

COEP MODEL UNITED NATIONS '18

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UNITED NATIONS HUMAN RIGHTS COUNCIL STUDY GUIDE

ABOUT THE COMMITTEE

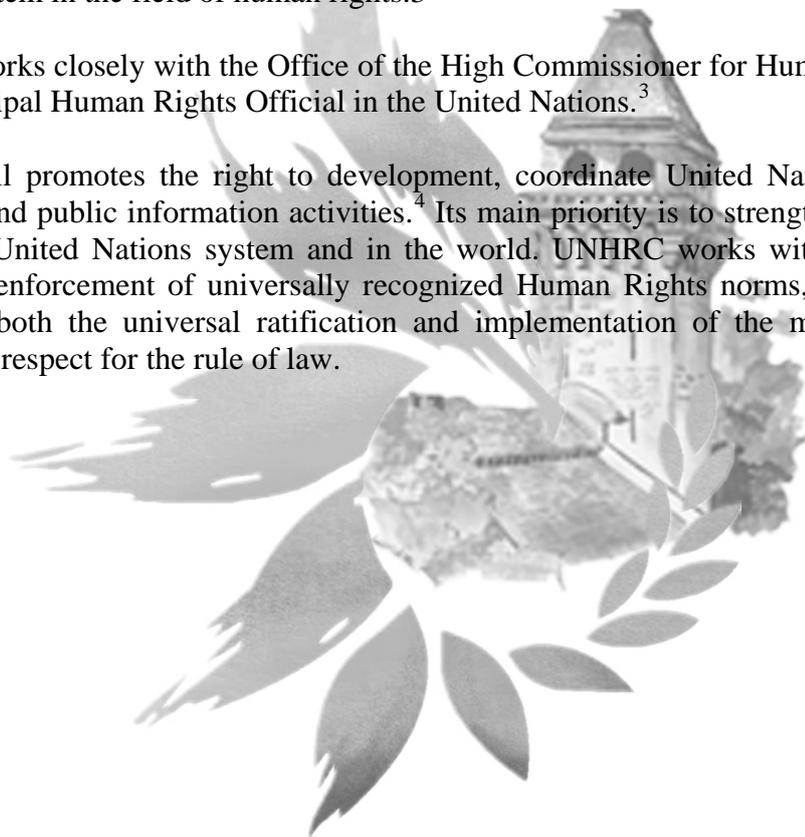
The United Nations Human Rights Council (UNHRC) represents and protects the Human Rights of all persons in the world. The Council was founded in 2006 and have 47 seats, where the members are elected every three years.¹

The Council is mandated to promote and protect the enjoyment and full realization, by all people, of all rights established in the Charter of the United Nations and in international laws and treaties.² UNHRC is guided in its work by the UN Resolutions, Declarations and Treaties.

The mandate includes: preventing human rights violations, securing respect for all human rights, promoting international cooperation to protect human rights, coordinating related activities throughout the United Nations, and strengthening and streamlining the United Nations system in the field of human rights.³

UNHRC works closely with the Office of the High Commissioner for Human Rights and acts as the principal Human Rights Official in the United Nations.³

The Council promotes the right to development, coordinate United Nations human rights education and public information activities.⁴ Its main priority is to strengthen Human Rights across the United Nations system and in the world. UNHRC works with determination to ensure the enforcement of universally recognized Human Rights norms, including through promoting both the universal ratification and implementation of the major human rights treaties and respect for the rule of law.



¹ *Membership of the UN Human Rights Council* - UN Watch, accessed via: <https://www.unwatch.org/2017-membership/>

² "Who We Are Mandate." OHCHR | Mandate, UN OHCHR, accessed via: <http://www.ohchr.org/EN/AboutUs/Pages/Mandate.aspx>.

³ "What we do", OHCHR, UN OHCHR, accessed via: <http://www.ohchr.org/EN/AboutUs/Pages/Mandate.aspx>.

⁴ Ibid

PROTECTION OF WOMEN AND CHILDREN IN WAR AND CONFLICT ZONES

INTRODUCTION

Armed conflict has long been associated with violation of rights of women and children. It is often during armed conflicts and in war zones that such rights are infringed upon the most. In certain circumstances, some of these violations may even constitute genocide, war crimes, or crimes against humanity. International society, however, has always been trying to protect those who are affected by conflicts and preserve humanity. The United Nations alongside with governments and international organisations implemented a legal framework aiming to protect the Human Rights when they are particularly vulnerable. Conversely, implemented measures have been challenged and in certain circumstances were seen to be ineffective. States often undermine the obligations that have been placed upon them by international treaties. The United Nation bodies face difficulties while attempting to protect the rights of women and children who are most affected by the war. The topic is quite complex and during the debates the delegates will have a number of themes for discussion.



KEY TERMS

Human Rights are the rights that are entitled to all persons regardless of their race, gender, religion, language or any other status. Human Rights are usually guaranteed by law.

According to the Geneva Convention of 1949, **International humanitarian law** distinguishes two types of Armed Conflicts, namely:

- international armed conflicts, opposing two or more States;
- non-international armed conflicts, between governmental forces and nongovernmental armed groups, or between such groups only.

Every person, regardless of race, gender and other factors is entitled to Human Rights, **International Human Rights Law** is a set of norms that aim to safeguard and preserve the Human Rights of all persons. The human rights can be guaranteed via treaties, law and other principles. Mostly the international human rights are outlined in the Human Rights Charter and can be applied even to those states that have not previously entered treaties that solidify the principles of human rights law. Some rights have a special status and cannot be broken under any circumstances and they prevail over international obligations. The prohibition of torture, slavery, genocide, racial discrimination and crimes against humanity, the rights of self-determination are some of those rights. They are reflected in the International Law Commission's draft articles and are applicable to all states.

According to the United Nations Convention on the Rights of the Child, a **child** is defined as a person who is under 18 years old. The United Nations (UN) General Assembly defines a youth as a person between the ages of 15 and 24 years inclusive. Children affected by armed conflict is a term that can be applied to "various groups of children adversely affected by armed conflicts," including refugee children who have been displaced, children who have experienced sexual violence or exploitation, and children who have severe psychological distress following their experiences. The term recruitment is officially defined in the Cape Town Principles as compulsory, forced, or voluntary recruitment into any type of armed group or armed force. **Demobilization** is defined as the formal discharge of child soldiers from an armed force or armed group. The term psychosocial refers to the relationship between the psychological and social effects of armed conflict.

Humanitarian Law is known to be a set of principles which aim to limit the damaging effects of armed conflicts, restrict the means of warfare and protect persons who are not part of the conflict or no longer participate in it. Humanitarian law is rooted in treaties and customary international law. The rules of humanitarian laws are outlined in protocols and conventions. For instance, the Geneva Convention.

Two bodies of laws - international human rights law and humanitarian - are complimentary and the states are required to preserve and follow the principles outlined in both bodies of law. The sources of two bodies of law can be found in treaties that have been reinforced by International Law and bodies such as the UN.

The **violation of laws** is considered as a criminal offence and the prosecution can be issued by the International Criminal Court or other bodies of international law. States who violate

INTERNATIONAL AND REGIONAL FRAMEWORK

The current framework of international humanitarian law provides special protection for women and children involved in armed conflict. Policies relevant to the reintegration and recovery are further detailed within international human rights law, as well as policies and practices related to displacement. The Geneva Conventions (1949) specifically state that children under the age of fifteen shall not be involved in armed conflict or armed forces. The 1989 Convention on the Rights of the Child (CRC) also prohibits the participation of children under the age of 15 in hostilities. An optional protocol to the 1989 Convention was introduced in May 2000 that extended the age of involvement to 18; this further instructed armed groups not to recruit or use children under the age of 18 in any circumstances. The protocol called for states to criminalize such practices.

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

It was adopted by the UN General Assembly in 1979 and is described as the international bill of rights for women. It mainly determines what constitutes discrimination against women and

sets up an agenda for international and national actions and measures to be taken in order to end such discrimination.

The Convention has been ratified by 180 states, and is one of the most ratified international treaties.

By accepting the Convention, States commit to take some measures to end any forms of discrimination against women, such as:

- to include and activate the principle of equality of men and women within their legal system, nullify all discriminatory laws and adopt new laws prohibiting discrimination;
- to establish tribunals and other public institutions in order to guarantee effective and comprehensive protection of women against discrimination; and
- to ensure the elimination of all acts of discrimination against women by persons, organizations or enterprises.

In addition, CEDAW's Optional Protocol regulates and provides procedures for individual complaints for violations of the Convention by State parties, as well as an inquiry procedure that gives the Committee the authority to institute inquiries for critical and systematic abuses of women's rights in state parties. The Protocol has been ratified by 71 States until today.

Convention on the Rights of the Child (CRC)

As the most widely ratified human rights instrument, the CRC is fundamental in establishing the protection of children in armed conflict. The Convention enumerates rights specific to recovery and reintegration and declares that organizations should "promote the establishment of prevention, support and caring services as well as justice systems specifically applicable to children." The Convention further advises that states fully safeguard the rights of children and work to provide specially trained staff to promote children's reintegration in society. Furthermore, the international legal framework promotes demobilization and effective disarmament and aims to implement effective measures for rehabilitation, physical and psychological recovery, and reintegration into society.¹⁹⁸ The CRC states that all measures to promote physical and psychological recovery and social reintegration of a child victim

must be taken in an environment conducive to enhancing the mental and physical health of the child.

Optional Protocol to the CRC

The Optional Protocol to the CRC was widely accepted and adopted in 2000, however its adoption received opposition from a handful of states over the age for voluntary recruitment. Major contentions were raised as such states felt obligated to raise the minimum age for voluntary involvement from fifteen to eighteen years old. Nonetheless, the Optional Protocol on the Involvement of Children in Armed Conflicts, advises states to cooperate in implementing programs that will offer children who have been recruited or involved in hostilities with appropriate assistance to facilitate their physical and psychological recovery and social reintegration. Additionally, Article 7 encourages states to provide technical cooperation and financial assistance, which may be provided in the form of implementing training or vocational programs, financial grants, or advisory services. States are also encouraged to work with international organizations in establishing these programs.

Children Associated with Fighting Forces

In addition, the Cape Town Principles, adopted by the United Nations Children's Fund (UNICEF) in 1997, were a result of collaboration with the Non-Governmental Organization (NGO) Working Group on the Convention on the Rights on the Child. The NGO Working Group brought together experts and partners to develop strategies for preventing the recruitment of children. The collaboration of these bodies developed strategies to prevent the recruitment of children, demobilize child soldiers, and help them reintegrate into society. Since their adoption, the Principles have become foundational in developing policies, as they provide a roadmap towards implementing demobilization, recovery, and reintegration processes. Further progress was reached when the International Criminal Court declared that the recruitment of children under 15 years equates to a war crime, although this decision signaled the need to update the Cape Town Principles. In 2005, UNICEF introduced the Paris Commitments to Protect Children Unlawfully Recruited or Used by Armed Forces ("Paris Commitments") along with The Principles and Guidelines on Children Associated with Armed Forces or Armed Groups ("Paris Principles") to provide detailed guidance for states and organizations implementing programs. Although non-binding in action, the Paris

Commitments and Paris Principles provide critical legal and operational means to protect and prevent children from recruitment. Specific attention is given on the reintegration process. Additionally, as revisions were made to the aforementioned documents in 2006, the reintegration process slowly became more encompassed within formal disarmament, demobilization, and reintegration principles.

Children Who are Displaced

International humanitarian law also provides protection to refugee and displaced children as a result of armed conflict. Article 25 of the Universal Declaration of Human Rights (1948) states that children must be granted the right to social protection. Children who are forced to flee to neighbouring countries or who become displaced are likely to suffer from physical and emotional trauma. Additionally, UNICEF and the United Nations Human Rights Committee formed the Action for the Rights of Children (ARC) initiative in 1997 to provide aid and care for displaced children and children in emergency situations. The United Nations High Commissioner for Refugees further sought the protection of refugee and displaced children in the United Nations Convention relating to the

Status of Refugees (1951) and the Protocol relating to the Status of Refugees (1967). These frameworks serve as a guide in seeking solutions and providing assistance to refugee and displaced children and require national governments to protect and ensure the rights of all children without discrimination.

ROLE OF THE INTERNATIONAL SYSTEM

The UNICEF Strategic Plan, 2014-2017, reaffirms UNICEF's commitment to leadership in the field of child protection in armed conflict and stresses the importance of increasing familial and communal resilience to humanitarian crises through raising healthy, well-educated children as a precursor for recovery and reintegration. Paragraph 25 of the Plan seeks to strengthen resilience and systematically reduce vulnerability to disaster and conflict through risk-informed country programs that prevent and respond to humanitarian crises and shocks that affect children. This provides special opportunities to improve the links between humanitarian responses and development programs, as well as promote human security.

Further, these risk-informed programs will promote rapid recovery and in “situations of civil unrest or armed conflict, UNICEF will uphold humanitarian principles.”

Additionally, Leila Zerrougui, the Special Representative of the Secretary-General for Children and Armed Conflict, and UNICEF launched the March 2014 campaign Children, Not Soldiers to raise awareness and stimulate support to end the recruitment and use of children by national security forces by 2016. Currently, seven national security forces are listed for the use and recruitment of children in armed conflict. Since its initiation, the campaign has received broad support from the UN, its partners, Member States, NGOs, and global citizens, and the UN Security Council has endorsed its principles in resolution 2143. The campaign encourages rehabilitation and reintegration in accordance with the Paris Principles and emphasizes justice for children on both sides of conflict through judicial and non-judicial measures as well as restorative justice initiatives. While broad support for the campaign has spurred its momentum, funding continues to be a problem as reintegration of children following armed conflict often falls into the gaps between short-term emergency funding and long-term development assistance.

The campaign has also led the Special Representative to establish an advisory group of NGOs and civil society partners to consult on issues of monitoring, reporting, and a range of other agenda items. The group includes Child Soldiers International, World Vision, the International Rescue Committee, Human Rights Watch, and others. Civil society organizations have also taken action to contribute to international and regional legal frameworks. Most notably, the Kampala Recommendations on the Recovery and Reintegration of Children and Youth Affected by Armed Conflict (2013) calls for civil society practitioners, international organizations, national authorities, donors, and academics to collaborate to properly implement recovery and reintegration programs. Organizations such as Save the Children and the International Red Cross also aim to cover areas where intergovernmental organizations fall short. While, such organizations have greatly contributed to the recovery and reintegration efforts, additional assistance and collaboration with international organizations and governmental partners is called for.

Thus, the responsibility of safeguarding rights of women and children in war and conflict zones falls upon the following:-

- The State: Under the treaties and conventions, the States are held responsible for the implementation of the International Human Rights Law and Humanitarian Law, States are obligated to provide the training in humanitarian law to their armies in order to prevent potential abuse.
- The United Nations: The committees of the UN are responsible for monitoring the violations of Human Rights and implement strategies to prevent them with punishing the wrongdoers.
- The UN Peacekeepers is provided by the member-states of the UN is responsible for safeguarding the Human Rights of the civilians.
- Non-Governmental Organisations such as Human Rights Watch or Amnesty International are expected to record and highlight violations of human rights and sometimes use their resources to prevent them.
- In specific conflicts other actors might intervene

MEASURES TAKEN BY THE UN AND THE INTERNATIONAL COMMUNITY

There are three main areas of modern international law that are aimed at dealing with protection of women and children in war and conflict zones: human rights law, refugee law and humanitarian law. International human rights law and international humanitarian law share the goal of preserving the dignity and humanity of all. Over the years, the General Assembly, the Commission on Human Rights and the Human Rights Council have agreed that, in situations of armed conflict, parties to the conflict have legally binding obligations concerning the rights of persons affected by the conflict. These rights, which are inherent in all human beings, are interdependent and indivisible.

The international community has thus adopted a comprehensive legislative and normative framework so as to deal with violations of human rights in armed conflicts and war zones. International humanitarian law seeks to limit the effects of armed conflict and protects persons who are not (or no longer) participating in the hostilities, and restricts the means of warfare. It has to be applied equally by all sides of every armed conflict.

In particular, Protocol I to the 1949 Geneva Conventions (1977) relates to international armed conflicts. Broadly speaking, international armed conflicts involve different nation-states whereas national conflicts involve only governments and rebel forces operating within the borders of one country; yet, as this distinction is not always applicable, the international community has since recognized that some “internal” conflicts should be considered as international armed conflicts, thus being included under abovementioned Protocol I.

Another pillar of this framework is the Rome Statute of the International Criminal Court (entered into force in 2002) which is the treaty that established the ICC and four core international crimes: genocide, crimes against humanity, war crimes and the crime of aggression. Under the Rome Statute, the ICC can prosecute such crimes in situations where states cannot or do not want to do so themselves. If the crime is committed in a state which is not party to the Statute, the ICC has to receive an authorization from the UNSC before proceeding to any investigation. There are also a number of Security Council Resolutions on the protection of civilians during times of conflict.

POINTS A RESOLUTION MUST ADDRESS

Delegates from this committee will be asked to elaborate a draft resolution specifically focusing on the protection of women and children in times of armed conflict and political turmoil. We would like you to do some research in order to identify the key challenges and vulnerabilities arising in war zones, particularly in relation to preventing human rights violations from happening in the critical conditions brought about by conflict (collapse of political institutions, break up of public order, conditions of displacement, widespread disregard for human dignity etc.).

- *How can the UNHRC better fight the abuse of women and child rights during armed conflict?*

- *Which actors (national or international) should this committee work with in order to be more efficient and effective?*
- *What is to be done in current war zones where the situation is extremely urgent? (short-term aspect)*
- *What long-term solutions can the UNHRC consider?*
- *Why have previous efforts failed?*

This list is provided so as to facilitate discussions in the committee and individual research. Delegates are of course strongly encouraged to go beyond those questions.

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