children are urged to implement and enforce safeguards, such as a distinction between civil and military status, parental or guardian consent, and prioritising older children.¹⁸² In multiple instances, the Committee criticised how minors can be deployed under certain conditions; the advertising and recruiting practices; and expressed concerns about reports of sexual abuse, harassment, and violence towards children within the national armed forces. In a few instances, the Committee drew attention towards accountability mechanisms for children within the military forces, by directly addressing (possibly) responsible mandated functions, or indirectly through concerns about reported violations.

Under OPAC, the Committee also monitors states' conduct of their military force. It generally recommends that states strengthen their education and training on OPAC's provisions for relevant professional groups, including military personnel, and in military schools.¹⁸³ Another general recommendation is to explicitly prohibit the trade and delivery of weapons to states where children risk recruitment and use, and other violations.¹⁸⁴ Specific issues of concern included the state's duty to ensure children's rights are respected in cases of handover or transfer to national (child protection) authorities of a host state; conditions of detainment for captured child soldiers within a State; the applicability of IHL in military conduct abroad, even if the state argues that OPAC does not apply beyond its own State borders; concrete concerns about grave violations affecting children through the State's conduct; resources and investigations for such violations; and complaint mechanisms for parents and children.¹⁸⁵ The Committee also addresses the treatment of refugee and asylum-seeking children who have been recruited or used in armed conflicts abroad, and children recruited and used in armed conflict within the relevant State party.¹⁸⁶

Then, 15 out of 32 NATO Member States have ratified the Optional Protocol on a Communications Procedure (OPIC), and two are signatories. Through OPIC, any individual or group can submit a complaint if they believe their children's rights are violated. The applicant can be the child or a representative acting on their behalf with consent.¹⁸⁷ One state may institute a complaint against another state; however, this has not yet occurred.¹⁸⁸ OPIC is a quasi-judicial dispute resolution mechanism: it does not operate as a court with prosecutors, but it is based on legal grounds and can determine violations. It awards both general and individual remedies. Individual remedies can include determining violations on the merits, interim measures for immediate relief, and effective reparation measures such as financial support, psychological support, recognition, and other rectification measures.¹⁸⁹ General recommendations can include public recognition of violations, systemic changes in laws and policies,

¹⁸¹ CRC/C/CAN/CO/5-6 (2022) para 47; CRC/C/OPAC/FRA/CO/1 (2007) para 8.

¹⁸² See Annex II Analysis of CRC Committee COs on national military recruitment practices.

¹⁸³ CRC/C/OPAC/CAN/CO/1 (2006) para 17; CRC/C/OPAC/FRA/CO/1 (2007), para 13; CRC/C/OPAC/NLD/CO/1 (2015), para 7; CRC/C/OPAC/GBR/CO/1 (2008) para 8; CRC/C/OPAC/EST/CO/1 (2017) paras 7-9; CRC/C/OPAC/TUR/CO/1 (2009) paras 9-10.

¹⁸⁴ CRC/C/OPAC/USA/CO/2 (2013) para 41; CRC/C/GBR/CO/6-7 (2023) para 56(j).

¹⁸⁵ See Annex III Analysis of CRC Committee COs on military conduct, domestically and abroad.

¹⁸⁶ These issues are considered to be outside the scope of NATO's work, and therefore not discussed.

¹⁸⁷ Ann Skelton, 'International Children's Rights Law: Complaints and Remedies' in Kilkelly and Liefwaard (n 5) 73.

¹⁸⁸ *ibid*

¹⁸⁹ Ton Liefwaard, 'Children's Rights Remedies under International Human Rights Law: How to Secure Children's Rights Compliant Outcomes in Access to Justice?' (2023) 56 *De Jure*, 492.

and training of relevant actors.¹⁹⁰ So far, admissible OPIC complaints have not considered violations against children in armed conflict. However, in *L.H. et al v France*, children with French nationality were held in dire conditions in camps in the Syrian Arab Republic, and the Committee found that although the camps were under the control of a non-state armed group, France had a positive obligation to protect those French children.¹⁹¹ Notwithstanding the nationality focus of this case, Duffy concludes that for the Committee, the question of whether France had "effective control" and thus responsibility did not need to constitute control over the territory or persons, but over the children's situation. This effective control test, however, was flexible and fact-specific, and not grounded in standards that could be applied to other contexts.¹⁹² Partly following the outcomes of this case, other states followed suit in repatriating their child nationals from the camps.¹⁹³ Furthermore, concerning extraterritorial obligations, the CRC Committee maintains that OPAC not only applies to domestic territories, and that IHL binds states in their conduct abroad.¹⁹⁴ Notwithstanding the admissibility rules, which can be burdensome for children, based on the effects of *L.H. et al v France*, OPIC is a valuable addition to children's access to (international) dispute mechanisms. The Committee's primary role is to ensure implementation of and compliance with the CRC framework; therefore, it tends to favour systemic remedies and recommendations over individual remedies.¹⁹⁵ This provides the opportunity for justice for children beyond the applicants, offering protection to children affected by similar violations.

4.1.2. Other Quasi-Judicial International Mechanisms

Other treaty bodies and international mechanisms can and do play a role in protecting children's rights in armed conflict. Other UN treaty bodies have similar competences to the CRC Committee. Despite the limited jurisprudence, these bodies can effectively address the situation of children in armed conflict.¹⁹⁶ For example, the Human Rights Committee, treaty body of the International Convention on Civil and Political Rights (ICCPR), found that Nepal violated children's rights in armed conflict, under inter alia, the ICCPR's rights to liberty and security of person (article 9) and the child's right to protection (article 24).¹⁹⁷ Here, a 15-year-old boy was beaten and abused by security forces in the context of internal conflict, resulting in his death.¹⁹⁸ The UN Universal Periodic Review (UPR) reviews states on their compliance with UN human rights treaties and IHL.¹⁹⁹ It focuses on UN peacekeeping operations (PKO) and the protection of civilians during military operations. The Human Rights Council, consisting of 47 states, reviews another state, and each recommendation indicates which state made the

¹⁹⁰ *ibid*

¹⁹¹ Helen Duffy, 'Communications No. 79/2019 and 109/2019 et al' (Leiden Children's Rights Observatory 18 February 2021) <https://www.childrensrightsobservatory.org/case-notes/casenote2021-3> accessed 19 June 2025

¹⁹² *ibid*

¹⁹³ 'Australia: Many Children Returned From Syria Detention Doing Well' (Human Rights Watch, 21 November 2022) <https://www.hrw.org/news/2022/11/21/australia-many-children-returned-syria-detention-doing-well?> accessed 19 June 2025

¹⁹⁴ CRC/C/OPAC/USA/3-4 (2017) para 17.

¹⁹⁵ Liefwaard (n 187) 500.

¹⁹⁶ Skelton in Kilkelly and Liefwaard (n 5) 76-78.

¹⁹⁷ UN Human Rights Committee, 'Views adopted by the Committee under article 5(4) of the Optional Protocol, concerning communication No. 3199/2018' (UNHRC 2 June 2022) CCPR/C/135/D/3624/2019 para 7.7.

¹⁹⁸ *ibid* para 7.5.

¹⁹⁹ UN Human Rights Council, 'Basic facts about the UPR' (OHCHR, n.d.) <https://www.ohchr.org/en/hr-bodies/upr/basic-facts> accessed 19 June 2025

recommendation.²⁰⁰ Both states in conflict and those operating in the context of peacekeeping or military operations can be held accountable for violations. The UPR faces criticism for its weak enforcement and follow-up, its susceptibility to Western nations policing the global South, and for friendly states not scrutinising one another.²⁰¹ On the other hand, it is one of the few mechanisms that considers IHL, and it enjoys a great turnout rate, as almost, if not all, states come to this Council when their UPR is due.²⁰² Finally, the UN Monitoring and Reporting Mechanism (MRM) for Children in Armed Conflict was mandated by UN Security Council Resolution 1612. This MRM systematically gathers information on the six grave violations against children in armed conflict, which supplements the annual report of the Special Representative of the Secretary-General for CAAC. This annual report contains a list of states where offending parties are explicitly “named and shamed” for committing grave violations.²⁰³ In states with an MRM, multiple actors support the MRM by collecting information, responding to violations, and providing support to children. NATO’s reports of CAAC violations can contribute evidence to the investigations of international criminal courts and the MRM. NATO Member states can thus both contribute to and be held accountable through different quasi-judicial mechanisms.

4.1.3. Judicial Mechanisms

NATO recognises the role of its forces in respecting and avoiding violations of children’s rights.²⁰⁴ Staff committing violations undermine PKOs, all the more so when violators are not held accountable for their actions.²⁰⁵ *How do international courts address violations by peacekeepers or military staff abroad?* So far, no international organisation or individual from a PKO has been held accountable for children’s rights violations under international criminal law.²⁰⁶ The European Court of Human Rights (ECtHR) has dealt with cases concerning military operations and PKO. Many NATO Member States are parties to the ECtHR, and the European Convention on Human Rights (ECHR) contains a few provisions similar to IHL, such as the right to life (article 2 ECHR) and protection against torture and inhuman and degrading treatment (article 3 ECHR).²⁰⁷ In *Al-Skeini and others v. the UK*, concerning the death of Iraqi nationals by the British Armed Forces in Iraq, the ECtHR found that the UK, through the engagement of its soldiers in security operations, “exercised authority and control over individuals killed in the course of such security operations,” therefore finding a jurisdictional link for the ECtHR.²⁰⁸ Likewise, in *Jaloud v. the Netherlands*, also concerning the death of an Iraqi by foreign forces, the ECtHR ruled that the Netherlands, regardless of its caveat not to deploy “executive law enforcement development activities,” exercised its jurisdiction within that mission over the victim.²⁰⁹ *Jaloud* furthermore underscored

²⁰⁰ ‘Overview of the Universal Periodic Review Mechanism’ (International Commission of Jurists 2014) <https://www.icj.org/wp-content/uploads/2014/02/UPR.pdf>

²⁰¹ Surya P Subedi, *The Effectiveness of the UN Human Rights System: Reform and the Judicialisation of Human Rights* (1st edn, Routledge 2017)

²⁰² *ibid* 116; 120-123.

²⁰³ UN Special Representative of the Secretary-General for Children and Armed Conflict, ‘Monitoring and Reporting on Grave Violations’ (UN, n.d.) <https://childrenandarmedconflict.un.org/tools-for-action/monitoring-and-reporting/> accessed 20 June 2025

²⁰⁴ CAAC Policy, para 17.

²⁰⁵ Françoise J Hampson and Ai Kihara-Hunt, ‘The accountability of personnel associated with peacekeeping operations’, in Aoi, de Coning and Thakur (eds), *Unintended consequences of peacekeeping operations* (United Nations University Press 2007) 195.

²⁰⁶ See chapter 2.3. International Criminal Law.

²⁰⁷ Gentian Zyberi, ‘Enforcement of International Humanitarian Law’ in Gerd Oberleitner (ed.) *Human Rights Institutions, Tribunals and Courts* (Springer 2018) 6.

²⁰⁸ *Al-Skeini and Others v. United Kingdom*, Application no. 55721/07 (ECtHR, 7 July 2011) para 149.

²⁰⁹ *Jaloud v. the Netherlands*, Application no. 47708/08 (ECtHR, 20 November 2014) para 153.

parameters for the duty to investigate effectively, applicable to military commanders.²¹⁰ *Al-Skeini* and *Jaloud* were not about NATO operations, but do illustrate how the ECtHR approaches extraterritorial jurisdiction in military operations beyond the geographic territory of the ECtHR. This corresponds with the CRC Committee's findings in *L.H. et al v France*, where it considered that France had control over the situation of those children.

Can NATO, as an international organisation, be held responsible for violations in international courts?

Based on its Agreement on the Status of the North Atlantic Treaty Organization, National Representatives and International Staff (1951), NATO enjoys immunity from all forms of legal process, except when this is waived.²¹¹ This immunity aims to protect NATO from interference by Member States and ensure its functioning.²¹² Whether this immunity should apply in cases of human rights violations that are clearly outside the scope of the organisation's functioning remains debated.²¹³ Until 2017, no national jurisdiction had waived NATO's immunity in the context of peace and security operations.²¹⁴ In *Jefara and others v. NATO* and *El Hamidi and Chlih v. NATO*, relatives of victims who had died or were injured due to NATO bombings invoked the ECHR in Belgium, as Belgium hosts the NATO Headquarters.²¹⁵ Their claims, rejected based on jurisdictional competences, were not considered on the merits, and the outcome upheld NATO's immunity.²¹⁶ Neither of those decisions explored whether applicants could access justice through other reasonable alternative means.²¹⁷ From the international organisation's side, there is little interest in codifying applicable rules and legal frameworks, which would bring more responsibilities than freedom to operate.²¹⁸

Kosovo Force, a NATO-led operation in partnership with the UN, revealed that at that time, due to NATO's autonomous role, it was "not very likely that the activities of NATO in cooperation with the ... UN will amount to cases of joint responsibility under international law – at least not beyond a scenario of aid and assistance in terms of international responsibility."²¹⁹ Moelle argues that international organisations cooperating in PKO can be jointly responsible for violations of international law during those operations, taking into consideration the criterion of normative control.²²⁰ Normative control necessitates an evaluation of the relationship between political control and operational conduct.²²¹ In *Jaloud*, the Netherlands argued that it was under the command of the UK, it had no effective control,

²¹⁰ Michael Newton, 'The Legal Interoperability of the Laws of Armed Conflict' in Robin Geiß and Heike Krieger (eds), *The 'Legal Pluriverse' Surrounding Multinational Military Operations* (1st edn, Oxford University Press 2019) 86.

²¹¹ NATO, 'Agreement on the Status of the North Atlantic Treaty Organization, National Representatives and International Staff signed in Ottawa' (NATO 20 September 1951) art. V https://www.nato.int/cps/en/natohq/official_texts_17248.htm accessed 18 June 2025 [hereafter "Ottawa Agreement"]

²¹² Pierre Schmitt, *Access to Justice and International Organizations* (Edward Elgar Publishing 2017) 227.

²¹³ *ibid* 238.

²¹⁴ *ibid* 296-297.

²¹⁵ *ibid* 309.

²¹⁶ *ibid* 311.

²¹⁷ *ibid* 313.

²¹⁸ *ibid* 363-364.

²¹⁹ *ibid* 99.

²²⁰ *ibid* 364.

²²¹ *ibid* 362.

and was therefore not responsible.²²² The ECtHR found that the Dutch forces were not “under the exclusive direction or control” of any other State, and thus controlled that area and operation.²²³ If this reasoning is applied to international organisations and joint operations, NATO cannot hide behind the command of another organisation. However, as international organisations generally enjoy legal immunity, this joint international responsibility is only relevant to establishing effective or normative control, and cannot hold the organisation accountable. Furthermore, Moelle identified a difference between the mandate of a PKO and an independent obligation under (I)HRL, implying that “a derogation from human rights law by the peacekeeping operation would *per se* not constitute a violation of human rights law as it contains a separate obligation under international law.”²²⁴ This difference can explain the ECtHR’s reluctance to apply IHL provisions directly.²²⁵

To summarise, NATO Member States can and are held accountable for violating children’s rights in armed conflict through both judicial and quasi-judicial mechanisms. International human rights courts have found that states can have effective control over persons in their missions and can thus be held responsible for violations committed against such persons, including children. NATO, as an organisation, however, enjoys legal immunity and cannot be held accountable. Meanwhile, the CAAC Policy acknowledges that children can be under temporary custody or otherwise handed over to NATO operational forces, thus arguably, under its effective control.²²⁶ Despite international criminal courts not prosecuting individuals from PKO, NATO plays a role in supporting evidence and investigation here.

4.2. NATO and Internal Accountability

This part analyses NATO’s internal accountability in three ways. Building upon the previous section and on chapter 3.3.4. on reporting and information sharing, this part analyses the internal dispute resolution mechanism. Then, it presents how NATO implements the CAAC Policy provisions on the recruitment and use of children. It finishes with an overview of NATO’s reporting on this policy.

4.2.1. NATO’s Internal Dispute Resolution System and Command Structure

NATO’s dispute resolution system is based on the Agreement on the Status of the North Atlantic Treaty Organization, National Representatives and International Staff (1951). Article V provides the Organization with immunity from every form of legal process, except when waived. NATO Member State representatives enjoy privileges and immunities, including “the same immunity from personal arrest or detention as that accorded to diplomatic personnel of comparable rank” and “in respect of words spoken or written by him in his official capacity, immunity from legal process.”²²⁷ The privileges and immunities can be waived by a Member State when it believes the immunity would impede the course of justice.²²⁸ Pursuant to article XXIV, “The Council shall make provision for appropriate modes of settlement of: a. disputes arising out of contracts or other disputes of a private character to which the Organization is a party; b. disputes involving any official or expert of the Organization to whom part IV of this Agreement applies who by reason of his official position enjoys immunity; if immunity has not been waived.” A

²²² *Jaloud v. the Netherlands* (n 209) para 149.

²²³ *ibid*, para 151.

²²⁴ Moelle (n 121) 351.

²²⁵ *Zyberi* (n 207) 7.

²²⁶ CAAC Policy, para 26.

²²⁷ Ottawa Agreement, art. XIII(1)(a) and (b)

²²⁸ Ottawa Agreement, art. XV

review of the dispute resolution system led to the installation of the Administrative Tribunal in 2013.²²⁹ This decision reflects that NATO recognises instances in which it must be subject to legal process and has a responsibility or duty to facilitate access to justice. This Administrative Tribunal is competent to hear individual disputes from (retired) staff members and legal successors, about human resources/civilian personnel issues.²³⁰ Cases involving NATO at the ECtHR that were considered on merits were primarily employment or commercial business-related.²³¹

Can staff be held accountable internally? NATO bodies have multiple Offices for Legal Affairs, which have no hierarchical relationship. ACO/SHAPE, one of the two strategic military commands, has a legal affairs office that provides advice, guidance, and support on various areas, including human rights law and international humanitarian law.²³² These offices do not have dispute resolution mechanisms in place. The Supreme Allied Commander Europe (SACEUR) is the highest responsible individual for the overall direction and conduct of military operations within NATO.²³³ The authorities of NATO commanders are limited, as they, for example, cannot punish individuals for offences like failure to obey a lawful order, or refusal to perform duties.²³⁴ Civilian victims of violations must turn to the relevant State for investigations and compensation, as illustrated above.²³⁵ National forces may have their judicial system to account for violations, possibly including war crimes.²³⁶ Contributions of personnel and equipment can be subject to national limitations or caveats, which influence the liberty of NATO's operational planning.²³⁷ To ease this planning, the Alliance thus seeks contributions with as few national limitations as possible.²³⁸ The SACEUR, therefore, needs to balance the caveats imposed by the sovereignty of each troop-contributing state with the mandate provided by the North Atlantic Council, which operates based on the consensus of those states.²³⁹ This reference to a NAC-provided mandate is reflected in the CAAC Policy.²⁴⁰ In sum, NATO cannot hold staff accountable internally for violations against children. To the contrary, through its ways of working, it is incentivised to source its troops from states with as few (legal) caveats as possible.

4.2.2. NATO's Policy on the Recruitment and Use of Children

Academic discourse on recruitment and child soldiers often focuses on parties to a conflict that takes place in the global South, permitting states in the global North to escape proper scrutiny of their practices.²⁴¹ In 2025, NATO states commit to raising their defence spending, including the expansion of

²²⁹ 'NATO Administrative Tribunal' (NATO 20 March 2025) https://www.nato.int/cps/en/natohq/topics_114072.htm accessed 18 June 2025

²³⁰ *ibid*

²³¹ Schmitt (n 212) 262-263; 269-270.

²³² 'Legal office' (NATO SHAPE, n.d.) <https://shape.nato.int/about/leadership-staff-2/directorates/office-of-legal-affairs/legal-office> accessed 18 June 2025

²³³ 'SACEUR' (NATO SHAPE, n.d.) <https://shape.nato.int/saceur> accessed 18 June 2025

²³⁴ Randall (n 120) 45.

²³⁵ Abbott (n 62) 110.

²³⁶ Zyberi (n 207) 5.

²³⁷ 'Troop contributions' (NATO 3 April 2025) https://www.nato.int/cps/en/natohq/topics_50316.htm accessed 8 June 2025

²³⁸ *ibid*

²³⁹ Randall (n 120) 45.

²⁴⁰ CAAC Policy, para 20.

²⁴¹ Rhys Crilley, 'This is Belonging: Children and British Military Recruitment' in Drumbl and Barrett (n 8) 134.

their military forces.²⁴² Sweden's military conscription model has been presented as a good practice, and states like Poland have started campaigns to attract recruits from the age of 18.²⁴³ British military recruitment practices already target children.²⁴⁴ In light of the above, scrutiny is thus warranted.

NATO does not hire persons under the age of 21, and the CAAC Policy prohibits the recruitment or use of children in NATO forces. The entry-level jobs (Young Professionals Programme and internships) both require applicants to be at least 21 years old.²⁴⁵ Both programmes provide placement with different NATO bodies, including the International Staff and the International Military Staff. Military positions are the responsibility of Member States and are subject to national military procedures.²⁴⁶ The direct references in the definitions of the Policy, where no distinction is made between age categories for children, and where recruitment and use constitute a grave violation against children's rights, imply that for NATO operations and NATO forces, any children are explicitly excluded from participation, regardless of national military procedures.

4.2.3. Accountability for NATO's CAAC Policy

Section three considers: *How is NATO accountable for its CAAC Policy?* Here, accountability refers to NATO's ability to inform the general public of its actions and decisions.²⁴⁷ Transparency is "the substantive and administrative procedures through which institutions perform their functions."²⁴⁸ NATO is confronted with multiple transparency weaknesses, including a lack of basic organisational information, insufficient information about the work of intergovernmental working groups when developing commitments for endorsement, and weak reporting mechanisms for Member States' commitments.²⁴⁹ This research examines the publicly available, or non-classified, information.

The Human Security Agenda falls under the responsibility of the Special Representative for Women, Peace and Security (WPS). Since 2015, NATO's annual reports have featured a chapter on WPS. Before 2023, annual reports briefly mentioned CAAC as one of the pillars of human security.²⁵⁰ The 2023 report highlights NATO's endorsement of the CAAC Policy in general terms and showcases a photo exhibition on children affected by the war in Ukraine.²⁵¹ The 2024 report does not address Human

²⁴² 'Allies to agree new capability targets at meeting of NATO Defence Ministers' (NATO 4 June 2025) https://www.nato.int/cps/en/natohq/news_235896.htm?selectedLocale=en accessed 6 June 2025

²⁴³ Gil Barndollar, 'Sweden's New Model Army' (Foreign Policy 15 March 2024) <https://foreignpolicy.com/2024/03/15/sweden-nato-military-conscription-model-defense/> accessed 6 June 2025; Vanessa Gera, 'Poland Rolls Out 'Holidays with the Army' in a Recruitment Drive with Russia in Mind' (Military.com 25 June 2024) <https://www.military.com/daily-news/2024/06/25/poland-rolls-out-holidays-army-recruitment-drive-russia-mind.html> accessed 6 June 2025

²⁴⁴ Crilley in Drumbl and Barrett (n 8) 133.

²⁴⁵ 'Young Professionals Programme' (NATO, n.d.) <https://www.nato.int/cps/en/natohq/175210.htm> accessed 4 June; 'Internship Programme' <https://www.nato.int/cps/en/natohq/71157.htm> (NATO, n.d.) accessed 4 June 2025

²⁴⁶ 'Military positions' (NATO SHAPE, n.d.) <https://shape.nato.int/about-us/working-at-shape/military-positions> accessed 26 May 2025

²⁴⁷ Awonke Baba and Bheki Mngomezulu, 'Implementing Accountability and Transparency in Supranational Organisations: A Comparison of the European Union and the African Union, 2001–2020' (2021) 10 *Journal of African Union Studies* 91, 95

²⁴⁸ *ibid*

²⁴⁹ Davis in Mayer (n 14) 343.

²⁵⁰ See, for example, the chapters on Human Security in the annual reports of 2022 and 2021.

²⁵¹ 'The Secretary General's Annual Report 2023' (NATO 2024) 130-132. https://www.nato.int/nato_static_fl2014/assets/pdf/2024/3/pdf/sgar23-en.pdf

Security. These annual reports are criticised for their emphasis on NATO's achievements, as opposed to information that puts NATO's work in a more negative perspective.²⁵² Furthermore, NATO's online library contains a research guide that provides an overview of the various implementation measures NATO undertakes in the WPS.²⁵³ No such guide exists for more specific areas within Human Security, and the WPS research guide does not include the CAAC Policy. Public information on children and CAAC is published in an incidental manner, with different NATO bodies posting press releases about their activities.

As mentioned previously, the NAC receives one general report on CAAC per year, and the subsidiary working group on CAAC processes between 10 and 13 reports per year, indicating an established reporting mechanism.²⁵⁴ NATO's incentives to limit transparency are legitimate, as they include the risk of undermining military effectiveness and security.²⁵⁵ Furthermore, the Policy itself highlights the need to protect child victims from public curiosity.²⁵⁶ However, as Davis argues, access to information is a firmly established (inter)national human right, essential to upholding NATO's values.²⁵⁷ For children, this right is enshrined in article 17 CRC, and it is all the more applicable and relevant when it concerns children's issues. While NATO classifies certain information for legitimate reasons, this study finds a significant gap between non-classified and classified information. A visit to the NATO Archives and Library, as well as inquiries with various NATO bodies, did not provide access to more information about NATO's CAAC Policy.²⁵⁸

4.3. Access to Justice for Children

This section concludes by discussing access to justice for children. It highlights practices from existing accountability mechanisms and identifies improvements for NATO to give meaning to children's rights. Access to justice for children refers to the availability of dispute mechanisms that enable children to bring claims against other bodies for violations of their rights.²⁵⁹ These mechanisms are not limited to courts and tribunals, but can also include national human rights institutions and ombudsman offices.²⁶⁰ For children in general, access to justice is already a contentious issue. The CRC, for example, only provides access to justice for children deprived of their liberty (article 37(d)) and in the context of review of criminal proceedings (article 40(2)). Challenges to children's access to justice at national levels include limited legal capacity, lack of legal standing, and inadequate independent legal representation, as well as more practical issues such as navigating the legal system, understanding its complexity, and having trust in the system.²⁶¹ Children's international access to justice is primarily found in OPIC, as discussed above.

²⁵² Davis in Mayer (n 14) 347.

²⁵³ 'Women, Peace and Security Research Guides' (NATO Library, n.d.) <https://www.natolibguides.info/women> accessed 4 June 2025

²⁵⁴ Wargo (n 146)

²⁵⁵ Davis in Mayer (n 14) 349.

²⁵⁶ CAAC Policy, para 32.

²⁵⁷ Davis in Mayer (n 14) 350.

²⁵⁸ The author visited the NATO Library and Archives on 17 June 2025. Although assisted by multiple staff members, I was unable to access more new information on CAAC.

²⁵⁹ Schmitt (n 212) 4.

²⁶⁰ *ibid* 92.

²⁶¹ Ton Liefwaard, 'Access to Justice for Children: Towards a Specific Research and Implementation Agenda' (2019) 27 *The International Journal of Children's Rights* 195, 203.

NATO emphasises its interest in ensuring a proper monitoring mechanism in its Protection of Civilians (PoC) Handbook.²⁶² Here, it states that “Any suspicion that NATO is being less than thorough in its efforts to mitigate civilian harm; or that it does not properly investigate alleged civilian casualty incidents, will be criticised by adversaries, the media and IOs/NGOs [international organisations/non-governmental organisations].”²⁶³ Furthermore, “Naturally, NATO will seek to avoid any suggestion of complicity in human rights and IHL violations, before engaging with HN [host nation] security forces ... Monitoring and investigation processes, which apply equally to NATO and HN force incidents, will therefore be a crucial part of strengthening security, justice and civilian protection within the HN.” PoC-related considerations on children and armed conflict are addressed in the existing reporting mechanism of *Standard Operating Procedure 307 – Reporting and Information Sharing in Support of CAAC*, and through ad-hoc reports such as the *CAAC Quarterly Report* and the *End of Tour Report* by the CAAC Senior Advisor to the relevant NATO Commander.²⁶⁴ Relating this to transparency, none of these sources is publicly available. Notably, the PoC Handbook, which guides military operations and ways of working, on the one hand recognises the value of accountability, yet does not include access to justice mechanisms for victims of violations.

A lack of access to remedies or compensation was previously identified as a gap in the CAAC Policy. Following the ISAF mission in Afghanistan, civilians could access remedies related to civilian casualties for this mission.²⁶⁵ These Non-Binding Guidelines on Monetary Payments to Civilian Casualties in Afghanistan, issued in 2010, were considered effective but not mainstreamed in other NATO operations, missions, or activities.²⁶⁶ Furthermore, it was at the discretion of each Member State to implement those guidelines or provide any redress for civilian victims. As of 2014, there was no standard model yet for the processing of claims for financial restitution and compensation for damages arising in PKO by international organisations.²⁶⁷ Section 4.1. reveals that civilians can face significant challenges in accessing justice. The Non-Binding Guidelines included prompt acknowledgement of casualties and damage; proactively offering assistance for casualties or damages, where appropriate with local customs and local (in)formal authorities and other civilian actors; staff should be accessible to local populations; and payments should be simple, prompt and transparent, and provided without reference to the question of legal liability.²⁶⁸ These guidelines are especially relevant for children, as their obstacles in accessing justice often pertain to the ability to be informed in an understandable language and manner. Moreover, omitting the question of legal liability addresses the obstacles victims face concerning effective control, extraterritorial jurisdiction, and the overall burden of navigating through a legal system.

In 2024, NATO Partner Nation Australia adopted a compensation mechanism for victims of war crimes committed by their Defence Force in the ISAF operation.²⁶⁹ Eligible recipients of the claim must

²⁶² ‘Protection of Civilians Allied Command Operations Handbook’ (NATO SHAPE 2021) 59-62.

<https://shape.nato.int/news-archive/2021/the-protection-of-civilians-allied-command-operations-handbook> accessed 4 June 2025

²⁶³ *ibid* 61.

²⁶⁴ *ibid*

²⁶⁵ Hill and Manea (n 19) 154.

²⁶⁶ *ibid* 154-155.

²⁶⁷ Moelle (n 121) 368.

²⁶⁸ ‘NATO Nations Approve Civilian Casualty Guidelines’ (NATO 6 August 2010)

https://www.nato.int/cps/en/natohq/official_texts_65114.htm?selectedLocale=en accessed 18 June 2025

²⁶⁹ Ben Saul, ‘Australian compensation for war crimes in Afghanistan: a rights-based approach, not military charity, is needed’ (Lieber Institute Westpoint, 14 March 2025) <https://lieber.westpoint.edu/australian->

reasonably likely be “victim of an assault or property damage or a family member of a victim of unlawful killing” and the claim must be considered credible.²⁷⁰ From the eligible applicant requirements, it is presumed that adults who apply for compensation under this scheme can also do so on behalf of their children. For children without adult representatives, it remains unclear if they can receive compensation. Saul acknowledges that any effort for compensation and recognition is better than none, yet criticises the lack of legal grounding for this mechanism, arguing that Australia treats this mechanism as a gesture rather than a legal obligation for reparation.²⁷¹ Nine months after the regulation's adoption, no compensation was paid, and overall enforcement of this regulation remains questionable.²⁷²

4.4. Conclusion Accountability for Children

This chapter aims to answer the question of how NATO is held accountable for protecting or violating children's rights from multiple perspectives. To this end, it finds that NATO Member States can and are held accountable for violating children's rights in armed conflict. Quasi-judicial mechanisms, in particular the CRC Committee, play a significant role in this regard. The CRC Committee provides both general and specific recommendations, measures, and remedies to improve children's rights in armed conflict. Its focus includes child soldiers domestically and in opposing forces, as well as military conduct abroad. Subject to ratification statuses, states can furthermore receive individual communications from treaty bodies for (alleged) violations. States can also hold other states accountable through quasi-judicial mechanisms. OPIC can hear interstate communications, and as rotating members of the Human Rights Council, states can name, shame, and provide recommendations to others for violations against children's rights.²⁷³ While such measures to promote international compliance are not within NATO's activities, interactions with treaty bodies and NATO's own CAAC activities can serve as a reminder to take responsibility for facilitating compliance with children's rights in armed conflict.

International human rights courts find that states can have effective control over persons in their missions and can thus be, and have been, held responsible for violations committed against such persons. However, victims, especially children, face challenges in accessing justice at the national level. NATO, as an organisation, enjoys legal immunity and cannot be held accountable. Despite international criminal courts not prosecuting individuals from PKO, NATO plays a role in supporting evidence and investigation here.

Like the organisation, NATO staff enjoy immunity: international staff through the Ottawa Agreement, and military staff through the limited NATO Command mandate. Only through national jurisdiction can military staff be held accountable for violations. For NATO, these facts, together with the non-legally binding language of the CAAC Policy, weaken any legal obligation the organisation may have if its forces commits a human rights violation during a PKO. States are incentivised to attribute effective control to another party than their military force, and to have as few responsibilities as possible. NATO's ways of working, where immunity waivers are arguably not invoked enough, encourage states to rely on caveats. Abbott, former assistant legal adviser at NATO, warns that “NATO should not acquiesce in the comfort

[compensation-war-crimes-afghanistan-rights-based-approach-not-military-charity-needed/](#) accessed 17 June 2025

²⁷⁰ Defence Act 1903, Defence (Afghanistan Inquiry Compensation Scheme) Regulations 2024 (Australia) Part 2 Section 5 Claims for compensation

²⁷¹ Saul (n 269)

²⁷² *ibid*

²⁷³ See, for example, ‘Report of the Working Group on the Universal Periodic Review: Eritrea’ (UNHRC 19 June 2024) A/HRC/57/14 paras 132.157 and 132.158, where Luxembourg and Italy recommend Eritrea to strictly comply with the minimum recruitment age of 18.

of its legal immunity.”²⁷⁴ This author agrees, first and foremost, because child victims of violations must have access to redress. For NATO itself, even if claims can be adjudicated at national levels, the prevalence of violations in NATO operations affects the organisation’s credibility and legitimacy. This should incentivise NATO to take responsibility for the forces that operate in its name and take a more proactive role in ensuring children’s rights are effectively protected.

Accountability also exists outside of (quasi-)judicial mechanisms. The Non-Binding Guidelines, derived from the ISAF mission, provide an opportunity for NATO to systematically implement remedies for civilian casualties and victims of other violations committed by NATO forces, with ample room for making such a mechanism appropriate for children. Notwithstanding NATO’s recognition of the need to mitigate civilian harm and monitor incidents, it fails to allocate resources for redress and compensation for victims. Australia’s example provides little hope for child victims without adult representatives to claim their compensation. Furthermore, compensation is only one aspect of accountability; perpetrators face no repercussions under this compensation scheme.

Finally, on NATO’s internal accountability, the study reveals that NATO’s approaches to the recruitment and use of children and privacy protection of child victims both align with international children’s rights. Transparency on how NATO implements its CAAC Policy, however, is limited and can benefit from increased transparency. Increased transparency not only strengthens NATO’s legitimacy and authority on CAAC but can also advance its lessons learned and identification of best practices.

This chapter thus identifies multiple gaps in the avenues through which NATO is held accountable. The final chapter then explores the pathways through which NATO can enhance accountability for children and expand its role and significance in promoting children’s rights.

²⁷⁴ Abbott (n 62) 136.

5. Conclusion and Recommendations

5.1. Conclusion

This research aims to understand and clarify the role of NATO in promoting and enforcing protections offered to children in and affected by armed conflict as outlined in international children's rights. Research on NATO and its role and responsibilities in military and peacekeeping operations, as well as on children as victims, witnesses, and participants in armed conflict, is already prevalent. Yet, no study has analysed NATO's CAAC Policy and connected it to the larger international children's rights framework. To this end, chapter two provided the international legal framework for children's rights in armed conflict, highlighting (voluntary) military recruitment ages, the use of children in armed conflict, the six grave violations, and the responsibilities for all actors involved in armed conflict. It found that many provisions aimed at protecting children's rights in armed conflict are commonly accepted, and that international human rights law, international humanitarian law, and international criminal law complement one another. Age limits on voluntary recruitment remain open for debate for children aged between 15 and 18, whereas all parties are forbidden to use children in hostilities. The CRC Committee and other (non-legally binding) guiding documents have further developed the interpretation and raised standards of many issues affecting children, yet remain unclear on whether lawfully recruited children between 15 and 18 who committed violations are entitled to be treated primarily as victims.

NATO's CAAC Policy was developed against the backdrop of the Human Security Agenda, where NATO increasingly focused on a people-centred approach and on how NATO's conduct affects civilians. The CAAC Policy aims to provide an integrated political framework for NATO's efforts in preventing, monitoring, reporting, and responding to violations against children in armed conflict. The Policy prescribes measures for implementing a CAAC focus in its work, based on which frameworks and guiding documents, and with which relevant actors. On the one hand, the Policy refers to relevant international treaties and other guiding documents on the protection of CAAC, using the same definitions and phrases, and it even includes provisions for the privacy protection of child victims. It takes an active role in collecting, developing, and sharing lessons learned and best practices with staff and relevant partners, thereby advancing global efforts to protect children's rights in armed conflict. NATO itself complies with the highest standards for the use and recruitment of children, as this Policy prevents children from participating in NATO operations.

Notwithstanding the Policy's incorporation of lessons learned from before 2023, the study identifies multiple gaps. First, the general references to "applicable legal frameworks" and "non-legally binding documents," NATO's immunity in the international legal system, and legal interoperability issues in operations all lead to limited legal implications and applicability. Therefore, while based on legal imperatives, it is essentially a political commitment. Second, the Policy recognises NATO staff's possible role in violating children's rights, yet provides no reporting mechanism for non-NATO staff. Additionally, the Policy does not address remedial action for such victims, let alone children. Third, transparency on the implementation of this Policy is limited, hindering an assessment of its effectiveness. Finally, the Policy's failure to include the CRC's general principles limits the scope of NATO's activities and work areas where children's rights are mainstreamed.

Chapter four analyses NATO's role in accountability through various approaches. First, the CRC Committee and quasi-judicial, human rights-focused treaty bodies hold states accountable for violating children's rights in armed conflict. The CRC Committee specifically emphasises that no voluntary recruitment below 18 must take place. When states continue to do so, the Committee criticises the execution of those recruitment practices, drawing attention to the overrepresentation of marginalised groups, the questionable informed consent of parents and children, and reports of violence and abuse

against children within the armed forces. The Committee also holds States accountable for arms trade and their military and peacekeeping operations abroad. It urges them to ensure education and training on CAAC is provided to all relevant actors, and calls out specific violations in specific missions. Quasi-judicial mechanisms also allow states to hold other states accountable. The European Court of Human Rights offers an additional pathway. The ECtHR finds that, depending on the case's context, national forces and, therefore, states can have effective control over persons abroad and, consequently, be held responsible for violations committed by them. The general recognition or overlap of specific core human rights provisions enables this Court to interpret and apply those provisions, disregarding claims made by states regarding the Court's jurisdiction or their effective control over the matter. International criminal courts have so far not prosecuted cases arising from peacekeeping operations.

NATO as an organisation can contribute to investigations by international criminal courts. Its legal immunity, however, prevents NATO from being held responsible for the conduct of national forces. Similarly, NATO staff enjoy immunity and can only be held accountable through national jurisdiction, unless they waive their immunity. Neither NATO's Command Structure, its legal offices, nor its Administrative Tribunal allows victims of violations committed by NATO staff to access any dispute resolution or remedial action. Existing efforts for compensation do not address children's specific needs in accessing justice.

The role of NATO in promoting and enforcing children's rights is thus nuanced. It advances global efforts to protect children in armed conflict, but it lacks accountability for its role in violating children's rights.

5.2. Recommendations

One question remains: *What can NATO do to strengthen and uphold its CAAC Policy and to promote and protect children's rights in armed conflict?* As applicable to much of the Policy, improving implementation and enforcement cannot take place in a silo. Therefore, this section starts with recommendations for general further research and the CRC Committee. For general future research, it would be interesting to study the legality of the use of force against child soldiers in general, and specifically against children who enlisted lawfully. The practical implications of such distinctions may be limited on the battlefield, but they remain relevant nonetheless when these children reach the courts. Furthermore, this study would be strengthened by research on how Canada and the US are held accountable through international judicial mechanisms, as they are outside the scope of the European Court of Human Rights.

To support NATO and other actors, the Committee is recommended first to produce Guidelines regarding the implementation of OPAC, similar to the Guidelines regarding the implementation of the first Optional Protocol.²⁷⁵ Second, for General Comment 27 on access to justice and to an effective remedy, it is recommended to clarify and highlight the particular situations of child victims/witnesses and (alleged) child perpetrators. This includes clarification on the position and treatment of lawfully recruited children aged 15 to 18, as well as their special protections as minors. Third, the Committee must recommend the structural establishment of effective internal accountability mechanisms for children in national armed forces and military education. Finally, by including international organisations in the Committee's reporting on international cooperation, it can remind states of the commitments they make in various fora and the difference they can make in holding themselves, as well as others, accountable.

²⁷⁵ See UNCRC Committee 'Guidelines regarding the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography' (UNCR Committee 2019) CRC/C/156

“NATO stands with the entire international community in recognizing that we all have a collective responsibility in guaranteeing that all children, everywhere, are protected, not only in word, but also in deed.” – Clare Hutchinson, NATO Secretary General’s Special Representative for Women, Peace and Security, 2020²⁷⁶

To this end, it begins with an overarching recommendation: to incorporate the CRC’s principles beyond children’s rights in armed conflict, across the entirety of NATO’s scope and activities, advancing its objectives to build trust, prevent conflict, and support a human rights-based order. Based on this, four concrete recommendations follow.

First, NATO must systematically include a mechanism for remedial action and access to justice for civilian victims, including children, of violations of its Human Security Policies and international laws. Such a mechanism must be accessible, understandable, and accountable to child victims directly. The Non-Binding Guidelines on Monetary Payments for Afghanistan, along with lessons learned from national implementation practices, provide a fruitful starting point; however, compensation alone is insufficient.

Second, NATO must increasingly utilise its immunity waiver. Where violations by its staff clearly violate international human rights and the operational mandate, hiding behind such immunity is detrimental to NATO’s credibility, legitimacy, and effectiveness of the operations. Awareness of how the conduct of national forces reflects on NATO, the organisation, is essential, and NATO must leverage its authority to promote Member States to uphold children’s rights at the national level, and in operations. A stronger mandate for the CAAC Policy, provided by the North Atlantic Council, can serve as a stepping stone.

Third, NATO’s CAAC Policy significantly benefits from increased transparency, both concretely in the reports of (alleged) violations made pursuant to this Policy, and in general, in the implementation activities and measures NATO undertakes. Data on reports contributes to the contextualisation of children affected by armed conflict and to broader efforts to hold perpetrators accountable. It remains unclear what policies inform NATO forces’ responses to children as child soldiers on the battlefield, and an assessment of NATO’s application of the principle of proportionality is needed. Information about general measures of implementation supports future research into NATO’s Human Security Policies. Comparisons between the five Policies, comparisons with other organisations with similar (human security) objectives, can help progress its goals by working based on lessons learned and best practices.

Finally, NATO is now shifting its attention towards its territories and is an authority for its Members in defence, preparedness and resilience in the event of conflict.²⁷⁷ To mainstream children’s rights, it is essential to invest in human security and prevention. This includes ensuring that children are included in national crisis action plans: NATO must emphasise that Members must provide tools to engage children in such discussions and preparations.²⁷⁸ Furthermore, NATO must remain cautious of weapon partnerships with states where children face significant risks. Failure to do so risks unnecessarily

²⁷⁶ Clare Hutchinson, ‘Statement at the Security Council Open Debate on Children and Armed Conflict’ (NATO 23 June 2020) https://www.nato.int/cps/en/natohq/opinions_177060.htm?selectedLocale=en accessed 13 May 2025

²⁷⁷ ‘The Hague Summit Declaration’ (NATO 25 June 2025) https://www.nato.int/cps/en/natohq/official_texts_236705.htm accessed 26 June 2025

²⁷⁸ See, for example ‘In case of crisis and war’ (The Swedish Contingency Agency 2024) <https://rib.msb.se/filer/pdf/30874.pdf> ‘talking to children about crises and war’

damaging children's resilience before, during, and after a conflict, to the detriment of children's rights and the stable and secure future NATO envisions.²⁷⁹

In the current changing geopolitical world order, NATO enjoys growing authority, relevance, and resources. As public scrutiny increases simultaneously, the organisation must balance growth with its credibility and legitimacy, especially among youth and future generations. Therefore, NATO must not lose sight of its collective responsibility for children in all of its operations, missions and activities, from peacetime to crisis and conflict, and put words into deeds.

²⁷⁹ UNICEF The Netherlands, 'Children are missing in national crisis plans' (UNICEF 12 May 2025)
<https://www.unicef.nl/nieuws/2025-05-12-kinderen-ontbreken-in-nationale-crisisplannen> accessed 13 May 2025

6. Bibliography

Legal documents

Defence Act 1903, Defence (Afghanistan Inquiry Compensation Scheme) Regulations 2024 (Australia)
<https://www.legislation.gov.au/F2024L00903/asmade/text>

Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949

North Atlantic Treaty (1949)

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (2000)

Optional Protocol to the Convention on the Rights of the Child on a communications procedure (2014)

Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) (8 June 1977)

Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) (8 June 1977)

Rome Statute of the International Criminal Court (1998)

Statute of the Special Court for Sierra Leone (2000)

United Nations Convention on the Rights of the Child (1989)

Case law

Al-Skeini and Others v. United Kingdom, Application no. 55721/07 (ECtHR, 7 July 2011)

Jaloud v. the Netherlands, Application no. 47708/08 (ECtHR, 20 November 2014)

Prosecutor v. Dragomir Milošević (Judgment, Appeals Chamber) IT-98-29 / 1-A, para 202 (ICTY 2009)
http://www.icty.org/x/cases/Dragomir_milosevic/acjug/en/091112.pdf accessed 15 May 2025

Prosecutor v. Naser Orić (Judgment) IT-03-68-T 20, para 400 (ICTY 2006)
<https://www.icty.org/x/cases/oric/tjug/en/ori-jud060630e.pdf> accessed 15 May 2025

UN Documents

UNCRC Committee, 'Concluding observations on the combined fifth and sixth period reports of the Kingdom of the Netherlands' (2022) CRC/C/NLD/CO/5-6

UNCRC Committee, 'Concluding observations on the combined fifth and sixth periodic reports of Canada' (2022)

UNCRC Committee, 'Concluding observations on the combined fifth and sixth periodic reports of Italy' (2019) CRC/C/ITA/CO/5-6

UNCRC Committee, 'Concluding observations on the combined fourth and fifth periodic reports of Türkiye' (2023) CRC/C/TUR/CO/5-6

UNCRC Committee, 'Concluding observations on the combined fifth and sixth periodic reports of Germany' (2022) CRC/C/DEU/CO/5-6

UNCRC Committee, 'Concluding observations on the combined sixth and seventh periodic reports of France' (2023) CRC/C/FRA/CO/6-7

UNCRC Committee, 'Concluding observations on the combined sixth and seventh periodic reports of the United Kingdom of Great Britain and Northern Ireland' (2023) CRC/C/GBR/CO/6-7

UNCRC Committee, 'Concluding observations on the combined third and fourth reports submitted by the United States of America under article 8 (1) of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict' (2017) CRC/C/OPAC/USA/CO/3-4

UNCRC Committee, 'Concluding observations on the report submitted by Estonia under article 8 (1) of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict' (2017) CRC/C/OPAC/EST/CO/1

UNCRC Committee, 'Concluding observations on the report submitted by the Netherlands under article 8(1) of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict' (2015) CRC/C/OPAC/NLD/CO/1

UNCRC Committee, 'Consideration of reports submitted by States Parties under article 8 of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, Concluding observations: Canada' (2006) CRC/C/OPAC/CAN/CO/1

UNCRC Committee, 'Consideration of reports submitted by States parties under article 8 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, Concluding Observations: Germany' (2008) CRC/C/OPAC/DEU/CO/1

UNCRC Committee, 'Consideration of reports submitted by States Parties under article 8 of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, Concluding observations: France' (2007) CRC/C/OPAC/FRA/CO/1

UNCRC Committee, 'Consideration of reports submitted by States Parties under article 8 of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, Concluding observations: Italy' (2006) CRC/C/OPAC/ITA/CO/1

UNCRC Committee, 'Consideration of reports submitted by States parties under article 8 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, Concluding Observations: Turkey' (2009) CRC/C/OPAC/TUR/CO/1

UNCRC Committee, 'Consideration of reports submitted by States Parties under article 8 of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, Concluding observations: United Kingdom of Great Britain and Northern Ireland' (2008) CRC/C/OPAC/GBR/CO/1

UNCRC Committee, 'Consideration of reports submitted by States Parties under article 8 of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, Concluding observations: United States of America' (2008) CRC/C/OPAC/USA/CO/1

UNCRC Committee, 'General Comment No. 13 (2011) The right of the child to freedom from all forms of violence' (2013) CRC/C/GC/13

UNCRC Committee, 'General comment No. 14 (2013) on the right of the child to have his or her best interests taken as primary consideration (art. 3, para. 1)' (2013) CRC/C/GC/14

UNCRC Committee, 'General comment No. 20 (2016) on the implementation of the rights of the child during adolescence' (2016) CRC/C/GC/20

UNCRC Committee, 'General comment No. 24 (2019) on children's rights in the child justice system' (2019) CRC/C/GC/24

UNCRC Committee 'Guidelines regarding the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography' (2019) CRC/C/156

UNCRC Committee, 'Draft general comment No. 27 (202x) on children's right to access to justice and to an effective remedy' (2024) <https://www.ohchr.org/en/documents/general-comments-and-recommendations/draft-general-comment-no-27-childrens-right-access> accessed 11 May 2025

UNCRC Committee, 'Report of the UN Committee on the Rights of the Child, Second Session (28 September-9 October 1992)', (19 October 1992) CRC/C/10 <https://www.refworld.org/reference/annualreport/crc/1992/en/33119>

UN General Assembly Human Rights Council, 'Children and armed conflict, Report of the Special Representative of the Secretary-General for Children and Armed Conflict (UNGA HRC 8 January 2025) A/HRC/58/18

UN General Assembly Security Council, 'Children and armed conflict Report of the Secretary-General' (UNGA SC 17 June 2025) A/79/878-S/2025

UNHRC, 'Report of the Working Group on the Universal Periodic Review: Eritrea' (UNHRC 19 June 2024) A/HRC/57/14

UNHRC, 'Views adopted by the Committee under article 5(4) of the Optional Protocol, concerning communication No. 3199/2018' (UNHRC 2 June 2022) CCPR/C/135/D/3624/2019

UNICEF, 'The Paris Principles, Principles and Guidelines on Children Associated with Armed Forces or Armed Groups' (February 2007) <https://www.unicef.org/mali/media/1561/file/ParisPrinciples.pdf>

UNICEF, 'The Paris Commitments - Consolidated version' (1 March 2007) <https://reliefweb.int/report/world/paris-commitments-consolidated-version>

United Nations Security Council, 'Resolution 1612 (2005) Adopted by the Security Council at its 5235th meeting, on 26 July 2005', 2005, S/RES/1612 (2005)

Academic literature

Abbott K, 'A Brief Overview of Legal Interoperability Challenges for NATO Arising from the Interrelationship between IHL and IHRL in Light of the European Convention on Human Rights' (2014) 96 *International Review of the Red Cross* 107-137.

Akello G, 'Child Agency and Resistance to Discourses within the Paris Principles in Rehabilitation and Reintegration Processes of Former Child Soldiers in Northern Uganda' in Mark A Drumbl and Justine C Barrett (eds), *Research Handbook on Child Soldiers* (Edward Elgar Publishing 2019) 436-451.

Alamillos-Sánchez R and García-Martín L, 'Child Protection in Peacekeeping Operations', in Pablo Antonio Fernández-Sánchez (eds), *Peacekeeping: Global Perspectives, Challenges and Impacts* (Nova Science Publishers, Inc. 2018) 537-563.

Aptel C, *Atrocity Crimes, Children and International Criminal Courts: Killing Childhood* (1st edn, Routledge 2023) <https://doi.org/10.4324/9781003361015>

Aptel C, 'The Protection of Children in Armed Conflicts' in Ursula Kilkelly and Ton Liefaard (eds), *International Human Rights of Children* (Springer Dordrecht 2019) 515-536.

Baba A and Mngomezulu B, 'Implementing Accountability and Transparency in Supranational Organisations: A Comparison of the European Union and the African Union, 2001–2020' (2021) 10 *Journal of African Union Studies* 91

Casey-Maslen S and Vestner T, 'NATO and the Protection of Civilians', in *International Law and Policy on the Protection of Civilians* (1st edn, Cambridge University Press 2022) 190-200.

Casey-Maslen S and Vestner T, 'Protection of Children in Armed Conflict', in *International Law and Policy on the Protection of Civilians* (1st edn, Cambridge University Press 2022) 115-125.

Crilley R, 'This is Belonging: Children and British Military Recruitment' in Mark A Drumbl and Jastine C Barrett (eds), *Research Handbook on Child Soldiers* (Edward Elgar Publishing 2019) 132-148.

Davis I, '23. Accountability in NATO' in Sebastian Mayer (eds), *Research Handbook on NATO* (Edward Elgar Publishing 2023) 339-354.

Doek J, 'The Human Rights of Children: An Introduction' in Ursula Kil Kelly and Ton Liefaard (eds), *International Human Rights of Children* (Springer Dordrecht 2019) 3-30.

Drumbl M.A. and Jastine C. Barrett J.C., *Research Handbook on Child Soldiers* (Edward Elgar Publishing 2019) <https://doi.org/10.4337/9781788114486>

Hampson F.J. and Kihara-Hunt A, 'The accountability of personnel associated with peacekeeping operations', in Aoi, de Coning and Thakur (eds), *Unintended consequences of peacekeeping operations* (United Nations University Press 2007) 195-220.

Harrington A.R., *International Organizations and the Law* (2nd edn, Routledge 2023). doi: 10.4324/9781003385363

Heupel M, Hirschmann G and Zürn M, 'International Organisations and Human Rights: What Direct Authority Needs for Its Legitimation' (2018) 44 *Review of International Studies* 343-366. doi: 10.1017/S0260210517000420

Hill S and Manea A, 'Protection of Civilians: A NATO Perspective' (2018) 34 *Utrecht Journal of International and European Law* 146-160. <https://doi.org/10.5334/ujiel.461>

International Committee of the Red Cross, *Study on customary International Humanitarian Law (IHL)* (Cambridge University Press 2005) <https://ihl-databases.icrc.org/en/customary-ihl>

Kaldor M, 'Global Governance and Human Security' in Richard Falk and Augusto Lopez-Claros, *Global Governance and International Cooperation* (1st edn, Routledge India 2024) 175-192. doi: 10.4324/9781032699028-13

Liefaard T, 'Access to Justice for Children: Towards a Specific Research and Implementation Agenda' (2019) 27 *The International Journal of Children's Rights* 195-227. doi: 10.1163/15718182-02702002

Liefaard T, 'Children's Rights Remedies under International Human Rights Law: How to Secure Children's Rights Compliant Outcomes in Access to Justice?' (2023) 56 *De Jure* 486-504. Doi: 10.17159/2225-7160/2023/v56a30

Mayer S, *Research Handbook on NATO* (Edward Elgar Publishing 2023)

Muñoz-Mosquera A.B. and Chalanouli N.P., 'NATO Peace Support Operations', in Pablo Antonio Fernández-Sánchez (eds), *Peacekeeping: Global Perspectives, Challenges and Impacts* (Nova Science Publishers, Inc. 2018) 283-306.

Moelle M.P., 'Cooperation of international organisations in peacekeeping operations and issues of international responsibility' (Law PhD thesis, Leiden University 18 December 2014) 241-242 <https://hdl.handle.net/1887/30250>

Newton M, 'The Legal Interoperability of the Laws of Armed Conflict' in Robin Geiß and Heike Krieger (eds), *The 'Legal Pluriverse' Surrounding Multinational Military Operations* (1st edn, Oxford University Press 2019) 70-88 <https://doi.org/10.1093%2Foso%2F9780198842965.003.0004>

Randall T.E., 'Legal Authority of NATO Commanders' (2014) 34 NATO Legal Gazette 39-45
https://www.act.nato.int/wp-content/uploads/2023/05/legal_gazette_34.pdf accessed 7 June 2025

Rasakandan S and Moslemzadeh Tehrani P, 'Protection of Children from Recruitment and Use in Armed Conflict: Role of International Legal Framework' (2022) 15 Journal of Politics and Law, 230-241.
doi:10.5539/jpl.v15n4p230

Sano H-O and Martin T.M., '11. Inside the Organization. Methods of Researching Human Rights and Organizational Dynamics' in Bård A. Andreassen, Hans-Otto Sano, and Siobhán McInerney-Lankford (eds) *Research Methods in Human Rights* (Edward Elgar Publishing 2017) 253-281.
<https://doi.org/10.4337/9781785367793.00019>

Schmitt P, *Access to Justice and International Organizations* (Edward Elgar Publishing 2017) doi:
[10.4337/9781786432896](https://doi.org/10.4337/9781786432896)

Skelton, A, 'International Children's Rights Law: Complaints and Remedies' in Ursula Kilkelly and Ton Liefwaard (eds), *International Human Rights of Children* (Springer Dordrecht 2019) 65-91.

Sloth-Nielsen J, 'Monitoring and Implementation of Children's Rights' in Ursula Kilkelly and Ton Liefwaard (eds), *International Human Rights of Children* (Springer Dordrecht 2019) 31-62.

Smith L, 'The obligation to ensure respect for IHL in the peacekeeping context', in Eve Massingham and Annabel McConnachie (eds), *Ensuring Respect for International Humanitarian Law* (1st edn, Routledge 2020) 145-162. doi: 10.4324/9780429197628

Subedi S.P., *The Effectiveness of the UN Human Rights System: Reform and the Judicialisation of Human Rights* (1st edn, Routledge 2017)

Van Engeland, 'The Voiceless Child Soldiers of Afghanistan' in Mark A Drumbl and Jastine C Barrett (eds), *Research Handbook on Child Soldiers* (Edward Elgar Publishing 2019) 175-194.

Voigt C and Foster C (eds), 'Introduction', *International Courts versus Non-Compliance Mechanisms* (1st edn, Cambridge University Press 2024). doi: 10.1017/9781009373913.002

Wright K.A.M. and Bergman Rosamond A, 'Sweden, NATO and the Gendered Silencing of Feminist Foreign Policy' (2024) 100 International Affairs

Wright K.A.M., 'Moving beyond a "Hollow Concept": Realising Women, Peace and Security at NATO under a Trump Presidency' (2025) Defence Studies 1.

Zyberi G, 'Enforcement of International Humanitarian Law' in Gerd Oberleitner (ed.) *Human Right Institutions, Tribunals and Courts* (Springer 2018) 377-400

Websites and other documents

'About' (CIMIC COE, n.d.) <https://www.cimic-coe.org/about/> accessed 12 June 2025

'Afghanistan Lessons Learned Process' (NATO November 2021)
https://www.nato.int/nato_static_fl2014/assets/pdf/2021/12/pdf/2112-factsheet-afgh-lessons-en.pdf accessed 20 May 2025

'Agreement on the Status of the North Atlantic Treaty Organization, National Representatives and International Staff signed in Ottawa' (NATO 20 September 1951) https://www.nato.int/cps/en/natohq/official_texts_17248.htm accessed 18 June 2025

'Allies to agree new capability targets at meeting of NATO Defence Ministers' (NATO 4 June 2025)
https://www.nato.int/cps/en/natohq/news_235896.htm?selectedLocale=en accessed 6 June 2025

'Australia: Many Children Returned From Syria Detention Doing Well' (Human Rights Watch 21 November 2022) <https://www.hrw.org/news/2022/11/21/australia-many-children-returned-syria-detention-doing-well?> accessed 19 June 2025

Barndollar G, 'Sweden's New Model Army' (Foreign Policy 15 March 2024) <https://foreignpolicy.com/2024/03/15/sweden-nato-military-conscription-model-defense/> accessed 6 June 2025

'Chicago Summit Declaration' (NATO 20 May 2012) https://www.nato.int/cps/en/natohq/official_texts_87593.htm?selectedLocale=en accessed 24 April 2025

'Children and Armed Conflict (CAAC) Factsheet' (Civil-Military Cooperation Centre of Excellence 2018) [factsheet-caac.pdf](#) accessed 12 June 2025

'Declarations and Reservations to OPAC' (United Nations Treaty Collection, n.d.) https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11-b&chapter=4&clang=en#EndDec accessed 26 May 2025

'Deep Dive Recap: Children and Armed Conflict and the Gender Perspective' (NATO 17 January 2023) https://www.nato.int/cps/en/natohq/news_211158.htm?selectedLocale=en accessed 14 May 2025

Duffy H, 'Communications No. 79/2019 and 109/2019 et al' (Leiden Children's Rights Observatory 18 February 2021) <https://www.childrensrightsobservatory.org/case-notes/casenote2021-3> accessed 19 June 2025

"From Legacy to Leadership: Bridging Generations in International Security" (NATO Public Forum 25 June 2025) <https://www.natopublicforum.org/>

Gera V, 'Poland Rolls Out 'Holidays with the Army' in a Recruitment Drive with Russian in Mind' (Military.com 25 June 2024) <https://www.military.com/daily-news/2024/06/25/poland-rolls-out-holidays-army-recruitment-drive-russia-mind.html> accessed 6 June 2025

Global Affairs Canada, 'Vancouver Principles on Peacekeeping and the Prevention of the Recruitment and Use of Child Soldiers' (Government of Canada 15 November 2017) https://publications.gc.ca/collections/collection_2021/amc-gac/FR5-163-2019-eng.pdf

'Human Security Agenda' (NATO 2022) https://www.nato.int/nato_static_fl2014/assets/pdf/2024/8/pdf/240830-human-security-en.pdf

'Human Security Approach and Guiding Principles' (NATO 22 October 2022) https://www.nato.int/cps/en/natohq/official_texts_208515.htm?selectedLocale=us accessed 23 April 2025

Hutchinson C, 'Statement at the Security Council Open Debate on Children and Armed Conflict' (NATO 23 June 2020) https://www.nato.int/cps/en/natohq/opinions_177060.htm?selectedLocale=en accessed 10 June 2025

'In case of crisis and war' (The Swedish Contingency Agency 2024) <https://rib.msb.se/filer/pdf/30874.pdf>

'International Staff' (NATO, n.d.) https://www.nato.int/cps/en/natohq/topics_58110.htm accessed 23 April 2025

'Internship Programme' <https://www.nato.int/cps/en/natohq/71157.htm> (NATO, n.d.) accessed 4 June 2025

'LANDCOM HOSTS NATO CHILDREN AND ARMED CONFLICT TRAINING' (NATO LANDCOM 2017) <https://lc.nato.int/media-center/news/2017/landcom-hosts-nato-children-and-armed-conflict-training> accessed 14 May 2025

'Legal office' (NATO SHAPE, n.d.) <https://shape.nato.int/about/leadership-staff-2/directorates/office-of-legal-affairs/legal-office> accessed 18 June 2025

'Members of the NATO: North Atlantic Treaty Organization' (WorldData.info, n.d.)
<https://www.worlddata.info/alliances/nato.php> accessed 13 June 2025

'Military positions' (NATO SHAPE, n.d.) <https://shape.nato.int/about-us/working-at-shape/military-positions>
accessed 26 May 2025

'NATO Administrative Tribunal' (NATO 20 March 2025) https://www.nato.int/cps/en/natohq/topics_114072.htm
accessed 18 June 2025

'NATO and Children in Armed Conflict Fact Sheet' (NATO July 2016)
https://www.nato.int/nato_static_fl2014/assets/pdf/pdf_2016_10/20161018_1610-children-armed-conflict-en.pdf

'NATO's Command Structure' (NATO 2015) <https://www.nato.int/cps/en/natohq/126245.htm> accessed 20 May 2025

'NATO Nations Approve Civilian Casualty Guidelines' (NATO 6 August 2010)
https://www.nato.int/cps/en/natohq/official_texts_65114.htm?selectedLocale=en accessed 18 June 2025

'NATO Policy on Children and Armed Conflict' (NATO 12 July 2023)
https://www.nato.int/cps/en/natohq/official_texts_217691.htm?selectedLocale=en accessed 16 January 2025

'NATO Standard AJP-3.24, Allied Joint Doctrine for the Military Contribution to Peace Support Edition A, Version 1' (NSO March 2024) 58 <https://nso.nato.int/nso/nsdd/main/standards/ap-details/3272/EN>

"Not the new normal" – 2024 "one of the worst years in UNICEF's history" for children in conflict (UNICEF 24 December 2024) <https://www.unicef.org/press-releases/not-new-normal-2024-one-worst-years-unicefs-history-children-conflict> accessed 9 April 2025

'Overview of the Universal Periodic Review Mechanism' (International Commission of Jurists 2014)
<https://www.icj.org/wp-content/uploads/2014/02/UPR.pdf>

'Prospects for Children: Building Resilient Systems for Children's Futures' (UNICEF Innocenti Research Centre 2025) <https://www.unicef.org/innocenti/innocenti/media/10341/file/UNICEF-Innocenti-Prospects-for-Children-Global-Outlook-2025.pdf>

'Protection of Civilians Allied Command Operations Handbook' (NATO SHAPE 2021) <https://shape.nato.int/news-archive/2021/the-protection-of-civilians-allied-command-operations-handbook> accessed 4 June 2025

'PROTECTION OF CIVILIANS AND CHILDREN KEY SUBJECTS DURING NATO-LED HUMAN SECURITY TRAINING' (NATO SHAPE 2022) <https://shape.nato.int/news-archive/2022/protection-of-civilians-and-children-key-subjects-during-natoled-human-security-training> accessed 14 May 2025

'Reintegration: Release of new publication by the Office of the SRSG for Children and Armed Conflict' (Office of the Special Representative of the Secretary-General for Children and Armed Conflict 28 May 2025)
<https://childrenandarmedconflict.un.org/2025/05/release-of-new-publication-by-the-office-of-the-srsg-for-children-and-armed-conflict/> accessed 10 June 2025

'Report of the Conference: The role of Stability Policing within Human Security' (NATO Stability Policing Centre of Excellence 2023)
https://nllp.jallc.nato.int/iks/sharing%20public/20231011_664!2023nspcoe_humansecurityconference_report.pdf
accessed 20 May 2025

Saul B, 'Australian compensation for war crimes in Afghanistan: a rights-based approach, not military charity, is needed' (Lieber Institute Westpoint, 14 March 2025) <https://lieber.westpoint.edu/australian-compensation-war-crimes-afghanistan-rights-based-approach-not-military-charity-needed/> accessed 17 June 2025

'SACEUR' (NATO SHAPE, n.d.) <https://shape.nato.int/saceur> accessed 18 June 2025

'SOLLIMS LESSONS LEARNED SAMPLER, Operationalizing Women, Peace, and Security' (November 2017) 8(2) Stability Operations Lessons Learned & Information Management System https://nllp.jallc.nato.int/iks/sharing%20public/sollims_sampler_operationalizing-wps_nov2017.pdf accessed 20 May 2025

'Summary of the National Reports' (NATO 2022) https://www.nato.int/nato_static_fl2014/assets/pdf/2025/1/pdf/2022-ncgp-summary.pdf

'The Hague Summit Declaration' (NATO 25 June 2025) https://www.nato.int/cps/en/natohq/official_texts_236705.htm accessed 26 June 2025

The Office of the Prosecutor, 'Policy on Children' (International Criminal Court 2023) <https://www.icc-cpi.int/sites/default/files/2023-12/2023-policy-children-en-web.pdf>

'The Paris Principles, Principles and Guidelines on Children Associated with Armed Forces or Armed Groups', (UNICEF February 2007) <https://www.unicef.org/mali/media/1561/file/ParisPrinciples.pdf>

'The Protection of Civilians Allied Command Operations Handbook' (NATO 2021) <https://shape.nato.int/news-archive/2021/the-protection-of-civilians-allied-command-operations-handbook> accessed 20 May 2025

'The Secretary General's Annual Report 2023' (NATO 2024) https://www.nato.int/nato_static_fl2014/assets/pdf/2024/3/pdf/sgar23-en.pdf#

'Troop Contributions' (NATO 3 April 2025) https://www.nato.int/cps/en/natohq/topics_50316.htm accessed 8 June 2025

UN Human Rights Council, 'Basic facts about the UPR' (OHCHR, n.d.) <https://www.ohchr.org/en/hr-bodies/upr/basic-facts> accessed 19 June 2025

UNICEF The Netherlands, 'Children are missing in national crisis plans' (UNICEF 12 May 2025) <https://www.unicef.nl/nieuws/2025-05-12-kinderen-ontbreken-in-nationale-crisisplannen> accessed 13 May 2025

UN Special Representative of the Secretary-General for Children and Armed Conflict, 'Monitoring and Reporting on Grave Violations' (UN, n.d.) <https://childrenandarmedconflict.un.org/tools-for-action/monitoring-and-reporting/> accessed 20 June 2025

'Updated joint declaration on UN-NATO secretariat cooperation' (NATO 31 October 2018) https://www.nato.int/cps/en/natohq/official_texts_160004.htm?selectedLocale=en accessed 30 April 2025

'Wales Summit Declaration' (NATO 5 September 2014) https://www.nato.int/cps/en/natohq/official_texts_112964.htm accessed 24 April 2025

Watchlist on Children and Armed Conflict, 'Operational Guidance: Negotiating and Implementing Handover Protocols' (Watchlist 2022) <https://watchlist.org/publications/operational-guidance-negotiating-and-implementing-handover-protocols/> accessed 19 May 2025

'What is NATO' (NATO, n.d.) <https://www.nato.int/nato-welcome/index.html> accessed 19 May 2025

'Who we are' (JALLC, n.d.) <https://jallc.nato.int/organization/who-we-are> accessed 10 June 2025

'Women, Peace and Security Research Guides' (NATO Library, n.d.) <https://www.natolibguides.info/women> accessed 4 June 2025

'Young Professionals Programme' (NATO, n.d.) <https://www.nato.int/cps/en/natohq/175210.htm> accessed 4 June 2025

Annex I. Table overview of NATO Member States, ratification of treaties, and their Voluntary Minimum Recruitment Age

Comments are based upon declarations and understandings the States Parties submitted when ratifying OPAC.²⁸⁰

S = Signatory

VMRA = Voluntary Military Recruitment Age

State	CRC	OPAC	OPIC	Rome Statute	IHL GC I-IV	IHL AP I and II	VMRA	Comments
Albania	Yes	Yes	Yes	Yes	Yes	Yes	19	
Belgium	Yes	Yes	Yes	Yes	Yes	Yes	18	
Bulgaria	Yes	Yes	No	Yes	Yes	Yes	18	Military school available before 18, requires parental consent
Canada	Yes	Yes	No	Yes	Yes	Yes	16	Parental consent
Croatia	Yes	Yes	Yes	Yes	Yes	Yes	18	
Czech Republic	Yes	Yes	Yes	Yes	Yes	Yes	18	
Denmark	Yes	Yes	Yes	Yes	Yes	Yes	18	
Estonia	Yes	Yes	Yes	Yes	Yes	Yes	18	
Finland	Yes	Yes	Yes	Yes	Yes	Yes	18	
France	Yes	Yes	Yes	Yes	Yes	Yes	17	Parental consent
Germany	Yes	Yes	Yes	Yes	Yes	Yes	17	Parental consent
Greece	Yes	Yes	No	Yes	Yes	Yes	18	
Hungary	Yes	Yes	No	Yes	Yes	Yes	18	
Iceland	Yes	Yes	No	Yes	Yes	Yes	N.a.	No national force
Italy	Yes	Yes	Yes	Yes	Yes	Yes	17	Age applies to voluntary and compulsory, voluntary requires parental consent
Latvia	Yes	Yes	No	Yes	Yes	Yes	18	
Lithuania	Yes	Yes	Yes	Yes	Yes	Yes	18	
Luxembourg	Yes	Yes	Yes	Yes	Yes	Yes	18	
Montenegro	Yes	Yes	Yes	Yes	Yes	Yes	18	
Netherlands	Yes	Yes	No	Yes	Yes	Yes	17	Parental consent, no participation in armed conflict
North Macedonia	Yes	Yes	S	Yes	Yes	Yes	18	
Norway	Yes	Yes	No	Yes	Yes	Yes	18	
Poland	Yes	Yes	S	Yes	Yes	Yes	18	

²⁸⁰ United Nations Treaty Collection (n.d.)

https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11-b&chapter=4&clang=en#EndDec
accessed 15 May 2025

Portugal	Yes	Yes	Yes	Yes	Yes	Yes	18	
Romania	Yes	Yes	S	Yes	Yes	Yes	18	
Slovakia	Yes	Yes	Yes	Yes	Yes	Yes	18	
Slovenia	Yes	Yes	Yes	Yes	Yes	Yes	18	
Spain	Yes	Yes	Yes	Yes	Yes	Yes	18	
Sweden	Yes	Yes	No	Yes	Yes	Yes	18	
Türkiye	Yes	Yes	Yes	No	Yes	No	18	Military school can start from age 15 incl. parental consent, no deployment, children can quit at any time
United Kingdom	Yes	Yes	No	Yes	Yes	Yes	16	Parental consent, all feasible measures to ensure minors do not take a direct part in hostilities, unless genuine military need or by reason of the nature and urgency of the situation, if withdrawal before deployment is not practicable, or if it would undermine operational effectiveness for the unit
United States	No	Yes	No	No	Yes	S	17	Parental consent, all feasible measures concerning direct participation in hostilities; does not mean indirect participation in hostilities

Annex II. Analysis of CRC Committee Concluding Observations to NATO Member States: National Recruitment Practices.

This is an analysis of the Committee's Concluding Observations on OPAC and the OPAC cluster within Concluding Observations afterwards for States that permit voluntary recruitment or entering military schools or training before the age of 18. For both Annex II and III, the selection of member states is based on the reservations or declarations they made to OPAC, and on states with deviating or noteworthy practices that arose from the literature review. This analysis accentuates developments in Member States following their commitment to OPAC, starting from 2006 and comparing them to their most recent report to the CRC Committee. Within this jurisprudence, the focus is on domestic practices of (voluntary) military recruitment and the conduct of Member States' military or peacekeeping forces outside of their national territory. The research thus leaves out other areas of protection of children in armed conflict, such as treatment of refugee or asylum-seeking children who might have been associated with armed forces in their country of origin, and children who are recruited and used within that State party.

In the CRC Committee's initial CO to Canada on OPAC, the Committee recommended that priority was given to those who are oldest, and to increase the age of voluntary military recruitment.²⁸¹ Furthermore, the Committee asked for clarification on the civilian versus military status of such children.²⁸² In Canada's latest CO, the Committee limited its recommendations to raising the VMRA.²⁸³

The CRC Committee applauded *France's* active international involvement to address the CAAC agenda, yet it recommended that children between 16 and 18 years old who were voluntarily recruited, be provided with a special status provided for by law, which separates them from the military.²⁸⁴ In France's last CO, the Committee highlighted France's legislation to punish voluntary recruitment of children below 15 and use of children under 15 for active participation in hostilities, noting that by raising the minimum age for all recruitment into armed forces, such punishment is redundant.²⁸⁵

The Committee asked *Italy* for further information on the civilian versus military status of children attending military schools and the genuine voluntariness of their recruitment.²⁸⁶ In 2019, the Committee repeated the call to raise the age, as well as to ensure OPAC's principles and provisions were featured in military education for students, conscripts and persons in active military service.²⁸⁷ Noteworthy here is that Italy has an Authority for Children and Adolescents, of which the Committee recommends an extension of this Authority's mandate "to receive and act upon complaints from children admitted to military schools."²⁸⁸

The Netherlands was recommended to prohibit the in 2015 prevailing practice of training 17 year olds in the use of firearms, and to ensure they are not subject to military discipline and military law.²⁸⁹ Furthermore, the Committee recommended explicit criminalisation of recruitment of minors by non-State

²⁸¹ CRC/C/OPAC/CAN/CO/1 (2006) para 9.

²⁸² *ibid* para 10.

²⁸³ CRC/C/CAN/CO/5-6 (2022) para 47.

²⁸⁴ CRC/C/OPAC/FRA/CO/1 (2007) para 8.

²⁸⁵ CRC/C/FRA/CO/6-7 (2023) para 49.

²⁸⁶ CRC/C/OPAC/ITA/CO/1 (2006) para 16(a) and (b).

²⁸⁷ CRC/C/ITA/CO/5-6 (2019) para 38(a) and (c).

²⁸⁸ *ibid* para 38(d).

²⁸⁹ CRC/C/OPAC/NLD/CO/1 (2015) para 11.

armed groups (NSAGs).²⁹⁰ Repetition of both of these recommendations in 2022 indicate that the Netherlands did not implement them yet.²⁹¹

The United States has received three COs on OPAC. Among the US' most notable declarations was that it maintains a restrictive interpretation of OPAC, describing them as "understandings" and therefore weakening the strength of OPACs provisions.²⁹² In the first CO, the Committee recommended disaggregated data collection on volunteer recruits below 18, and to ensure recruitment is genuine and voluntary, and that it does not disproportionately target children in marginalised situations.²⁹³ The Committee expressed concerns about failure to prevent deployment of minor volunteer recruits to Afghanistan and Iraq in 2003 and 2004, and about that children from age 11 could enrol in Middle School Cadet Corps Training.²⁹⁴ The Committee also recommended the US to explicitly criminalise OPAC provisions at the domestic level, and to ensure military codes, manuals and other military directions align with OPAC provisions.²⁹⁵ In its last CO to the US, the Committee repeated its recommendations about the VMRA, the genuine and informed voluntariness of such recruitment, and the allowance of deployment of 17-year-olds to areas where they may be at risk of direct participation in hostilities.²⁹⁶ Like the Netherlands, the US continued to not criminalise the recruitment of minors by NSAGs.²⁹⁷

The UK shared concerning declarations upon ratification of OPAC, including that it "will take all feasible measures" to ensure minors in their armed forces would not take direct part in hostilities, followed by exclusionary clauses where children could still be deployed to take part in hostilities.²⁹⁸ Logically, the CRC Committee expressed its concerns about these declarations and recommended the UK to review these policies.²⁹⁹ Furthermore, the UK should ensure that between minor voluntary recruits, priority was given to those who are oldest; that recruitment policies should be reviewed as they likely targeted children coming from vulnerable groups; and that the timeframe on children's right to leave the military service must be lifted.³⁰⁰ The UK must also criminalise provisions as stipulated within OPAC and ensure that military guidance align.³⁰¹ Finally, the Committee encouraged the UK to abolish the handling and use of firearms for minors from the age of 17.³⁰² In the most recent CO of 2023, the Committee addressed an extensive list of concerns. These concerns included the interpretive declaration; the low minimum age; advertising and marketing tactics; weak implementation of safeguards for voluntariness of recruitment; minimum service periods; investigations into and prosecutions and sanctions following

²⁹⁰ *ibid* para 15.

²⁹¹ CRC/C/NLD/CO/5-6 (2022) para 43(a).

²⁹² See 'United States of America', 'Understandings'
https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11-b&chapter=4&clang=_en#EndDec

²⁹³ CRC/C/OPAC/USA/CO/1 (2008) paras 12, 16, 17.

²⁹⁴ *ibid* paras 13, 19.

²⁹⁵ *ibid* para 22(a) and (c).

²⁹⁶ CRC/C/OPAC/USA/CO/3-4 (2017) paras 18-25.

²⁹⁷ *ibid* paras 29-30.

²⁹⁸ See 'United Kingdom', 'Declaration'
https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11-b&chapter=4&clang=_en#EndDec

²⁹⁹ CRC/C/OPAC/GBR/CO/1 (2008) paras 10-11.

³⁰⁰ *ibid* paras 13-17.

³⁰¹ *ibid* para 22.

³⁰² *ibid* para 27.

sexual abuse, harassment and violence against children within the armed forces; and mental health burdens among child recruits.³⁰³

Türkiye submitted a few relevant declarations, indicating that 1) it has no voluntary recruitment, 2) the minimum age of recruitment for compulsory military service is 19, and 3) that military school students, who can start at the age of 15, may quit such schools at any time, and are legally not considered soldiers or held reliable for military service.³⁰⁴ The Committee's response focused on, among others, ensuring military guidelines were in line with OPAC, and to retract a defence law which allowed for recruitment of 15+ year olds in times of emergency.³⁰⁵

Germany received similar recommendations to the ones above: to raise the VMRA to 18 years, and to ensure military codes, manuals and other military directives align with OPACs provisions.³⁰⁶ In 2022, the Committee again urged Germany to raise the VMRA; to prohibit all forms of advertising and marketing to children; and to investigate, prosecute and sanction sexual abuse, harassment and other forms of violence against children within the armed forces.³⁰⁷

Estonia became a party to OPAC recently and received its CO on OPAC in 2017. Despite the fact that Estonia does not have voluntary recruitment below 18, the Committee expressed concerns about the content of available voluntary military training and activities for junior members, which allows for children to handle firearms.³⁰⁸ Furthermore, Estonia was recommended to establish an independent complaints mechanism for children who participate in the voluntary Estonian Defence League.³⁰⁹

³⁰³ CRC/C/GBR/CO/6-7 (2023) para 56

³⁰⁴ See 'Türkiye', 'Declarations' https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11-b&chapter=4&clang=_en#EndDec

³⁰⁵ CRC/C/OPAC/TUR/CO/1 (2009) para 16(c) and (d)

³⁰⁶ CRC/C/OPAC/DEU/CO/1 (2008) p. 2

³⁰⁷ CRC/C/DEU/CO/5-6 (2022) para 45(a) and (b)

³⁰⁸ CRC/C/OPAC/EST/CO/1 (2017) para 12

³⁰⁹ *ibid* paras 13

Annex III. Analysis of CRC Committee Concluding Observations to NATO Member States: military operations.

This is an analysis of the Committee's Concluding Observations on OPAC and the OPAC cluster within Concluding Observations afterwards, about the conduct of military forces, whether domestically or abroad. The Committee does not specify whether such forces operated under the NATO guise, or of another organisation such as the UN. One general recommendation by the Committee is to ensure that the SP strengthens its education and training on OPACs provisions for relevant professional groups, including military personnel, as well as in human rights and peace education in (military) schools.³¹⁰

Canada was asked to "ensure that – when detained persons under the age of 18 captured in areas of armed conflict are transferred to other national authorities – this transfer only occurs as long as there is a reason to believe that their human rights will be respected"³¹¹ The Committee did not say anything about military operations in its last communication to Canada of 2022.

For *France*, the Committee referred specifically to France's contributions to UN peacekeeping operations. France must ensure that its military personnel was aware of the rights of children in armed conflict, including of their own responsibility in ensuring those rights are not violated, and bringing perpetrators to justice.³¹²

The Netherlands was recommended to "continue and strengthen its cooperation with the International Committee of the Red Cross and with the Special Representative of the Secretary-General for Children and Armed Conflict", and to explore increased cooperation with other relevant UN bodies.³¹³

The Committee provides detailed concerns and recommendations to the United States, as OPAC is the only CRC treaty the US reports to. In the first CO, the Committee specifically highlights captured child soldiers. For children in Iraq and Afghanistan, it highlights access to education and legal services, physical and psychological measures, and reports on use of cruel, inhuman and degrading treatment as issues.³¹⁴ For children at Guantanamo Bay, concerns include cruel, inhuman or degrading treatment, treatment as "unlawful enemy combatants" who can be subject to prosecution, as opposed to being treated primarily as victims.³¹⁵ Recommendations, applicable to both groups of children, include only using detention as a measure of last resort and with safeguards in place, fair trials for detained children, physical and physiological recovery measures, and most interestingly, access to an independent complaint mechanism for children in detention.³¹⁶

The combined third and fourth report of 2017 repeat concerns about the reservations the US made about understandings.³¹⁷ Under right to life, survival and development, the Committee highlights that although the US considers that civilian child-casualties in the context of armed conflict are not within its obligations under OPAC, the US has obligations under IHL to not attack civilian individuals and

³¹⁰ See for example CRC/C/OPAC/CAN/CO/1 (2006) para 17; CRC/C/OPAC/FRA/CO/1 (2007) para 13; CRC/C/OPAC/NLD/CO/1 (2015) para 7; CRC/C/OPAC/GBR/CO/1 (2008) para 8; CRC/C/OPAC/EST/CO/1 (2017) paras 7-9; CRC/C/OPAC/TUR/CO/1 (2009) paras 9-10.

³¹¹ CRC/C/OPAC/CAN/CO/1 (2006) para 12.

³¹² CRC/C/OPAC/FRA/CO/1 (2007) para 16.

³¹³ CRC/C/OPAC/NLD/CO/1 (2015) para 22.

³¹⁴ CRC/C/OPAC/USA/CO/1 (2008) para 28.

³¹⁵ *ibid* para 29.

³¹⁶ *ibid* para 30.

³¹⁷ CRC/C/OPAC/USA/CO/3-4 (2017) para 9.

objects.³¹⁸ Child-casualties in the Syrian Arab Republic, Yemen and Afghanistan are mentioned as examples of US-supported incidents, and the Committee vocalises its concerns about the “insufficient accountability and disproportionately light sanctions imposed on persons responsible for the incident.”³¹⁹ To that end, “The Committee urges the State party to: (a) Take concrete and firm precautionary measures and prevent the indiscriminate use of force to ensure that civilians, in particular children, are no longer killed or maimed; (b) Ensure that all allegations of violations against children perpetrated by United States military forces are investigated in a transparent, timely and independent manner, and ensure that perpetrators of those violations are brought to justice, prosecuted and receive commensurate sanctions if found guilty; (c) Ensure that children and families victims of attacks, raids and air strikes always receive redress and compensation.”³²⁰ Furthermore, the Committee addresses grave violations against children by private military and security companies from the US in Afghanistan and Iraq.³²¹ Although in the context of UN missions, the Committee speaks out about US-supported or backed treatment of children associated with armed groups. It urges the US to “use its advisory role to the Afghan military, security and law enforcement personnel to prevent torture and ill-treatment of children in detention and protect children who have fallen victims of such ill-treatment”³²² Finally, regarding accountability to and for children, it recommends the development of the Child Advocate or Ombudsman’s mandate to monitor and deal with children’s complaints of violations regarding OPAC.³²³

Germany received compliments from the Committee about its training of military personnel and participants of PKO.³²⁴ Under international assistance and cooperation and in the context of UN PKO, it invited Germany to ensure that this training and awareness would continue, so that “military contingents are aware of their responsibility and accountability” for the rights of children in armed conflict.³²⁵ In its last CO to Germany, the Committee did not address the conduct of German military forces abroad or in PKO.

The CRC Committee specifically addressed captured child soldiers to the United Kingdom. Here, it noted that UK’s military authorities might detain child soldiers in Iraq and Afghanistan. While making reference to existing guidelines for the treatment and handover of such children, the Committee recommends that the UK “(a) Ensure that children only be detained as a measure of last resort and in adequate conditions in accordance with their age and vulnerability; (b) Guarantee a periodic and impartial review of their detention and conduct such reviews at greater frequency for children than adults; (c) Ensure that monitoring bodies have unimpeded access to all facilities where children are detained and that they have access to independent complaint mechanisms; (d) Inform parents or close relatives of the detention of the child and his or her whereabouts.”³²⁶ The most recent CO to the UK did not say anything about the conduct of UK military forces abroad or in PKO against children outside of their own armed force.

³¹⁸ *ibid* para 16.

³¹⁹ *ibid*

³²⁰ *ibid* para 17.

³²¹ *ibid* paras 31-32.

³²² *ibid* para 36.

³²³ *ibid* para 11.

³²⁴ CRC/C/OPAC/DEU/CO/1 (2008) para 6.

³²⁵ *ibid* para 21.

³²⁶ CRC/C/OPAC/GBR/CO/1 (2008) paras 28-29.

Türkiye's OPAC CO primarily addressed the rights of children associated with armed groups who were located within Türkiye as (alleged) juveniles.³²⁷ Similar to France, Türkiye was commended for its contribution to UN PKO, yet must continue to ensure that their military forces were aware of their responsibility and accountability for protecting children's rights in armed conflict.³²⁸ It was also recommended to seek cooperation with the SRSG CAAC for when children are found to have been recruited or used by armed groups.³²⁹ In the last CO to Türkiye, of 2023, the Committee first expressed deep concerns about child-casualties the destruction of civilian objects in south-east Türkiye, but nothing on the conduct of military forces abroad or in PKO.³³⁰

³²⁷ CRC/C/OPAC/TUR/CO/1 (2009) para 19.

³²⁸ *ibid* para 22.

³²⁹ *ibid* para 23.

³³⁰ CRC/C/TUR/CO/5-6 (2023) para 48.