The Fight for a Right out of Sight: The Under-Prioritization of Attacks on Schools and the Lack of Accountability under the Monitoring and Reporting Mechanism in the Democratic Republic of the Congo

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ABSTRACT

The Fight for a Right out of Sight: The Under-Prioritization of Attacks on Schools and the Lack of Accountability under the Monitoring and Reporting Mechanism in the Democratic Republic of the Congo

Meaghan Shevell

The multifaceted effects of armed conflict on children are well-documented. Systematic monitoring and reporting on human rights violations committed against children aim to mitigate these impacts by better informing programmatic response and analyzing trends to prevent future violations. Through personal field research, the aim of this study was to evaluate the effectiveness of the UN Monitoring and Reporting Mechanism (MRM) as implemented in the Democratic Republic of the Congo (DRC), with a particular emphasis on attacks on schools. The research sought to address the following questions: 1) What are the current challenges in effectively implementing the MRM in the DRC? 2) Is the MRM effective in linking monitoring to response for the grave violation of attacks on schools? 3) Is the MRM accountable to children in situations of armed conflict? Results of qualitative Nvivo analysis of key informant interviews indicated that several challenges remain, with two major findings warranting further discussion. First, attacks on schools are relegated by other violations. Second, there is a bifurcation in accountability approaches between local grassroots groups excluded from the MRM (i.e. victim-focused and ‘downward’ accountability, building capacity) and UN bodies and international organizations on the MRM Task Force (i.e. perpetrator-focused and ‘upward’ accountability, favoring weak penal measures). Additional examination revealed that the latter strategy is often unsuccessful in its approach, highlighting the need for the MRM to be part of a broader effort, engaging with a more diverse set of actors including local representation. The challenges highlighted in this study have significant implications on whether the MRM can be used to prevent future violations and inform effective programmatic responses. Additionally, results call into question whether the UN’s use of punitive measures are merely ‘empty threats’ that do not set a strong precedent to deter future perpetrators of grave violations against children.
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<tr>
<td>ADF</td>
<td>The Allied Democratic Forces</td>
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<tr>
<td>AP</td>
<td>Additional Protocol</td>
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<tr>
<td>CAAC</td>
<td>The Security Council’s thematic focus on Children and Armed Conflict</td>
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<tr>
<td>CAQDAS</td>
<td>Computer-Aided Qualitative Data Analysis Software</td>
</tr>
<tr>
<td>CEDAW</td>
<td>The Convention on the Elimination of All Forms of Discrimination against Women</td>
</tr>
<tr>
<td>CIL</td>
<td>Customary International Law</td>
</tr>
<tr>
<td>CPA</td>
<td>Child Protection Advisors</td>
</tr>
<tr>
<td>CRC</td>
<td>The Convention on the Rights of the Child</td>
</tr>
<tr>
<td>CRPD</td>
<td>The Convention on the Rights of Persons with Disabilities</td>
</tr>
<tr>
<td>CTFMR</td>
<td>Country Task Force for Monitoring and Reporting</td>
</tr>
<tr>
<td>DDR</td>
<td>Disarm, Demobilize and Reintegrate</td>
</tr>
<tr>
<td>DPA</td>
<td>Department of Political Affairs</td>
</tr>
<tr>
<td>DPKO</td>
<td>UN Department of Peacekeeping Operations</td>
</tr>
<tr>
<td>DRC</td>
<td>The Democratic Republic of the Congo</td>
</tr>
<tr>
<td>EFA</td>
<td>Education For All</td>
</tr>
<tr>
<td>FARDC</td>
<td>Forces Armées de la République Démocratique du Congo</td>
</tr>
<tr>
<td>FDLR</td>
<td>The Democratic Forces for the Liberation of Rwanda</td>
</tr>
<tr>
<td>FRPI</td>
<td>The Front for Patriotic Resistance in Ituri</td>
</tr>
<tr>
<td>GC</td>
<td>Geneva Convention</td>
</tr>
<tr>
<td>GCPEA</td>
<td>The Global Coalition to Protect Education from Attack</td>
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<tr>
<td>HRC</td>
<td>Human Rights Committee</td>
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<tr>
<td>HRW</td>
<td>Human Rights Watch</td>
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<tr>
<td>HIV</td>
<td>Human Immunodeficiency Virus</td>
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<tr>
<td>IASC</td>
<td>Inter-Agency Standing Committee</td>
</tr>
<tr>
<td>ICISS</td>
<td>International Commission on Intervention and State Sovereignty</td>
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</tbody>
</table>
ICESCR  The International Covenant on Economic, Social and Cultural Rights
ICC  The International Criminal Court
ICJ  International Court of Justice
ICMW  International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
ICRC  The International Committee for the Red Cross
IDP  Internally Displaced People
IHL  International Humanitarian Law
IHRL  International Human Rights Law
ILO  International Labour Organization
INEE  Inter-Agency Network for Education in Emergencies
INGOs  International Non-Governmental Organizations
M23  March 23 Movement
MDGs  The Millennium Development Goals
MoE  Ministry of Education
MONUSCO  United Nations Organization Stabilization Mission in the Democratic Republic of the Congo
MRM  Monitoring and Reporting Mechanism
MRM TRG  MRM Technical Reference Group
OCHA  Office for the Coordination of Humanitarian Affairs
OHCHR  UN Office of the High Commissioner of Human Rights
OOSC  Out-of-School Children
OSRSG-CAAC  Office of the Special Representative of the Secretary-General for Children and Armed Conflict
R2P  The Responsibility to Protect
SCWG-CAAC  Security Council Working Group on Children and Armed Conflict
SDGs  The Sustainable Development Goals
UDHR  The Universal Declaration of Human Rights
UNESCO  United Nations Educational, Scientific and Cultural Organization
UNDP  United Nations Development Programme
<table>
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<tr>
<th>Acronym</th>
<th>Full Form</th>
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<tr>
<td>UNHCR</td>
<td>The United Nations High Commissioner for Refugees</td>
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<td>UNICEF</td>
<td>United Nations Children’s Emergency Fund</td>
</tr>
<tr>
<td>UNMEE</td>
<td>UN Mission in Ethiopia and Eritrea</td>
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<tr>
<td>UNSCR</td>
<td>United Nations Security Council Resolution</td>
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<tr>
<td>UPCP</td>
<td>The Union des Patriotes Congolais pour la Paix</td>
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<tr>
<td>USAID</td>
<td>United States Agency for International Development</td>
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<tr>
<td>USD</td>
<td>United States’ Dollar (Currency)</td>
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Acknowledgements

True triumph is not without adversity. While this thesis marks a monumental achievement with great personal growth, it has also been accompanied by many hurdles and hardships. Persevering through these feats has required great strength, determination and support, to which I acknowledge the contributions of several highly valued and appreciated people:

To Mom, Dad, Allison and Nova: Thank you for your tireless support during every phrase of this process, beginning long before I ever stepped foot into Kinshasa, or even New York City. In your own ways, each of you have been transformative role models to me since the day I was lucky enough to become a part of your lives. You have each made a substantial contribution to the inextinguishable passion that has long burned within me, and it is your support, which has enabled me to turn these passions into reality.

To Dylan: The yin to my yang, while neither of us are perfect as we are, together, we are perfectly complete. You have taught me more than anything I could have learnt in any textbook: about life, about the world, and about myself. You have been by my side through it all, the utmost highs, but most importantly the deepest lows. Meeting you was the silver lining of the first hardship I had ever experienced, and continuing to have you by my side will be the silver lining in all difficulties to come. Thank you for always believing in me, for always seeing the best in me, both in my capabilities and all that I have to offer the world, especially at times when I could not see it for myself.

Many thanks and gratitude is owed to my thesis adviser, Dr. Neil Boothby, who’s wealth of knowledge and expertise in child protection in emergencies has not only greatly enhanced the quality of this study, but has inspired me to continue working in this field. Taking your class my first semester truly helped put all the pieces together to discover my own career path, a once fuzzy and quite uncertain terrain.

While many academic experts have substantially contributed to this thesis, the contribution of Bob Scott warrants specific acknowledgement. His patience, thoughtfulness and dedication in his assistance with the Nvivo analysis phase of this research is highly commended and extremely appreciated.

I’d especially like to thank all of this study’s key informants for dedicating the time to participate in my research study. Each one of you, with your diverse sets of experiences, has helped to enrich my understanding of a very complex issue. I applaud each of your innovative efforts to address the atrocities that children face in armed conflict settings; you are each a pivotal piece of a seemingly insoluble puzzle.

Lastly, it is crucial to acknowledge the continuous hardships faced by all children affected by armed conflict, as it is your perseverance and resilience, which continues to inspire me in both my personal and professional lives.

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**Introduction:**

Several studies,¹ beginning with the ground-breaking 1996 Graça Machel study on the impact of armed conflict on children, have garnered international attention to the grave human rights violations children are exposed to in armed conflict settings. Greater knowledge of these complex, multifaceted and long-term child protection concerns has prompted various efforts to better protect children in such environments. Systematic monitoring and reporting on human rights violations committed against children aim to mitigate the impacts of armed conflict by gaining a more nuanced understanding of trends and patterns to better inform effective programmatic response, and ultimately prevent future violations.

The United Nations’ (UN) Monitoring and Reporting Mechanism (MRM), most notably initiated by Security Council Resolution (UNSCR) 1612 (2005),² is one of such efforts and has been acclaimed for its explicit mandate in carrying out the arduous task of monitoring and reporting the situation of children in armed conflict settings. The MRM monitors and reports on six grave violations committed against children, including the following: recruitment and use of children by armed forces, killing and maiming of children, abduction of children, rape and other forms of sexual violence against children, attacks against schools and hospitals, and denial of humanitarian access. Despite explicit prohibitions in international law, there has been an observable increase in both the scope and scale of attacks on schools across the globe as an intentional strategy of war. However, this grave violation amounting to a war crime is typically overlooked, often eclipsed by the overwhelming international attention paid to child soldiers and more recently, sexual violence.

² However, the need for a system to monitor and report human rights violations against children in armed conflict settings has been called for in several preceding Security Council Resolutions, including UNSCR 1379 (2001), 1460 (2003), and 1539 (2004).
While the MRM signifies the Security Council’s transformative thematic focus on the impact of armed conflict on children, challenges remain in meaningfully implementing the MRM’s ambitious rhetoric on the ground in conflict settings. The Democratic Republic of the Congo (DRC) was initially selected as the pilot site for the MRM’s launch in 2005, and has since forth been active in the DRC for over a decade. Additionally, the DRC was the first country situation to receive a report by the United Nations Secretary-General on the six grave violations. Serving as a benchmark for the quality of future MRM implementation, the DRC is therefore a valuable case study that merits detailed investigation.

While several studies\(^3\) have evaluated the impact of the MRM (many of which including a particular attention paid to the DRC context), this existing evidence-base is problematic as these studies are quite outdated and do not focus on the grave violation of attacks on schools, a frequently under-prioritized phenomenon that receives scant academic attention. In addition, while several organizations, such as The Global Coalition to Protect Education from Attack (GCPEA), Human Rights Watch (HRW), and The United Nations Educational, Scientific and Cultural Organization (UNESCO), have collected comprehensive data on the global issue of attacks on schools and the military use of schools, a dearth of scholarly literature and academic analysis on the phenomenon persists. This study aims to address this critical knowledge gap by describing, evaluating, and analyzing the current use of the MRM at the national level in the DRC, with particular emphasis on the grave violation of attacks on schools. Through personal field research conducted in Kinshasa in 2015 and the use of qualitative data analysis of open-ended interviews with key informants involved in monitoring and reporting human rights violations against children, this study seeks to answer the following research questions: 1) **What are the current challenges in effectively implementing the MRM at the national level in the DRC**? 2) **Is the MRM**

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\(^3\) Most notably, Barnett and Jefferys’ 2008 report *Full of Promise: How the UN’s Monitoring and Reporting Mechanism can better protect children* and Watchlists’s 2009 study *UN Security Council Resolution 1612 and Beyond: Strengthening Protection for Children in Armed Conflict* as well as Watchlists’ country-specific study *Getting it Done and Doing it Right: Implementing the Monitoring and Reporting Mechanism on Children and Armed Conflict in the Democratic Republic of the Congo*
effective in linking monitoring to response for the grave violation of attacks on school?, and finally,

3) Is the MRM accountable to children in situations of armed conflict?

Results of qualitative Nvivo analysis of key informant interviews indicated that several challenges exist, with two major findings warranting further discussion. First, attacks on schools are relegated by other violations. Second, there is a bifurcation in accountability approaches between local grassroots groups excluded from the MRM and UN bodies and international organizations on the MRM Task Force. While the former utilized a more ‘victim-focused’ approach to ‘downward’ accountability by building capacity and fostering empowerment, the latter embraced a more perpetrator-focused approach, favouring weak penal measures and ‘upward’ accountability to trustees. Additional examination revealed that the latter strategy adopted by MRM Task Force members is often unsuccessful, highlighting the need for the MRM to be part of a broader effort, engaging with a more diverse set of actors, including local representation. The challenges highlighted in this study have significant implications on whether the MRM can be used to prevent future violations and inform effective programmatic responses to maximally protect children in armed conflict settings. Additionally, it is called into question whether the UN’s use of punitive measures are merely ‘empty threats’ that do not set a strong precedent to deter future perpetrators of grave violations against children.

This paper begins by providing the necessary background context to better understand the need for the MRM and the grave violation of attacks on schools. Such background information covers the following: i) The persisting impacts of armed conflict on children as a result of the changing nature of war; ii) the right to education as a transformative right enabling the realization of other rights, and how it is undermined by conflict. This subsection also explores how education is a paradoxical right with “two faces”⁴ that can either promote peace or exacerbate grievances that prompt war, and finally; iii) the persisting global phenomenon of attacks on education and the military use of schools is described in further detail.

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Chapter 2 outlines the objectives of the research study and provides a brief description of the methodology used, as well as the potential biases and limitations. Chapter 3 includes the results of this research study, structured according to the study’s three objectives: 1) A literature review is provided on (a) the evolution of the Security Council’s agenda and thematic focus on Children and Armed Conflict (CAAC), and (b) recent reporting on attacks on schools in the DRC, comparing the reporting of the UN-led MRM with an alternative surveillance initiative; 2) A description of this study’s sample characteristics is provided, followed by the results from qualitative data analysis of interview content using Nvivo to guide the thematic analysis and an analysis of relationships; 3) recommendations, as articulated by key informants, are listed.

Following the results, Chapter 4 includes a discussion on the study’s two main findings. First, the under-prioritization of the grave violation of attacks on schools relative to child soldiers and sexual violence is further explored. Second, the MRM’s accountability mechanism is examined in detail, comparing two complementary yet parallel channels of monitoring and reporting (i.e. by the MRM and by local NGOs) and their corresponding approach to accountability (i.e. upward or perpetrator-focused versus downward or victim-focused, respectively). Finally, key conclusions, the implications of this study’s findings, and possible next steps for future research are provided.
Chapter 1: Background

I. The Shift in War Strategies and the Protection of Civilians: Children at the Frontline of Conflict

A) The Changing Nature of War and the Changing Nature of Response:

As purported in Kaldor’s groundbreaking ‘new wars’ theory, a significant shift has taken place in the methods, goals, actors and impacts of warfare.\(^5\) The last few decades characterized by dramatic changes in the world’s political economy (e.g. the spread of neoliberalism, a widening gap between rich and poor countries, forced structural adjustment, direct foreign transnational corporate investment especially in resources like oil, gold and diamonds) has contributed to the creation of the conditions for a radical shift in the nature of conflict.\(^6\) In a post-colonial world that is coupled with increasing levels of urbanization, violent conflicts are exacerbated by the stresses of poverty, uneven development, the competition for coveted resources and internal dissent.\(^7\) Contemporary conflicts are increasingly characterized by intra-state strife,\(^8\) rather than the inter-state far-removed battlefields of the past; contemporary warfare is no longer about capturing territory and state-building initiatives, but are instead waged on political, social and economic grounds in attempts to further weaken and even dismantle the nation-state.\(^9\)

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\(^7\) Ibid.

\(^8\) It is important to note that much semantic debate surrounds the use of the terms conflict, civil war and armed conflict. While I acknowledge that they all pertain to different situations, the terms conflict and armed conflict will be used interchangeably in this paper for purposes of simplicity to refer to intra-state conflict.

\(^9\) Kaldor, “In defence of new wars.”
These changes, captured in the International Commission on Intervention and State Sovereignty’s (ICISS) statement that “the most marked security phenomenon since the end of the Cold War has been the proliferation of armed conflicts within states,”\(^\text{10}\) has overwhelmingly placed civilians at the frontline of conflict, strategically implicating and specifically targeting them. Consequentially, civilians are increasingly bearing the brunt of the multifaceted effects of conflict rather than militants or combatants. This is further evidenced by the alarming 1996 statistic that the proportion of victims of war that were civilians as compared to combatants rose dramatically from five percent in World War I to over 90 percent in the last few decades.\(^\text{11}\)

This observed changing nature of war has been paralleled by a concurrent shift in the nature of response to war. While both have been catalyzed by changing geopolitical landscapes after the end of the Cold War in the early 1990s, the increasing prevalence of intra-state armed conflict has placed excessive demands on an already fragile state to respond to the protection needs of its civilians. As a result, especially in consideration of the possible threat to international peace and security, there was an increasing need for foreign intervention from the international community, through efforts such as Chapter VII under the UN Charter and the Responsibility to Protect (R2P), to help address grave human rights violations and put a halt to genocides, war crimes, ethnic cleansing and crimes against humanity. In responding to these new complex threats to a nation, R2P redefined international norms to one characterized by international obligation, commitment, or ‘responsibility’ to intervene in mass atrocity crimes across the globe.\(^\text{12}\)

The changing nature of war demanded a corresponding shift in intervention such that when a state is unwilling or unable to uphold its responsibility to protect its civilians from the impact of war, then the


responsibility must shift to the international community to respond. After the witnessing of repeated international failures to respond to humanitarian crises and systematic and widespread human rights abuses, key issues of state sovereignty were increasingly brought under question, as encapsulated by Kofi Annan’s remark that "if humanitarian intervention is, indeed, an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica — to gross and systematic violations of human rights that offend every precept of our common humanity?"

B) The Impact of Armed Conflict on Children:

Overwhelmingly, this transformation in the nature of war in contemporary conflicts has posed a marked and disproportionate increase in complex threats to children, making them a particularly vulnerable group who are affected by conflict in new ways. Children are impacted both as a cause and consequence of conflict, immediately and in the aftermath, with these effects manifesting in profound long-term repercussions on their physical (e.g. health, nutrition, increased mortality rates, traumatic injuries such as sexual violence and maiming) and psychosocial (e.g. accumulated stress, trauma, social isolation, separation from family, risk-taking behaviour, substance abuse, disruption in education, dislocation from communities) development and well-being. As recorded in 1998, an estimated 1 billion children, or a sixth of the total global population, live in countries affected by armed conflict, with 300 million of these children being under the age of five. A more recent figure stated in a 2015 UNICEF

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15 Wessells, Children, Armed Conflict, and Peace.
press release reveals that over 60 million children are directly at risk in this “new generation of crises,” with “more than 1 in 10 children living in countries and areas affected by armed conflict.”

Appointed by the Secretary-General as an independent expert to examine the effect of war on children, Graça Machel (1996) produced a seminal study on the impact of armed conflict on children in 1996, shedding light on this previously hidden issue “the impact of armed conflict on children’s lives remains invisible,” due to the challenges in ascertaining and measuring the impacts on children, as conflict-related data does not typically disaggregate for children. Machel’s comprehensive study revealed that children increasingly represent an unprecedented number of victims of conflict, and are affected by conflict in multifaceted ways. Machel’s study reported the disconcerting statistic that in the decade prior to the report’s publication, two million children were killed due to armed conflict, with the number of children seriously maimed or disabled threefold that figure.

The targeted and recurrent ‘attack on children’ manifests in a myriad of ways; children are affected directly in both physically and sexually abusive forms of violence, as well as indirectly through massive disruptions in routine livelihoods and basic services, resulting in substantive deprivations that could produce mass starvation and disease, as well as hindering development and the potential achievement of the Sustainable Development Goals (SDGs). Contemporary tactics of warfare have expanded the scale and scope of intra-state security threats and civil unrest, frequently deliberately targeting civilians in “traditional safe havens” like schools and hospitals. Twenty-eight and a half million children have been forced to leave primary school due to conflict. These unbridled attacks on children have generated mass displacements of entire communities in frequently chaotic attempts to

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18 Machel, Impact of Armed Conflict on Children:10-11; Wessells, Children, Armed Conflict and Peace.
19 The Sustainable Development Goals are the updated set of goals for the post 2015 development agenda, and were built upon the Millennium Development Goals (MDGs).
21 ECHO, Children in Conflict: Fact Sheet.
escape conflict zones and seek safety in often precarious environments. Over 20 million children are
displaced either internally or externally in refugee or IDP camps, and Machel’s study illustrates that of the
millions of people uprooted by conflict, an estimated 80 percent are children.22 More currently, the UN
Refugee Agency found in 2013 that seven million children are refugees and between 11.2 and 13.7
million children are internally displaced due to armed conflict.23

Linked with massive waves of globalization, the spread of technological advancements in
weaponry combined with the poorly regulated international arms trade have resulted in the widespread
proliferation of readily available and cheap weapons (e.g. 55 million AK-47s have been sold globally and
cost as little as USD$6 each).24 Due to these advancements in weaponry (i.e. lighter and less complex) in
conjunction with the relative ease to condition children to obey as compared to adults, small arms have
increasingly found themselves in the hands of child soldiers as a strategy of armed groups. In 2008, the
Coalition to Stop the Use of Child Soldiers identified 24 countries with armed groups that recruit
children.25 Efforts to measure the scale of this issue were continued by the UN in 2010, documenting 57
groups recruiting children as soldiers in their study on 15 countries.26 In the case of child soldiers it is
important to note, “whether they are forcibly recruited, join in order to escape poverty or hunger, or enlist
to actively support a cause, the first loss is their childhood.”27 According to data disseminated by the
Control Arms Campaign, USD$22 billion is spent annually on weapons in Africa, Latin America, Asia
and the Middle East.28 Machel’s study highlights the need for a shift in expenditure from arms and
military to human and social development, in order to reorient countries to meet the Millennium

22 Machel, Impact of Armed Conflict on Children.
23 ECHO, Children in Conflict: Fact Sheet.
25 Coalition to Stop the Use of Child Soldiers, in UNESCO. The Hidden Crisis: Armed Conflict and Education. UNESCO, 2011.
26 UNESCO, The Hidden Crisis.
27 UNICEF. “Childhood under threat: The state of the world’s children 2005.”
http://www.unicef.org/sowc05/english/conflicttissue2.html
28 Ibid.
Development Goals, such as achieving a reduction in infant and maternal mortality, which would cost comparatively only USD$12 billion a year.\(^\text{29}\) Even though there have been several official efforts to disarm, demobilize and reintegrate (DDR) child soldiers, DDR programs “often fall short of needs,”\(^\text{30}\) particularly with regards to limited opportunities for secondary education and employment, both of which are critical elements for attaining a sustainable livelihood, consequentially rendering them particularly vulnerable for re-recruitment.\(^\text{31}\) This demonstrates that DDR, and the protection of children in conflict settings more generally, is a long-term process that goes beyond the reach of traditional short-term humanitarian assistance and demands a greater bridge between the traditional ‘humanitarian-development divide.’

UNICEF’s 10-year follow up on Machel’s report exhibited findings consistent, if not intensified, with those originally noted, thereby demonstrating the persistence of this issue.\(^\text{32}\) This Strategic Review following up on the Machel 1996 datasets notes that “armed conflicts may yield fewer military battle deaths, but they exact a high human cost: Unarmed civilians are victimized, basic services deteriorate, societal divisions deepen and local economies decline.”\(^\text{33}\) Children increasingly represent an unprecedented number of these victims. Children are not only affected by deliberate attacks on innocent civilians, but are an explicitly targeted group as part of a calculated instrument of warfare, such as in the militarization of schools and the recruitment of children as soldiers for sexual exploitation or for forced labor. This radical change in the nature of conflict has thus had profound implications on children, with war “violat[ing] every right of the child” in more brutal ways than ever before.\(^\text{34}\)

\(^{29}\) UNICEF, Machel study 10-year strategic review.

\(^{30}\) Child Soldiers International. “DDR.” \url{http://www.child-soldiers.org/theme_reader.php?id=6}


\(^{32}\) UNICEF, Machel study 10-year strategic review: 8

\(^{33}\) Ibid.

\(^{34}\) Ibid: 3.
Conflict has all-encompassing effects on a child’s physical, emotional, moral and cultural well-being, affecting virtually every sphere of their lives (e.g. home, school, community, health system, religious and cultural institutions) and violating every right of a child as conceptualized by the Convention on the Rights of the Child (CRC). The CRC illustrates the interdependence of children’s rights, thereby necessitating a holistic approach that draws on the expertise of various actors at multiple levels. The CRC was “the most rapidly and widely ratified international human rights treaty in history,” with now practically universal ratification with the sole exception of the United States, “but for millions of children, the promise of the Convention has not been fulfilled: their rights brutally violated; their hopes and dreams for a better life destroyed. Nowhere is this harsh reality more starkly apparent than in the lives of children caught up in humanitarian crises.” Despite these pervasive global ideational norms relating to children’s rights, there has been repeated difficulties in “transform[ing] universal ratification of this Convention into universal reality.”

Although the parameters and landscape of conflict have indeed changed and are continuously changing, “what has remained constant is the vulnerability of children.” In light of the prevailing evidence on both the deliberate and collateral victimization of children, the General Assembly of the United Nations has urged in several recommendations, specifically in the adoption of resolution 48/157 (“Protection of Children Affected by Armed Conflicts”), the need for child protection efforts to take a top priority in both responding to the impacts of armed conflict on children and their reintegration and rehabilitation.

II. The Right to Education: A Transformative Right Undermined by Conflict

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36 UNICEF. Humanitarian Action for Children 2015: Overview. UNICEF, 2015: 1
37 Machel, Impact of Armed Conflict on Children:10.
38 UNICEF, Machel study 10-year strategic review: 15
A) The Transformative Right to Education

The universal claim to education is a pivotal entitlement captured in Article 26 of the most basic international human rights corpus: the Universal Declaration of Human Rights (UDHR), adopted in 1948. Various additional instruments of international law via multilateral treaties provide the ‘backbone’ or normative basis for this right: The right to education is guaranteed under Article 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966), as well as specifically protected for vulnerable groups such as: children under Article 28 of the CRC (1989), persons with disabilities under Article 24 of the Convention on the Rights of Persons with Disabilities (CRPD, 2006), girls and women under Article 10 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979), and migrant workers under Article 30 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW,1990). Please see Table 1.1 “International Human Rights Law Protecting the Right to Education” for the specific Article excerpts for each respective international human rights instrument.

Table 1.1: International Human Rights Law Protecting the Right to Education

<table>
<thead>
<tr>
<th>Human Rights Instrument</th>
<th>Article No.</th>
<th>Excerpt</th>
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<tr>
<td>UDHR (1948)</td>
<td>Article 26</td>
<td>“1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit. 2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace. 3. Parents have a prior right to choose the kind of education that shall be given to their children.”</td>
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<tr>
<td>Human Rights Instrument</td>
<td>Article No.</td>
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<td>ICESCR (1966)</td>
<td>Article 13</td>
<td>“1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.”</td>
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<td>CRC (1989)</td>
<td>Article 28</td>
<td>“1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular: (a) Make primary education compulsory and available free to all; (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need; (c) Make higher education accessible to all on the basis of capacity by every appropriate means; (d) Make educational and vocational information and guidance available and accessible to all children; (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.”</td>
</tr>
<tr>
<td>CPRD (2006)</td>
<td>Article 24</td>
<td>“1. States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and life long learning directed to: (a) The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity; (b) The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential; (c) Enabling persons with disabilities to participate effectively in a free society.”</td>
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<tr>
<td>Human Rights Instrument</td>
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| CEDAW (1979)             | Article 10 | “States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:” ...
| ICMW (1990)             | Article 30 | “Each child of a migrant worker shall have the basic right of access to education on the basis of equality of treatment with nationals of the State concerned. Access to public pre-school educational institutions or schools shall not be refused or limited by reason of the irregular situation with respect to stay or employment of either parent or by reason of the irregularity of the child's stay in the State of employment.” |

Although human rights are not hierarchical, the right to education is arguably one of the most transformative of rights, as it ‘unlocks’ a plethora of other fundamental freedoms and rights that are vital to human survival, well-being and development. The right to education is envisioned as a multiplier of rights, serving as a vehicle to both enable and empower an individual to realize other significant economic, social, cultural, civil and political rights and freedoms. This is further supported by General Comment No. 13 of the United Nations Committee on Economic, Social and Cultural Rights,\(^{40}\) which states that “education is both a human right in itself and an indispensable means of realizing other human rights. As an empowerment right, education is the primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities.”\(^{41}\)

Education is understood as a critical catalyst for the alleviation of the intergenerational self-perpetuating transmission of poverty. Education can be transformative, as it produces vital contributions

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\(^{40}\) the United Nations Committee on Economic, Social and Cultural Rights is responsible for the implementation and monitoring of the ICESCR


http://www.ohchr.org/EN/issues/Education/SREducation/Pages/SREducationindex.aspx
to wider social goals, such as: strengthening democratic institutions, empowering women, protecting the environment, and reducing preventable child deaths.\textsuperscript{42} Additionally, education can also help achieve broader development objectives including reducing poverty, increasing job opportunities and employment prospects, narrowing wage gaps, propelling economic growth, and improving health.\textsuperscript{43} However, “education’s unique potential to boost wider development goals can only be fully realized if education is equitable (e.g. to all genders, ethnicities, classes, races, religions), which means making special efforts to ensure that the marginalized can benefit equally from its transformative power.”\textsuperscript{44}

In addition to the aforementioned legalistic formulations based in international law, several other non-legal binding measures possessing strong moral force, significantly reflect aspirations of the international community and national governments to safeguard the fundamental right to education for all.\textsuperscript{45} These efforts can be observed in the 1979 International Conference on Education aiming to extend more widely the right to education, the 2000 World Education Forum, the Education For All goals, the 2000 Millennium Declaration and the corresponding set of objectives to dramatically reduce poverty contained in the Millennium Development Goals (MDGs),\textsuperscript{46} in which achieving universal primary education is MDG 2.\textsuperscript{47}

Despite these optimistic narratives of education with global leaders often pegging education as the ‘magic bullet’ for global issues, much of the world’s educational systems experience significant systemic barriers that ultimately hinder the possibility of education either unlocking these other rights and opportunities or placing children securely on the path to development and empowerment. These obstacles

\textsuperscript{43} Ibid.
\textsuperscript{46} The MDGs has since forth been replaced by the Sustainable Development Goals (SDGs)
are exponentially further exacerbated in conflict and refugee/IDP settings. Conflict not only damages educational infrastructure and forces massive population displacements into areas lacking quality education systems, but more recent conflicts have increasingly been characterized by the militarization of schools or the direct targeting of education as a specific strategy of warfare. As evidenced by Save the Children’s The Future is Now report, more than half of the 72 million children out of primary school worldwide are living in countries afflicted by armed conflict.\textsuperscript{48} This is further evidenced by the alarming statistic that one in three children living in conflict-affected fragile states does not go to school as compared to one in eleven children in low-income countries not characterized by conflict.\textsuperscript{49} Paradoxically, conflict settings are the sites where education can offer the greatest opportunities for resolution, with the potential for profound impacts on reconciliation and eventual peacebuilding.

B. Shortcomings in Implementing the Right to Education: Conflict as the Biggest Barrier

Although there has been a consistent decreasing trend in the number of children out of school since the start of the millennium, global progress in achieving universal primary education has effectively halted since 2007 and progressively slipped lower and lower down the global agenda.\textsuperscript{50} An examination of the 2011 Education for All Global Monitoring report, The Hidden Crisis: Armed Conflict,\textsuperscript{51} demonstrates that substantial international discrepancies exist in implementing the right to education, especially so between conflict-affected and not-affected countries (See Figure 3). Armed conflict serves as one of the biggest barriers to implementing educational goals, with 28 million of children (or 42\% of the world’s children) out of school in conflict-affected countries. Additionally, the Dakar Framework for Action in 2000 similarly identified conflict as a major obstacle in achieving education for all.\textsuperscript{52} Conflict has been repeatedly described as “development in reverse,” not only thwarting previous developmental

\textsuperscript{50} UNESCO, EFA Global Monitoring Report.
\textsuperscript{51} Ibid.
achievements, but oftentimes inverting their direction entirely.\textsuperscript{53} Despite international efforts predominantly focusing on immediate life-or-death needs, little attention is paid to the lasting and somewhat ‘hidden’ effects of conflict, such as education; “nowhere are those costs and legacies more evident than in education,” damaging educational infrastructure, crushing educational hope and dreams and having profound long-term implications on children.\textsuperscript{54} Conflict-ridden countries are increasingly lagging behind non-conflict affected countries in multiple educational indicators, demonstrating the heavy burden of conflict on education.\textsuperscript{55}

Conflict settings typically force people to flee from danger, resulting in mass exoduses that either take the form of internally displaced people (IDP) or influxes of refugees to neighbouring countries. Refugee and IDP camps pose a multitude of additional caveats to education including over-stretched demands weakening already fragile neighbouring systems due to massive influx, increasing gender-based violence, makeshift classrooms drawing in untrained teachers, difficulties in access, lack of official status or documentation, gender inequalities, wasted schooling or having to repeat grades after returning home, as well as challenges in realizing educational opportunities outside of the classroom. Once IDP and refugee children’s education has been interrupted by a drastic and disruptive move, these children are highly unlikely to ever make-up for the lost time. Often, refugee and IDP education systems set up in camps are designed under the assumption of a short-term duration, however in reality, refugee or displaced status has been known to extend well beyond the temporary emergency provisions. Refugee settings, and conflict more generally, radically transforms household economies and traditional livelihood strategies, often dramatically changing the roles of children and their responsibilities to contribute in the form of both paid and unpaid labor (e.g. domestic tasks, childcare) to the family or community unit, which can contribute to their absence from school.\textsuperscript{56}

\textsuperscript{54} UNESCO, Hidden Crisis: 131.
\textsuperscript{55} Ibid.
The United Nations High Commissioner for Refugees’ (UNHCR) Education Strategy for 2012-2016 recognizes the limited and uneven provision of refugee education and urges the need for a dramatic shift in policy to ensure that refugee and IDP children have improved quality, security and access to school in displaced settings and to ensure that refugee education is incorporated into humanitarian responses, “not as a peripheral stand-alone service but as a core component of UNHCR’s protection and durable solutions mandate.”

Refugee settings also elevate the risk of contagion of infectious disorders substantially, resulting in the rapid transmission of diseases, which inevitably impairs children’s health and thus consequentially their ability to consistently attend school.

Despite the overwhelming cost of conflict on education, education is relegated as a low priority in humanitarian assistance given to conflict-affected countries, accounting for a mere 2% of humanitarian aid, even less so in the DRC at 1%, and with only 38% of education appeals met in emergency aid requests. Armed conflict results in a substantial diversion of resources from education and other productive investments in human capital to military spending, which is a substantial drain on state resources. This diversion is dovetailed with major shortcomings in international humanitarian responses, reflecting a misappropriation and misalignment of donor priorities. A total of USD$1.029 trillion is spent annually on military hardware by rich countries, compared to the relatively dismal amount (USD$16 billion) needed to close the Education for All finance gap. In humanitarian responses to conflict zones, only 1.4% of humanitarian aid directly goes to education (as compared to the 4% mandated by the UN Secretary-General’s Global Education First Initiative) and only 38% of emergency aid appeals for education are actually met. The Hidden Crisis report identifies 21 countries where military spending exceeds national spending on primary education, including the DRC, who spends 2.1% of its GDP on the

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58 UNESCO, The Hidden Crisis
59 Ibid.
60 Ibid.:150.
61 UNESCO, The Hidden Crisis
military. The report argues that if the 12 sub-Saharan countries in Africa spending more on military expenditures than primary schooling were to cut military spending by just 10%, this could effectively place 2.7 million more children in school. Oftentimes, lucrative natural resource industries (frequently acting at the behest of consumers from developed countries) finance conflict, as was the case in the classic example of ‘blood diamonds’ and their intrinsic implication in the financing of the civil wars in Liberia and Sierra Leone.

C. Education: How does it Measure up in the DRC?

The resurgence of conflict in the DRC has adversely affected the nation’s ability to reach multiple educational goals. A World at School estimates that more than 228,000 children in the DRC are affected by the more recent renewal of conflict in the East. Due to insecurity and the military occupation of schools, many parents are keeping their children at home to minimize risk. UNICEF reports that there has been a decline in school enrolment rates, with over 4.4 million children (or half of the country’s school-aged population) out-of-school, 2.5 million of which are girls and 400,000 of which are displaced children. A 2013 National Survey on the situation of out-of-school children (OOSC) and adolescents reports an even greater figure, revealing that the number of 5-17 year-olds out-of-school reaches as high as 7,375,875, with “the number of OOSC…greatest in the compulsory schooling age group (6-11 years), which accounts for 47.6% of all OOSC.” The National survey similarly attests to a steady decline, beginning in 2007. Unsurprisingly, due to the amount of conflict afflicting the region, the province of

62 Ibid.:147  
63 Ibid.  
64 Ibid.  
North Kivu has the highest proportion of OOSC at 43.9%,\textsuperscript{67} demonstrating that it is for “those hit by recurrent conflict that the scale of the phenomenon is the greatest.”\textsuperscript{68}

Despite the 2010 state initiative of making primary education free, access to basic education remains chronically low, as many parents still bear the brunt of school fees due to delays in releasing the funds for free education.\textsuperscript{69} In fact, the major “determinants of exclusion from school are socio-cultural and economic in nature.”\textsuperscript{70} This challenge of financing education is evidenced by the National Survey’s examination of the profiles of OOSC, which reveals that 64.3% of OOSC in the 6-11 years age group are from the poorest households.\textsuperscript{71} Socio-cultural reasons for exclusion include matrimonial practices, early marriage and early pregnancy, parental death, child fostering, and parental educational capital.\textsuperscript{72} Projected estimates assert that more than 40%, and in some areas as high as 70%, of children who enrolled in primary school in the DRC will drop out before the end of school. This statistic is even grimmer for girls, with as many as 77% of girls not completing primary school.\textsuperscript{73}

At the political level, educational attainment is challenged by the lack of institutional and human capacity in the education sector. Low levels of public funding are allocated to education, with “less than 1 percent of the national budget is allocated to education, according to UNICEF,”\textsuperscript{74} which puts increasing pressures on household incomes to support education expense. Teachers are severely underpaid, averaging between USD$1 and USD$15 per month in rural areas and USD$15 and USD$30 in urban areas, with 1995 marking the last year of state-provided salaries and since then it has become the

\textsuperscript{67} Ibid.
\textsuperscript{68} Ibid.: 54
\textsuperscript{70} The Ministry of Primary, Secondary and Vocational Education (DRC), National Survey: 10.
\textsuperscript{71} Ibid.
\textsuperscript{72} Ibid.
\textsuperscript{73} A World at School. “Democratic Republic of the Congo.” http://www.aworldatschool.org/country/drc
responsibility of each school to collect sufficient money to cover teachers’ salaries, among other costs.\textsuperscript{75}

The case of the DRC is an example of how the pre-existing struggle to guarantee the right to education in peacetime is further exacerbated in times of conflict, impacting the quality and quantity of education and placing severe, and often irreversible, disruptions to the education system. This relationship between education and conflict is particularly distressing, as “the provision of education is a means of providing protection, a ‘normal’ life, social support and opportunities for the future,”\textsuperscript{76} which can play an instrumental role in both buffering the effects of conflict as well as reducing the inclination for conflict to erupt.

D. The ‘Two Faces’ of Education: Education and its Potentially Constructive Role in Conflict Settings:

Education is conceptualized as a productive investment in human capital that accrues not only individual benefits, but peace dividends or broader societal benefits that help yield or maintain peace. As part of the persisting effects of globalization, nations are increasingly multicultural and have an increasing need to do the following:

“there is a need to move away from the idea that a particular ethnic group, perhaps claiming descent from a common ancestor, is the only legitimate holder of state power and towards ideas of nations as multicultural entities, though with a distinctive cultural profile. The objective…is to create a shared understanding of, and connection to, the state through an expanding process of inclusion rather than exclusion.”\textsuperscript{77}

In supporting these lofty goals, education can serve as a primary vehicle for the establishment of a shared bond over a cohesive national identity that bridges possible ethnic, racial and religious divides amongst its citizens and facilitates integration and national stability. Education systems aim to produce linguistic, cultural and political homogeneity, without being overly assimilationist into the dominant culture, in order to assuage and minimize inter-group hostilities that are frequently the root causes of civil war;\textsuperscript{78}

\textsuperscript{75} Watchlist, The Impact of Armed Conflict on Children in the DRC.
\textsuperscript{76} Williamson, Children and Armed Conflict: 3.
\textsuperscript{77} Bush and Saltarelli, The Two Faces of Education: 19.
\textsuperscript{78} Bush and Saltarelli, The Two Faces of Education.
instead, education systems seek to engender tolerance, deference for difference and civic loyalty. It is these educational qualities that are thought to decrease intrastate tensions, therefore marking education as a “bridge-building initiative” that creates an “ethnically tolerant climate,” therefore serving as a possible mechanism of preventing future conflict.  

Affirmative action programs act to enhance access through regulation to educational opportunities, inclusive integration and just representation of different marginalized groups that have typically been disenfranchised by the education system. In the new USAID’s Education Strategy (2012), the third goal aims to increase equitable access to education in conflict-affected countries for 15 million learners by 2015 “so that we can curb inequality that fuels tension.” These efforts to make education more equitable for all and to rectify prevailing inequalities can conceivably prevent group tensions from escalating into enflamed civil strife. UNICEF, in its report on the ‘two faces’ of education, recognizes that physical integration is not enough to generate genuine attitude change of tolerance, stating that “just as Frantz Fanon recognized the need to decolonize the minds of formerly colonized peoples, so it is essential that we recognize the need to de-segregate the minds of formerly segregated peoples.” The pivotal role of education is noted in instilling durable attitudinal changes by producing a critical mass of people that are interested in producing systemic transformations. This kind of ‘de-segregation education’ can result in the transcending of factional divisions and the alleviation of inter-group conflict.

Curricular content and pedagogy that promotes tolerance and critical thinking can effectively promote a new generation that is capable of peacefully reconciling conflicting interests without resorting to violent means, which can ultimately prevent the eruption of armed conflict. This has been observed in education reform efforts in Rwanda towards changing singular historical narratives that reflect a particular ethnic group’s account in order to appease and justify particular political motives.  

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79 Ibid.: 16  
81 Fanon, in Bush and Saltarelli, The Two Faces of Education: 16.  
historical narratives can become self-fulfilling prophecies; tell a Tutsi their people are historically and inherently violent, and they will become a violent people, or tell two races that historically they have never gotten along, and they will continue to not get along. Education reforms that ‘disarm history’ effectively challenge ingrained ethnically-based presumptions of history as a rigid unchallengeable concept and instead empowers children to become active agents in the telling of their own stories, encouraging them to challenge ‘facts’ rather than accept them at face value. UNICEF contends that:

“critical historiographic skills are essential if young people are to be able to identify the intersection between their personal stories and larger collective histories. Only when young people realize that histories are constructed rather than given, can they even begin to contemplate challenging and changing the behaviour that poisons inter-group relations.”

In order to effectively nurture a climate that is conducive to peace, curriculum must illuminate the fallacies of stereotypes and prejudice that are so commonplace in textbook historical representations so that students can become aware of their own deeply rooted propensities to resort to stereotypes.

“Research suggests that teaching methods can be as important as what is taught.” ‘Education for Peace Programmes’ (or ‘conflict-sensitive education’) help cultivate and strengthen local peace-building capacities through a shift in pedagogy. By switching teaching methods from one that is top-down, teacher-centred and encourages learning by rote memorization to one that emphasizes instead negotiation and cooperation through group activities that encourage debate and problem-solving in reconciling divergent opinions, one can ultimately change a student’s cognitive framework from one that is conformist and unquestioning to one that involves critical thinking, questioning and accepting the

84 Project on Ethnic Relations, 1994, in Bush and Saltarelli, The Two Faces of Education.
importance of dialogue. In this context, UNICEF’s *Peacebuilding, Education and Advocacy Programme* called *Learning for Peace* aims “to strengthen resilience, social cohesion and human security in conflict-affected contexts, including countries at risk for—or experiencing and recovering from—conflict.”

E. Education and its Potentially Exacerbating Effect on Grievances that Drive Conflict

Despite the prevailing optimistic rhetoric on the wide array of plausible benefits education can offer to society in it’s alleviation and prevention of conflict, particularly ethnically-based conflict, UNICEF’s *Two Faces of Education in Ethnic Conflict* report “challenges [this] widely-held assumption—that education is inevitably a force of good.” If education has the ability to shape prevailing ideas and attitudes for the better, education is equally capable of influencing ideas and attitudes for the worse. However, the negative face of education is frequently ignored by policy makers in their consideration of educational interventions in conflict settings. This obverse side of education’s coin is best captured in the following statement: “education systems do not cause wars. But under certain conditions they can exacerbate the wider grievances, social tensions and inequalities that drive societies in the direction of violent conflict.”

Perhaps the most significant negative consequence of poorly designed educational programs is the systematic unequal distribution of access to education. The EFA Global Monitoring Report found that “perceived unfairness can reinforce disillusionment” in their observation of inequality, resulting in greater than a twofold increase in the probability of conflict (from 3.8 to 9.5%). This negative consequence of educational disparity has been regularly observed in various historical cases as a significant contributor to conflict, especially ethnic conflict. Denial of, or exclusion from, access to education entails eventual exclusion from full participation in the opportunities provided by education, such as employment and

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88 Bush and Saltarelli, The Two Faces of Education.
89 UNESCO, The Hidden Crisis.
attaining a sustainable livelihood.\textsuperscript{91} With education as a highly coveted commodity, “its unequal allocation has been a serious source of friction that has frequently led to confrontation.”\textsuperscript{92} If access to schooling in stratified societies is differentiated along particular ethnic, racial, religious, cultural or linguistic lines, it can act as a powerful concrete symbol of the state’s underlying political agenda to advance the interests of a particular group at the expense of another.\textsuperscript{93} Ultimately, “education systems that fail to equip young people with the skills they need to achieve a sustainable livelihood help to provide a pool of potential recruits for armed groups.”\textsuperscript{94}

Education can also be used as a weapon of cultural repression. Policy efforts to de-segregate schools can indirectly result in the erosion of cultural identities, traditions, values languages and institutions.\textsuperscript{95} However, these policies could also reflect deliberate and calculated strategies to strengthen the dominant identity and marginalize subordinate groups in order to maintain political control and reproduce the system inter-generationally, thereby entrenching a preferential hierarchy.\textsuperscript{96} Policies aimed at enforcing a particular language as the language of instruction are particularly repressive to cultural identities as “languages are related to thought processes and to the way the members of a certain linguistic group perceive nature, the universe and society.”\textsuperscript{97} In post-colonial societies, this was observed in decades of missionary schools and Western-centred education that completely negated the existence of deeply rooted local cultures.

Curriculum, and in particular the historical narratives presented, have frequently been subject to manipulation for particular strategic political purposes. History can be a vulnerable curricular subject for deformation, as “‘history’ is a process by which certain stories and events are highlighted while others are

\textsuperscript{91} Bush and Saltarelli, The Two Faces of Education.
\textsuperscript{92} Ibid.: 9.
\textsuperscript{93} Ibid.
\textsuperscript{94} UNESCO, The Hidden Crisis: 131.
\textsuperscript{95} Ibid.
\textsuperscript{96} Bush and Saltarelli, The Two Faces of Education
\textsuperscript{97} Stavenhagen, 1996, in Bush and Saltarelli, The Two Faces of Education: 11.
One particular set of facts (or ‘lies’) is agreed upon tactically and given social sanction and the political seal of approval.”

History is often framed as a singular narrative that superimposes all other alternative versions and interpretations. Curriculum can be strategically manipulated to present a particular group as inherently inferior or inhuman, or presenting heterogeneity as a threat to national unity. Textbooks can be manipulated to propagate prejudice and stereotypes, as well as naturalize militarization, which can result in violence being normalized as a solution to conflicting interests or as a legitimate articulation of political power. Xenophobic curriculum can also foster self-hate among members of repeatedly negatively stereotyped groups. Students can internalize the negative portrayals they are repeatedly exposed to and begin to believe it themselves and question their own self-worth. Majority group students may employ the same stereotypes in their personal relationships (e.g. bullying, discrimination, inferior treatment by the professor), frequently resulting in further marginalization, ostracism and perhaps violent confrontation.

F. The ‘Essential Link’ between Education and the Protection of Children in Armed Conflict Settings:

Attacks on schools undermine the ability for education to provide the protective environment, thereby severing ‘the essential link,’ that children are in desperate need of during times of conflict. With armed conflict often pegged as a “crisis of hope,” guaranteeing education is increasingly important during this time of heightened vulnerability to minimize risk and foster resilience, as education is forward-looking and a key source of the acquisition of key livelihood skills, and thus highly symbolic of future employment and attainment. Although education may not be interpreted as a high priority life-saving initiative in times of crisis, it is critical to ensure safe access to schools even during times of war as schools are conceptualized as a ‘safe space’ that fosters a reassuring sense of normalcy, security, stability.

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99 Ibid.
100 Ibid.
and routine,\textsuperscript{102} as well as a means of strengthening resilience and mitigating grievances that might drive further conflict.\textsuperscript{103} Schools as supportive environments can help foster the necessary building blocks for healthy child development, which has been proven through research to have a significant effect on enabling children with “the capacity to bounce back in adverse settings”\textsuperscript{104} and help with the healing process for children affected by conflict.

Schools, along with other fundamental social structures, contribute to the protective environment of children, or alternatively are thought of as providing a ‘protective shield’ to children in times of conflict.\textsuperscript{105} Schools can shield children from the insecurity of conflict, with Save the Children attesting that “the longer we wait for education to be restored [in conflict settings], the more vulnerable children become to recruitment by armed actors, trafficking or other risks to their personal safety.”\textsuperscript{106} In times of war, schools are often sites where life-saving information (e.g. mine-awareness, HIV prevention, nutrition) and services (e.g. feeding programs, psychosocial services) are provided, as schools are advantageous locations for expanding the reach of assistance.\textsuperscript{107} Effectively, literate children are better able to comprehend life-saving information on signs, newspapers, and brochures disseminated during a crisis.

Schools, as settings of assembled children, can also be helpful sites for identifying children that are particularly at-risk for referral for specialized interventions;\textsuperscript{108} alternatively children that fail to attend school are more readily identified as needing to be reached as susceptible to violence, exploitation or


\textsuperscript{106} Save the Children, The Future is Now.


\textsuperscript{108} Alexander et al. in UNESCO, Protecting Education from Attack.
recruitment. Education is critical in laying the foundation for children’s intellectual competencies, which has been found to be essential for child and youth development and particularly advantageous in conflict settings as “children and youth who are good problem-solvers are better able to respond in a constructive manner to the protection threats they face.”

Focusing on fostering resilience through strengthening the protective role of schools adopts a less patronizing approach of children as passive victims, and instead reinforces children’s active role as agents in their own protection.

Lastly, schooling can have broader benefits beyond the child in conflict settings, with real benefits for adults and the community at large as well. With children back in school routines, parents, siblings and other relatives are relieved from care-giving duties and can focus on their own personal coping and restoring their livelihoods, valuable sources of income and agency. Schooling can also decrease social isolation and instead encourage community engagement by providing a communal space and possibly support community-based child protection mechanisms, which can all facilitate post-conflict recovery.

Education is considered to be a pivotal component of protection, especially in countries affected by armed conflict, and therefore it is a priority that educational environments be protected in order to protect children’s wellbeing. It is critical that humanitarian assistance includes education as a component of child protection as “even if children’s physical survival needs are being met through short-term relief efforts, displacement, losses and insecurity interrupt optimal child development.” In fact, an increasing amount of humanitarian workers are acknowledging education as “the fourth pillar” of

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109 Ibid.: 60.
111 Alexander et al., in UNESCO, Protecting Education from Attack.
113 Alexander et al., in UNESCO, Protecting Education from Attack: 56
114 Ibid.
115 The other three pillars of humanitarian response include: nourishment, shelter and health services.
humanitarian response. This increasing importance has been further instituted with its inclusion in the UN Cluster Approach (i.e. the Global Education Cluster). In addition, multiple UN Security Council resolutions 1261 (1999), 1314 (2000) and 1379 (2001) all emphasized the essential link between education and protection in armed conflict settings by stressing that education be incorporated into international efforts to protect children in conflict.

III. Attacks on Education: The ABC’s

A. Attacks on Schools and the Military Use of Schools: Defining the Issue

Perhaps the most direct effect of conflict on education, one that merits its own consideration, is the increasing trend and proliferation of deliberate attacks on schools, and other key symbols of education, as a military strategy. The captivating story of 15-year-old activist and now Nobel Peace Prize laureate Malala Yousafzai fighting against the persistence of attacks on schools in Pakistan to champion her right to education has helped garner international attention on the issue of attacks on schools and education. However despite this increased global attention, much confusion and inaction remains over the issue. The EFA Global Monitoring Report on this ‘Hidden Crisis’ emphasizes that children, teachers and schools are overwhelmingly at the frontline of armed conflict. The Office of the Special Representative of the Secretary-General for Children and Armed Conflict notes that deliberate attacks on education and schools and the systematic targeting of students are both significant characteristics of new tactics of warfare that have heightened children’s vulnerability, however, “attacks on education can take a number of forms.” making the umbrella term and it’s multifarious definitions a challenging concept to grapple with.

International attention catalyzed by Graça Machel’s report and the 10-year follow up review by UNICEF both served as a significant impetus for the formulation of the Security Council Working Group

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on Children and Armed Conflict (SCWG-CAAC), which was established by Security Council Resolution 1612 in 2005 (S/Res/1612, 2005). These efforts in conjunction with other Security Council Resolutions resulted in a targeted strategy to address the most egregious of children’s rights violations in contexts characterized by armed conflict. This strategy focuses on *The Six Grave Violations Against Children During Armed Conflict*, which comprises the following: 1) Recruitment and use of children 2) killing or maiming of children 3) sexual violence against children 4) attacks against schools or hospitals 5) abduction of children, and 6) denial of humanitarian access.

Initially, triggers or criteria for parties to conflict to be listed in the Security Council’s Annexe of Perpetrators were restricted to child recruitment and sexual violence, but was expanded in 2011 with Security Council Resolution 1998 to include attacks (or the threat of attacks) on schools as a trigger in the naming and shaming of perpetrators in the Annexes of the Secretary-General’s Annual Report on Children and Armed Conflict. Security Council Resolution 1998 specifically addresses the grave violation of attacks on education, calling upon all parties to undertake greater targeted action on this specific issue. Resolution 1998 cites the need for greater observation of various applicable international law instruments without continued impunity, “expressing deep concern about attacks as well as threats of attacks in contravention of applicable international law against schools.” In addition, Resolution 1998 makes explicit reference to the corresponding Articles in the CRC to protect the child’s right to education as well as their right to life. Resolution 1998 also pushed for the use of ‘naming and shaming’ in providing an annexed list of current violators of the applicable international laws. Ultimately, the Resolution

118 Particularly Security Council Resolution 1539
119 For more on the other grave violations, please see: https://childrenandarmedconflict.un.org/effects-of-conflict/six-grave-violations/
121 Articles specifically applicable to attacks on education include the right to life (Article 6) and the right to education (Article 28, 29). However, as education serves as a potent vehicle for unlocking a multitude of other rights, a more holistic approach would include violations several other Articles such as right to adequate standard of living (Article 27) and right to health (Article 24), among others.
highlights various instruments that should be more consistently used in order to take more decisive and urgent action to prosecute the perpetrators of this grave violation under international law.\textsuperscript{122}

The most widely used and agreed-upon understanding of attacks on schools stems from The Global Coalition to Protect Education from Attack (GCPEA), which defines ‘attacks on schools’ as “any intentional threat or use of force—carried out for political, military, ideological, sectarian, ethnic, religious or criminal reasons—against students, teachers, and education institutions” by either state or non-state actors.\textsuperscript{123} The GCPEA further elucidates that attacks on education can include any combination, of the following:\textsuperscript{124} killing of teachers or students, abduction and disappearances, forced exile, imprisonment, torture, maiming, laying land mines near schools, sexual violence, recruitment of students for armed forces, militarization of schools,\textsuperscript{125} and destruction of educational property (infrastructure and learning materials).\textsuperscript{126} It is important to note that using this definition of attacks on education excludes attacks perpetrated by a single armed individuals (e.g. the Sandy Hook shooting in the U.S.) as opposed to those executed by state or non-state security or armed forces.\textsuperscript{127}

W warranting it’s own designated definitional attention, the militarization of schools, or the military use of schools, can be defined as encompassing a broad range of actions whereby military personnel seize or partially seize the physical space of an educational institution on either a short- or long-term basis.\textsuperscript{128} Actions typically undertaken by military actors in schools include, but are not limited to, using the school as a military barrack or base, capitalizing on the existing infrastructure for strategic military positions,

\textsuperscript{122} S/RES/1998: 4 supra note 11.
\textsuperscript{124} GCPEA, Education Under Attack.
\textsuperscript{125} This term will also be defined in the proceeding paragraph as it is a regularly misunderstood and under-utilized term.
\textsuperscript{126} For the purposes of this paper, “school” focuses exclusively on a recognizable education facility and “student” refers to an individual being taught or studying at any level, from kindergarten to university. (O’Malley, Education Under Attack: 20).
\textsuperscript{127} In addition to actual incidences, the threat of any of the listed criteria is also conceptualized as included in the definition of attacks on education but exclude cases where schools are attacked as collateral damage as opposed to deliberate targeting.
\textsuperscript{128} GCPEA, Education Under Attack
storing weapons and ammunition, using the school as a site for interrogating and/or detaining individuals, for military training or military drills, as a site for illegal recruitment of child soldiers and forced labor, as a position for observation and/or to fire weapons.\textsuperscript{129} It is important to note that this broad definition does not include the presence of military personnel around schools for the purpose of protection in response to a particular threat or as standard procedure for when election polling takes place at schools.

It has been well documented that schools are increasingly being unlawfully taken over for military purposes, due to their central locations, infrastructural assets (such as electricity and solid structure) without providing educational alternatives for the displaced students.\textsuperscript{130} This can continue for an extended period of time, not only hindering and interrupting students’ education but causing costly damage to the school’s infrastructure and endangering students’ lives when they eventually return to school with remnants of military fortifications (e.g. barbed wire, trenches) that may obscure whether actual students or combatants are inside.\textsuperscript{131} At times, armed forces will take over all but a few classrooms, so that students may be used as a ‘human shield’ from military attacks from opposing forces. This form of ‘partial take-over’ can also expose children to immoral behaviour and acts, such as sexual violence against girls, torturing detainees and substance abuse.

**B. Attacks on Schools and the Military Use of Schools: Scale and Scope of the Phenomenon**

At the earlier stages of research and reporting on this issue\textsuperscript{132}, a UNESCO-commissioned report in 2010\textsuperscript{133} revealed that education has been attacked in at least 31 countries in the three year reporting period, with several countries dramatically increasing in the number of attacks since their initial report in 2007.\textsuperscript{134} For example, the number of attacks in Afghanistan tripled in just one year from 242 in 2007 to

\textsuperscript{129} GCPEA, Education Under Attack.
\textsuperscript{130} Coursen-Neff & Sheppard, Schools as Battlegrounds.
\textsuperscript{131} Ibid.
\textsuperscript{132} Specifically, in 2010, hardly any research had been conducted on the reasons behind attacks on education as well as it’s impact, and even simply reporting on number of incidences was still in its infancy.
\textsuperscript{133} The UNESCO commissioned 2010 report is a follow-up to the previous report released in 2007
\textsuperscript{134} O’Malley, Education Under Attack.
670 in 2008, which can be compared to the GCPEA’s findings in 2014 that reported 1,110 (or more) attacks in Afghanistan. In Thailand, the number of attacks quadrupled between 2006 and 2007. In 2013, Save the Children estimates (based on UN data) that over 3,600 separate incidences of attacks on education around the world were documented in 2012. This number is expected to be much higher now with the rise in attacks in recent years.

Human Rights Watch’s (HRW) report on *Schools as Battlegrounds* in 2011 advocates for greater empirical investigation into the adverse impacts of attacks on education, arguing for the issue to figure more prominently in policy-efforts as well as insisting on the more rigorous implementation of international standards protecting students and education. The GCPEA’s report, *Education Under Attack* (2014), conducted a global study of this grave violation, providing extensive data on incidents that occurred between 2009 and 2013. The report finds that this violation is occurring in at least 70 countries around the world, 30 of which are experiencing persisting patterns of attacks, as compared to the remaining 40 which encountered isolated occurrences.

A recent report on Children and Armed Conflict in 22 country situations overseen by the UN Secretary-General in 2013, as gathered by the Monitoring and Reporting Mechanism, provides a ‘global picture’ of this pervasive phenomenon. The report asserts that there have been 3,643 incidents of attacks on education reported in 17 countries, with 90 reported cases of military use or occupation of schools in 11 countries, and a total of 4 parties to conflict included on the perpetrators’ ‘list of shame’.

Comparing the 2013 report with the one conducted in 2012 reveals that the number of incidents has more than doubled, with the number of children killed or injured also nearly doubling. However, it is important to

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136 GCPEA, *Education Under Attack*.
138 Martinez, *Attacks on Education*.
139 Coursen-Neff and Sheppard, *Schools as Battlegrounds*.
140 Ibid.
note that these figures “are likely to be underestimates of the real scale of the problem,”\textsuperscript{141} as only UN-verified allegations are included in the report.

C. Attacks on Schools and the Military Use of Schools: Understanding the Issue

Although oftentimes “attacks on schools may be classified or reported as collateral damage, or as a by-product of a highly intense conflict, they may occur as part of a strategy to undermine the positive impact of education.” Therefore, it is essential to understand the motivations behind the strategic use of schools in warfare in order to better comprehend the issue and identify patterns to inform prevention efforts. In concert, the HRW Report, the UNESCO report\textsuperscript{142}, the GCPEA Report, and the Save the Children report, all helped mobilize the issue to be placed higher on the international agenda as a subject worthy of targeted attention, ultimately jointly building a stronger case for better protection mechanisms for education systems. All four reports cite the following as possible motivations for state and non-state armed actors intentionally utilizing attacks on education as a tactical strategy of war:\textsuperscript{143} a) schools represent a significant symbol of the state, government structures and political ideologies (especially so in remote areas), and are therefore often targeted by anti-government groups; b) classrooms provide readily available pools of recruits that are particularly vulnerable and easily indoctrinated, either to be used as child soldiers, forced labor or for sexual exploitation; c) for the purpose of restricting academic freedom and teacher trade union activity; d) schools are “high-visibility ‘soft’ targets”\textsuperscript{144} that garner more media attention to an armed group’s plight; e) schools can be potent symbols of an oppressive or ineffectual state system\textsuperscript{145}; f) schools can be targeted for their promotion of liberal or ‘western’ ideology due to its curricular content or for the education of particular students (such as girls); g) schools often occupy

\textsuperscript{141} Martinez, Attacks on Education: 5
\textsuperscript{142} O’Malley, Education Under Attack.
\textsuperscript{143} GCPEA, Education under Attack; Coursen-Neff and Sheppard, Schools as Battlegrounds; O’Malley, Education Under Attack.
\textsuperscript{144} Coursen-Neff and Sheppard, Schools as Battlegrounds: 2.
\textsuperscript{145} This can be especially so in cases of frustrated unemployed youth bulges.
central locations with solid infrastructure and are equipped with valuable electrical and sanitation facilities.\textsuperscript{146}

To expand on some of the reasons listed above, non-state parties frequently use attacks on schools, students and teachers as a method of collective punishment for involvement with state-run institutions.\textsuperscript{147} This motive can extend to provide a rationale for attacks on the educational infrastructure, which is perceived as a tangible powerful symbol of state authority. Human Rights Watch explains that teachers, students and schools are perceived as ideal high-visibility “soft” targets, as they are easier to strike than government security forces and can attract greater media attention that allows the assailants’ political agendas to be heard by a wider audience.\textsuperscript{148}

Ineffective or failed state responses to opposition attacks, weaken the government’s local credibility, accountability and legitimacy, ultimately undermining civilian confidence in their government that prompts the search for alternatives. Particular curriculums crafted by the state to promote a particular ethnic, political or overtly ‘Western’ agenda may also elicit the targeting of schools by opposing forces in efforts to manipulate curricular content for indoctrination. Attacks on schools may also comprise part of a wider strategy to destabilize society or particular communities.\textsuperscript{149} Rape and other sexual or gender-based violence may occur alongside attacks on schools, which can have a significant and gendered impact on education, as girls may disproportionately resist attending school. Schools and classrooms can also become a pervasive site of child abduction and recruitment by armed forces for either sexual exploitation, forced marriage or the use of child soldiers.

D. An Ecological Approach: How Attacks on Education Impacts Children

Employing an ecological framework can provide a more comprehensive and holistic understanding of the myriad of ways that attacks on education can impact the affected child, and to better

\textsuperscript{146} This last factor is particularly central in the seizure of schools for military use.
\textsuperscript{147} UNESCO, The Hidden Crisis; Coursen-Neff & Sheppard, Schools as Battlegrounds.
\textsuperscript{148} Coursen-Neff & Sheppard, Schools as Battlegrounds.
\textsuperscript{149} UNESCO, The Hidden Crisis.
understand how their protection is undermined, both physically and psychosocially, at the individual, communal and national levels, both short-term and long-term. The severity of the effects on children is reflected in the statement of Vernor Munoz, the Special Rapporteur on the Right to Education, that “these attacks have a terrible physical effect\textsuperscript{150}, because they destroy human lives, buildings and spaces for safe learning…but they also have a symbolic effect that is devastating in itself,” adding that “attacks on educational institutions, students and teachers mean direct and brutal attacks on the human condition.”\textsuperscript{151}

At the individual level, students and teachers can suffer debilitating injuries (both mental and physical) due to the traumas they experienced. While individual children’s psychosocial reactions may vary, reactions can include replicating violence they experienced, the occurrence of traumatic nightmares, symbolic avoidance, agitated and aggressive behaviour, social isolation, and depression.\textsuperscript{152} In addition, individuals may experience a decreased likelihood to attend or enroll the following school year, and may even dropout of school altogether due to the difficulties they experience in harnessing adequate motivation and concentration, as well as feelings of hopelessness that impair their ability to succeed at educational achievements.\textsuperscript{153} Children may associate schools with unsafe spaces or sites of insecurity and violence, which can “create potent anxiety that there will be additional attacks and that no place is safe” and that no one, even their teachers and other adults, can protect them, creating a perception of the world as a dangerous place.\textsuperscript{154} Students targeted may also struggle with reintegrating back into school, a site of trauma, keeping up with their peers in terms of performance and retention, and making up grades and lost time. Lost educational opportunities has a profound effect on the individuals’ ability to fully achieve any of the promise or positive impacts that education offers, ultimately challenging the individual’s ability to

\textsuperscript{150} These physical effects can include: loss of life; injury; loss of places to learn; loss of learning materials, infrastructure, data, management information systems and equipment (O’Malley, Education Under Attack).
\textsuperscript{151} O’Malley, Education Under Attack: 95-96.
\textsuperscript{152} International Rescue Committee (IRC), Creating Healing Classrooms: Guide for Teachers and Teacher Educators (IRC, 2006), in Alexander et al., UNESCO, Protecting Education from Attack.
\textsuperscript{153} Coursen-Neff and Sheppard, Schools as Battlegrounds; O’Malley, Education Under Attack.
\textsuperscript{154} Alexander et al., in UNESCO, Protecting Education from Attack: .66.
break the intergenerational cycles of poverty and violence and be an active agent in fostering a sustainable livelihood for themselves and their family.

At the group or community level, school closure of one targeted school might prompt a “ripple effect”\textsuperscript{155} on schools in the region, resulting in massive school closure. This trend was observed in the most recent armed conflict in Nigeria, whereby direct targeting of schools for violent attacks in Borno state resulted in forced closure in nearly all neighbouring schools between February 2012 and June 2013, consequentially resulting in the suspension of educational attainment and the abandonment of progress for thousands of children.\textsuperscript{156} Similarly, Mogadishu experienced the closure of 144 schools spanning across five districts due to armed conflict since 2007, with ten schools physically occupied by armed forces.\textsuperscript{157}

As the Secretary-General Representative for Children and Armed Conflict observed, “the consequence is a growing fear among children to attend school, among teachers to give classes, and among parents to send their children to school.”\textsuperscript{158} School records and exam records can easily be lost or destroyed during the attacks and can make documentation for qualifications an added challenge.\textsuperscript{159} At the institutional level, education systems struggle to re-open schools of adequate quality due to infrastructural destruction, damage to tools and learning materials, as well as difficulty in recruiting qualified teachers.\textsuperscript{160} Physical attacks on teachers make the ever-present issue of shortage of qualified teachers an insurmountable challenge, as teachers are “essential actors in children’s learning, and role models.”\textsuperscript{161}

Finally, at the societal level, the state suffers long-term setbacks economically in terms of the financial cost in repairing the physical damage to educational infrastructure. In addition, the nation regresses developmentally in reaching key development indices and global aspirations, such as the

\textsuperscript{155} Coursen-Neff and Sheppard, Schools as Battlegrounds: 4.
\textsuperscript{156} Amnesty International. “Keep Away from Schools or We’ll Kill You: Right to Education Under Attack in Nigeria.” (2013).
\textsuperscript{157} UNESCO, The Hidden Crisis.
\textsuperscript{158} United Nations, as cited in UNESCO, The Hidden Crisis: 142.
\textsuperscript{159} GCPEA, Education Under Attack.
\textsuperscript{160} Coursen-Neff and Sheppard, Schools as Battlegrounds.
\textsuperscript{161} Martinez, Attacks on Education: 7
MDGs/SDGs and the EFA Goals. Attacks on schools may diminish children’s ability to enter adulthood literate and well trained for meaningful employment, which ultimately stunts national economic growth. When children are excluded from the education system (either due to fear or anxiety of repeated attacks), “he or she may not feel fully empowered to participate in community programmes or civil society.” which can compromise further democratic growth and national post-conflict recovery and reconstruction. Attacks on schools introduce major setbacks politically in hindering the emergence of civil society groups and political plurality, which consequentially challenges efforts to achieve an environment conducive to democracy and nation building.

Schools and hospitals are places intended to be off-limits during wartime, functioning as ‘safe havens’ that provide a protective shelter during conflict. Schools and hospitals are protected civilian areas under the fourth Geneva Convention, in which international humanitarian law characterizes an attack on these sites as war crimes or crimes against humanity. The Lucens Guidelines on the military use of schools, through clear elucidation of the scope and scale of the problem, demonstrates the need for inclusion in explicit domestic legislation.

F. Protecting Education from Attack: International Legal Frameworks

Protecting education from attack requires an amalgamation of several combined legal efforts: 1) at the local level, there’s a need to strengthen community-driven initiatives, such as local legal redress mechanisms and civil society groups’ involvement in advocacy and monitoring and reporting 2) at the national level, there’s a need for nationally-endorsed regulations, and 3) lastly, at the international level,

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163 This is especially so in cases of attacks on higher education. Attacks on universities bring innovation and research to an abrupt halt and serves to further silence through intimidation the important work of researchers and the voice of the broader academic community. This quote particularly resonates with this challenge: “When a scholar is killed or silenced, a lifetime of teaching and learning that could provide thousands of hours of education for hundreds of students, with all the benefits that provides for the community at large, is lost” (Henry G. Jarecki, 2009, in O’Malley: Education Under Attack: 104).
164 GCPEA, Education Under Attack; Coursen-Neff and Sheppard, Schools as Battlegrounds.
165 GCPEA, Education Under Attack.
with greater action required by the Security Council to ban the use of schools by armed forces and the UN to enforce international legal mechanisms, while providing supportive technical and financial resources.

As with any human rights violation, it is primarily the government’s responsibility to ensure attacks on schools and the military use of schools are criminalized through domestic legislation and military doctrine, that all attacks are impartially investigated, and perpetrators are duly prosecuted in court. Governments are also ultimately responsible for the adoption and implementation of various international conventions, declarations and guidelines such as the previously mentioned international human rights conventions, the Safe Schools Declaration and the Lucens Guidelines. However, typically in times of conflict, the state is either complexly interwoven with the perpetuation of human rights abuses or is severely weakened by the occurrence of conflict within its borders, therefore lacking the capacity or political will to intervene. In addition, oftentimes during conflict, local civil society groups are repressed and pushed underground, with their right to freedom of expression restricted and their opportunities for advocacy and action limited. As such, these challenges undermining local and national legal intervention leads us to turn to existing international legal mechanisms and how they can be used as frameworks for attacks on schools.

A variety of international legal instruments exist in the protection of human rights broadly, as well as specifically laws or articles within those instruments that directly relate to the protection of education

166 Martinez, Attacks on Education.
167 The Safe Schools Declaration is a recent initiative developed through intensive state consultations that occurred in the first half of 2015. The Declaration is a way for states to “express broad political support for the protection and continuation of education in armed conflict” and is an additional channel to publicly endorse and commit to realize the Lucens Guidelines. While the Safe Schools Declaration has been signed by 49 countries thus far, it is important to note that to date, the DRC has yet to endorse this Declaration. For more on the Declaration, which countries have endorsed it, and a copy of the Declaration, please see: http://www.protectingeducation.org/guidelines/support
168 The Lucens Guidelines provide concrete guidance on how to protect schools and universities by minimizing the adverse effects of conflict on education. The Guidelines are directed toward both state and non-state armed groups to ensure that they conduct military operations that are not infringing on the protection of civilians. For more information see the GCPEA’s website and PDF copy of the Guidelines found at: http://www.protectingeducation.org/draft-lucens-guidelines-protecting-schools-and-universities-military-use-during-armed-conflict
from attack. However, as there is no single clear-cut law being violated by attacks on schools, creative interpretation and analysis of multiple sources of international law is required to shed light on which laws can be drawn upon as viable strategies for ending impunity on this grave violation. An analysis of the spectrum of legal mechanisms can help elucidate the various opportunities for protection, and how to maximize the corresponding particular advantages of each instrument, while mitigating the disadvantages. Examining and detailing the variety of mechanisms that exist within the realm of international law (i.e. international human rights law (IHRL), customary international law (CIL), international humanitarian law (IHL), and international criminal law), each with varying degrees of perceived enforcement power, provides a more comprehensive scope of the existing legal basis as a foundation for concrete action. Ultimately, this can further assist children’s rights advocates to better inform their work in protecting children from such egregious breaches of fundamental human rights such as physical attacks on education, and put an end to impunity for these grave violations against children.

**i. International Human Rights Law (IHRL)**

Based on the promotion and protection of human dignity, international human rights law seeks to legally guarantee the human dignity in every sphere of life of every human being simply by virtue of being part of a shared human race. International Human Rights Law (IHRL) operates along the following key principles such that all human rights enshrined in the various Conventions and Covenants must be: universal, inalienable, indivisible, interdependent, interrelated, non-discriminatory, participatory, and inclusive. Within the human rights framework, states are the duty-bearers once a state ratifies a human rights convention, and its citizens are the rights-holders. Therefore, legal obligation is exclusively imposed on the state under IHRL, and thus only states can violate individual’s human rights as stipulated in human rights documents. The scope of IHRL covers both positive rights (i.e. action or investment that is required on behalf of the state to guarantee the right, for example, the right to education or the right to health) and negative rights (i.e. merely requiring for the state to abstain from interference, such as the right to life or the right to be free from torture), as well as civil, political, economic, social and cultural
rights. At the most basic level, the right to education and the right to life are the two internationally recognized legal protections under IHRL that are directly violated by attacks on schools include.

With the most rapid ratification rate of all human rights treaties, the CRC represents a massive normative shift and international commitment towards the protection of children’s rights. Specific articles that directly relate to attacks on education include: 1) Article 19(1) that mandates that “state parties must take measures to protect children from all forms of violence, injury or abuse;”169 2) Article 28 which broadly refers to the protection of a child’s right to education,170 and super note (e) more specifically relating to attacks on education by adding that states must take measures to encourage regular attendance and the reduction of drop-out rates; 3) Article 29 specifies on how education of the child should be administered, with notes (a) through (e) relevant to the protection of children from education used for indoctrination, as a site for recruitment or for the incitement of violence and hatred, instead urging that education be directed for the development of respect of human rights and fundamental freedoms171 and in the spirit of understanding, peace, tolerance and equality.172

Examining the CRC and how it can protect children from attacks on education through a more holistic lens reveals that the following articles indirectly relate to this phenomenon. 1) Article 3 refers to the “best interest of the child,” and is a principle that must be ensured in the implementation of education, its curriculum and the prohibition on military use of schools; 2) Article 24 protects the child’s right to the best possible health, which is severely restricted by physical injuries that may result from physical attacks

169 This is in fact a non-derogable right, meaning the right cannot be limited or removed altogether during a declared state of emergency, as is typical of armed conflict settings.
170 However, the Convention notes in supra note 1 that they hold a view of “achieving this right progressively,” which is reminiscent of debates being held on economic, social and cultural rights in the ICESCR, which also notes this same principle of progressive realization, suggesting that states are merely expected to undertake steps to achieve the full realization of the rights recognized in the Covenant progressively to the maximum extent of available resources. This is a clear weakness in both the ICESCR and the right to education in the CRC, as states can ultimately argue that do not have sufficient resources to implement this right. However, the Committee explicitly states that this should not be misinterpreted as remaining idle due to limited resources, but instead is a flexible means of imposing an obligation to reach that goal as expeditiously as possible, and must demonstrate constant efforts to implement and achieve those rights progressively.
172 Ibid.: Article 29(d))
on schools and the placement of mines around a school; 3) Article 32, pertaining to the right to protection from hazardous work and Article 34 on the right to protection from sexual exploitation and abuse are both violated by the act of using schools as a site of recruitment of children for armed forces (both as child soldiers and for forced sex or forced marriage); 4) Article 34 is similarly violated by the frequent attacks on girls and the sexual abuse they often experience on their way to schools; 5) Articles 13-17 relate to the child’s right to freedom of expression, thought, conscience and religion, as well as their right to information from a wide variety of sources, which is violated by attacks on education that are driven by the underlying motive to prevent Western, liberal or progressive education that support fundamental human rights. In a resolution adopted in 2004 on children in armed conflict, the UN Security Council among others “strongly condemned certain crimes involving children in armed conflict, including ‘attacks against schools and hospitals.’”

In addition, as part of resolution 2005/44 on the rights of the child adopted in 2005, the UN Commission on Human Rights urged “all parties to armed conflict to end … violations against children, including … attacks against schools.”

Although one could argue that several of the aforementioned rights that pertain to the protection of children from attacks on education can be derogated in times of declared states of emergency, the increasing prevalence of the protracted nature of conflict, as such in the DRC, undermines derogations as a justification for the ongoing lack of protection. Under the Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights, derogations refer to temporary limits placed on certain rights in situations of public emergency that threaten the life of the nation and are for the ultimate purpose of improving national security. Specifically, in order to derogate

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174 UN Commission on Human Rights, Resolution 2005/44. April 19 2005, voting record 52-1-0
175 Ibid.
176 These “public emergencies” may include, but are not limited to, the following: armed conflicts, civil and violent unrest, environmental and natural disasters (http://www.geneva-academy.ch/RULAC/derogation_from_human_rights_treaties_in_situations_of_emergency.php)
from human rights treaties, a state must meet the following criteria: 1) The public emergency meets a certain qualitative standard of severity that constitutes a threat to the life of a nation.178 2) A state must publicly and officially proclaim179 and notify180 that they are in a declared public emergency as a procedural guarantee and for the purpose of national and international supervision.181 3) Derogations are limited “to the extent strictly required by the exigencies of the situation”182 in order to be in line with the principle of proportionality. 4) Lastly, derogation measures must meet the principle of consistency, meaning the state must still remain in compliance with other obligations under international law, including customary international law.183 Ultimately, the interpretations of how derogations may be used is informed by the case law of treaty bodies and the interpretations adopted by the supervisory body of the treaty, the Human Rights Committee (HRC). However, among the list of non-derogable rights, the right to life figures prominently, and it should be noted that “derogations can never authorize acts of genocide or crimes against humanity.”184

ii. International Humanitarian Law (IHL)

International humanitarian law (IHL), which includes alternative terms such as the ‘law of war’ (i.e. *jus in bello* and *jus ad bellum*) and the ‘law of armed conflict,’ is a set of rules designed to regulate

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179 Proclamation is to prevent arbitrary and de facto derogation and as to not legitimate justifications for violations of human rights that occur after-the-fact.

180 Notification, compared to proclamation’s primary purpose being for national supervision, notification guarantees supervision by international bodies.


182 UN Human Rights Committee (HRC), CCPR General Comment No. 29: Article 4: Derogations during a State of Emergency, 31 August 2001, CCPR/C/21/Rev.1/Add.11.


184 General comment no.13 (d), in Ibid.
the conduct of armed conflict\textsuperscript{185} and limit the effects and methods of warfare\textsuperscript{186} used by combatants in order to maximally protect civilians\textsuperscript{187} and minimize human suffering.\textsuperscript{188} The premise of IHL is based on a combination of practicality and humanity, such that “practical reality requires us to accept that wars will occur, but our shared humanity demands that we put limits on how they are fought.”\textsuperscript{189} As an additional source of international law, IHL similarly follows Article 38 of the Statue of the International Court of Justice (ICJ) and is thus comprised of: treaties or conventions between states, customary international humanitarian law, case law and general principles of law. The codified treaty-based sources of IHL primarily include all four\textsuperscript{190} of the universally ratified Geneva Conventions (GC) of 1949, complemented by its Additional Protocols (AP) I and II of 1977\textsuperscript{191}, the Hague Conventions of 1899 and 1907, and the 1998 Rome Statute of the International Criminal Court (ICC).\textsuperscript{192} It is worth noting that several of the provisions in the various treaties have achieved customary law status,\textsuperscript{193} and are therefore legally binding on all parties (both state and non-state) to a conflict. The rules enshrined in the various sources of IHL provide protection to civilians in both international and non-international\textsuperscript{194} armed conflict, and those

\textsuperscript{185} IHL covers both international and non-international armed conflict, as well as those of a mixed nature.

\textsuperscript{186} IHL places restrictions on the means of warfare, mostly on the use of particular weapons (e.g. chemical and biological weapons, exploding bullets, anti-personnel mines) but also military tactics (e.g. pillage, starvation, perfidy), that cause “superfluous injury or unnecessary suffering” (International Committee of the Red Cross, Advisory Service on International Humanitarian Law: What is International Humanitarian Law? (2014): 3)

\textsuperscript{187} The term civilians is used in this paper to describe people that are not actively involved or participating, or are no longer involved, in hostilities. Other terms that I will use interchangeably with civilians, but defined in the same way include non-combatants and protected persons.

\textsuperscript{188} ICRC, What is International Humanitarian Law?

\textsuperscript{189} Planning and Programming Directorate, Office of Her Highness Sheikha Mozah Bint Nasser Al-Missned in UNESCO, Protecting Education from Attack: 149.

\textsuperscript{190} Geneva Convention (GC) I covers the wounded and sick in armed forces in the field; GCII protects the wounded and sick and shipwrecked members of the armed forces at sea; GC III relates to prisoners of war; and GC IV protects civilians (e.g. IDPs, women, children, refugees, stateless persons, journalists), including civilians in occupied territories.

\textsuperscript{191} Additional Protocol (AP) I corresponds to the protection of victims of international armed conflict and AP II relates to the protection of victims in non-international armed conflict.

\textsuperscript{192} For a complete list of all Conventions included, please see ICRC’s What is IHL: 2.

\textsuperscript{193} The Nuremberg War Trials mark a significant exploration of the this issue.

\textsuperscript{194} Although a discussion of the differences between international and non-international armed conflict is significant, it is beyond the scope of this paper as it is couched in larger debates over the ambiguity in distinction between the two normative frameworks.
protected are “entitled to respect for their lives, their dignity, and their physical and mental integrity. They are also afforded various legal guarantees; they must be protected and treated humanely in all circumstances, with no adverse distinction.”

Reflecting the changing nature of war and the increasing protection of civilians in conflict settings, IHL governs the conduct of armed conflict along three core principles, with the violation of any of the core principles amounting to a war crime: distinction, proportionality, and precaution. The principle of distinction, deemed one of the “cardinal principles” of IHL, is particularly relevant in the discussion of attacks on education, as the principle demands that all parties to an armed conflict actively distinguish between civilians/civilian objects and combatants/military objectives at all times, such that attacks must only be directed at the latter, while wholly prohibiting indiscriminate attacks. By virtue of the principle of distinction, it is forbidden to directly target attacks towards students, educators or educational facilities due to their status as civilians/civilian objects. AP I, Article 52(3) states that “in case of doubt whether an object which is normally dedicated to civilian purposes, such as a place of worship, a house or other dwelling or a school, is being used to make an effective contribution to military action, it shall be presumed not to be so used.” Therefore, the deliberate targeting of schools, a civilian object, can amount to a significant breach of IHL as well as a violation of customary law. Additionally, there is special emphasis on this distinction in attacks on schools by parties to an armed conflict in the Fourth Geneva Convention.

Article 50 of the same Convention specifically mandates an Occupying Power to

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195 ICRC, What is IHL: 3.
196 This will be further discussed below in the sub-section on international criminal law.
198 International Committee for the Red Cross (ICRC), Protocol I, articles 48, 51(2), and 52; ICRC, Protocol II, art. 13.
199 ICRC, Protocol I, art. 52(3); ICRC, Protocol II art. 9-11, and 18.
201 GC IV Art. 11, 18; AP I Art. 48.
take all necessary steps to support institutions devoted to both the care and the education of children.\textsuperscript{202} Articles 24, 94 and 108 all mention the importance of upholding education during armed conflict and under occupation and specifically states that education be facilitated under all circumstances.\textsuperscript{203} The principle of precaution also relates to the protection of civilian children from attacks on education by mandating that all parties to an armed conflict take deliberate and specific precautions to guarantee that the targets are truly combatants.\textsuperscript{204}

However, it is important to note that a single exception is made to these principles, where it is stated that civilian objects must be protected “unless and for such time as they are military targets;”\textsuperscript{205} put simply, schools that are being used for military purposes transforms schools from a civilian object to a legitimate military objective under international law,\textsuperscript{206} thus serving as a significant way of circumventing legal repercussions for attacks on schools, which may provide a possible explanation for why the military use of schools has increased as a strategic method of warfare. However, Save the Children notes that “while international law contains no general ban on the use of school buildings for military purposes, it does prohibit armed forces and armed groups using them at the same time as they are being used by students and teachers for education purposes.”\textsuperscript{207} Ultimately, determining whether civilian objects may be transformed into military objectives is based on the principle of ‘military necessity,’ with general corollary duties imposed\textsuperscript{208} in order to try and minimize armed groups “stretching necessity into convenience.”\textsuperscript{209} Despite this weakness in the principle of distinction, even when schools are deemed a ‘lawful target’ as a military objective, the principle of proportionality must be maintained such that it

\begin{itemize}
  \item \textsuperscript{202} GC IV Art. 50.
  \item \textsuperscript{203} GC IV Art. 24, 94, 108.
  \item \textsuperscript{204} ICRC, What is IHL?; International Committee for the Red Cross (ICRC), The Law of Armed Conflict: Basic Knowledge. (2002).
  \item \textsuperscript{205} Geneva IV, Art. 147; AP I, Art. 85; ICRC, Customary Rule 10-13; AP I, Art. 52 in ICRC, The Law of Armed Conflict.
  \item \textsuperscript{206} ICRC, \textit{Protocol I}, art. 52.
  \item \textsuperscript{207} Martinez, Attacks on Education: 10.
  \item \textsuperscript{208} For the specifics on these duties, see ICRC Protocol I articles 51(1) and 58(c).
  \item \textsuperscript{209} Planning and Programming Directorate, Office of Her Highness Sheikha Mozah Bint Nasser Al-Missned in UNESCO, Protecting Education from Attack: 154.
\end{itemize}
would be considered a war crime to attack it if it might cause an unreasonable, or disproportionate, amount of collateral damage to civilians and civilian objects. However, there is no objective test to measure whether an attack would be ‘unreasonable,’ but rather this is a subjective judgment;\(^{210}\) “what is a reasonable trade-off between competing interests: this much civilian death and destruction is a reasonable price to achieve this much of a military advantage,”\(^{211}\) such a judgement is highly susceptible to bias when determined by the commander of an armed group. An additional legal gap with regard to determining the reasonableness of collateral damage is the failure to appreciate that collateral damage extends beyond the material value of the loss of the physical building or the loss of individual lives. Disruption of education similarly constitutes a grave loss to civilians; as highlighted above, there is are significant long-term and cumulative effects of attacks on schools, as well as an essential link between education and protection, education and the attainment of other rights and freedoms, and must be considered under the rule of collateral damage.\(^{212}\)

Another critical legal flaw worth highlighting is the gap in the rule of distinction in Protocol II, concerning non-international conflicts, which only applies to a selected few civilian objects and does not include educational institutions.\(^{213}\) However, this gap is taken up in customary international humanitarian law in Rule 7,\(^{214}\) which in Section D,\(^{215}\) entitled *Attacks against places of civilian concentration, including schools*, specifically pertains to protections of this phenomenon and lists the various treaties, military manuals, national legislation and other national practices that apply. Rule 7D mentions the statement in the 2000 Optional Protocol on the Involvement of Children in Armed Conflict which explicitly condemns “the targeting of children in situations of armed conflict and direct attacks on objects protected under international law, including places generally having a significant presence of children, such as schools

\(^{210}\) Also referred to as the ‘reasonableness or fair balance test.’

\(^{211}\) UNESCO, Protecting Education from Attack: 156.

\(^{212}\) Ibid.

\(^{213}\) ICRC, Protocol II, Arts. 15 and 16.

\(^{214}\) Henckaerts and Doswald-Beck, Customary International Humanitarian Law: 25-29 (Rule 7).

and hospitals.”216 In addition, if a student or teacher takes on an active role in the hostilities, they no longer maintain their protected status as a civilian as long as they are participating in the hostilities; worryingly, this includes children who have been forced into participation.217

In examining case law, using the DRC as an example, the Kahwa Panga Mandro case held by the Military Garrison Court of Ituri at Bunia discussed the war crime of attacks against protected civilian objects and the crime against humanity of murder; the court ruled that the perpetrator had indeed intended such buildings, including the primary school of Zumbe and the school Buisa Bunyi, which had not been military objectives to be the object of attack.218 Therefore, the court “holds as established in fact and in law the offence of war crime by attack directed against protected objects the defendant Kahwa Panga Mandro is charged with and for this convicts him to 20 years of penal servitude.”219 In addition, in the case of Armed Activities on the Territory of the Congo case (DRC v. Uganda) in 2005, the ICJ judged there was sufficient evidence of adequate quality to support the DRC’s allegation that the Uganda Peoples’ Defence Forces “failed to protect the civilian population and to distinguish between combatants and non-combatants in the course of fighting against other troops” where 69 schools were shelled (among other hostilities aimed at civilians).220 This case indicates the DRC’s position that it is unlawful to attack schools, and can therefore be used to further advocate or apply pressure on the DRC to push for the prosecution of violators within its own borders.

A significant weakness in IHL is that, similar to IHRL, ultimately states are the ones responsible for implementing IHL (Article 1 in all four Geneva Conventions). States are required to ensure full compliance with IHL and take action against, or implement laws to punish, those that violate IHL, and are also responsible for ensuring those participating in armed forces are educated on the rules of conduct.

217 ICRC, Protocol I, art. 51(3); ICRC, Protocol II, art. 4(1).
218 ICRC. Customary IHL Database; https://www.icrc.org/customary-ihl/eng/docs/v2_rul_rule7
219 On national practices relating to Rule 38: Attacks against cultural property (which by definition includes schools), please see: https://www.icrc.org/customary-ihl/eng/docs/v2_rul_rule38
However, states are often parties to an armed conflict, either directly or indirectly, and therefore this may limit effective implementation and compliance. Some forms of implementation exist at the international level, such as the protecting power system, which is the option of resorting to an equity procedure, the International Humanitarian Fact-Finding Commission (Article 90 of Additional Protocol I).\textsuperscript{221} Lastly, the ICC is empowered with jurisdiction to prosecute the most egregious violations of IHL, including war crimes, however, as in line with the principle of complementarity, the ICC only has jurisdiction when a state is ‘genuinely’\textsuperscript{222} unable or unwilling to prosecute war criminals in its jurisdiction. In *Six Grave Violations: A Legal Foundation*, it was noted that “the Rome Statute extends the criminal accountability for these acts (or “failures to protect”), providing the ICC explicit jurisdiction to prosecute and punish those that intentionally target schools or hospitals during armed conflict.”\textsuperscript{223} In addition to the ICC, international tribunals (as was done in the former Yugoslavia and in Rwanda) or hybrid courts may also be established to prosecute crimes committed during armed conflict.

Although there is significant overlap between IHRL and IHL, these two sources of international law have emerged separately under different conditions and different contexts, with differing scopes in applicability, treaty codification, and are subject to different mechanisms for compliance.\textsuperscript{224} However, some might argue that the two concurrent branches produces further fragmentation within international law.\textsuperscript{225} Alternatively, due to their differences, yet overlapping interests, utilizing the two complementing sources can provide a more holistic legal foundation for addressing the grave violation of attacks on education.

iii. International Criminal Law

\textsuperscript{221} ICRC, *What is IHL?*
\textsuperscript{222} Naturally, there is a lot of debate over what ‘genuinely’ unable or unwilling actually entails, how it is defined and who defines it.
\textsuperscript{224} ICRC, *What is IHL?*
The Rome Statute\textsuperscript{226} is a central tenet of international criminal law and effectively created the International Criminal Court (ICC), which authorized its jurisdiction in the investigation and charging of four categories of international crimes: Genocide, crimes against humanity, crime of aggression and lastly, concerning attacks on schools, war crimes. The Rome Statute was established in 1998 but only came into effect in 2002. Violations of any of the core principles of IHL (i.e. distinction, proportionality, precaution) constitute a war crime.\textsuperscript{227} The Rome Statute was designed to globally protect individuals from the most egregious and extreme forms of international law violations. Article 8(1) of the Rome Statute stipulates that the ability to charge and prosecute perpetrators of ‘grave breaches’ of international criminal law is only applicable in armed conflict settings whereby the crime is a component of a larger ‘plan or policy’ or committed on an exceptionally large-scale.\textsuperscript{228} In addition, only \textit{individuals} (as opposed to group entities) can be charged and prosecuted under the Rome Statute, with a tendency to focus on individual members or leaders of both state and non-state military/armed groups that are relatively well-structured, with a clear chain of command, in order to charge an individual who is maximally responsible for the grave decisions made.

While previously designated an individual state responsibility to implement and punish perpetrators of the four international crimes, this proved to be insufficient and has since evolved to states collectively using treaty-law “to assert the right to create a supra-national entity with the powers to enforce ‘international criminal law’ in ways that are analogous to national enforcement of criminal laws.”\textsuperscript{229} As part of the creation of the Rome Statute, the ICC, and the Office of the Prosecutor are granted the ancillary powers to investigate and charge individuals accused of an international crime. However,

\textsuperscript{228} Ibid.
\textsuperscript{229} Planning and Programming Directorate, Office of Her Highness Sheikha Mozah Bint Nasser Al-Missned in UNESCO Protecting Education from Attack: 162.
state parties to the Statute “have collective authority over the execution of the treaty, and the International Court of Justice can determine certain disputes that might arise under the treaty.”

Actions that often occur with attacks on schools which constitute an international crime under the Rome Statute are as follows:\textsuperscript{231} 1) deliberately targeting civilians, including students and educators, 2) deliberately targeting civilian objects, including schools\textsuperscript{232} and their use for military purposes while civilians are present, 3) using students and teachers as human shields, including the presence of civilians in the military occupation of schools and preventing civilians from leaving a school occupied by armed groups, and 4) in international armed conflicts, causing disproportionate (i.e. excessive relative to the expected military advantage) collateral harm to students and teachers or excessive damage to schools and other educational facilities. It is important to note that a critical gap in the Statute exists, such that disproportionate collateral damage is not a war crime that is within the jurisdiction of the ICC in non-international armed conflict settings.\textsuperscript{233}

Therefore, the targeting of schools, students and teachers by both state and non-state actors are considered war crimes under international criminal law, with the ICC specially designated with the authority to enforce these laws and prosecute when they are violated. These powers are a major innovation in international law, “because of its powerful potential for bringing the worst perpetrators to account and thus deterring other potential war criminals,” ultimately serving as a “special kind of

\textsuperscript{230} Ibid.
\textsuperscript{231} For a concise summary of which international laws are violated with attacks on schools, please see the following component of the GCPEA website: http://protectingeducation.org/what-international-laws-are-violated
\textsuperscript{232} In fact, the targeting of a building dedicated to education is specifically mentioned in Article 8(2)(b)(ix) of the Rome Statute for international armed conflict and Article 8(2)(e)(iv) for non-international armed conflict.
\textsuperscript{233} Interestingly, is important to note that a critical gap in the Statute exists, such that disproportionate collateral damage is not a war crime that is within the jurisdiction of the ICC in non-international armed conflict settings. However, it would still be considered a violation of customary international humanitarian law (rule 18). For more on the rules of customary international humanitarian law, please see Henckaerts et al. Customary international humanitarian law.
accountability mechanism” for the enforcement of international crimes such as attacks on schools.\textsuperscript{234} Yet, this ‘special accountability mechanism’ can only be used as a ‘back-up’ if a state with jurisdiction over the case is either unable or unwilling to investigate, charge or indict an individual.\textsuperscript{235}

\textbf{iv. Customary International Law (CIL)}

As was alluded to above in IHL, customary international law (CIL) is often turned to as a means of filling the ‘ratification gap,’ as it does not require a state’s ratification to be in effect. Customary international law represents genuinely universal norms (i.e. jus cogens\textsuperscript{236} or a peremptory norm) thought to be connected with principles of natural law, and are legally binding on all nations, regardless of its status as a signatory or ratified state party of any treaty or whether it has been codified domestically as it does not require formal sovereign consent. Customary law, as stipulated in Article 38(1)(b) of the ICJ,\textsuperscript{237} in order to be universally legally binding must meet both the criteria of the objective element of settled state practice and the subjective element of \textit{opinio juris}. Put simply, it must be demonstrated that states have consistently behaved in a way that supports the principle under question and states feel a strong sense of legal obligation to follow the particular custom.\textsuperscript{238}

Several human rights and humanitarian principles, such the prohibition of the recruitment of child soldiers, fall under customary law, and is often considered a primary source of international law.\textsuperscript{239}

Specific to attacks on education, “the two basic rules for protecting education systems—no targeting of civilians or civilian objects, and no excessive collateral damage—are among the most firmly established

\textsuperscript{234} Planning and Programming Directorate, Office of Her Highness Sheikha Mozah Bint Nasser Al-Missned in UNESCO Protecting Education from Attack: 163.
\textsuperscript{235} Ibid.
\textsuperscript{236} Jus cogens, literally translating into “compelling law” represents a peremptory norm include the following: prohibition of genocide, piracy, slavery and the slave trade, torture, non-refoulement, wars of aggression and territorial aggrandizement (Bassiouni, M. Cherif. "International Crimes:" Jus Cogens" and" Obligatio Erga Omnes". Law and Contemporary Problems 59.4 (1996): 68)
\textsuperscript{237} ICJ Statue Article 38(1)(b) describes international custom as “evidence of a general practice accepted as law.”
\textsuperscript{238} Cornell University Law School: Legal Information Institute. Opinio juris (international law). https://www.law.cornell.edu/wex/opinio_juris_international_law
\textsuperscript{239} For a particularly compelling and landmark case on customary law in the United States, see the 1980 Filártiga case (Filártiga v. Peña-Irala, 630 F.2d 876).
customary norms,”

guaranteeing legal protection for schools from attack, regardless of whether the
armed conflict is defined as international or non-international, whether the violence meets the three
threshold tests to be classified as armed conflict, and as well as the other gaps in Protocol II as
highlighted above. According to Henckaerts and Doswald-Becks’ detailed description of customary
international humanitarian law, schools are considered civilian areas according to state practice. It is also
worth noting that “deliberately targeting schools or hospitals in the absence of military necessity is
prohibited under the general legal principle that civilian objects must be distinguished from legitimate
military objectives and protected against the consequences of military operations. This is a customary
norm of international law, applicable in all conflict situations.”

Derogation or violation of these norms are never to be permitted by any state at any time, thereby granting customary international law slightly more ‘hard’ law status than IHRL despite the fact
that CIL is not codified into a specific treaty as compared to IHRL. Article 53 of the Vienna
Convention on the Law of Treaties states that: “A treaty is void if, at the time of its conclusion, it conflicts
with a peremptory norm of general international law.” Although the Vienna Convention does not
include a detailed list or catalogue of the peremptory norms it protects, violations have been understood to

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240 UNESCO, Protecting Education from Attack: 159.
241 This is due to the fact that several protections under international humanitarian law are not similarly
covered in Protocol II (as highlighted above).
242 The three threshold tests are as follows: 1) that the level of violence is sufficient to be labelled an
armed conflict 2) that the parties to the conflict are organized and control a set area and 3) that the
perpetrators of violence are a party to an armed conflict.
243 For example, the targeting of civilian objects is not specifically prohibited and Protocol II does not
forbid disproportionate collateral damage to civilians/civilian objects.
244 Office of the UN Special Representative of the Secretary General for Children and Armed Conflict,
The Six Grave Violations Against Children During Armed Conflict: The Legal Foundation (Working
245 For more detailed information on this non-derogable status, see: Prosecutor v. Furundzija,
International Criminal Tribunal for the Former Yugoslavia, 2002, 121 International Law Reports 213
(2002) as well as the work of the Permanent Court of International Justice in the 1923 Wimbledon case.
246 D’Amato, Anthony. "Human Rights as Part of Customary International Law: A Plea for Change of
constitute: crimes against humanity, war crimes, wars of aggression, piracy, genocide, apartheid, slavery and torture.\textsuperscript{248}

Specifically applying customary international law to the case of attacks on education, the general legal principle of distinction, whereby civilian objects are obliged to be distinguished from military objectives as well as protected from the adverse impacts of military operations, constitutes a customary norm of international law.\textsuperscript{249} Therefore, deliberate attacks on schools or the intentional targeting of schools for military operations (either by state or non-state actors) amounts to a breach of customary international law. In addition, the use of child soldiers is another norm prohibited under customary international law, and therefore using schools as a site to recruit child soldiers constitutes a breach of CIL. It has also been put forth by Beiter that the right to education has acquired the status of customary international law, which is clearly a right that is violated by attacks on schools and students.\textsuperscript{250}

A clear criticism of this source of international law arises out of questions on how the peremptory norms are established, who establishes them and its lack of state consent which infringes on state sovereignty. However, a counterargument to concerns of state sovereignty might stress that despite its universal application and non-derogable nature, states still ultimately reserve the right to interpret peremptory norms, which is problematic in its use as a strategy for ending impunity for attacks on schools.

\textsuperscript{248} Despite the lack of clarity or clearly marked list serves as a limitation on precision, a major strength of this strategy is not taking an overly static approach and instead reflects constantly evolving social and political attitudes of the international community. Although there is no exhaustive list provided in the Vienna Convention, an understanding of what it might constitute arises out of case law.

\textsuperscript{249} AP I Art. 48, 52; ICRC, Customary International Humanitarian Law Vol. 1: Rules, Cambridge University Press (2005): 25 (Customary Rule 7); AP I art. 48, 52; AP II art. 13(1).

Chapter 2: Methodology

A. Methods:

The research project began in January 2015 with regular consultations with various key experts in child protection, education in emergencies, human rights, and qualitative research. Key informants provided expertise in this topic area in order to: 1) gain a better understanding of current pressing issues in the field that demand further research and scholarly attention; 2) more narrowly define the project’s research questions and scope, and finally; 3) identify appropriate methodologies for the study. These consultations and exchanges took place in many forms, including informal conversations, meetings, email exchanges, Skype conferences, and individual appointments with specialist librarians. Concurrently, this was complemented by literature reviews to better identify the knowledge gap in existing scholarly literature, and identify key secondary sources to be included in this study’s review. Literature was selected to be reviewed and included in this study if it touched upon the following areas: the impact of armed conflict on children, education in emergencies, attacks on schools, the MRM, evaluations of the MRM at both global and national levels, the Security Council and its thematic focus on children and armed conflict, and Security Council Resolution 1612.

This research study employed mixed methods, combining both field research and a review of secondary sources on the topic area. Literature included both peer-reviewed scholarly literature as well as grey literature produced by INGOs and global networks. Field work took place over a course of approximately two weeks in Kinshasa, DRC from late August until early September 2015. The purpose of field research was to gain a better understanding of the various challenges on-the-ground in implementing the MRM at the national level in the DRC, with a specific focus on its impact on the grave violation of attacks on schools. Details on the specific methodology employed in the field, including a description of the study sample’s participants, procedures, objectives, and analytic approach is provided below.
i. Sample:

Interview participants were first identified through the literature review, which revealed key informants working on and knowledgeable of the issue at hand. Initially, participants were selected on the basis of their involvement in the MRM country-level Task Force (CTFMR) in the DRC, however when it was discovered that involvement in the MRM proved to be minimal, interviewees were additionally selected based on their involvement in monitoring, reporting, documenting and responding to violations of children’s rights and their protection in conflict settings. Participants were then sent a letter on the purpose of the research project and the researcher’s interest in interviewing a representative from their organization knowledgeable on the research topic with the intent of setting up an appointment once in the field. Once in the field, participants were recruited using snowball sampling, beginning with the headquarter offices of the two official Co-Chairs of the DRC’s CTFMR: MONUSCO251 (The United Nations Organization Stabilization Mission in the Democratic Republic of the Congo or “Mission de l’Organisation des Nations Unies pour la stabilisation en République Démocratique du Congo”) and UNICEF. These two key informants then suggested other organizations that might have knowledge of the MRM, as well as NGOs they work in partnership with for children’s rights and child protection in the DRC generally.

In sum, twelve participants were included in this study who represented a range of organizations and agencies, including the following: Multinationals or UN bodies (UNICEF, MONUSCO, including both the Joint Human Rights Office and Child Protection Advisors), international NGOs (Save the Children, World Vision), and local NGOs (Soprop, Ordre des Avocats, Afia Mama). When possible, multiple participants were included from the same organization to reflect a greater diversity of

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251 It should be noted that prior to 2010, MONUSCO was formerly known as MONUC (Mission de l’Organisation des Nations Unies en République démocratique du Congo). The name change was to represent a new phase in the DRC. The peacekeeping force was established in the DRC in 1999 with Security Council Resolution 1279 as well as Resolution 1291 (2000) in response to the Second Congo War. However, since, MONUSCO has been engaged in monitoring the peace and stabilization process of the Ituri Conflict, the Kivu Conflict and the Dongo Conflict. For more on MONUSCO, please see: http://www.un.org/en/peacekeeping/missions/monusco/
perspectives and experiences that may vary among different positions within an organization. However, it is important to note that many organizations were small in size and understaffed, making maximal representation and diversity a challenge. Exclusion criteria included organizations that were not geographically based in Kinshasa, those that had staff that did not speak French or English, groups affiliated with the government (such as the various Ministries), individuals from organizations that were not available during the duration of my field visit, and minors under the age of 18.

ii. Procedure:

Participants were informed about the nature and purpose of the research prior to obtaining their verbal consent for their involvement in the research project. Participants were consulted on whether or not they were comfortable being audio-recorded and were recorded only if and when consent was given. Consent was not provided for 3 informants (the two UNICEF staff due to their organization’s policies, and the Canadian donor government due to the prohibition of bringing electronic devices into the embassy). Interviews were conducted in informants’ language of preference, either French (N=5) and English (N=7). It should be noted that limitations exist regarding language, as although the researcher is functionally bilingual in English and French, French is not the researcher’s mother tongue and all prior research, including the literature review, on the topic had been conducted in English. Detailed notes were recorded by hand during the interviews, and interviewer reflections were noted following the interview. After completion of the interview, audio recordings were transcribed verbatim, with French transcriptions subsequently translated into English to facilitate thematic analysis in one language. This is an important potential linguistic limitation, as it is possible that expressions do not readily translate into English and some details could have potentially been lost in translation.

Interviews were conducted on site in the organization’s office space, which were sometimes private spaces, but at other times shared with other staff. Interviews took approximately 30 minutes to one hour to complete, with one exceptional interview spanning the length of an hour and a half. At times, informal discussion continued after interviews were completed, however some of the information gathered during this informal conversation proved to be illuminating and was subsequently noted, coded
and included in the results. When informants were not available at the time I was in Kinshasa (UNHCR and OCHA), interview guides were left behind for the individual to complete on their own time to be submitted to the researcher electronically (0% response rate) or in cases where informants were temporarily based in Goma (MONUSCO Child Protection Advisors), were to be completed by phone after my return to New York City. One of these informants’ interviews was completed and returned in time to be included for data analysis, however, the latter was not returned in time but was used to help inform the interpretation of the findings.

The primary instrument used was an interview guide (See Annexe for an English and French copy of the Interview Guide) formulated prior to arrival and influenced by a preliminary literature review to structure questions. Questions were developed in reference to the initial research questions. There were some minor modifications made to the interview questions for those with minimal involvement in the MRM Taskforce, as research proved that not many are formally or actively involved in the MRM. Interview guides consisted of nine semi-structured open-ended questions, with follow-up questions added for further clarification as needed, depending on the flow of conversation. Interview guides were produced in both English and French, initially written in English and then translated into French. When preferred, informants received an electronic copy of the interview guide upon request prior to the interview appointment. One of the nine questions (i.e. challenges) was initially posed open-ended but was accompanied by a list to use as a prompt if needed. When informants preferred, they were given a copy of the interview guide to use as a visual guide to follow along with the questioning. However, it is important to note that this could have possibly shaped their responses or even limited their responses to the challenges that were listed.

In addition to primary data collection through interviews, a review of available data through secondary sources recording attacks on schools in the East of the country was conducted as a complement to field research. An inclusion of a review of these studies (including the recent results of the MRM in the DRC, International NGO reports, and a community-based initiative piloted by research partners) is incorporated in an effort to demonstrate the scale and scope of attacks on schools in the DRC and to
contrast divergent approaches to monitoring and reporting the phenomenon.

iii. Study Objectives:

There were three primary objectives to this research study:

1. To review existing literature, both scholarly and grey literature, on the topic of the UN Security Council’s Agenda on Children and Armed Conflict and the MRM, as well as attacks on schools in the DRC. A particular goal of this review was to highlight the divergent reporting strategies by comparing reports produced by UN bodies and those that engaged community groups.

2. To describe the findings of this research study, which aimed to investigate the implementation of the MRM at the national level in the DRC.

3. To summarize key recommendations, as articulated by field research participants.

iv. Content Analysis:

Primary data collected through field research (i.e. interview transcriptions) were analyzed using Nvivo to generate key themes, patterns, as well as matrices. Matrices can be produced by Nvivo software in order to examine relationships or intersections between variables, themes, or characteristics. For example, a matrix was generated to examine which themes were most emphasized by different organization types. Additionally, a matrix was generated to determine which themes intersected most with the theme of ‘challenges,’ so as to produce a ranked list of major obstacles. Nvivo is a Computer-Aided Qualitative Data Analysis Software (CAQDAS) package produced by QSR International. Nvivo is used to facilitate organizing, classifying, sorting, arranging and coding text-based unstructured qualitative data, such as interview transcriptions, in order to examine relationships and emerging themes. Nvivo can be used to identify trends, quantify qualitative findings, and produce visual summaries of data using models, word mapping, graphs and tables using a number of query functions in order to be used as a body of evidence to answer research questions.

Prior to the use of Nvivo for qualitative analysis, interview transcriptions were translated into English for uniformity and for simplification, as data is being reporting in English. Therefore, it is important to note that many quotations included in the proceeding results section were translations, and
therefore some subtle nuances may have been lost in translation. For the purposes of this research project, Nvivo was used to code interview transcriptions to explore emerging themes and patterns, and matrices. Nvivo was also used to produce visual summaries of data and of queries conducted using the software. Nvivo was also used to conduct a word frequency analysis, as this is particularly advantageous in ranking challenges or most salient themes and then comparing these across informants and their respective organizations. The word cloud presented on the cover page of this study was similarly produced using a word frequency query on Nvivo. Lastly, content analysis using Nvivo was used to extract all recommendations made by informants, which were then summarized and included as part of Objective III of the Results.

B. Limitations and Biases:

i. Limitations

All research is inherently flawed and biased. A number of potential limitations may have restricted the scope of the research project and its results. There were three key limitations: Geographic, demographic and linguistic. The geographical expansiveness of the DRC and the exclusive focus on Kinshasa, the capital city, may have limited the ability to meet with all possible key informants. Specifically, several organization representatives were in Goma or Bukavu (sites of recurrent violence) conducting work on the ground during the in-country duration of the study. To counteract this limitation, two highly knowledgeable informants were pursued electronically after field research was conducted and were asked to complete the interview guide in writing so as to gain insight from their experiences. Demographic limitations included the exclusion of children, as it was felt that the topic area could be traumatic and potential cause harm to the child’s mental health. Lastly, while the researcher is bilingual (English-French), French was not the mother tongue of the researcher and therefore this could have impacted the results.

ii. Biases:

Biases may have influenced the prism through which interviews were understood by the researcher as well as the lens through which participants responded to interview questions. Specifically,
the interviewer was a Western, Caucasian unmarried female with a higher education in human rights. As sexual violence against women is a central focus of programming and a widespread phenomenon that regularly occurs in the DRC (and frequently came up in interview), being female may have influenced the way participants (particularly males) responded and whether or not certain details were withheld. As the DRC has been experiencing a very long, protracted conflict that was exacerbated by its particularly brutal and extractive colonial legacy, it is possible that local informants had some skepticism regarding a Western Caucasian researcher seeking information from them. Being single (i.e. unmarried) is another potential source of bias, as one participant (who was unmarried herself and has experienced discrimination on the basis of her marital status) explained that due to the patriarchal culture that is firmly rooted in the DRC, unmarried women do not receive the same degree of respect; in her words, “we are in the culture [where] for a woman to be respected, she needs to be married.”

Having a higher education, and in particular, having an education in human rights could have influenced the way questions were framed, phrased or worded, with heavy emphasis on rights-based language, which could have been perceived as a threat to participants (i.e. that the researcher was investigating the human rights violations in their neighbourhood and potentially ‘naming and shaming’ their organization or their nation). In addition, having a higher education could have also shaped the way the phenomenon of attacks on education were perceived by the researcher.
Chapter 3: Results

A. Objective I: Literature Review

I. Security Council Resolution 1612 and the MRM

A) The Security Council and the Office of the Special Representative of the Secretary-General’s Thematic Focus on Children and Armed Conflict: An Evolution

As “the only truly global decision-making forum with the power and means to enshrine the protection of children into [an] internationally accepted and enforceable doctrine,” the UN Security Council (UNSC), charged with protecting civilians, international peace and security as its central mandate, is a central starting point in examining the evolution of the UN’s children and armed conflict agenda. The Security Council’s involvement, albeit quite limited at the time, on children in armed conflict settings arguably dates back to the 1990s with its work on the situation in Liberia, followed by Sierra Leone, with this topic beginning to feature into some of its presidential statements soon there-after. The thematic focus of the Security Council on protecting children in conflict settings was a natural progression from the UN’s renewed efforts on the protection of civilians that resulted from the changing nature of war from inter-state to intra-state conflicts. The prioritization of children in conflict settings was similarly enhanced by achievements in international law, such as the adoption of the Convention on the

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Shortly following the appointment of Graça Machel and her independent study on the impact of armed conflict on children published in 1996 that shed light on the particular vulnerabilities of children, the Office of the Special Representative of the Secretary-General for Children and Armed Conflict (OSRSG-CAAC) was established and became responsible for producing annual reports on the situation of children in conflict settings to the Secretary-General and the UNSC. These steps, dovetailed with the Security Council’s increasing recognition that “humanitarian and human rights concerns, including the protection of children during and in the aftermath of conflict, were fundamentally linked to international peace and security,” galvanized greater attention to the situation of children affected by armed conflicts.257 However, it wasn’t until 1999 that the Security Council adopted its first specific thematic resolution on the issues relating to children in armed conflict (i.e. UNSC Resolution 1261),258 which called upon the Secretary-General to provide recommendations to the Council on the protection of children in armed conflict settings, and to systematically report on the implementation of protective measures. The formal adoption of this thematic issue by the Security Council is significant, as it implicitly attests to the potential substantive effect of children and armed conflict on international peace and security, rather than it merely being a humanitarian issue.

Although the UNSC has formally adopted a specific agenda on children and armed conflict, its actual explicit recognition of the ‘special status’ of children has been criticized by scholars and

international organizations that focus on children's rights and child protection. Jeffereys’ 2007 analysis commissioned by Save the Children on the effectiveness of the UNSC reporting structure in protecting children in armed conflict settings reveals that while the Security Council has acknowledged the topic as an international peace and security issue, challenges persist in translating written resolutions, reports and agreements into effective child-focused action. In examining the UNSC’s written documents, the report found that country-specific statements and resolutions were less successful at focusing on the needs and protection concerns of children than more general background reports. As discussed in Chapter One, the changing nature of war from inter-state to intra-state since the establishment of the UN has brought into question whether the perhaps outdated and static “structure of the UN is ill-suited to meeting today’s child protection needs.” This is further challenged by the political nature of the UNSC and its members, whose decisions are highly influenced by other UN and governmental actors. Ultimately, the Save the Children report concludes that the UNSC’s actions on the ground demands a “sharper focus on children” that is supported by greater advocacy by policy-makers and practitioners.

The UNSC has been more successful however in bringing greater awareness to the vulnerability of children in conflict settings, granting it a higher profile within the Security Council and the UN system more generally by allotting a greater prominence to children in their written documents, in both language and content. Resolution 1261 was subsequently followed by a number of thematic resolutions (i.e. Resolution 1327 in 2001, 1460 in 2003 and 1539 in 2004) each “with increasingly clearer language and stronger demands” regarding child protection, as well as increasingly targeted and specific content, culminating in the establishment of the Monitoring and Reporting Mechanisms (MRM) in 2005 and the Working Group on Children and Armed Conflict, whose membership reflects that of the Security Council. UNSC written documents aimed to galvanize greater attention on the protection of children in

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259 Jeffereys, Can the Powerful Protect?
260 Ibid.: 2.
261 Ibid.: 1.
262 Ibid.: 4
conflict settings through mainstreaming (e.g. UNSC reports and resolutions) as well as through the MRM in a more focused approach. These efforts are reflected in the Security Council’s relatively recent thematic focus on children and armed conflict that call for “an era of application”\textsuperscript{263} that seeks to move beyond “the juridical task of the elaboration of norms to the political project of ensuring their application and respect on the ground,”\textsuperscript{264} which is a challenge often highlighted.

\textit{B) Security Council Resolution 1612 and the Monitoring and Reporting Mechanism (MRM) on Six Grave Violations}

The UN Security Council has formally recognized the role of armed conflict on children, with “The Children and Armed Conflict Agenda.”\textsuperscript{265} The thematic focus on children and armed conflict has often been coupled with an emphasis on monitoring and reporting, beginning with Machel’s recommendation for its prioritization in her seminal 1996 report. This was later followed by explicit reference to the monitoring and reporting on children in conflict settings in Security Council Resolution 1379 (2001), however, monitoring efforts were more on a case-by-case basis rather than systematically. Resolution 1460 in 2003 further developed the commitments previously articulated, calling upon the Secretary-General “to develop specific proposals for monitoring and reporting on the application of international norms on children and armed conflict.”\textsuperscript{266} Building on these preceding resolutions, Resolution 1539 (2004) urged for greater partnership between the UN system, national governments, NGOs and civil society groups in order to systematically document, monitor and report violations against children in armed conflict, prompting the Secretary-General to prepare an Action Plan defining the

Establishment of a Monitoring, Reporting and Compliance Mechanism.\textsuperscript{267} This report (i.e. S/2005/72) released by the Secretary-General in 2005 outlines the parameters of a monitoring and reporting mechanism.

Building on previous Resolutions and Reports, monitoring and reporting on grave violations against children in armed conflict situations culminated in Resolution 1612 (2005), which urged the immediate establishment of a Monitoring and Reporting Mechanism that “collect[s] and provide[s] timely, objective, accurate and reliable information”\textsuperscript{268} on six grave violations and abuses committed against children affected by armed conflict, as well as established the first and only working group with an exclusive focus on a thematic area on the Security Council’s agenda. Resolution 1612 created a “concrete and practicable framework for the immediate establishment of a UN-led MRM”\textsuperscript{269} for documenting grave violations against children. UN Security Resolution 1612 was a watershed resolution, considered the hallmark of the UN Security Council’s thematic agenda on children and armed conflict and “is regarded by many as a groundbreaking step in the protection of children affected by conflict.”\textsuperscript{270}

Beyond Security Council Resolution 1612 and efforts thereafter that further strengthened the MRM, the legal framework or foundation for the Mechanism is provided by international legal instruments such as International Humanitarian Law (IHL), International Human Rights Law (IHRL),\textsuperscript{271} the International Labor Organization Convention 182—Worst Forms of Child Labor, and the Capetown Commitments and Principles.\textsuperscript{272} The MRM additionally gets its legal basis in regional instruments and


\textsuperscript{270} Barnett & Jefferys, Full of Promise: How the UN’s Monitoring and Reporting Mechanism can better protect children: 1.

\textsuperscript{271} This especially includes the Convention on the Rights of the Child (CRC) and its Optional Protocols.

\textsuperscript{272} United Nations, Guidelines: Monitoring and Reporting Mechanism on Grave Violations Against Children in Situations of Armed Conflict.
national legislation. It is highlighted in the official UN MRM Guidelines that the would mechanism be continuously guided by the following principles in order to best protect and support children: 1) The ‘best interest of the child’ as enshrined in the CRC, 2) impartiality, independence and objectivity, 3) security and confidentiality, and 4) accuracy, reliability and timeliness through systematic analysis and verification. Interestingly, challenges and gaps in the existing international legal framework as identified in Chapter 1 arguably underscore the need for monitoring and reporting systems like the MRM to systematically collect data on grave violations against children to provide adequate documentation on perpetrators to be held accountable for their violations of international law.

The Monitoring and Reporting Mechanism monitors the conduct of all parties to a conflict, including both state and non-state groups that are identifiable, particularly through an organized command structure, a political agenda and/or control over a specified territory.\(^{273}\) The MRM reviews the following ‘six grave violations’ of children’s rights, capturing the multifaceted risks that children are exposed to in armed conflict settings: 1) killing or maiming of children, 2) recruiting or using child soldiers, 3) attacks against schools or hospitals, 4) rape or sexual violence against children, 5) abduction of children, and 6) denial of humanitarian access for children.\(^{274}\) In order to encourage consistent application across varied contexts, definitions on each of the six grave violations are provided in the UN MRM Field Manual. The Mechanism is initiated when ‘triggered’ by a grave violation\(^{275}\) that has been acknowledged by the Security Council, whereby the country situation becomes listed in the annexes to the Secretary-General

\(^{273}\) United Nations, Guidelines: Monitoring and Reporting Mechanism; For examples of non-state parties that are monitored and the types of categories they may fall under, see the MRM Field Manual, particularly the section on Monitoring (OSRSG-CAAC, UNICEF, DPKO, “MRM Field Manual: Monitoring and Reporting Mechanism (MRM) on Grave Violations Against Children in Situations of Armed Conflict.” April 2010: 38).

\(^{274}\) Interestingly, forced labour and all forms of slavery were initially mentioned as potential grave violations in Resolution 1539 in 2004, however, it was subsequently dropped in the Annual Report of the Secretary-General on Children and Armed Conflict.

\(^{275}\) It should be noted that for quite some time (eight years), only one of the grave violations (i.e. child recruitment) was a trigger for parties to a conflict being listed in the annexes. Subsequently, in 2009 killing and maiming and sexual violence were added, and then finally in 2011, after several years since the establishment of the MRM, was attacks on schools added as a trigger.
(i.e. Annex I and Annex II). Those listed in Annex I represent UN-verified parties in situations of armed conflict that are active in countries that are on the agenda of the Security Council, whereas those listed in Annex II are individuals or entities not present in countries on the Security Council’s agenda. While very few countries listed in Annex II receive the Security Council’s attention or have the MRM implemented, as it additionally requires consultation with and consent of the listed country’s government, urgent concerns in Annex II countries can be brought forward by the UN Country Team through an informal Horizontal Note. However, “there is no obligation for the Council to issue recommendations and conclusions” using the informal Horizontal Note mechanism. The sheer act of listing of parties on the Annexes is perceived as one of the MRM’s key strengths, as it is a significant form of asserting political and public pressure to effect change. It should be noted that although the MRM now documents all six of the grave violations listed, initially, the Mechanism was triggered by only one: recruiting or using child soldiers. This “protection gap” was highlighted by child protection practitioners and consequentially, Security Council Resolution 1882 (2009) expanded the scope of the reporting trigger to include the killing and maiming of children as well as rape and other forms of sexual violence. In 2011, this was broadened further to include attacks on schools or hospitals with Resolution 1998.

Several individuals and entities in the DRC have been listed in the Secretary-General’s Annex I Situations since June 13 2006 (i.e. the first year of its report), with several of the same parties as well as additional parties maintaining a spot on the Annex in the last report in 2014. For parties to be delisted, they must demonstrate progress in the development and implementation of concrete and time-bound Action Plans, which are signed by the associated party as a formal commitment to actively desist from

276 Hodgson, Who’s Action Plan?
277 Barnett and Jefferys, Full of Promise: 4.
committing grave violations against children.280 According to the SRSG—CAAC, Action Plans are “where the promises of protection by the intentional community as expressed in international law and resolutions finally become tangible”281 and are a significant way of ensuring parties are held accountable as “they provide a tool which the Task Force can then use to monitor progress against stated intentions.”282 On October 4 in 2012, an Action Plan was signed between the government of the DRC (on behalf of the Forces Armées de la République Démocratique du Congo, FARDC) and the UN Working Group on Children and Armed Conflict, primarily for the grave violation of rape and other forms of sexual violence.283 However, this action plan is still under implementation and therefore has not yet been delisted as delisting is dependent on the party fulfilling all its outlined commitments and ceasing to commit the cited violation for a minimum of one reporting cycle.284

The structure and flow of information of the MRM is as follows: Once a trigger has listed a country on Annex I, a MRM country task force on monitoring and reporting (CTFMR) is created. It is mandated that the CTFMR be “composed of all relevant UN entities, represented at the most senior level in-country” and co-chaired by “the highest UN authority in the country,”285 such as the OSRSG-CAAC which along with UNICEF frequently undertake a key role, often assuming the position of co-Chair or deputy chair.286 The country task force monitors and documents grave violations against children and reports to the OSRSG—CAAC, which “serves on behalf of the Secretary-General as the UN system focal point for the Security Council-related CAAC agenda and implementation of the MRM.”287 As there is no

280 For a more precise account outlining the details of Action Plans, see the ninth report of the Secretary-General on children and armed conflict.
283 For more on the progress of Action Plans in various countries see: https://childrenandarmedconflict.un.org/our-work/action-plans/
formal or standardized framework, the participation of local NGOs and civil society groups is highly divergent across countries and contexts.\textsuperscript{288} The OSRSG is responsible for examining, vetting and finalizing all the drafts submitted by the country task force which are then considered by the Security Council Working Group on Children and Armed Conflict (SCWG-CAAC). The OSRSG is assisted in these tasks by a Steering Committee, or alternatively the MRM Technical Reference Group (MRM TRG). The SCWG is comprised of members of the Security Council and meets formally every two months to review MRM reports, progress made, as well as make recommendations to the Security Council. The Working Group makes decisions based on consensus among its members, using a toolkit for possible action that they have developed, which emphasizes dialogue and cooperation.\textsuperscript{289} The Steering Committee/MRM TRG is co-chaired by UNICEF and the OSRSG and works on supporting the MRM’s implementation through tools, guidelines and technical support, as well as being charged with ensuring that the Task Force operates in line with its Terms of Reference and that there is adequate participation and consultation with neutral, impartial and independent partners.

In country situations where there is a peacekeeping or political mission\textsuperscript{290} present, such as MONUSCO in the DRC, these missions, with their Child Protection Advisors taking the lead, work in partnership for monitoring and reporting and engaging in dialogue with the parties to the conflict. The SCWG is responsible for reviewing the annual country reports submitted by the OSRSG—CAAC, analyzing the findings and determining if any progress (or regression) has been made, finally issuing conclusions and recommendations for each country under review to the Security Council to better protect children\textsuperscript{291}. At the top of the reporting ‘food chain’ rests the Security Council and the SRSG—CAAC.

\textsuperscript{288} Hodgson, Who’s Action Plan?
\textsuperscript{289} United Nations, MRM Guidelines.
\textsuperscript{290} Increasingly, these missions have a significant component of child protection in their mandate. For example, MONUSCO in the DRC is staffed with Child Protection Advisors (CPAs) that work with peacekeeping operations in the field.
\textsuperscript{291} Such measures might include suggested changes in peacekeeping mandates, dialogue with national state carters or armed groups, forwarded to other UN decision-making bodies (e.g. the Human Rights Council, the Committee on the Rights of the Child) or legal bodies (e.g. the ICC) for ‘further destinations
which serves as “the primary interface with the Security Council”\(^{292}\); the chair of the SCWG reports to the Security Council after each of its meetings, submitting a written report to the Council annually for review. Other key operational actors involved in the implementation of the MRM include UNICEF, which has a presence in each country listed, and the UN Department of Peacekeeping Operations (DPKO) which is actively assisted by Child Protection Advisors (CPAs) deployed on the ground in peacekeeping missions. Additional groups that typically offer support include the following UN bodies: Department of Political Affairs (DPA), Office of the High Commissioner for Human Rights (OHCHR), OCHA, ILO, the United Nations Development Programme (UNDP), UNESCO, and UNHCR among others, depending on the country in question.

The MRM thus primarily consists of three activities: monitoring, reporting and responding to grave violations against children. Stated as the purpose in the MRM Guidelines, information collected through the MRM “should be used as a basis to foster the accountability and compliance of parties to conflict with international child protection standards and norms, and should lead to well informed, concerted and effective advocacy and response to protect and care for children.”\(^{293}\) Although it is emphasized that the MRM can go beyond being a mere ‘data collection tool’ and can be used to inform and trigger preventive and programmatic action, through linking monitoring to response,\(^ {294}\) the language used in Resolution 1612 does not explicitly emphasize response or facilitating and improving the provision of humanitarian assistance, international development efforts or programming to children as the intended purpose of the MRM.\(^ {295}\) However, several efforts have been made by Task Force members to advocate that the MRM can be advantageous for more effective prevention and response at multiple

\(^{294}\) “This is especially highlighted in the UN MRM Global Good Practices Study (2013), and is captured in the following quote: “The MRM is not so much here to make a point, but to make a difference. We need to link the monitoring and reporting with the underlying response, presenting the MRM not so much as a blame and shame mechanism but as a tool to help people move into a better situation” (10).
levels. Among existing monitoring and reporting systems, it has been argued that the MRM has the most explicit mandate for carrying out this arduous task.296

II. Attacks on Schools in the DRC

It is pivotal that a review of recent research demonstrating the prevalence of attacks on schools in the DRC be included in order to better contextualize the analysis of the results of the field research conducted. This review of recent literature on the incidence of attacks on schools is not only complementary, but essential in filling key gaps in knowledge in this report, as field research did not attempt to measure the prevalence of this particular grave violation, but rather focused on the effectiveness of the MRM as a whole at the national level. In order to emphasize the ultimate key finding that attacks on schools is being under prioritized relative to other grave violations, particularly the recruitment of child soldiers and sexual violence, it is fundamentally necessary to demonstrate that attacks on schools is an unfortunately persistent and widespread grave violation in the DRC that equally warrants attention and resource investment.

To provide a maximally holistic account of attacks on schools in the DRC, a comparative review of two distinct types of reporting was included. At the UN level, the Report of the Secretary-General on Children and Armed Conflict in the Democratic Republic of the Congo (S/2014/453) and the report of the Secretary-General to the Security Council (A/69/926–S/2015/409), presents the most recently published findings on the six grave violations against children using official data collected through the MRM. At the grassroots community level, a research team at Columbia University has developed an innovative community-based surveillance mechanism that monitors the incidence of attacks on schools in a way that can be better linked to responses to enhance the protection of children and their education in situations of armed conflict.

Including all three types of reporting on the grave violation of attacks on schools not only provides a more holistic and comprehensive account, but also allows for their respective divergent approaches to data collection to be compared and contrasted. As all three reports document attacks on schools in the DRC during a common time period this enables a demonstration of which method is better able to capture a more accurate depiction of reality. This is especially significant in gaining a better understanding of whether the MRM is the most effective mechanism for monitoring and reporting grave violations against children in conflict settings. From the minimal research conducted evaluating the effectiveness and impact of the MRM, critics have argued that the particularly stringent procedures governing the UN-verification process has severely diminished the actual number of alleged cases that get included in the MRM reports. As will be revealed in the section entitled ‘Objective II,’ my own research not only confirmed these findings, but noted that this flaw is especially challenging with respect to the grave violation of attacks on schools, as even less reported allegations of this violation get verified by UN staff for its inclusion in the MRM reports.

A) UN Level—Report of the Secretary-General on children and armed conflict in the Democratic Republic of the Congo (S/2014/453, June 30 2014)

As the publicly available ‘finished product’ of the MRM, with all information in the report “gathered, verified and compiled by the country task force on monitoring and reporting within the framework of resolution 1612 (2005),” the report of the Secretary-General on children and armed conflict in the Democratic Republic of the Congo is a valuable foundation for examining both the effectiveness of the Mechanism and the current situation of attacks on schools in the DRC. Issued on the


30th of June in 2014, the report of the Secretary-General on children and armed conflict in the Democratic Republic of the Congo is the fifth report of its kind on the situation of children in armed conflict in the DRC. This annual report releases information on the six grave violations experienced from January 2010 to December 2013, as informed by official MRM data.

The report focuses on grave violations occurring in four provinces, where the violence is most rampant: North Kivu, South Kivu, Katanga, and Orientale Province. However, the report highlights the challenge of limited access to these key areas due to “security and logistical constraints.” The report focuses on the following elements: 1) an overview of the current and evolving situation of armed conflict in the DRC, including both positive and negative developments, 2) new and recurring patterns or trends, 3) listing all parties to the conflict responsible for grave violations against children, 4) progress made with previously listed parties, and 5) providing recommendations to overcome persisting challenges and improve the protection of children in the DRC.

The report concludes that “recruitment and use of children, killing and maiming of children, attacks on schools and sexual violence against children peaked in 2012 and numbers remained high throughout 2013,” providing the March 23 Movement (M23) insurgency and its concomitant hostilities as a possible explanation. Focusing on the information provided on the grave violation of attacks on schools, the Secretary-General report reveals that 180 schools were directly affected by the conflict occurring in the DRC, with 47 such schools having been destroyed, 82 looted and 51 used for military purposes. A significant portion of these cases (32) were reportedly committed by the Armed Forces of the Democratic Republic of the Congo (FARDC). The Democratic Forces for the Liberation of Rwanda (FDLR) was responsible for attacks against 31 schools in North and South Kivu, the Front for Patriotic Resistance in Ituri (FRPI) for 14 cases of attacks on schools in Irumu territory and nine cases of attacks were attributed to the M23. Between August 22nd and 30th, a school in Goma was shelled by M23 during

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299 Ibid.: 1.
301 Or alternatively, the Forces armées de la République démocratique du Congo.
an attack. It is also reported that the Allied Democratic Forces (ADF) committed systematic attacks against schools in Beni territory, attacking and looting health centres and a school between November 2012 and May 2013 and ransacking 20 schools in the month of July alone. Beyond these direct attacks on schools, hundreds of schools were closed (some permanently and some temporarily) as an indirect result of the conflict, “affecting the right to education of tens of thousands of children.”

In addition, a press release by the Office of the Special Representative of the Secretary-General for Children and Armed Conflict, whose information is based on a Report of the Secretary-General to the Security Council (A/69/926-S/2015/409) issued on June 5th 2015, revealed that the trend of attacks on schools outlined in S/2014/453 continued to persist in 2015. The press release stated that 22 schools were attacked and 12 used for military purposes, which has consequentially affected 31,000 children. Ten schools have been used for military purposes in Shabunda Territory, with four schools used by the FARDC and six by Rayia Mutomboki, with their materials and infrastructure destroyed and looted as a result of clashes in April. The statement also adds that schools were attacked by ADF, FDLR, the Union des Patriotes Congolais pour la Paix (UPCP) and other armed groups. Lastly, two schools that had been previously occupied by FARDC to hold captured FDLR soldiers were vacated in September as a result of UN advocacy.

B) Grassroots Level—Monitoring and Reporting to Enhance the Protection of Education in Situations of Insecurity and Conflict in South Kivu Province (2014) and North Kivu (2015)

302 Ibid.: 10
303 See (https://childrenandarmedconflict.un.org/).
305 Monitoring and Reporting to Enhance the Protection of Education in Situations of Insecurity and Conflict: North Kivu Province, DRC (Draft), Personal Communication.
For two consecutive years, students from the Program on Forced Migration and Health at the Mailman School of Public Health at Columbia University\(^{306}\) have been piloting an innovative community-based approach to surveillance in the Provinces of North and South Kivu. Utilizing a community-based approach enables efforts to monitor and report to capitalize on existing capacities and foci of knowledge within the local affected community. This mechanism sought to improve the surveillance of incidents of attacks on schools through semi-structured interviews with a sample of key informants in order to provide a pattern of incidents in the region in the last year. This mechanism was piloted in South Kivu and then again the following year in North Kivu, as these regions are considered to be “the epicentre of violence.”\(^{307}\) These two studies demonstrate how surveillance systems can be more efficient and effective by identifying key knowledge holders \textit{within the community} in different regions of the country and engaging with them regularly to document and monitor attacks on schools.

With over 50 organizations in the education and child protection sectors in the cities of Bukavu, Baraka, Shabunda, Uvira and Walungu in South Kivu and over 30 organizations interviewed in the city of Goma in North Kivu, these two studies were successful in surveilling disruptions in education caused by armed groups since December 2012. Interestingly, while the MRM distinguishes between ‘attacks on schools’ and the ‘military use of schools,’ with the latter not included in its definition and thus excluded from MRM reporting, these two studies considered both as disruptions in education by armed groups or alternatively, “attacks on education.” The studies’ inclusion criteria for reporting of cases was the following: (1) a description of the event that met the previous definition; (2) a date or period between December 25, 2012 and July 31, 2014 (in the South Kivu study) and between December 25, 2013 and

\(^{306}\) Specifically, this entailed a partnership between the Columbia Group for Children in Adversity (CGCA) and the Rebuild Hope for Africa (RHA)

June 30, 2015 (in the North Kivu study); and (3) the school name.  

Reported cases were excluded if information proved to be incongruent or if the report was referring to a disruption due to general violence in the village rather than the schools themselves, as “these reports could not be classified as ‘attacks on education’ despite their undoubtedly having a deleterious effect on education.”  

Reports were cross-referenced and redundancies were removed, giving priority to the report with greater detail and more reliability. After the interview process and once data on all events were collected, all reports were mapped digitally, with 10% of the school sites selected to confirm verification in the South Kivu study and 20% of sites visited for verification in the North Kivu study.

Using this surveillance technique, the 2014 South Kivu study found that between December 25th 2012 and July 31st 2014, there were 238 attacks on education in the province of South Kivu, affecting 217 schools (188 primary schools and 29 secondary schools) directly, spanning across seven of eight of the Province’s territories. This figure of 238 attacks in South Kivu alone is overwhelmingly higher (75% higher) than that found by the MRM as reported by the Secretary-General for the entire country. Additionally, only 49 individual cases (21%) overlapped with the UNICEF’s annual MRM database for South Kivu. It should be noted that the study did not report the suspected perpetrators of such attacks as several informants feared the security risk of naming specific armed groups and as a result named multiple groups. Additionally, several hundreds of additional cases were reported of schools disrupted both temporarily and permanently due to general insecurity or mass population displacement in the area, but were not included as they did not meet the designated criteria. Reported cases of attacks on education included physical attacks, the military use of schools, looting, extortion, sexual violence, torture and

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308 Bennouna et al., Improving surveillance of attacks on children and education in South Kivu; Monitoring and Reporting to Enhance the Protection of Education in Situations of Insecurity and Conflict: North Kivu Province, DRC (Draft).
309 Monitoring and Reporting to Enhance the Protection of Education in Situations of Insecurity and Conflict in South Kivu Province (Draft): iv.
310 The selection of these sites was based on: reachability, security, and diversity of sources that provided the reports. (Bennouna et al., South Kivu study)
311 To demonstrate a sense of the impact on children, the study also illustrates that from data on the national MoE database available for 172 of the 217 schools effected, there were 43,171 listed students for the 172 schools with data available.
abduction of children for forced labour. However, by the far the most frequent type of ‘attack’ was looting and the military use of schools and classrooms. After the verification process outlined above, only one report involved events that did not seem to have actually taken place, and a few other cases did not in fact meet the inclusion criteria (e.g. occurred outside of the recall period), therefore yielding a confirmation rate of 79% (or 22 out of 28). Generalizing this confirmation rate, assuming it remains relatively constant for all 238 reports, approximately 187 (or 79% of 238) attacks on schools occurred during the outlined time period in South Kivu.

The South Kivu study adds that of the 238 attacks, seven commenced in 2012 and continued into 2013, 172 began in 2013 and 59 in 2014. A little over a third of the supplied information met the inclusion criteria. Interestingly, among the 54 organizations sampled, the study found that “local organizations had the greatest knowledge of attacks on education, with 121 reports, followed by learning institutions, such as the Ministry of Education (MoE), with 73 reports and finally international organizations, including INGOs and UN agencies, with 57 reports.”

However, it was reported that of the cases reported by international organizations, a majority (49 of the 57 cases, or alternatively 86%) derived from UNICEF, which in turn had received the alerts and corresponding information from local organizations and learning institutions.

This community-based approach to monitoring attacks on schools was in fact comprehensive enough to discern a pattern in attacks. When examining the Ministry of Education’s list of qualified teachers per school and analyzed according to frequency of attacks reported by territory, a negative relationship between qualified teachers and the frequency of attacks was revealed. Territories with schools with a lower proportion of qualified teachers experienced greater reports of attacks on education. Other additional findings, although not a primary objective of the research study, included a greater awareness of possible motivations for attacking education, including the following suspected reasons:

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312 Bennouna et al., Monitoring and Reporting to Enhance the Protection of Education in Situations of Insecurity and Conflict: South Kivu Province, DRC (Draft), Personal Communication.
313 Even though informants were not specifically questioned on suspected motivations for attacks on education, several informants voluntarily offered possible explanations.
reprisals against rival groups, reprisals against populations and villages for their alleged support of a rival group, material need, shelter, as well as the overt demonstration of local power and authority.

The second study of its kind taking place the following year in North Kivu revealed similarly distressing findings of attacks on schools in the neighbouring province. North Kivu represented an interesting area of focus for comparison, as it has the largest proportion\(^3\) of out-of-school children aged 5-17 and a majority (1,588 of the 2,214 schools in North Kivu) of its schools have a religious affiliation. The study found that between the time period of December 25th 2013 until June 30th 2015, 142 attacks on education occurred in North Kivu, taking place in five of its seven territories. These documented attacks affected 126 schools (100 primary schools, 26 secondary schools\(^4\)). With records available for only 87 of these schools, the MoE reports 25,642 students listed in these 87 schools affected. Similar to the previous study’s findings, reported attacks on education included the occupation of schools, the destruction of school infrastructure and materials, sexual and physical violence, intimidation, kidnapping, and the recruitment of children into armed forces, with a combination of different types of attack occurring in several instances. Interestingly, the study confirms that “none of the reported attacks overlapped with the MONUSCO’s database containing verified attacks on education for the period under study,”\(^5\) which is deeply problematic for the comprehensiveness of the final MRM reports, as much of their information is supplied by MONUSCO’s database. In addition, comparing the findings with that reported in the Secretary-General’s report (i.e. 35 attacks, including the military use of schools, in North Kivu) reveal a similar trend of underreporting of the grave violation in the MRM.

Of the 142 attacks, six began in December 2013, continuing into 2014, eighty-one began in 2014, 55 in 2015, and one was ongoing at the time of the studies’ writing. Information on potential cases of attacks on schools were collected from 35 Goma-based organizations in the education and child

\(^3\) The study adds that recent statistics available dating from 2012 report that 43.9% (or 994,366 children) of all school-aged children, 42% of boys and 46% of girls, were not attending school.

\(^4\) The study highlights that “no attacks on higher education institutions, including universities, were reported” (North Kivu Study (Draft): 21).

\(^5\) North Kivu Study (Draft): 21.
protection sector, however the authors note that using key informants exclusively based in Goma is a significant limitation that may result in an underestimation of attacks. Twenty-eight of the 142 attacks were reported by multiple organizations. Approximately a third of the 35 organizations provided at least one report of an attack on education that met the studies’ inclusion criteria. The main reason for exclusion was typically due to the lack of name of schools affected provided by key informants, among other deficits in the specificity of information provided by interviewees. Interestingly, in contrast to the previous study in South Kivu, this study found that “education institutions such as the MoE, the EPSP, religious school administrators, school directors and teachers had the greatest knowledge of attacks on education,”317 with this group reporting 99 cases. These numbers were drastically reduced in other groups, such as international NGOs (reported six cases), local NGOs (reported five cases), and UN agencies (reported four cases).

Using similar methodology to the previous study in South Kivu, 23 of the 126 schools were selected for on-site verification with key informants such as school directors, teachers, leaders and chiefs. On-site verifications actually lead to the awareness of 29 additional attacks affecting 21 schools, two already included in the verification sample for another attack and 27 other nearby schools.318 Only four incidents originally reported by key informants were not confirmed with these on-site verifications, two of which did not occur and the other two were clouded by uncertainty of whether they met the definition for an attack on education319.

For both studies, what is interesting to note is that despite the studies’ narrow inclusion criteria which naturally results in an underestimation of the total number of attacks in the respective regions, they both found considerably higher frequencies of attacks than that reported in the Secretary-General’s Report on Children and Armed Conflict. Both studies are examples of how community-based surveillance

317 North Kivu Study (Draft): 21.
318 Of the 29 additional attacks, 15 took place in Walikale territory and the remaining 14 occurred in Masisi and Rutshuru territory.
319 For example, a teacher or school director was kidnapped from their home, but it was not known whether this was due to their profession.
systems using strategically-identified key local informants can be both an affordable and feasible option in monitoring and reporting the grave violation of attacks on schools in armed conflict settings. This further demonstrates the need for the UN MRM to be a part of a broader effort to document, monitor and report grave violations against children in situations of armed conflict.

B. Objective II: Results from Data Analysis

I. Sample Characteristics:

Eleven participants were included in the sample used for data analysis, representing a range of organization ‘types,’ which can be defined under the following schema: Intergovernmental organizations (IGOs) or UN bodies, International NGOs (INGOs), and local NGOs. Five individuals represented a UN organization, two INGOs, and four represented the perspectives of local NGOs. Initially, during the interview process in the field, another individual representing donor governments was consulted, however, this interview was not included in data analysis as it was concluded that the informant and the knowledge generated by the interview was not pertinent to the research topic, but instead provided a general overview of the contextual situation in the DRC. The organizations that participated in this study were as follows:

- UN bodies: UNICEF and MONUSCO (both from the Human Rights and Child Protection divisions)
- International NGOs: Save the Children and World Vision
- Local NGOs: Soprop, Afia Mama, and Ordre des Avocats

Once in the field, inclusion criteria had to be expanded to include organizations that do not directly participate in the MRM Task Force, as it was discovered in the field that several informants had insufficient knowledge on the MRM and its use, were highly inactive in the MRM in the DRC, and had a lack of knowledge of attacks on schools occurring in the DRC. Expanding criteria resulted in including partnering organizations that work on monitoring, reporting and documenting grave violations against
children in the DRC and other organizations whose work is key in linking monitoring to response. Please refer to Table 3.1 for a breakdown of the participants and the sample characteristics, however, please note that participants’ names have been replaced with numerical identifiers so as to better protect their individual identities. In addition, it should be noted prior to revealing the content of interviews, that the results do not reflect individual or personal opinions, but rather the organizations’ experience on the topic through the lens of an individual member of that particular organization.

When possible, multiple participants were included from the same organization to reflect a greater diversity of perspectives and experiences that may vary between different positions within an organization. The diversity in participants included the following attributes and work efforts: Child protection, education, human rights, gender, executive director, chief of party for project, and coordinator. It should also be noted that efforts were made to include both male (three participants total) and female (eight total) participants, as well as both local (five total) and international perspectives (six total). However, an important limitation in seeking greater diversity in the sample was that the majority of the organizations consulted with in the field were small in size and understaffed. This excessive workload posed a problem in availability and scheduling when seeking interview informants in the DRC.

Every effort was made to include as many organizations as possible that are members of the MRM Country Task Force (CTFMR) in the DRC, however several organization’s monitoring and reporting units had been deployed to work on the ground in eastern Congo, particularly in Goma, North Kivu. This limitation was the case for securing an interview with an individual knowledgeable on the topic from OCHA and UNHCR. However, one informant who was unable to be interviewed in person, as they were in Goma at the time of field research, was successfully included in data analysis at a later date by completing the interview guide (with follow-up questions added) as a written questionnaire via direct email correspondence. In addition, although an individual was included from the Child Protection Advisor (CPA) unit from MONSUCO, several participants highly recommended that I talk to one particular individual from the CPA unit who had specialized knowledge and experience with the MRM (in both the DRC and in another country), however, a completed ‘questionnaire’ was not successfully
achieved in time for inclusion in the current data analysis but has since influenced general knowledge and discussion.

Table 3.1: Sample Characteristics

<table>
<thead>
<tr>
<th>Informants</th>
<th>Organization</th>
<th>Type</th>
<th>Position</th>
<th>Gender</th>
<th>Nationality</th>
</tr>
</thead>
<tbody>
<tr>
<td>Meaghan</td>
<td>Columbia</td>
<td>Researcher</td>
<td>Interviewer</td>
<td>Female</td>
<td>Western</td>
</tr>
<tr>
<td>&quot;005&quot;</td>
<td>UNICEF</td>
<td>UN</td>
<td>Child Protection</td>
<td>Female</td>
<td>Western</td>
</tr>
<tr>
<td>&quot;006&quot;</td>
<td>UNICEF</td>
<td>UN</td>
<td>Education</td>
<td>Female</td>
<td>Western</td>
</tr>
<tr>
<td>&quot;009&quot;</td>
<td>Afia Mama</td>
<td>Local NGO</td>
<td>Executive Director</td>
<td>Female</td>
<td>Western</td>
</tr>
<tr>
<td>&quot;011&quot;</td>
<td>Save the Children</td>
<td>International NGO</td>
<td>Chief of Party for Project SAVE (Child Protection)</td>
<td>Female</td>
<td>Western</td>
</tr>
<tr>
<td>&quot;002&quot;</td>
<td>Soprop</td>
<td>Local NGO</td>
<td>Coordinator A.I.</td>
<td>Male</td>
<td>Local</td>
</tr>
<tr>
<td>&quot;003&quot;</td>
<td>Soprop</td>
<td>Local NGO</td>
<td>Director</td>
<td>Male</td>
<td>Local</td>
</tr>
<tr>
<td>&quot;008&quot;</td>
<td>MONUSCO</td>
<td>UN</td>
<td>JHRO—HR Officer: Reporting &amp; Investigation Unit</td>
<td>Female</td>
<td>Western</td>
</tr>
<tr>
<td>&quot;010&quot;</td>
<td>World Vision</td>
<td>International NGO</td>
<td>Gender &amp; Child Protection Manager</td>
<td>Female</td>
<td>Western</td>
</tr>
<tr>
<td>&quot;004&quot;</td>
<td>Ordre des Avocats</td>
<td>Local NGO</td>
<td>Coordinateur Adjoint &amp; Directeur de Dept. Juridique</td>
<td>Male</td>
<td>Local</td>
</tr>
<tr>
<td>&quot;001&quot;</td>
<td>MONUSCO</td>
<td>UN</td>
<td>BCDUH—Human Rights</td>
<td>Female</td>
<td>Local</td>
</tr>
<tr>
<td>&quot;012&quot;</td>
<td>MONUSCO</td>
<td>UN</td>
<td>Child Protection Advisor (Accountability)</td>
<td>Female</td>
<td>Western</td>
</tr>
</tbody>
</table>

II. Thematic Analysis

i. Challenges:

The node ‘challenges’ represents all of the challenges various stakeholders experienced in either using the MRM or in regular monitoring and reporting efforts as part of programming. Furthermore, it provides potential points for later intervention, as the challenges identified reveal current pitfalls in the existing system that undermine its effectiveness as well as potential areas for strengthening. Although there was a specific question in the interview guide on the topic of challenges, ‘challenges’ was a pervasive node that emerged unprompted in the responses to various questions and across various organization ‘types.’ The theme of ‘challenges’ frequently overlapped with other nodes used in Nvivo, which further reveals the specific challenges experienced.

A) Access:

Several informants cited access as a key challenge in monitoring and reporting. This challenge additionally overlaps with other nodes, such that areas where violations are occurring are difficult to
access either due to security concerns, mobility issues resulting from lack of public roads (especially in rural pockets), which is exacerbated by the added challenge of the vast expansiveness of the DRC. In fact, several informants cited the expansiveness of the country as an especially difficult challenge in monitoring and reporting violations committed against children. The overwhelming size of the country challenges organizations’ ability to access all areas where violations are occurring. This coupled with the lack of public infrastructure to reach vast rural areas, in conjunction with the centralization of services, presented a major challenge to several organizations in monitoring and reporting grave violations and delivering services and programs.

Paradoxically, while UN staff, such as those working with MONUSCO or UNICEF, experience greater difficulty in accessing certain areas due to centralization and security concerns, it is UN staff who have the greatest access to high-level security personnel and protocols, as well as the greatest supply of resources (e.g. private chartered flights, helicopters, highly trained pilots, security escorts) that enable them to access areas that lack basic public infrastructure (e.g. roads). Local NGOs simply do not have access to these same resources that better secure their safety and enable reaching otherwise inaccessible rural communities. For example, an informant revealed that without the use of costly private flight companies it took two days for field workers to travel from Lubumbashi (Southeast DRC) to Kinshasa, which is normally a 2-3 hour direct flight, as they had to fly first to Addis Ababa to get to Kinshasa. This similarly encumbered a high administrative and financial cost.

As a result, UN bodies and International NGOs do not have as much of a presence in rural areas, either because they “[don’t] have time to get in or [don’t] have the ability to go in.” As a result, without UN bodies able to access remote or insecure areas, allegations of grave violations against children are not able to be UN verified and thus do not successfully get included in the MRM reports. Additionally, the mere ‘foreign presence’ of the UN challenges their ability to effectively access areas where violations are occurring without overtly signalling that allegations are being investigated. For instance, an informant stated that:
“Sending white people into conflict zones attracts much more questioning than local NGOs that are already there. It is an automatic red flag of an investigation occurring if there is a foreign presence”

—UNICEF

Consequentially, with field offices located in the capitals of each province, there is a heavy reliance on teams deployed ‘on the ground’ in the hard-to-reach areas where violations are occurring, however, challenges remain with these key partnerships. It was noted that limited access to conflict zones is a particularly salient issue for the grave violation of attacks on schools, especially in the province of Katanga, as there is a high level of volatility with access restrictions constantly changing. Ultimately the challenges highlighted above regarding access significantly undermine an organization’s capacity for rapid response and local monitoring and reporting.

Issues of access are particularly challenging for the task of MRM or data collection on grave violations as areas that are difficult to access are the precise areas where rebel or insurrectional groups or movements are located. Due to these logistical issues in accessing areas to collect information on violations against children, an informant admits that:

“…in terms of MRM recording in general, it would be so difficult in a country like this to really access people that have the information and I think that’s why the numbers are so low because it does take a long time.” –Save the Children

An additional challenge with access that does not directly relate to the MRM or monitoring and reporting, but is indirectly related as it pertains to seeking support after a child has experienced a grave violation, is the pervasiveness of poverty and the corresponding lack of access to basic health services (e.g. reproductive health after incidences of sexual violence) and the lack of access to education, especially in rural areas. Coupled with this issue is the limited accessibility of children’s tribunals, with an informant stating that “accessibility to the legal system is a problem” (World Vision); there are very few child-focused tribunals, most of which are centralized in the capital city, so if a child is seeking redress or reparations, or even to have their case be heard by a children’s judge, the individual must travel quite a far distance, while incurring the cost of transportation themselves which is especially challenging for these
most vulnerable and destitute families. This is further challenged by the corruption that occurs in the justice system, with an informant providing the example that:

“the victim needs to pay for the police to issue an arrest warrant, and pay again a transport fare to the police or to the people that are going to go arrest him. And if they don’t [arrest] the person the first day, then the victim needs to pay for their transport the second day...again.” —Afia Mama

B) Awareness:

A significant result from data collection was the general lack of awareness of the MRM itself and on the occurrence of attacks on schools in the DRC. This was an issue even for members of the MRM Country Taskforce, as evidenced by statements such as “staff don’t really know what the MRM is” (Save the Children). For Save the Children, which was considered by other informants as not an active member, their current albeit limited involvement in the MRM is purely a result of an individual employee’s personal interest. Only one of the local NGOs interviewed was aware of the MRM, and again this was out of personal interest rather than CTFMR members encouraging partnership in its implementation. What was particularly striking was that an active MRM task force member, in fact one of the Co-Chairs of the Mechanism in the DRC, with the position title of Human Rights Officer in the Reporting and Investigation Unit, admitted that: “So as such we are not part of this, what is the name, the MRM. To be honest, I have never read about it before” (MONUSCO-JHRO).

Regarding the lack of awareness on attacks on schools, several key informants were not aware that attacks on schools were occurring in the DRC. Despite the fact that many of the organizations included had a mandated specific focus on children’s rights or child protection, many added that they don’t hear much about attacks on schools in their work. In the monthly briefs sent out by MONUSCO CPAs in the field, an informant revealed that the most recent report was the first time they had included information regarding attacks on schools. It was asserted by a participant in response to the occurrence of attacks on schools in the DRC that:
“Not till now, no. I do not think schools have been attacked. Even in the East, there was never any schools attacked. Except that there is the problem sometimes that the children cannot go to the school. But attacks against a school, no. Not to my knowledge… I do not know how but normally, maybe I was on a trip, but normally we are supposed to have that kind of information.” —World Vision

An informant attests that “attacks on schools is a very complicated concept” (UNICEF) with military occupation or military use of schools not included as a criteria for listing. Additionally, it was highlighted that the Congolese government has not issued a clear directive on attacks on schools, with one organization concluding that “I’m not sure everybody knows it’s so bad” (UNICEF). However, in the same interview, an informant of a different position disagreed that it was not an issue of awareness, as there are several advocacy efforts that have made armed groups and soldiers more aware, but rather “it is the government and Ministries that don’t take it seriously that is the problem, or they are willing but they are stuck” (UNICEF). This implies that the government needs to be more proactive in taking action against attacks on education.

A contributing factor to the challenge of awareness identified in data analysis was language, which was its own thematic code but overlapped significantly with awareness. Books and information packets that are distributed on the topic of attacks on schools or on the MRM are usually exclusively offered in English, which consequentially results in confusion and misunderstanding. This challenge similarly exists with sensitization or advocacy efforts that are only conducted in French. Although the official language of the DRC is indeed French, there are at least 4 other major local languages (Lingala, Swahili, Tshiluba, and Kikongo) that are recognized in the country:

“when they come, they do sensitization in French. Not everyone speaks French. When they come, there are local structures that exist and could be reinforced to accomplish the work.” —Soprop

An additional theme that often intersected with the challenge of awareness was regarding the fact that existing legal instruments, such as specific policies, laws, international human rights instruments, and
programs designed to protect children, are not known, even among those that work in the judicial system. This challenge gravely undermines the effectiveness of existing instruments, as “for our laws and policies to be implemented, they need to be disseminated, they need to raise awareness about it…train public agents about it” (Afia Mama) Specifically, nearly all organizations unanimously agreed that this challenge is especially difficult with a particular law established in 2009 on the Protection of Children (i.e. Law No. 09-001). Connected with these challenges is the lack of awareness on human rights in general, particularly among traditional leaders, including an awareness of existing international human rights conventions, covenants and declarations that the DRC has signed or ratified. It was pointed out that if the population does not know what rights they are entitled to, how are they to know when their rights are being violated? It was noted that these issues of awareness are especially prevalent in the rural hinterlands, aggravated by the thematic challenge of the expansiveness of the country, with an informant exclaiming that “so imagine, if that is the case in the large cities, what do you think happens in the small villages?” (Ordre des Avocats) and another adding that “there are still areas in Congo, I do not know how we will manage because the country is too large. The sensitization of the laws should go all the way there” (Soprop). Awareness of human rights instruments is of particular importance to exert population pressure on the legislative level for implementation and protection. However, it was identified that even within Parliament, a lack of awareness is pervasive. This is evidenced in the following example provided:

“we had another morning session with the Parliament, and some of them are even in the bureau in a commission for social and cultural commission of Parliament, and one of them said ‘I have been examining laws and policies that are dealing with women’s rights but I have never heard of the Convention…when did [the DRC] ratify it?’ We ratified that convention in 1985…and this is someone who is sitting in Parliament…who’s decision is crucial for women’s rights…but he has never even read that convention.” —Afia Mama

Lastly, a persistent theme that was apparent across several interviews was the lack of awareness of other organization’s programs and mandates and how they might overlap with their own. This
confusion remains despite several informants citing the recurrent use of workshops, trainings and meetings (e.g. cluster meetings) where all the organizations meet to collaborate and coordinate their work.

C) Corruption & Conflicts of Interest

Several informants cited examples of corruption within the judicial system or among governmental employees, which have impacted both the ability to effectively prosecute perpetrators of grave violations against children and the ability to offer supportive services for children. It was also apparent through data analysis that corruption becomes especially prevalent for those of lower ranks in the hierarchy, with a lower ranking official coerced into corruption by order of their supervisor. It was reported that people in positions of power use their influence to exert pressure on others to discourage the reporting of an allegation. For example,

“There are influences, people who have resources—how do we say this—people who have resources and influence on decisions…create[ing] fears in people who would report the events…So there are people who are reserved, who keep quiet because of this”—World Vision.

It was also revealed in data analysis that civil servants or those working in a public function have at times vested interests in not charging perpetrators of violations. This is especially prevalent for perpetrators that work for the government, police or judiciary. For example “when a policeman commits a crime, we tell you he will get arrested, yet a few days later, you see him [freely] walking the streets” (Sorprop). These forms of corruption and conflicts of interest have taken the form of “exemplary sanctions” (Soprop), biased procedures, or “immunity regimes.” For example:

“The second challenge is that there are exemplary sanctions…the deputies, the militaries…they sometimes are under protection, immunity regimes, they can’t do anything.” —Soprop

Corruption is further exacerbated by grave inequality or unequal distributions of wealth, power and other resources, with bribery serving as a potent influence in the reporting of incidences:

“There is bribery…and bribery has a strong influence. Someone who has money and who commits an offence may be arrested today but
after a few days, he is out. He is free to roam the area [while] constitut[ing] a threat or danger to the people who reported.” —World Vision

Another issue of corruption that ultimately challenges organizations’ ability to effectively monitor and report on grave violations against children and deliver effective remedial solutions through programming concerns the corruption that occurs in authorities administering salaries for their employees and in the theft that occurs, such as:

“You find out that the money you had in the bank was hijacked. Someone took the money. The civil servant who went to get the money somewhere for the state, he took it. He is gone and we will not see him again.” —Soprop

The corruption that exists within the judiciary, the police, the government and other partnering authorities ultimately challenges organizations’ ability to ethically collaborate with these groups. For example, “authorities completely shut down their doors” (MONUSCO) or demand special authorization from the Ministry or police when sought out for collaboration on a case. Additionally, as one informant attests:

“If we know such a policemen went against his rights, we do not accept to collaborate with him. Because accepting such a collaboration is accepting injustice and making the violation more credible” — Soprop

In addition, due to the major expenses involved in attending university, examples were provided whereby female students have engaged in sexual relations with teachers and teacher assistants in exchange for grades or tuition. Furthermore, corruption has affected violence that occurs in schools, with an informant contending that; “there is a great deal of violence in the schools because there is no control, there is corruption coming from the authorities” (Sorprop). Ultimately, with corruption and conflicts of interest continuing to exist within the judicial, criminal, and governmental systems, grave violations committed against children are enabled to continue to persist without impunity, failing to create an effective deterrence for future perpetrators.
D) Ethical Concerns

Ethical concerns presented themselves in different forms across a number of interviews. Perhaps the most common thematic ethical concern, especially among UN associated organizations, was the humanitarian principle of ‘do no harm’ regarding the involvement of NGOs in the monitoring, reporting and documenting of grave violations against children. It was highlighted that there are risk of ‘doing harm’ at two levels: 1) discussing the allegations with the victims can expose them to a risk or even result in psychological harm or trauma, and 2) in verifying reported cases. Concerns arose regarding whether the security risks that are involved in collecting information on violations that concern the government and/or armed groups outweighed the benefits.

For UNICEF, the principle of “do no harm” serves as one of the two conditions for engagement in the MRM. UNICEF elaborated that rather than this being merely a “strategy in terms of ticking boxes” it is encouraged that field staff explain how the information will be used and the potential risks involved by emphasizing “there is no guarantee of protection”; thus their participation and consequential implicit exposure to possible security risks is not obliged. MONUSCO reported that they have encountered a “few instances where those people receive threats and they had to hide for a while” but in terms of responding to these security risks they “are limited by our mandate.” One organization in particular (Afia Mama) works in partnership with other organizations that can physically remove informants and provide safe shelter for those that reported an abuse that puts their life in danger or are at an especially high risk.

A second common thread that recurred within the theme of ethical concerns was regarding maintaining confidentiality when collecting information. It should be noted that there was a specific question concerning how information on grave violations against children was collected in the interview guide, and when informants required prompting, participants were probed about the ‘ethical collection of information.’

For many organizations, confidentiality (on the identity of their sources) was a specific part of their mandate or methodology; confidentiality and the ethical collection of information was a component of their training, to ensure that staff in the field physically secure the information on the victims and their
allegations, and systematically encrypt the data to ensure online security in the field offices. One organization, explained that within their organization “there is a security policy and then there is a protection policy,” (World Vision) and had even adapted their confidentiality policy for the entire diverse array of partners they engage with (e.g. communications, donors). However, others said that this was less of a tangible strategy or toolkit, but instead was “more of a personal responsibility.” In some organizations, “there is no specific training on how to manage security risks, it was put as a condition for engagement, but it’s not a part of training on how to take measures to mitigate or manage risks” (UNICEF).

It was noted as well that ethical concerns, and the security risks that are entailed in reporting an allegation, are a particularly discouraging factor for victims or NGOs to report the factual name of the perpetrator, or even from reporting a violation altogether. An informant disclosed that “we have a lot of challenges in that, some victims would just change their statement. We know that its’ because they’ve been threatened, but they won’t say it. So we have challenges” (Afia Mama). It was noted that at times two objectives, the fight against impunity and the ethical concern of protecting victims, come into conflict with each other, with an informant stating that:

“We always try to unless it can be dangerous for the victim, we always try to inform the authorities from the beginning because the idea is to support the authorities in the fight against impunities” — MONUSCO

It was expressed across a few interviews that a particular challenge was the need for more technical support for training staff on how to ethically engage with victims while collecting information on the allegations. One informant specified that she wished staff and volunteers could be trained on “how to talk to them, how to understand them, to make them feel dignified” (Afia Mama). In connection with this, one organization noted that there are challenges with ensuring that partners, especially the media, maintain confidentiality. This organization has consequentially made efforts to incorporate this challenge into training:
“We try to reinforce the capacity of the media also in cases of violations, because sometimes they expose the victim...We try to train the media who work with us on how you can report cases.”

—World Vision

Despite the existence of robust confidentiality principles in their mandate or methodology, challenges still persist, especially in the field: “Confidentiality is always an issue...at the level of the capital, in Kinshasa, we try to manage this. But in the field, it is a problem.” The same informant reported a specific example of how ethical concerns may continue to arise, perhaps as a result of resource constraints:

“A colleague printed the work from their mission [in the field]. We did not have a [private] printer. The printer was centralized somewhere. But the colleague had printed it in the office of another person not knowing that the message was concerning the cousin of the person who’s office the printer was in...We printed the message in the office of the cousin of the military [perpetrator]. And immediately, the message [leaked] to the city. We were really threatened. This is a confidentiality issue.”

—MONUSCO

E) False Expectations of the MRM

A few interviewees suggested that an additional challenge undermining the effectiveness of the MRM rests in the false expectations among MRM task force members, civil society and the general population of what the MRM is designed to do, as opposed to what a surveillance mechanism ought to do to better protect children.

In data analysis, this thematic code had a lot of overlap with that of awareness, suggesting that perhaps the confusion and uncertainty produced by a lack of awareness of the MRM has contributed to false expectations of what the Mechanism can achieve. In addition, lack of awareness of the existence of the grave violation of attacks on schools occurring in the DRC has contributed to a false depiction of which violations demand attention and resource allocation.

A task force member of the MRM discussed how engagement with local NGOs can be a tiring process as “the NGOs do a lot of work to provide information but then the mechanism isn’t able to get the
full picture; it creates a false picture. So there are issues with false expectations in working with NGOs” (UNICEF). This concept of a ‘false picture’ was further reinforced by another organization which remarked that:

“I think it was three years ago, it was [something like] 500 sexual violence and rape cases [that] were reported [in the] MRM process, which is very few when you think about the numbers you hear unofficially in the DRC” —Save the Children

Other issues of false expectations exist in the individual reporting of violations and what victims may expect as a result. Very few reported cases actually get resolved, as there are many challenges that persist in the application of the laws and the fight against immunity. In addition, in linking monitoring and reporting with response, very few victims receive the necessary remedial support (psychosocial, economic, legal or medical) or reparations due to challenges with financial support and limited resources. As one informant states:

“We do not have money to help these individuals who help us. But with an organization, we can make a request. But individually, we cannot help someone.”—MONUSCO (BCNUDH)

F) Laws and Policies

While a significant portion of this thematic challenge intersected with lack of awareness and has already been covered, major challenges were highlighted in the implementation of relevant existing laws and policies. Nearly all organizations voluntarily (i.e. without prompting) reported on challenges they've experienced within the existing legal framework and the implementation of existing specific laws and policies that pertain to the protection of children. For example:

“Our legal framework in the DRC is also contributing to most of this abuse on girls and young women, even though we have some beautiful laws and policies, but the lack of implementation of these beautiful laws leaves the people to use old policies that are very discriminatory on girls and young women” —Afia Mama

This excerpt highlighting the gap between the existing the laws and their application was consistent with that of another organization who asserts that:
“There are challenges legally speaking in the justice system. We have good policies, but the enforcing of these laws, their practicability, causes problems. So with the justice system, it’s a domain we have to work really hard and needs a lot of improvement with the application of these laws... There are deviations between the laws and applying them. There is a gap between the laws that exist and the application of these laws” —World Vision

In particular, multiple organizations specifically cited Law No. 09-001 that was put in place in the DRC in January 2009 for the protection of children. One informant explained that the rationale for the establishment of this law was to harmonize internal legislation with some of the international human rights conventions that the DRC had ratified. One major challenge this law aimed to rectify were uncertainty with the age of legal majority as a way of addressing broader systemic issues like child marriage (considered a form of rape by many informants) and child recruitment. Establishing a clear age of legal majority is a necessary precursor in identifying vulnerable children and when there is a breach of a child’s rights and protections. As one informant put it:

“We need to adopt the children’s protection law so it can be used when need be. It will allow us to avoid mutilations on children, aggressions on children and the kidnapping of children, violence against children.” —Soprop

It should be noted that despite the lack of general implementation and awareness laws by some groups, other local organizations were successfully using the laws, conventions and policies. For example, one organization in dealing with children in conflict with the law stated: “we make sure their rights are guaranteed as per the children’s rights convention and the 2009 law regarding children’s protection. For example, the parents absolutely have to attend the trial. We make sure of this” (Ordre des Avocats).

Issues within the judicial system were cited by several organizations as a major barrier in the protection of children and in fighting against impunity as many reported cases were not vigorously
pursued. This challenge is further exacerbated by extreme limited resources and poverty: “Another aspect that may hamper the efficacy of the law is the level of poverty” (Ordre des Avocats).

G) UN and International Elitism & Western Imperialism

There were several instances across multiple interviews that exhibited language of UN exclusivity or UN elitism, and this was observed both in the language, tone and content of interviews with UN organizations and local NGOs. To begin with, a very clear, intentional and strategic exclusivity was encountered in the selection of MRM task force members. In discussing which organizations are invited to be members, one informant reveals that: “In general, the UN family is always open to join, but local NGOs or local governments are not…local NGOs are not partners in this but they do provide information on alerts” (UNICEF). It was also revealed that unsurprisingly UN organizations are equipped with the most and highest quality resources, such as private planes, helicopters, armoured cars, escorts and other heightened security measures. Despite a lack of privileged access to these resources, it is local NGOs that are collecting the information on alerts in areas that cannot be accessed by the UN due to security concerns.

Many local organizations attested to challenges they’ve encountered in trying to secure funding and financial support for their projects and programs in partnership with UN organizations or big international NGOs. Often these resources are out of reach for newer, smaller up-and-coming NGOs, as the financial support is tied to particular conditions that are next to impossible for these small NGOs to meet: “The requirements are just too much for small organizations” (Afia Mama). One informant articulated the disproportionate access to funds between local and international NGOs, such that:

“Access to funds is also difficult because here local organizations do not access that much, it’s international organizations that have easy access to resources, but they're not always in charge of victims directly”—Afia Mama

Another informant highlighted the challenges in disproportionate access to funds among various organization types and how this may have an impact on the actual effectiveness of local NGOs in rapid response. It was revealed that at times local NGOs, such as those specializing in medical assistance, are
unable to access certain areas “unless MONUSCO or the army can get in” (Save the Children). Beyond securing access to physical resources, another organization discusses the exclusive access UN groups have to resources such as strategic partners: “But with the United Nations, we find that they are the only one who can reach future partners” (Soprop).

It was emphasized in interviews how at times the difference in ‘rank’ among different organization types can challenge the working effectiveness of their partnership. One organization had a particularly negative impression of international staff and international groups (such as INGOs and the UN) and this has consequentially resulted in a tenuous relationship clouded by skepticism regarding whether INGOs or the UN are truly best positioned to accomplish the arduous task of child protection:

“[Some] international structures are only names. The international organizations, we know what they are but we have never seen their office. Never seen their staff either, never seen their work, we just know that it is an international organization. And when you get there, all is closed to you, you can only go by invitation” —Soprop

Another striking example of challenges due to a hierarchical ‘rank’ in partnerships was captured in an informant’s account of how the UN and INGOs engage with civil society in a two-day workshop (whereby local NGOs provide their opinions, perspectives, reflections, innovations and feedback on current or future projects), but do so with their own strategic agendas in mind and undervalue the perspectives of civil society groups:

“So while you think and reflect during a workshop, they have their own agenda behind all of it. The agenda is this: your thoughts and all that you are sharing are what allows them to do their project, but when they prepare it, they will indicate that they prepared the project without any help, denying your involvement…They feel they don’t owe it to you, because when you came to the meeting, they fed you and reimbursed you for your transport.” —Soprop

It was discussed that working in partnership with the UN can be challenging at times for local NGOs, as there is distrust between the UN and local NGOs, which ultimately undermines their effectiveness. For example:
“First when you start working with them, they will not show you the budgets for the project. Yet you are working on that project…they do not trust you and when there is no trust, you cannot manage or utilize human resources…So you have to act as a sub-contracted organizations yet it is you who has to do [the work].” —Soprop

Finally, a particularly striking example was provided one organization, whose strategic choice of language clearly demonstrates a very concerning imperialistic tone to partnerships with UN bodies:

“They can give you $10,000, but we may have a work volume of $100,000. Indeed they receive a great deal of money but they will give you the crumbs to do all of the work for them. You see...it is just like colonization...and sometimes it is not easy to endure” —Soprop (emphasis added)

H) Verification

Verification, a UN-standardized process required for inclusion in the MRM database, proved to be an additional challenge undermining the effectiveness of the MRM and whether it can truly portray an accurate depiction of on-the-ground reality. Verifying reported allegations of grave violations against children is a requirement for multiple reasons including, as one informant notes, that “those affected by conflict may be PTSD affected and may have a changed perception of reality” (UNICEF) and are therefore not a consistently reliable source. An additional justification for verification provided that “there are a lot of NGOs [and] they are not all very professional...so the information that they give us, you always have to be really careful and to double check” (MONUSCO). Verifying allegations of an incident requires “at least three sources with high level witnesses” (UNICEF) or as a MONUSCO staff puts it: “we follow a very straight methodology and we need to have a certain number of reliable sources. We need to be able to go to the field to check, to verify the information that we receive.” One organization remarked how few incidents of grave violations actually reach the Special Representative on Children and Armed Conflict as only verified allegations are included in the MRM and challenges remain with the verification process, adding how this is especially problematic for the grave violation of attacks on schools:
“We report to the Special Representative on Children and Armed Conflict, but alerts are not reported unless there is a big massacre that has been verified. This is a big challenge, as only verified cases go up to the Special Representative. This is a challenge for all six grave violations, but this is especially problematic for attacks on schools because very few cases get verified.” —UNICEF

Verification demands additional technical resources and human capital, which becomes particularly challenging in an already limited resource setting. One informant comments on this constraint in verifying allegations by stating that they “receive many many alerts, and there are not enough people to verify [them all]. For example, in Katanga, there are only two MONUSCO Child Protection Staff” (UNICEF). Other organizations note additional challenges, overlapping with other themes such as access and security in verifying allegations:

“it can be really tricky to confirm the information. We always have a lot of allegations and then when we go to the field [to verify], the victims are afraid to speak or we cannot go, we cannot access where they are because there is a conflict going on…because of security reasons” —MONUSCO

ii. Limited Resources

Without a doubt the largest challenge of all, so large it warrants its own dedication thematic section, was the challenge of limited resources. Across the board, nearly all informants experienced particularly onerous resource constraints that challenged their ability to effectively monitor, report and respond to grave violations committed against children. ‘Limited resources’ pertained to a combination of financial, human and technical resources, however the particular amalgamation of these different types of resource constraints differed across organizations. It was expressed by UNICEF that there is the least funding made available for the grave violation of attacks on schools.

It was expressed by UNICEF, the Co-chair of the CTFMR, that as the UN does not allocate any funding specifically for the MRM, “it’s a challenge for all [members] to have enough resources to dedicate to the MRM.” In some cases, this challenge eclipsed an organization’s ability to actively
participate in the MRM task force; for example, Save the Children, experienced major cutbacks in child protection funding and as a result, their involvement was reported to be especially limited. It was reported that cutbacks in child protection funding were persistent across the board as child protection is “not something that’s really tangible. Donors like funding health services and education because you can say X amount of children have gone to school with this funding or X amount of children have received vaccinations from a health care project. For Save the Children, child protection is really the umbrella. Children are protected if they have access to health and education services, if they're living in safe environments, protected by their families and their communities. But that’s more difficult to measure” (Save the Children, emphasis added). Although Save the Children is a task force member, and one of two of the only NGOs (albeit both international NGOs) to sit on the MRM board, due to these financial cutbacks they reported that:

“We aren’t working specifically on the MRM or with children associated with armed conflict in the DRC at this time, simply because we just don’t have the funding for projects that are focusing on this area” —Save the Children

Financial constraints limit an organization’s ability to provide adequate resources and deliver effective services to victims and partners. Naturally, this particular resource constraint overlaps with poverty, leaving impoverished victims unable to afford fees like transport fares for the police to arrest a perpetrator, thereby hindering the likelihood for victims to report violations experienced. For example:

“So in the state of poverty that most of these victims live in, it’s just impossible for them to sustain that cost. Some of them really want to pursue them, to take them to court, they want justice to be done, but without means they can’t” —Afia Mama

With local organizations that assist victims severely underfunded, the implementation of the MRM and the response it hopes to generate are gravely undermined. This is captured in the following sentiment: “We are willing to do things but we do not have the means or resources” (Soprop) and as a

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320 It was noted by an informant at Save the Children that one reason behind the cutbacks is that USAID, which funded a large proportion of their projects, has recently undergone a process of sequestration.
result, most local organizations heavily rely on their employees own savings. This is especially challenging for new organizations which are not able to yield sustainable funding by virtue of being newly established and not having yet managed a track record of fiscal probity. Some noted that this challenge for local organizations can be particularly difficult in a ‘top-down’ partnership with international organizations, such that “they offer help models but they do not offer useful help or financial help to do such a project or strategy” (Soprop). This acts as a form of imperialism as was stated above (i.e. in (G) of Challenges). However, limited financial resources was a challenge similarly expressed as being experienced at the state level; several informants recalled that there is simply not an adequate budgetary allocation to state institutions and public infrastructure that are responsible for responding to victims needs and reported cases.

With regards to human resources and staff presence, MRM Task Force members receive many alerts (i.e. reported allegations of a case) but there are not enough individuals available to verify the reports. It was reported that for example, in the province of Katanga, there were only two MONUSCO Child Protection Advisors to verify all the allegations for their inclusion in the MRM. This intersection with verification is “especially problematic for attacks on schools because very few cases get verified. This is a result of lack of resources, especially with regards to staff presence” (UNICEF). Another organization involved in providing legal assistance specifically to children demonstrates how this challenge undermines impact:

“We cannot follow all the reports so we have to choose. However we would like to extend our intervention to many more children but for now it really is impossible. For example as I was telling you, we only have one lawyer who takes responsibility for these cases. We would like to have many lawyers so they can cover more cases”

—Ordre des Avocats

Overlapping with the expansiveness of the DRC, limited human resources are stretched thin, as one informant stated; “they are just one or two people who are supposed to cover the whole province and then they don't have the car or the money or the facility to be able to do the work properly. So ideally, we
would need a lot more people and facilities to cover, because the DRC is such a big country” (MONUSCO-JHRO). Limited human resources are further challenged by high rates of staff turnover, which undermine consistency in implementation and awareness of context and persisting challenges. The impact of this challenge is simple, and was aptly put by one informant: “You need to have more people so the impact can be greater” (Afia Mama).

Lastly, several organizations attested to deficits in technical resources or highlighted the need for greater technical support. It was reported that technical limitations are further reinforced in the field. Additionally, some informants emphasized the need for staff and volunteers to be trained with specific skills, such as psychological counselling or psychosocial support to victims, as well as technical skills for documentation, analysis and reporting. One informant expressed the technical challenges involved in reporting grave violations against children and making these reports public, to be utilized to inform policy and programmatic response: “Because of our means, making a public report would be hard as you first have to produce the report, verify its quality and bring it to the media. We do not have the means to do so currently” (Ordre des Avocats).

iii. Partnerships:

Interestingly, the theme of ‘partnerships’ was characterized by both challenges to, and opportunities for, the implementation of the MRM and its ability to inform programmatic response. With the six grave violations each intersecting different domains of child protection, the MRM and linking it to response demands a significant amount and a wide array of partnerships at multiple levels. However, in speaking with MRM task force members, which almost exclusively includes UN bodies (with the exception of two international NGOs that are both inactive), it became clear that local NGOs are not formal partners yet informally assist with providing information on alerts and responding locally to victims needs in the provision of supportive services.

“For all victims we usually try to refer them to NGOs. Because part of the NGOs that are our partners, some of them have medical
clinics...or if they need legal assistance some NGOs can do this as well. We have a list of NGOs that we can [refer] them”

—MONUSCO-JHRO

Despite the ‘vacuum’ of local contextualized expertise in the in-country Task Force, members urge that partnerships are absolutely vital towards the implementation of the MRM, especially in hard-to-reach or inaccessible areas where there is no UN physical presence. One informant asserted that: “Yeah we totally rely on them [i.e. NGOs] to collect information. They always send us the raw information and then we verify the information. And I know that every field office has their group of NGOs that they meet regularly with and that’s how you get the information” (MONUSCO-JHRO). A pivotal partnership was expressed between MRM task force members and local NGOs that offer medical, legal or psychosocial support and are partners in a referral capacity.

However, several challenges at various levels existed in enabling and sustaining partnerships. Some informants expressed concerns over the safety of local NGOs collecting information on violations in conflict zones, as task force members are unable to protect them from the risks that might ensue. As was expressed in section (G) of ‘challenges,’ partnerships across different organization types (i.e. UN bodies, International NGOs and local NGOs) are often uneven, frequently approximating a hierarchical top-down ‘colonial’ approach. For example, one informant attested that “the rapport between the international and national organizations, there are always gaps and distances” (Soprop). This underscores another example previously cited, but is reiterated here as it truly captures the unevenness of partnerships between local NGOs and INGOs or the UN:

“They will indicate they prepared the project without any help, denying your involvement...They feel that they don’t owe it to you, because when you came to the meeting, they fed you, [and] once done eating they reimbursed you for the transport.”—Soprop

Several local NGOs mentioned how UN or INGO partners remain enclaved in their thematic ‘drawers,’ rigidly stuck to their own agenda’s lacking the flexibility to truly work in concerted partnership with local NGOs. Other local NGOs described experiences of inferiority, such as the following example:
“The cooperation in reality…*sighs*…it is very complicated. First when you start working with them, they will not show you the budgets for the project. Yet you are working on that project. Second, if they show you the budgets, they do not trust you.” —Soprop

Other examples highlight the gap between ‘partnership on paper’ and partnership in practice:

“It is rare that there are organizations that help the civil society organizations and their structure to advance themselves and their work…The international organizations, we know what they are but we have never seen their office. Never seen their staff either, never seen their work, we just know that it is an international organization. And when you get there, all is closed to you, you can only go by invitation”—Soprop

Another challenge experienced in partnerships included maintaining independence and impartiality. This was especially problematic when organizations worked in partnership with police, military or government personnel, as corruption and conflicts of interest frequently occurred among these positions. From a Task Force member’s perspective, another challenge with partnerships was the lack of professionalism and sophistication among some local NGOs:

“Here in Kinshasa the issue is that there are a lot of NGOs, they are not all very professional, so the information that they give us, you always have to be really careful and to double check. There is also a lot of competition among them, which could be really counterproductive for us…It’s difficult to know which NGO to use.”

—MONUSCO-JHRO

iv. Accountability:

Another emerging theme that became evident through data analysis was ‘accountability.’

Although accountability is a complex term to define, this theme persisted across a majority of interview sources with divergences in how the concept was used and understood. Some discussed accountability in terms of ‘responsibility,’ for example:

“The Top Chairman, the UN SRSG of the DPKO Mission, is the highest level accountable and at the technical level it is the
responsibility of the protection section of UNICEF...UNICEF’s responsibility is stated in the resolution [i.e. UNSC Resolution 1612], so they are accountable for it and share it with the DPKO.”

―UNICEF

This held true with regards to what the government is responsible for implementing, such as human rights and taking action on violations and protection concerns, as well as what organizations were responsible for implementing, as defined in their mandate. Accountability as a form of responsibility was also discussed in terms of a ‘chain of command,’ whereby organizations were responsible to report to those higher up on the chain. For example, MONUSCO (JHRO) in discussing their mandate explained that: “our mandate is to monitor and report on the human rights situation in the whole country. So we are a joint office which means that we report to New York to the DPKO, so we are part of MONUSCO, but we are also part of Geneva, to the High Commission of Human Rights.” A conceptualization of accountability in terms of holding perpetrators accountable for their actions was clearly articulated by one informant as the purpose of the establishment of the MRM: “The MRM holds parties to the conflict who are responsible for committing grave violations against children accountable” (MONUSCO-CPA).

At other times, informants discussed ideas of accountability, without an explicit mention of the term, such as not being answerable to those ‘below’ them in the chain of command (ie local organizations that conduct the monitoring in hard to access areas and report back to MRM task force members). For example, in UNICEF’s partnerships, local NGOs provide alerts but don’t receive any feedback or information on the results. Accountability as answerability to partners lower on the chain of command also emerged in reference to reviewing reports received from partners and providing feedback on how to improve their reporting. Sometimes, accountability to those higher up that an organization must report to was done blindly, without a real dialogue occurring. This is captured in the following statement regarding why the MRM in the DRC is more heavily focusing on the grave violation of sexual violence: “It’s something that comes from New York and we have to implement it” (MONUSCO-JHRO). Challenges with accountability (in terms of answerability) to local NGO partners was evidenced in the case of workshops, meetings or consultations, where local NGOs provided their input, reflections and

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experiences on the ground to UN groups and International NGOs, but were not granted any credit in the final product for their involvement. Another example of accountability in terms of ‘answerability’ is as follows: “they remain enclaved in their thematic ‘drawers’ even when you come across them, they leave. Hello? Hello? They do not reply…everyone stays in their field” (Soprop),

Unfortunately, at the ‘lowest rung’ of the chain of command of answerability rests the victims and beneficiaries of support services. A few informants expressed concern of a lack of a mechanism in their organization to be effectively answerable to victims. One provided the following example: “We came back to the office to make our report, while at the time when we left some victims died over there as we offered no solution” (MONUSCO). In some instances, accountability conceptualized as answerability intersected with accountability as responsibility, such that informants highlighted the challenge that there was no follow-up mechanism to monitor whether there was “responsibility at the government level” for taking effective action or whether the government was meeting its obligations, with one informant asserting that: “if they do not have to answer to anyone, they can do what ever they want” (Soprop). Beyond the conceptualization of accountability, either as responsibility or answerability to those above and below in the ‘chain of command,’ in examining accountability in practice, a thematic bifurcation emerged between a perpetrator-focused approach to accountability and a victim-focused approach to accountability. In data analysis, two subcategories were created under ‘accountability,’ with themes centring on ‘impunity’ and the ‘ICC’ falling under ‘perpetrator-focused accountability’ and themes centring on ‘empowerment’ and ‘referral mechanisms’ under ‘victim-focused accountability.’

A) Perpetrator-Focused Accountability

One form of accountability that was frequently discussed by informants was focused on the perpetrators of grave violations. In this approach the emphasis was more on holding perpetrators to account for the grave violations they committed rather than focusing on being accountable to those that had their rights violated. This method centred on engaging with parties or perpetrators listed for committing one or more grave violations against children as a means of halting or preventing these violations: “MONUSCO also advocates with parties to the conflict to vacate schools and stop the military
use of schools and prevent attacks against schools” (MONUSCO-CPA). Often, this approach to accountability resulted in a focus on punitive actions taken against perpetrators. For example:

“Thanks to a closer collaboration between the OSRSG-CAAC and the Sanctions Committee, parties to the conflict and individuals who commit grave violations may be subjected to targeted and graduated measures, such as travel bans, assets freeze etc.” —MONUSCO-CPA

This approach to accountability focusing on perpetrators often assumed a legalistic tone, emphasizing a legal or penal approach to justice. For example, many sources discussed the use of local legal procedures to foster accountability of perpetrators who commit violations against children, while others mentioned the use of international justice and the Rome Statute. For example, one organization was engaged with the International Criminal Court (ICC) and its proceedings on Germain Katanga in his trial for international crimes such as war crimes and crimes against humanity.

Overwhelmingly, informants that utilized the perpetrator-focused approach to accountability in discussion emphasized the “fight against impunity” (UNICEF), as several cases go unreported or unresolved due to corruption, immunity regimes and conflicts of interest that exist in the legal system, as highlighted above in ‘challenges.’ This was especially prevalent for perpetrators that comprise the police force, military or judiciary as previously noted. Impunity with respect to action against perpetrators was stressed as a major problem by many, with one informant articulating in her recommendations that: “We would like them to be able to help our country to bring an end to impunity. That is really a big problem. We have a lot of impunity that still exists in our country” (World Vision).

B) Victim-Focused Accountability

Alternatively, others emphasized an approach to accountability that focused more on victims. This either took the form of empowerment, capacity-strengthening, or tangible remedial support (medical, legal and psychosocial) offered to victims and their families. Several organizations, particularly local NGOs, incorporated themes of empowerment into their programming and for others, empowerment served more as an attitude or lens through which they envision the children they aim to serve, asserting that: “each child has his story, each child has a life
story” (Soprop). In terms of programming, one organization, which focused on the rights of the ‘girl child,’ conducted several programs that tried to better understand the social and economic environment of young women to foster female entrepreneurship, explaining how this serves as a potent mechanism of protection:

“We know we can talk about women’s rights all day, but at the end of the day if they can’t sustain themselves, it will just be a cycle because they will still need men to take care of them. And when men give, they demand whatever and they victimize them again. So we try to refer them or reinforce their economic power, so at least they can sustain themselves with their basic needs. This is also another mechanism of protection.” —Afia Mama

Another form of victim-focused accountability took on the form of capacity-strengthening. This either entailed strengthening resilience in children, or strengthening capacities within the community and civil society to better serve children who’ve experienced grave violations. Overwhelmingly, capacity-strengthening was most discussed in the context of social assistants or case workers, who are at present not adequately trained in supporting child victims. In terms of fostering resilience in children, several organizations mentioned the use of special clubs or programs that try to build capacities in children to monitor and report themselves on the violations they experience and come up with potential solutions. For example:

“We select a ten member committee, and that committee does the monitoring of the difficulties the children encounter…and when they meet, they propose solutions. We share responsibilities and sometimes we have to intervene with a ‘thing’, an instrument, to fix the difficulties the children experience…We are training them to be the advocates and agents of their own path.” (emphasis added) —Soprop

Capacity-strengthening among children may also take the form of human rights education in classrooms, as well as by producing ‘pictographics’ (i.e. info-graphics predominately using pictures and symbols) with minimal use of written text to overcome the pervasive challenges of illiteracy and out-of-school
youth. Other organizations emphasized efforts to maximize the victims’ autonomy by taking greater responsibility of their own lives.

Lastly, nearly all organizations interviewed discussed the accountability to victims in the form of medical, legal or psychosocial support, either in a referral or provider capacity. For medical support, organizations partnered with health centres that conduct the necessary procedures for victims of sexual violence, both in collecting evidence to convict their perpetrators and in providing medical assistance in recovery. For legal support, one organization offered the assistance with the legal procedures themselves, while others worked in a referral capacity with legal clinics. For psychosocial support, organizations encouraged the use of counsellors and psychologists especially in schools, however, most commented on how counsellors with adequate training were so few in number and not readily available in the DRC. For example: “There are psychologists that are not too trained for this. That represents a challenge. They are not too trained to talk to children. The child is traumatized and blocks the information. So they need to be trained and reinforced” (World Vision).

Other organizations tried indirect methods to promote a space of psychosocial support, such as children’s clubs, which help civilly engage children in a way that: “encourage[s] them to advocate for their rights…to raise awareness on child protection issues and on child rights” (Save the Children). Additional psychosocial support included peer mentorship programs, group therapy (through dance and play), and child friendly spaces which help restore a sense of normalcy through routine recreational activities, as arguably “the biggest negative impact on psychology is the upheaval of normal activities” (Save the Children) which typically occurs in conflict settings.

Another form of support that was mentioned by some informants was financial support in the form of reparations or as one put it, “an indemnity fund” as a form of security or assurance to the victim and his/her family by a public power. With regards to the provision of all these various forms of support outlined here, the need for strong partnerships and effective coordination was repeatedly emphasized.

III. Relationships
Queries were performed using Nvivo in data analysis to produce cross-matrices of themes in order to examine the overlap and intersection between various themes, or how themes were expressed across organizations or organization types. The first query run examined the theme ‘challenges,’ which emerged in all sources and was coded 234 times, making it by far the theme with the highest number of references. A matrix was produced analyzing which themes overlapped with challenges and were then ranked in order to determine the most pressing challenges with the MRM and monitoring and reporting, as experienced and expressed by informants. The second matrix produced by Nvivo examined the differing weight of emerging themes across organization ‘types’ (i.e. UN, INGO, local NGO) in order to compare and contrast what themes were most relevant across organizations. This was further supported by a cluster analysis that was conducted both by word similarity and by themes, which demonstrated that in fact organizations typically clustered around other organizations of the same type. Ultimately, these two queries illustrate that experiences and challenges with the MRM, monitoring and reporting, and responding to grave violations against children varied according to organization type. The last significant relationship to emerge in data analysis is demonstrated by a simple quantitative comparison between the number of references in interview content to ‘attacks on schools’ versus the other five grave violations, evidencing a clear under-prioritization of attacks on schools, potentially as a result of a mandated over-emphasis on sexual violence and child recruitment.

A) Matrix I—Challenges x Themes (Ranked):

Interview content regarding obstacles experienced by organizations with monitoring and reporting grave violations against children was coded separately as both ‘challenges’ and also as specific emerging themes (e.g. ‘limited resources,’ ‘awareness,’ ‘partnerships’) as described in the thematic analysis above. A query was run to analyze the overlap between ‘challenges’ and these emerging themes, producing a matrix to demonstrate which themes were discussed by informants as a significant challenge in monitoring and reporting. Themes overlapping with ‘challenges’ were then ranked in order to exhibit which particular challenges were most frequently mentioned. This matrix facilitated both identifying existing challenges as well as highlighting the most pressing barriers that warrant attention and resource
investment for further improvement of the MRM and monitoring and reporting violations against children in conflict settings more generally.

‘Limited resources’ (i.e. financial, technical and human resources) was by far the most recurring challenge across all interview sources, referenced as a ‘challenge’ by informants 67 times. ‘Awareness’ of laws and policies on child protection or on the existence of attacks on schools was the next greatest challenge among informants. Various challenges occurred in engaging in partnerships between various organizational types to monitor and report grave violations against children and/or in partnering with organizations for referral mechanisms for victims. It should be noted that the theme labeled ‘other 1612 violations (sexual violence and child recruitment)’ was coded as a ‘challenge’ because these other grave violations were over-prioritized, thereby challenging the effectiveness of the MRM with reference to attacks on schools. It is important for this point to be clarified so that it is not misunderstood that ‘other 1612 violations’ (i.e. not attacks on schools) are bigger challenges for child protection warranting greater attention and resource investment. The fifth most pressing challenge was regarding accountability to victims of grave violations and holding perpetrators who are responsible for committing grave violations against children accountable. Table 3.2 represents a visual representation of the ranking of themes when described as challenges.
<table>
<thead>
<tr>
<th>Themes</th>
<th># of Times Overlapped with Challenges</th>
<th>Rank</th>
</tr>
</thead>
<tbody>
<tr>
<td>Limited Resources</td>
<td>67</td>
<td>1</td>
</tr>
<tr>
<td>Awareness</td>
<td>44</td>
<td>2</td>
</tr>
<tr>
<td>Partnerships</td>
<td>42</td>
<td>3</td>
</tr>
<tr>
<td>Other 1612 Violations (Sex. violence and child recruitment)</td>
<td>33</td>
<td>4</td>
</tr>
<tr>
<td>Accountability</td>
<td>32</td>
<td>5</td>
</tr>
<tr>
<td>UN-'UN Elitism'-Western Imperialism</td>
<td>29</td>
<td>6</td>
</tr>
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In order to better understand which themes were most discussed across different types of organizations (i.e. UN, local NGO, International NGO), a query was run in data analysis to produce a matrix of emerging themes (according to their frequency of occurrence in interviews) and organization type. As there were different sample sizes for each organization type (i.e. 5 UN participants, 4 Local NGOs, and 2 International NGOs), a column was added to each type to produce a weighted score (i.e. frequency of occurrence of a theme divided by the number of informants of that organization type), so that comparisons could be made across groups.

For a full summary of this matrix, please see Table 3.3 on the following page. It should be noted that while this matrix is helpful in producing a quick ‘snapshot’ of apparent content differences across organization type, the sample sizes of all three organizational types were small which consequentially leaves significant room for error due to possible outliers as participants. The most interesting discrepancies across organization type were as follows:

- Challenges was consistently high among all groups, however was least frequently emphasized by UN groups;
- Accountability was uniformly high, however, accountability was most discussed by local NGOs;
- Similarly, limited resources was frequently mentioned by all, but was least often discussed by UN groups.
- Dovetailing with the preceding point on accountability, empowerment was least discussed by UN groups;
- Attacks on schools, although remarkably low across organization type, was most frequently discussed by UN groups;
- Surprisingly, there was a large disparity in use of human rights language across groups, with more than a five-fold increase in frequency of use in interviews with local NGOs;
- Compared to local NGOs and International NGOs who discussed Congolese laws and policies on child protection quite frequently, UN groups did not discuss this at all;
• Discussion of the Monitoring and Reporting Mechanism itself was notably absent (nearly zero) among local NGOs;

• However, the action of monitoring and reporting was most frequently discussed by local NGOs and International NGOs, while minimally articulated by UN groups;

• Advocacy was highlighted as an important attribute in the topic of monitoring and reporting grave violations against children by local NGOs, but not by other groups.
Table 3.3: Challenges by Organization Type

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Matrix III: Attacks on Schools x Other 1612 Grave Violations

Lastly, an interesting relationship emerged when comparing the number of references, or frequency of occurrence in discussion with informants, between the grave violation of attacks on schools and other grave violations listed in Security Council Resolution 1612. In data analysis, content discussing rape, sexual violence or the recruitment of children by armed forces was coded as ‘other 1612 violations’ and content discussing the grave violation of attacks on schools were coded separately as ‘attacks on schools.’ Separating the grave violations into two groups enabled a comparison to be conducted in their emphasis in discussion.

Interestingly, despite the fact that interview informants were each prompted to discuss attacks on schools in the DRC, both by specific interview questions in the interview guide as well as by the general introduction on the researcher and the research project, attacks on schools achieved a lower frequency (i.e. 38 references) of occurrence in discussion (indicated by the number of references coded) than ‘other 1612 violations’ (i.e. 78 references) (that were not prompted by the researcher or by interview questions). It should be noted that ‘other 1612 violations’ predominantly included sexual violence and the recruitment of children by armed forces. Below is a frequency table (i.e “Table 3.4: Attacks on Schools vs. Other 1612 Violations” outlining this finding.

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Table 3.4: Comparative Under-Prioritization of Attacks on Schools
C. Objective III: Recommendations

Research participants were prompted as part of the interview guide to reflect on possible recommendations, either general or specific, at various levels of implementation to address some of the challenges they brought forward during interview discussion. However, in addition, several informants discussed recommendations or the need for improvement in key areas at various points throughout the interview unprompted. In data analysis using Nvivo software, recommendations were coded as such, with significant overlap in other thematic areas. The thematic groupings of recommendations are as follows:

A) Sensitization and Advocacy: A majority of participants expressed the need for greater sensitization and advocacy, particularly to encourage greater awareness of existing laws and policies concerning the protection of children and their rights. A significant portion of the recommendations on this topic were aimed at higher levels, urging that sensitization extend to public agents and political powers, as well as those at higher levels of the police and military. Ultimately, greater vulgarization of the laws is urgently needed in order for laws to be applied and implemented, as well as serve as a deterrent for violations.

- By far the biggest need expressed was the need for stronger dissemination and vulgarization of the child protection law, Law 009. It was expressed that this will “give strength to the law…as people do not even know there are many laws to their advantage” (World Vision). There is significant need to raise greater awareness of the existence of the law, especially in rural areas and areas where there are rebel groups and insurrectional movements.
- Specifically, some informants mentioned the need for dissemination and sensitization efforts be conducted in multiple languages, as at present they are mostly done in French despite the existence of at least five official languages.
- Some informants suggested the need for greater awareness of the human rights violations that are continuing to occur against children. In particular, greater advocacy is needed on the
occurrence of attacks on schools and the military use of schools and how this grave violation impacts children, as well as the sustainable peace, justice, security and development of the nation. It was highlighted that while some NGOs are deeply engaged with advocacy on this issue, there is a need for a specific call from the government and for the government to better mobilize on taking proactive action on this issue. This recommendation was concurrent with the recognition of a need to change priorities, as “peace, security and education are all connected” and “education is key to building peace” (UNICEF).

- A need was identified by some for greater sensitization at all levels (public agents, private agents, grassroots agents and individuals) on the human rights conventions, especially those that have ratified or signed by the DRC.

- Linked with the above concerns, it was recommended that there be a system of information-sharing made public to organizations, while protecting the identities of victims and perpetrators. This may assist with the challenge of the expansiveness of the country and the facilitation of coordination and partnership in organizations in disconnected and inaccessible areas of the country, especially in rural areas where traditional practices are more prevalent.

- A specific proposal was offered by one informant to have a denunciation unit within the university that is partnered with a TV or radio station. This could facilitate greater awareness of the existence of violations occurring within and outside the school. It could also help ensure greater accountability in holding perpetrators responsible.

- One informant provided that there is a need for a Parliament for Children as a specific accompanying measure; it was noted that this organization is currently in the process of an impending research project examining the accompanying measures of Law 009.

B) Training: Intricately linked with the need for greater sensitization, was the need for better training of individuals and organizations at multiple levels. This frequently included varying levels of public agents and officials, such as within government, the judiciary, the police, the military and armed groups, as these agents are the ones responsible for guaranteeing the laws are [in place and followed.]
In addition, it was expressed that training needs to engage with traditional leaders so that “they can stop traditional practices that are not in conformity with our laws” (e.g. Law 009).

C) **Greater Access to Services for Victims:** Multiple informants highlighted the inaccessibility to key services and resources that are needed by victims of grave violations. The additional costs that the families of victims must accrue are particularly burdensome when coupled with the high incidence of poverty.

- It was recommended that there be greater investment of state resources to ensure that access to both the state institutions of the justice and health system be free for all victims. This includes the elimination of fees for police transport fares to arrest perpetrators.
- It was also suggested that there be more children's tribunals that are less centralized so that they can be accessible throughout the country, not just to those within proximity of the capital city. It was also proposed that all these courts be linked, as children may be transported to another area or juggled between the adult and juvenile justice systems, with information shared on an encrypted database so that full records of a child’s file can be easily entered and shared between courts across the country.

D) **Financial Support:** Adequate financial support is a necessary prerequisite to implement almost all of the aforementioned recommendations, as they require resource investment of one form or another. It was evidenced through field research that the MRM, as well as other monitoring and reporting efforts documenting grave violations of children’s rights, does not receive any designated funding for the Mechanisms’ implementation. This was identified as a major concern and significant issue for effective action, and was similarly identified by all informants as an area much in need of further support.

- As a means of assisting with and implementing the preceding recommendation, it was urged by many that there be greater financial support to local organizations and civil society members that do the bulk of the monitoring and reporting on the ground in difficult to access areas.
• It was recommended that greater financial support be provided for organizations that work in a referral capacity with monitoring and reporting efforts to better support the beneficiaries of their services.
• In addition, it was expressed that there is a need for adequate budget resources to be allocated to state institutions that work on child protection and children’s rights.
• Specifically, it was proposed by one informant that an indemnity fund be set up by a public power for victims whose rights were violated. This can help ensure that victims and their families receive adequate security and assistance that can assure them sustainable reintegration and recovery and compensate with reparations for any financial losses incurred.
• Another specific proposal that was recommended was that rewards or some form of compensation be offered for good examples, not as a form of corruption but to serve as positive models that may stimulate others to do better.
• It was expressed that financial support was needed to hire additional staff to help ease the burden of overworked staff and understaffed missions, which are both exacerbated by the expansiveness of the country. This could ensure that there is a staff presence in small villages in rural areas, which are frequently underserved by monitoring and reporting efforts.
• Some informants also recommended that there be greater financial support in order to improve technical deficiencies that undermine the effectiveness of the organizations’ work.
Chapter 4: Discussion

A. The Under-Prioritization of Attacks on Schools

While Security Council Resolution 1612 in theory emphasizes all six of the grave violations against children, in practice, efforts have predominately narrowly focused on the recruitment of children by armed forces since the Resolution’s onset. This is reflected in the slow expansion of the triggers listed in the Security Council’s Annexes. Initially, only child recruitment was a trigger for parties to a conflict to be listed, and it wasn’t until 2009 for sexual violence and killing and maiming to be added as triggers. Finally in 2011, several years after the establishment of the MRM, attacks on schools was added as a trigger. However, several studies that have evaluated the impact of the MRM in multiple country situations have noted that the same grave violations are continuing to receive over-prioritization at the cost of the relegation of other violations, particularly attacks on schools. These findings were further reaffirmed, perhaps even demonstrating an exacerbated effect, by this study in the DRC context as observed in the thematic analysis and analysis of relationships. Although attacks on schools was a purposefully probed topic in the interview guide, the topic was very minimally discussed by key informants, often demonstrating a lack of awareness of the violation existing in the DRC entirely. As demonstrated in the relationships section of the results, attacks on schools, although remarkably low across organization type, was most frequently discussed by UN groups, as it is a more explicit part of their mandate to have a dedicated focus on all six grave violations.

Although the recruitment of children by armed forces is an especially widespread violation, it is not the exclusive child protection concern in most countries wracked by armed conflict. In fact, the UN Secretary-General’s Study on Violence against Children states that the threats and vulnerabilities that children are exposed to in conflict settings are complex and manifold, often taking many forms ranging from physical and sexual abuse, torture, neglect, displacement, loss of education, forced labor, early
marriage to other forms of exploitation. Despite this reality, it has been evidenced that child protection efforts have overwhelmingly adopted a more blinkered approach, concentrating on recruitment and demobilization of child soldiers with the “broader impacts of war on children…seen as secondary issues. Too often these violations go undocumented and unacknowledged.” The Jeffereys study, among others, notes that although the OSRSG—CAAC publicly acknowledges and denounces all six grave violations, it is clear that on the ground the “Security Council’s focus lags behind” on the other violations. Additionally, the Security Council’s most recent Cross Cutting Report on Children and Armed Conflict (June 2015) declared that “little attention has been paid to getting parties involved in other violations, such as sexual violence, killing and maiming or attacks on schools and hospitals, to sign action plans.”

Of the studies that have conducted a critical appraisal of the MRM, Jeffereys study evaluating the effectiveness of the Security Council in protecting children in conflict settings highlights the over-emphasis on child soldiers and identifies it as one of the key shortfalls in the MRM’s implementation. Jeffereys suggests that the grave violation of child recruitment is favoured by the Security Council as it can be responded to with public naming and shaming of recruiters and can be more easily monitored and progress towards remediation more readily measured through concrete, time-bound Action Plans. Happold’s examination of the Security Council’s involvement and use of “soft power” in the protection of children in armed conflict also remarks that more attention has been paid to the recruitment and use of child soldiers at the time of writing in 2010, adding that “this concentration on one violation has been the subject of considerable criticism.” Barnett and Jeffreys’ survey emphasizes the uneven progress that results from narrowly focusing on but one of the grave violations, asserting that “unfortunately, there

322 Jeffereys: Can the Powerful Protect?: 13.
325 Jefferys, Can the Powerful Protect?
326 Ibid.
appears to be little evidence that inter-agency monitoring and reporting for grave violations under the MRM has had a direct impact on reducing the incidence of grave violations other than recruitment by armed force and groups.\textsuperscript{328} Ultimately, substantive progress in the protection of children cannot truly be made if upon disarmament and demobilization a former child soldier cannot return to school due to violence or continues to be exposed to other forms of exploitation such as sexual abuse and forced labor. Other studies support this last statement of exclusive progress with child soldiers, noting that Barnett and Jeffrey’s study reveals that while there been some progress in the release of children by parties to the conflict and determent of recruitment of child soldiers, the MRM has “not reduced incidence of the other five grave violations defined under resolution 1612.\textsuperscript{329}

Although previous studies evaluating the impact of the MRM have addressed the disproportionate emphasis on the recruitment of child soldiers, there is a knowledge gap in the available literature on whether these trends have persisted once \textit{all six} grave violations were added as MRM listing triggers in 2011. Research findings from this study not only reaffirmed that the past findings continue to hold despite the addition of all grave violations as triggers, but also demonstrates that the trend of over-emphasis has shifted to primarily sexual violence instead of the previous emphasis on child soldiers. As one key informant, a CPA for MONUSCO on the MRM task force, explains, sexual violence now receives more attention internationally, as it is a “more ‘sexy’” topic within the contemporary discourse on humanitarian affairs and human rights, whereas child soldiers was the ‘hot topic’ of the past. Another informant confessed that; “I’ll be honest with you, I think it’s one of the big topics of the moment. It’s something that comes from New York, and we have to implement it” (MONUSCO-JHRO). Perceptions of sexual violence as globally ‘currently a hot button issue’ were echoed by multiple participants, with one informant from Save the Children identifying the over-prioritization of sexual violence and gender-based violence as a plausible explanation for the under-prioritization of attacks on schools and the other

\textsuperscript{328} Barnett and Jeffreys, Full of Promise: 19, supra note 27.
\textsuperscript{329} Hodgson, Who’s Action Plan?: 171; Barnett and Jeffreys, Full of Promise: 9.
‘forgotten’ grave violations: “I think because [sexual violence has] received so much donor attention in funding…in the DRC it’s really got a lot of international focus.”

The focus on these two particular violations, albeit shifting from child soldiers to sexual violence, is reflected in the Action Plan that was put in place in the DRC, which only includes efforts directed at these two violations. There is some merit however in this narrow approach, as several informants asserted that child recruitment has “seen the most improvement and milestones” (UNICEF) with many informants citing progress in sexual violence advancing as well. However, the inverse is easily observed in the other grave violations, with participants emphasizing a lack of progress, and indeed stagnation, particularly apparent with attacks on schools and the denial of humanitarian assistance.

There are several reasons for the relative under-prioritization of attacks on schools, but “neither prevalence nor severity are plausible justifications for prioritizing recruitment over other violations.” In discussing why the grave violation of attacks on schools is being under prioritized as part of the MRM agenda in the DRC with two UNICEF staff, a vigorous disagreement ensued between an informant from the education sector and the child protection sector. There was staff discord on whether the government’s inaction reflected a lack of knowledge or a lack of capacity and will. The child protection representative suggested that “with attacks on schools, I’m not sure everybody knows it’s so bad” as there is no clear directive from the government on the matter in addition to a general lack of awareness that it is indeed a grave violation to be monitored by the MRM. However, the education staff adamantly asserted that; “there are plenty of advocacy efforts for not occupying schools. While armed groups and soldiers are aware of this, it is the government and Ministries that don’t take it seriously that is the problem, or they are willing but they are stuck.” In further exploring the latter challenge, it was revealed that attacks on schools is gravely underreported in the MRM as a majority of reported allegations do not get verified, and consequentially do not get included in the regular reports. This was further confirmed by a MONUSCO JHRO staff who remarked during our interview in discussing attacks on schools how the last monthly

report received from those on the ground in the East was “the first time that they have something in contribution of that [i.e. attacks on schools]…that’s the first time that they had something about it in their reports.” Another staff actively working in the field on MRM reporting disclosed that “it is true however that the number of documented cases of recruitment and SV [i.e. sexual violence] are higher than cases of attacks against schools”331 (MONUSCO-CPA).

Despite the disagreement described above, both staff members agreed that there was a fundamental disjuncture between peace objectives and justice objectives within the government, with peace and security ultimately prioritized at the cost of justice. This disjuncture has ultimately undermined several organizations’ ability to focus on violations against children that relate to justice and child protection more generally, such as those that violate a child’s right to education. However, this conundrum does not necessarily require it to be a ‘catch-22,’ as one informant explained “peace and security always comes first, but the MRM says that you can’t have peace without addressing all six grave violations. So it’s a about recognizing a need to change priorities…as peace, security and justice are all connected” (UNICEF). In recognizing the ‘two faces of education,’ participants added that “we need to recognize the impact of conflict on education” (UNICEF) and inversely, the impact of education on conflict or peace, and appreciate that education can profoundly impact a nation’s propensity for peace or war. Nonetheless, popular conception remains of the grave violation of attacks on schools as prioritizing the protection of buildings, rather than the physical protection of children and the protection of their rights; to many, “education is less perceived as a critical thing…like rape or child soldiers, but education is the future of the nation” (UNICEF), and is therefore a critical factor for future national progress and stabilization. In fact, attacks on schools are particularly worth of national attention, as “school attacks may amount to a war crime—hence it is a very serious violation” (MONUSCO-CPA).

Lastly, the under-prioritization of attacks on schools can similarly be observed in the referral mechanisms set up and services offered to victims of grave violations. Multiple informants highlighted

331 Emphasis added.
the pitfall that referral mechanisms currently exist for most other violations with the exception of attacks on schools and the denial of humanitarian assistance. As referral mechanisms are intricately connected with the MRM’s potential to be downwardly accountable to victims (as will be discussed in the following discussion point), this deficiency is a critical flaw in the overall effectiveness of the MRM. Due to the international appeal and the earmarking of donor funding for sexual violence, referral mechanisms in the DRC are largely biased in favour of providing legal, medical and psychosocial services geared toward victims of sexual violence, while support services are lacking for children affected by attacks on schools.

B. The Lack of Accountability in the MRM:

i. The MRM’s Overwhelmingly Upward and Perpetrator-Focused Approach to Accountability

While most individuals across multiple disciplines would undoubtedly agree that ‘accountability’ is a valuable asset to any organization or system, it is often less clear what this ‘buzzword’ really means in its application. In the complex realm of human rights and humanitarianism, accountability is an even more difficult web to disentangle, proving to be an incredibly challenging term to define, implement and measure. Despite these issues, ‘accountability’ is an increasingly valued term in humanitarian programming and service delivery.

Monitoring and reporting grave human rights violations can serve as important tools in ensuring accountability in contexts characterized by armed conflict. Monitoring and reporting can address accountability by using the information it collects to: 1) directly feed into an effective and rapid response system; 2) systematically analyze documented data to identify trends to better target future preventative and programmatic efforts, 3) produce a better understanding of how to orient and implement remedial efforts for victims of grave violations and the broader community, and finally 4) be used as a body of evidence for holding perpetrators legally accountable. However, the present in-depth analysis drawn from field research reveals that the MRM is effectively only designed to address ‘upward’ accountability to trustees, such as the United Nations (UN) and the Security Council (UNSC). Indeed, as was articulated in
the thematic analysis section of results, several informants who sit on the CTFMR conceptualized accountability as a form of responsibility that flows upward to other UN bodies and entities higher up on the chain of command (such as the Special Representative on Children and Armed Conflict, the Secretary-General, the Security Council and its Working Group on Children and Armed Conflict).

Analysis conducted through a review of the existing literature on the role of the Security Council in holding violators of children’s rights to account reveals that the UNSC, the Working Group and the MRM fail at providing accountability, even in its selected upward, perpetrator-focused penal approach. Examining the available toolkit of the UNSC for action, with a specific focus on sanctions (arguably the Council’s strongest and most effective resource) reveals that the Security Council has very inconsistently and minimally authorized targeted sanctions against persistent violators using any of the six grave violations against children as a criteria for their designation.

Data analysis revealed a troubling bifurcation between accountability strategies used by MRM Task Force Members (which, due to local NGO exclusion is largely comprised of UN bodies and INGOs) and local NGOS and grassroots groups. Employing a nearly exclusively legal punitive approach, the MRM applies a disproportionate focus on the ‘big fish’ or high-level perpetrators. Additionally, as learned through field research, due to strict UN-set standards for the verification of reported allegations and the many challenges expressed with verifying cases, only a minority of grave violations occurring in the country are included in the MRM annual reports. As one informant admits, “alerts are not reported unless there is a big massacre that has been verified. This is a big challenge, as only verified cases go up\textsuperscript{332} to the Special Representative…this is especially problematic for attacks on schools because very few cases get verified” (UNICEF). Ultimately, this insular approach undermines the MRM’s ability to achieve all but the last objective of monitoring and reporting accountability outlined above. Alternatively, the strategy undertaken by local NGOs and civil society groups, places greater emphasis on ‘downward’ accountability to affected populations by focusing more on the victims of armed conflict through the

\textsuperscript{332} It interesting to note here the informant’s use of language, which further illustrates the prevailing conceptualization of upward accountability to those higher up, such as the Special Representative.
provision of remedial services and programming aimed at local capacity-strengthening and empowerment.

By yielding a better sense of the ‘big picture’ or the overall context through less restricted and better positioned monitoring and reporting, one could make the case that local NGOs and civil society groups are perhaps better able to meet the first three objectives of monitoring and reporting accountability. In fact, the literature review provided in Objective I of the Results section further evidenced this divergence, by comparing the reporting of the UN-driven MRM annual reports and those that were community-driven; it is clear that the MRM is only capturing a fraction of the on-the-ground reality as the latter initiative captured dramatically higher prevalence rates in just two provinces than the MRM’s reported figures, which cover the entire country. While further research is needed to more rigorously examine whether NGOs are capable of achieving downward accountability if included in the MRM, as thematic analysis (particularly on partnerships) revealed both advantages and disadvantages of engaging local NGOs in monitoring and reporting, it is apparent through this research study that a more diverse set of actors are required for MRM engagement. Furthermore, the UN MRM is but one piece of broader monitoring and reporting efforts to protect children.

ii. Defining Accountability in Humanitarian Settings:

While there is a multitude of working definitions of accountability, a consensus definition has yet to emerge. This lack of clarity surrounding definition ultimately challenges the ability to implement and measure accountability in the field. In fact, the Humanitarian Accountability Report (HAP) acknowledges that; “accountability has now become part of our day-to-day jargon, but that’s a disadvantage in many ways. Once you start asking staff from humanitarian agencies what they understand by accountability you quickly discover that comprehension varies a lot depending on who you are talking to.”333 With this testimony in mind, it becomes readily apparent that there is a need to carefully unpack the discourse on accountability, by specifically analyzing the diverse components and elements that constitute the term.

Ebrahim (2003), in his examination of accountability in practice, analyzes accountability along three dimensions: 1) upward-downward, 2) internal-external, and 3) functional-strategic. This first axis of upward versus downward accountability is of particular importance in the context of humanitarianism, with ‘upward accountability’ defined by Edwards and Hulme as entailing accountability to trustees (e.g. the Special Representative of Children and Armed Conflict, the UNSC, the Secretary-General), donors and host governments whereas, ‘downward accountability’ taps more into the relationship with grassroots partners, the beneficiaries of assistance and the victims of human rights violations.

A watershed moment in the discourse on accountability within humanitarianism was with the Joint Evaluation on Emergency Assistance to Rwanda in 1996, which called accountability in humanitarianism into question and brought it to the forefront of international discussion. This report demonstrated the abject failure of the then humanitarian system to protect civilians, galvanizing greater scrutiny into humanitarian intervention and ultimately creating an impetus to move accountability beyond the merely financial dimension. This report, with the subsequent creation of a number of accountability-based initiatives, catalyzed the ‘accountability revolution,’ which reframed the humanitarian agenda to be defined more in ‘rights’ terms with crisis-affected communities or beneficiaries as rights claimants and humanitarian workers as their duty bearers. With this ‘revolution’ the focus clearly shifted from ‘upward accountability’ to ‘downward accountability’ to stakeholders.

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334 This dichotomy is similarly reflected in MANGO’s guide on accountability, which defines it in the context of ‘two types:’ upward and downward. See http://www.mango.org.uk/guide/accountability
338 Such as the Active Learning Network for Accountability and Performance (ALNAP), People in Aid, the Sphere Project, the Management Accounting for NGOs (MANGO), Good Humanitarian Donorship (GHD) among others
However, this valuable shift took longer to translate into UN partnerships, which although undergoing major reform in 2005, this reform predominately focused on accountability between cluster agencies and to host governments rather than to affected populations. This gap was explicitly acknowledged by the IASC Interim Self-Assessment of the Implementation of the Cluster Approach, which observed “there is concern among field staff that more needs to be done to ensure greater accountability to recipients of assistance and that this has not been adequately addressed within the cluster approach, to date.”

Even in the follow-up report conducted in 2010, little evidence was found of participatory or community-based approaches among its members.

Beyond the obvious moral imperative to be more accountable to affected populations, there is an operational utility as well that underscores the importance of ‘downward accountability;’ although admittedly there is thus far a very limited evidence-base to draw on, existing research has shown that greater downward accountability results in a greater quality of humanitarian intervention and assistance. However, much debate surrounds determining who is actually best positioned to accomplish these lofty goals of downward accountability: UN bodies, International NGOs, or local civil society groups? With this functional utility in mind, it is constructive to apply this framework of accountability to humanitarian operations, such as monitoring, documenting and reporting grave violations occurring in armed conflict settings, to produce more efficacious results and actions. Using this framework of accountability to better understand accountability in humanitarian initiatives is similarly helpful in analyzing whether the UN-led Monitoring and Reporting Mechanism achieves the oft-stated goal of accountability.

iii. The MRM and Upward Accountability: Accountability to Whom?

340 Ibid.
342 For more on these studies, see HAP Humanitarian Accountability Report 2013:28.
343 Specifically, it can result in: greater efficiency, increased sustainability, better targeting of limited resources, greater recipient satisfaction and ownership, reduced corruption, and improved organization-recipient relations.
In conducting field research in the DRC to determine the local effectiveness of the MRM in practice, it became readily apparent through data analysis that a key issue surrounding the MRM’s failure in the DRC context deeply implicated the topic of accountability, as demonstrated in the results section. One of the major incentives for the establishment of the MRM by the Security Council was to “foster accountability and compliance with international law and child protection standards,”\(^\text{344}\) highlighting that “the MRM plays an important role in pushing for accountability of parties to a conflict,”\(^\text{345}\) with an entire section dedicated to accountability featuring in the UN MRM guidelines. However, challenges remain in its effective operational implementation. Despite the strong emphasis on accountability in the MRM’s rhetoric, in practice, as evidenced by this study, the MRM is predominately focused on upward accountability to the UNSC and other key UN bodies. As a result, the MRM completely relegates the importance of downward accountability to affected children, their families and communities.

Monitoring and reporting efforts are a pivotal component in ensuring accountability to communities affected by grave human rights violations. Building on the evolution of child protection in armed conflict settings as discussed in the background chapter of this study, Nylund and Hyllested (2010) emphasize monitoring, reporting and response mechanisms in describing accountability, specifically as a critical component of taking action against perpetrators, such that:

> “the framework developed through the Machel study provides a basis from which to demand accountability of United Nations’ members and specifically the [Security] Council. First, to address and take action against perpetrators of grave violations against children; secondly, to approach armed groups and forces to uphold obligations under international law; and, thirdly, to task humanitarian and human rights actors with the responsibility to put in place monitoring, reporting, and response mechanisms.”\(^\text{346}\)

Effective monitoring can be critical in ensuring downward accountability in the following ways: 1) for effective targeting of a rapid response, 2) to feed into the development of early warning systems that can

\(^{344}\) UN, MRM Guidelines: 4 (“Foreword”).
\(^{345}\) UN, MRM Global Good Practices Study: 10.
\(^{346}\) Nylund & Hyllested, Protecting Children Affected by Armed Conflict: 75. Emphasis added
ultimately prevent violations from occurring, 3) to more efficaciously design and implement remedial efforts for victims of grave violations, and 4) for collecting evidence holding perpetrators accountable to deter future violations.\textsuperscript{347} Coursen-Neff notes that in order “for monitoring to assist these goals, it must be designed with them in mind;”\textsuperscript{348} however, an analysis of the MRM in the DRC context revealed that the Mechanism is not presently designed to achieve the first three goals for an effective and accountable monitoring or surveillance system and therefore necessarily must be a part of a broader effort that addresses the other neglected goals of monitoring and reporting accountability. In fact, while largely designed to enable the fourth objective, evidence reveals that the MRM fails at realizing even this final task.

In framing this discussion on monitoring and reporting mechanisms and accountability, it is important to stress that it is necessary to think about accountability beyond a mere penal or punitive perspective. Sheppard captures this frequent misconception in his statement that “at times, the term ‘accountability’ is used in a manner that makes it seem synonymous with a rigid penal response,” which when situated in a local judiciary characterized by weakness and corruption “the term becomes amorphous, intangible, and entirely incapable of being acted upon.”\textsuperscript{349} It is important to acknowledge the other ways monitoring and reporting can be accountable, as listed above; by exclusively focusing on documenting violations for the purpose of holding perpetrators accountable using an approach reliant on the justice system, results in a more myopic focus as “evidence that is admissible in a court…must be of a higher quality and level of detail than, for example, that required for trend analysis, and may be harder to collect.”\textsuperscript{350}

The MRM Guidelines are clear in recognizing the aspirational objective of accountability, stating that “ideally, the MRM should contribute to influencing actions and changing the behaviour of parties

\textsuperscript{347} Coursen-Neff, in UNESCO, Protecting Education from Attack: 112.
\textsuperscript{348} Ibid.: 112.
\textsuperscript{349} Sheppard, B. ‘Painful and Inconvenient’: Accountability for attacks on education, in UNESCO, Protecting Education from Attack: 125.
\textsuperscript{350} Coursen-Neff, 2010, in UNESCO, Protecting Education from Attack: 120.
who commit grave violations and *should* lead to informed programmatic response to prevent further violations and ensure care for victims of violations.”\(^{351}\) This imperative element of linking monitoring to response as a means of fostering accountability (as expressed in the goals listed above) is recognized in the MRM Global Good Practices Study by emphasizing that the main positive outcomes of the MRM in-country include “link[ing] monitoring to response, thus building accountability for violations into programming.”\(^{352}\) However, the MRM’s ability to achieve this task of informing programmatic responses is gravely undermined by its inherent inability to more comprehensively capture the ‘big picture’. In conjunction with the findings of this study as demonstrated in the results section and the preceding section of the discussion, Barnett and Jefferys’ report highlight under-reporting as a critical flaw in the current MRM system, stressing that “not all reports give extensive indicative information such as the number of reported violations (as well as those confirmed), and limitations in the monitoring and reporting process may result in under-reporting.”\(^{353}\)

Failure to accurately represent the scale and scope of the issue, and other extensive indicative details of violations, challenges the potential to effectively shape programming, as “accurate information about both individual attacks and national patterns is critical to providing effective protection.”\(^{354}\) If the data feeding into the MRM lacks the necessary information to recognize patterns, themes and persisting implementation challenges to appropriately trigger responses and better target prevention, remedial and programmatic efforts, then indeed it is not able to effectively accomplish the fundamental task of informing response and prevention. Similarly, the findings of this study revealed that a major challenge in effectively implementing the MRM in the DRC and achieving downward accountability to victims of grave violations was linking MRM monitoring, documentation and reporting to various legal, medical and psychosocial responses through referral mechanisms. As highlighted in data analysis, local NGOs and civil society groups made greater efforts to link monitoring to response through offering supportive,

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352 UN, MRM Global Good Practices Study: 11.
353 Barnett and Jefferys, Full of Promise: 5.
empowering and capacity-strengthening initiatives and services through their more victim-focused approach to accountability.

iv. Two Possible Streams of Accountability: Upward (MRM) and Downward (local NGOs)

The MRM Country-Level Task Forces (i.e. CTFMR) are comprised almost exclusively of UN bodies, with the exception of a select few international NGOs. Information collected by the CTFMR on the ground report to the Special Representative of the Secretary-General (SRSG) on Children and Armed Conflict, who in turn reports to the UN Secretary-General, who then reports to the UNSC Working Group on Children and Armed Conflict which is tasked with making recommendations to the Security Council. It is quite clear in outlining this ‘chain of command’ that information flows upwards, starting with the CTFMR, which does not include any local NGOs or local representation. Previous studies, such as Barnett and Jefferys’, cite the minimal engagement of local NGOs and civil society in the DRC’s Monitoring and Reporting Mechanism as “linked to limited funding for child protection programming,” as well as “limited awareness of the mechanism” and “concerns about compromising humanitarian access.” Hodgson warns that “there is a danger that an overly Security Council-focused mechanism will distance the MRM from action on the ground and become a mere political instrument.”

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355 In general, the Office of the Special Representative of the Secretary-General for Children and Armed Conflict defines “The Task Force [as consist[ing] of UNICEF, the Department of Peacekeeping Operations, the Department of Political Affairs, the Office of Legal Affairs, the Office of the United Nations High Commissioner for Human Rights (OHCHR), the Office for the Coordination of Humanitarian Affairs, the United Nations Development Fund for Women, the Department for Disarmament Affairs, the Office of the Special Adviser on Africa, the Office of the Special Adviser on Gender Issues and Advancement of Women, the Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Development Programme (UNDP) and the International Labour Organization (ILO).” See https://childrenandarmedconflict.un.org/our-work/working-with-partners/

356 In the DRC, only Save the Children and COOPI were members, although both were highly inactive members at that.

357 It is suggested that this cut in child protection funding partially resulted from the phasing out of DDR activities. Nonetheless, it was clear across all organization types included in this study that lack of financial support for the MRM and other monitoring and reporting initiatives is critically lacking. Nearly all informants emphasized the need for greater financial commitment to the MRM and for other monitoring and reporting activities to be more strongly resourced.

358 Barnett and Jefferys, Full of Promise: 8.

Indeed it is acknowledged that a significant weakness of this exclusion of NGOs is that “the Office of the Special Representative does not have a field presence but [instead] promotes and supports the efforts of operational partners,” highlighting that “deepening such engagement between Member States and NGOs is also essential” and would be facilitated through the establishment of a structure for consultation with NGOs, albeit at the United Nations Headquarters level not on-the-ground. Despite this emphasis on partnerships, when examining the composition of this Advisory Group of NGOs, all are INGOs and absent are country-specific local civil society groups, who would have a more in-depth and contextualized knowledge of child protection issues than INGOs, who typically ‘parachute’ in for short fact-finding missions.360

Justifications for the purposeful exclusion of local NGOs and civil society groups in the MRM was expressed by several informants who comprise the CTFMR, and appears to be two-fold: 1) overtly, Task Force members attested in interview conversations that NGO exclusion, both as official members and as reporting partners, is predominately due to ethical concerns, such that implicating local NGOs in the MRM by actively participating in providing information on perpetrators of grave violations could entail security risks, which would ultimately compromise the core humanitarian principle of ‘do no harm,’ 2) inadvertently, it was also revealed that local NGOs are effectively squeezed out of participation, even as informal partners, because they are unable to meet the high-level standards set by the MRM Guidelines361 for the verification of reported allegations. One could argue that a paradoxical internal contradiction arises here, with these two lines of reasoning pitting two key, yet diametrically opposed, humanitarian principles against each other: On the one hand, efforts are made to ‘do no harm’ in achieving a humanitarian agency’s objective by minimizing the security risks that local NGOs might be exposed to in monitoring and reporting grave violations. Yet on the other hand, by purposely excluding

360 For a list of the NGOs included in the Advisory Group of NGOs, please see the bottom of https://childrenandarmedconflict.un.org/our-work/working-with-partners/
361 The Special Representative of the Secretary-General requires that all allegations be UN-verified in order to be listed (Alec Wargo, "Opportunities to Strengthen Monitoring and Reporting of Education-Related Violations" (presentation, UNESCO International Expert Seminar Protecting Education from Attack, Paris, September 28, 2009).
local NGOs from participating in monitoring and reporting, one is perpetuating a ‘colonial-style’ system of dependence on external agencies that simultaneously fails to reinforce existing local capacities and resources.

This missed opportunity by intentionally excluding local NGOs, resulted in key questions to emerge during field research regarding when and where NGO participation is possible, appropriate and desirable in monitoring and reporting violations against children. It has become apparent that a ‘conscious uncoupling’ needs to take place between Monitoring and Reporting for the formal Mechanism (i.e. the MRM) and monitoring and reporting efforts regularly done by local NGOs as part of their programming. Without deconstructing monitoring and reporting in this way, grave misconceptions ensue with the MRM and what it seeks to achieve. The results were widespread false expectations on-the-ground, with dissonance between what the MRM is designed to do and what the Mechanism, or what monitoring and reporting or surveillance systems in general, ought to do. This emerging theme resulted in the exploration of whether there is a need for two channels of monitoring and reporting grave violations against children: one orchestrated by the formal UN-led MRM Task Force, and another conducted by local NGOs and civil society groups.

While the formal Monitoring and Reporting Mechanism takes an overtly individualized approach by focusing on the ‘big fish’ or the high-level perpetrators that can be brought to the International Criminal Court (ICC) and held accountable for their violations, the alternative channel of local NGO

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362 For example, Thomas Lubanga Dyilo of the DRC, who was the first to be convicted by the ICC, was tried for war crimes, including forcibly conscripting child soldiers (one of the six grave violations). Lubanga was allegedly responsible for founding two armed groups (the Union des Patriotes Congolais, UPC, and the Forces Patriotiques pour la Libération du Congo, FPLC), serving as the Commander-in-Chief for the FPLC. Both armed groups have been listed in both annexes of the Secretary-General’s annual report. Interestingly, Lubanga was only sentenced to 14 years of imprisonment (which comparatively, is about as much as the penalty for grand larceny in the state of New York), but will serve even less time in jail because the Chamber ordered that the time spent since he surrendered in 2006 until tried in 2012 be deducted from his sentence. See, http://allafrica.com/stories/201207100136.html. However, despite the Lubanga trial pegged as a ‘success’ story of the ICC, it does not actually evidence Security Council accountability, as “the Lubanga trial was not a result of referral from the Security Council.” Watchlist on Children and Armed Conflict. UN Security Council Resolution 1612 and Beyond: Strengthening Protection for Children in Armed Conflict. Policy Paper. 2009: 12.
monitoring and reporting is characterized by a more ‘zoomed-out’ macro focus, capturing a more accurate depiction of reality and the daily life of a child in conflict, and is thus better able to demonstrate the ‘big picture’ to link monitoring to rapid response, remedial and preventative efforts. The divergence in this ‘microscopic versus telescopic’ approach of each channel reveals that each method has divergent corresponding approaches to accountability (i.e. upward and downward, respectively) guiding their functioning.

Although the need for two streams of monitoring and reporting, each tapping into two complementary channels of accountability (upward versus downward), focus (perpetrator-centred versus victim-centred) and approaches (punitive versus remedial), has been established through this study, further research is needed to assess whether NGOs are capable of achieving this difficult task. It would be critical to examine both the advantages and disadvantages of NGOs conducting this work in order to determine if it is an endeavour that warrants greater resource investment and donor attention. However, it is worth emphasizing that both the North Kivu and South Kivu study conducted by Columbia University’s Program on Forced Migration and Health emphasized in Objective I of the Results section provide strong examples in favour of community and local NGO engagement in child protection, monitoring and reporting. Another innovative approach, also requiring additional follow-up research to comprehensively evaluate its effectiveness is the UNHCR’s relatively new protection monitoring system, which consists of a more active surveillance system collecting information on various protection issues and violations against children from field agents who pro-actively go to communities looking for violations. The increasing overlap between the UNHCR protection monitoring system and the MRM is noted, such that “since the beginning of 2014, the focus of the protection monitoring system has increasingly become violations of UN resolution 1612, including attacks on schools.”

363 Monitoring and Reporting to Enhance the Protection of Education in Situations of Insecurity and Conflict: North Kivu Province, DRC (Draft), Personal Communication: 15.
364 Research has begun to make headway here with the case of Nepal serving as a potent example piloting the use of NGOs in the MRM process, whereby an NGO network supplied info to the MRM Task Force. However, more research needs to be conducted across multiple contexts to further (expand) the evidence-
In examining the structure of the MRM and its system for functioning, it becomes apparent that the Mechanisms is clearly and purposely designed to be accountable upwards, or alternatively, to ensure that it demonstrates the responsible use of its powers to those that lie above them (i.e. the body who they must report to) in the hierarchy. However, upon further analysis, one could argue that even though the MRM is designed to focus exclusively on upward accountability, it is not in fact successful in even meeting this level of accountability. Therefore, it is open to question whether the Mechanism is accountable at all, if accountability is not captured at this upper echelon.

v. Problematizing the Security Council and its Capacity for Accountability:

As “one of the principal organs of the United Nations and the one with the principal responsibility for international peace and security,”365 it is critical to examine the Security Council and its capacity for accountability in situations of grave violations against children in conflict settings. The Security Council’s involvement, albeit quite limited at the time, on children in armed conflict settings arguably dates back to the 1990s with its work on the situation in Liberia,366 followed by Sierra Leone,367 as well as the topic beginning to feature into selected Presidential statements.368 However, it wasn’t until 1999 that the Security Council adopted its first thematic resolution on the issues relating to children in armed conflict (i.e. UNSC Resolution 1261),369 which called upon the Secretary-General to provide

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365 Happold, Protecting Children in Armed Conflict: 371.
recommendations to the Council on the protection of children in armed conflict settings, and report on the implementation of protective measures.

The formal adoption of this thematic issue by the Security Council is significant, as it implicitly attests to the potential substantive effect of children and armed conflict on international peace and security. Happold emphasizes that “it should be noted that the 1612 process has had effects internal, as well as external, to the United Nations. The MRM and the engagement of the Security Council has contributed to the further entrenchment and mainstreaming of [the] issue [of] children and armed conflict within the United Nations system.” For example, the emergence of DDR programs and the increasing importance of child protection featuring itself in the peacekeeping mandates, including relevant personnel positions (i.e. Child Protection Advisors). Security Council Resolution 1379 (2001) marked the first Security Council resolution to specifically call for the inclusion of child protection efforts addressing particular associated needs and risks in peacekeeping missions. Since then, “in Africa, almost all of the peacekeeping mandates have included a mention of protection for women and children, with the exception of the UN Mission in Ethiopia and Eritrea (UNMEE) (Ethiopia/Eritrea, 2000).” In contrast, none of the 11 peacekeeping operations mandates before 1999 made reference to children. A more recent 2015 report by the independent research organization Security Council Report, stresses that “in the last three years, about 70 percent of relevant country-specific resolutions have had some language on children and armed conflict” with the incorporation of child protection mandates into peacekeeping missions becoming “common practice.” However, the report documents the continued difficulties encountered in implementing these more robust child protection mandates on the ground.

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371 Jefferys, Can the Powerful Protect?: 12.
The Security Council’s relatively recent thematic focus on children and armed conflict reflects a call for “an era of application”\textsuperscript{373} that moves beyond “the juridical task of the elaboration of norms to the political project of ensuring their application and respect on the ground.”\textsuperscript{374} Specifically, this call for greater application entails: 1) increasing international criminalization through the punitive use of targeted sanctions, and 2) increasing involvement of the Security Council, as initiated by UNSC Resolution 1612.\textsuperscript{375} The Security Council has a number of instruments in its ‘toolkit’ to draw upon in taking action against parties and perpetrators committing grave violations against children, including: 1) the threat or actual use of targeted sanctions, 2) the inclusion of child protection-specific objectives into UN peacekeeping operations and its mandates, 3) the provision of payoffs for good behaviour (e.g. granting access to financial aid or technical assistance), and 4) the referral of situations and individual perpetrators to international criminal bodies, such as the ICC.\textsuperscript{376} It is interesting to note that 50 percent of these outlined tools undertake a penal approach to accountability and all four focus on the perpetrator (rather than the victim), including the child protection mandate in UN peacekeeping, which claims that “child protection advisers play a key role in establishing dialogue with perpetrators to end the gravest violations against children”\textsuperscript{377} with the aim of producing Action Plans with armed groups. Furthermore, Watchlist’s analysis of 20 of the Working Group’s conclusions on situations of concern between 2006 and 2008 revealed that this Toolkit is severely under-utilized in practice; furthermore, the report notes that “the Working Group has not used the full range of available tools that it set out for itself in the Toolkit” using at its maximum only 50 percent of the tools in the Toolkit (in only two cases), and on average only a

\textsuperscript{373} See Protection of Children in Armed Conflict; Report of the Special Representative of the Secretary-General on Children and Armed Conflict, paras. 29-30, delivered to the General Assembly, A/54/430.Oct. 1, 1999.

\textsuperscript{374} Ibid., para. 30.

\textsuperscript{375} Happold, Protecting Children in Armed Conflict.


third.\textsuperscript{378, 379} It is worth noting that in documenting the frequency each tool has been used, Working Group field visits and Security Council field visits rank last as never having been used; this serves as additional justification for the inclusion of local NGOs and civil society groups in the MRM process, in order to obtain on-the-ground knowledge that is evidently not currently obtained by the Working Group or the Security Council.

In addition, in the Office of the Special Representative of the Secretary-General for Children and Armed Conflict’s (SRSG-CAAC) description of the role of the Security Council in strengthening compliance for the protection of children in conflict settings, it identifies the following tools: 1) identifying and naming parties who’ve committed grave violations against children to the MRM annexes, 2) developing action plans\textsuperscript{380} to be signed by both the United Nations and the listed parties, 3) the establishment and implementation of the MRM, 4) the establishment of the Working Group as a subsidiary body and its continual review of and provision of guidance for specific situations, and lastly 5) the punitive use of sanctions (such as arms embargoes, the freezing of economic assets and travel bans) against parties and perpetrators.\textsuperscript{381} Again, these tools are in line with the observation previously made that the Security Council and its efforts for accountability are overwhelmingly focused on the ‘big fish’ and the penal approach to accountability. This finding is further reinforced by the SRSG-CAAC’s statement,\textsuperscript{382} which emphasizes ending impunity through the use of the ICC, International Tribunals and sanctions, as opposed to the other ways monitoring and reporting can contribute to accountability as was listed above. Lastly, the Working Group has developed a toolkit for action under the following five

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\textsuperscript{378} Watchlist, Security Council Resolution 1612 and Beyond: 14.
\textsuperscript{379} For a full list of actions most often used, sometimes used, least often used, and never used, please see Watchlist’s 2009 study “UN Security Council Resolution 1612 and Beyond.”
\textsuperscript{380} For more on the use of Action Plans with Armed Forces and armed Groups, please see https://childrenandarmedconflict.un.org/our-work/action-plans/
\textsuperscript{382} Office of the Special Representative of the Secretary-General for Children and Armed Conflict. Ending Impunity. https://childrenandarmedconflict.un.org/our-work/working-to-end-impunity/
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categories: assistance, demarchés, enhanced monitoring, improvement of mandate,383 and ‘other measures,’ with Happold arguing that this list is “perhaps indicative of its approach that there is no mention that it might recommend new sanctions regimes.”384 However, the SRSG-CAAC portrays the role of the Working Group as less robust, outlining its possible tools as primarily including “the possibility of members of the Working Group to undertake a field trip, to hold emergency meetings and/or to issue a media statement.”385

The toolkit of possible recourses for action outlined above demonstrates the various instruments the Security Council can draw upon for accountability, or alternatively, the responsible use of its power and authority. It is imperative that these tools be examined in practice to determine the effectiveness of the Security Council as a ‘vital organ’ of UN accountability, as informants in this study and in the Watchlist’s 2009 study expressed considerable concern over the “atmosphere of impunity and lack of accountability for perpetrators of egregious violations against children in armed conflict.”386 Conflict Dynamics’ study, funded by Foreign Affairs and International Trade Canada (DFAIT), examined the role of the UNSC and its actions (using various measures within its ‘toolkit’) in multiple country situations on the protection of children, analyzing whether UNSC engagement has been effective in enforcing accountability. Ultimately, this study determined that despite the major role the UNSC has played in advancing the protection of children in conflict settings, “there exists an ‘accountability gap’ in the Security Council’s response to grave violations against children.”387

383 For example, McHugh’s report illustrates that “the United Nations Mission in DR Congo (MONUC) provides an example of a situation where the UNSC included tasks pertaining to protection of children in armed conflict in the Mission’s mandate.” (McHugh, Strengthening Protection of Children Through Accountability: ii) It should be noted however that MONUC changed it’s name to MONUSCO (the UN Organization Stabilization Mission in the DRC) on July 1st 2010.
386 Watchlist, UN Security Council Resolution 1612 and Beyond: 11.
387 McHugh, Strengthening Protection of Children Through Accountability: iv.
A chief indicator for UNSC’s, as well as its Working Group for Children and Armed Conflict’s, upward accountability is the use of targeted sanctions, as the HPN’s Full of Promise study notes that “many of those consulted in New York believed that the threat of sanctions is the Working Group’s strongest tool,” however the report adds that “in the DRC, few commentators believe the threat of sanctions has had much traction, since a number of armed groups are unaware that they have been threatened.” Conflict Dynamics’ analysis of the UNSC’s role in holding persistent violators to account report that in only 16% of situations (three cases in total) that were listed in the annexes of the Secretary-General’s reports on Children and Armed Conflict between 1999 and 2007 had targeted sanctions imposed. Furthermore, only one of those three cases (the DRC) cited the six grave violations explicitly in the criteria for identifying and subjecting perpetrators or parties to the targeted sanctions. However, of the 22 individuals and entities designated for targeted sanctions in UNSC Resolution 1698 and 1596, “none were specifically designated based on acts of recruiting, using or targeting children or committing other grave violations against children.” In addition, Watchlist’s study revealed that in the case of the DRC, “sanctions were already imposed on the parties, but the recruitment and use of children was added to the preexisting sanctions as additional criteria.” It wasn’t until 2009 that individuals were sanctioned solely for grave violations committed against children, whereby the Sanctions Committee for the DRC subjected three commanders of the FDLR to asset freezes and travel bans for the abduction and sexual abuse of girls and the recruitment and use of boys as soldiers. However, Hodgson notes that “there are signs that this approach is changing” as the Security Council has more recently added the recruitment and use of

388 Barnett and Jefferys, Full of Promise: 11.
389 Ibid.
390 ‘The author notes that this figure is as of early March 2009.
391 McHugh, Strengthening Protection of Children Through Accountability: ii.
children to criteria for sanctions in the mandate of the Somalia Sanctions Committee.\textsuperscript{393} Although this is just one of the six grave violations, this does mark an important step in the right direction.

Noting the overt reluctance to issue sanctions, Happold argues that this largely reflects divisions that exist within the Security Council,\textsuperscript{394} with the situations that are granted attention and placed on the Council’s agenda determined not merely by the severity of the grave violations “but also by whether the Council has decided that the situation, as a whole, is a threat to international peace and security.”\textsuperscript{395} While the lawful use of sanctions, as stipulated in article 39 of the U.N. Charter, requires that they be imposed only in cases with the purpose of restoring international peace and security in the face of an act of aggression, or a threat to or breach of the peace, an objection by the Security Council using this specific rationale has never been raised. In fact, Resolution 1698 (2006) reporting on the situation in the DRC includes “political and military leaders recruiting or using children in armed conflict in violation of applicable international law”\textsuperscript{396} as liable to designation for targeted sanctions.\textsuperscript{397} Further counter-arguments to the claim that the six grave violations are not marked as criteria for sanctions because they do not constitute a significant threat to international peace and security include the observation that “the Council has been willing to state that the harmful impact of conflict on children has implications for peace and security” with Happold asserting that “rather, the difficulty appears to be [the] lack of political will.”\textsuperscript{398} This major weakness is further exacerbated by the conflation and entanglement of political

\textsuperscript{393} Hodsgon, Whose Action Plan?: 171.
\textsuperscript{394} For example, the U.S., Belgium and the U.K. were open to using sanctions in 2008, however China was “firmly opposed.”
\textsuperscript{395} Happold, Protecting Children in Armed Conflict: 377-378.
\textsuperscript{397} However, despite this added criteria, no one had yet been subject to sanctions for this specified reason until Innocent Zimurinda in December 2010. This refers to the case of Innocent Zimurinda, the Colonel of Forces Armées République Démocratique du Congo (FARDC), who was added “for four of the six grave violations against children, including recruitment and use of child soldiers, killing and maiming of children, sexual violence and denial of humanitarian access” at \url{https://childrenandarmedconflict.un.org/press-release/2Dec10/}
\textsuperscript{398} Happold, Children in Armed Conflict: 70, supra note 43.
interests and humanitarian objectives within the Security Council, ultimately creating additional sources of political division and uneven application. In addition to these explanations cited for why the UNSC and its Working Group have consistently failed to be accountable and take action against persistent perpetrators of grave violations against children, Conflict Dynamics’ report highlights the following reasons: 1) ‘general reluctance’ to authorize targeted sanctions towards certain member states or situations, 2) limited possible options, especially when a situation is not on the UNSC agenda, 3) greater inclination towards other tools in the toolkit that are easier to achieve consensus for, 4) over-emphasis on child recruitment (rather than all six grave violations) as a trigger for listing or de-listing in the annexes, and 5) limited coordination, especially between the UNSC and its Sanctions Committees.

While it has been illustrated that the MRM is designed for upward, rather than downward, accountability, this paper has equally demonstrated through careful analysis of the UNSC’s toolkit, that the MRM fails at achieving accountability even at this upward level by focusing on punitive measures against perpetrators. By examining the UNSC’s use of targeted sanctions as a proxy indicator for holding perpetrators of grave violations against children to account, it becomes readily apparent that the UNSC has not been effective in ensuring upward accountability. Ultimately, the UNSC’s inconsistent and inadequate use of targeted sanctions in country situations listed in the Secretary-General’s annexes does not set a strong precedent or serve as a strong deterrent to future perpetrators, as ultimately “without real repercussions for violations against children, armed forces or groups will not have incentives to halt violations, and the threat of targeted measures will become empty over time.” Consequentially, continued use of the existing system without any improvements to accountability will continue to fail at protecting children from grave violations in armed conflict settings.

399 The case of the Working Group in Myanmar in 2008 is a prime example of this.
400 McHugh, Strengthening Protection of Children Through Accountability: iii.
401 Watchlist, UN Security Council Resolution 1612 and Beyond: 11.
Conclusion

The aim of this research study was to evaluate the effectiveness of the UN-led Monitoring and Reporting Mechanism as implemented at the national level in the Democratic Republic of the Congo, with a particular emphasis on the grave violation of attacks on schools. A brief literature review on the evolution of the UN Security Council’s agenda on children and armed conflict, Security Council Resolution 1612, the MRM, and existing studies evaluating the impact of the MRM revealed that a significant knowledge gap persists in the literature; while many of the existing studies are robust, they are quite outdated and have not been replicated to re-evaluate the MRM’s effectiveness after several more recent significant changes, including the expansion of the triggers to include attacks on schools. Additionally, no empirical study to date has evaluated the effectiveness of the MRM in specifically addressing attacks on schools, a grave violation frequently overshadowed by other UNSC Resolution 1612 violations, such as the recruitment of child soldiers and sexual violence.

More specifically, the research questions that this study sought to address were the following: 1) what are the current challenges in effectively implementing the MRM at the national level in the DRC?; 2) is the MRM effective in linking monitoring to response for the grave violation of attacks on schools? and finally; 3) is the MRM accountable to children in situations of armed conflict? In answering these questions, the key results that emerged from data analysis were that several challenges exist in implementing the MRM effectively on-the-ground. Challenges to effective monitoring and reporting grave violations against children were expressed by key informants as including the following: a) limited access to areas where violations are occurring, either due to security concerns, the expansiveness of the country, or the lack of public infrastructure to reach rural pockets; b) a lack of awareness of the MRM itself and on the specific occurrence of attacks on schools in the DRC; c) corruption or conflicts of interest within the judicial, enforcement and governmental system; d) ethical concerns in partnering with grassroots organizations and civil society groups in collecting sensitive information on children; e) false
expectations of what the MRM ought to do and what the MRM is designed to do; f) weaknesses in the national legal framework; g) UN and international elitism and imperialism as biases that impact partnerships; h) challenges with the UN-imposed verification requirements for reported allegations, particularly in verifying reports of attacks on schools; and finally, the most pressing and pervasive challenge across all sectors and organizations; i) limited financial, human, and technical resources.

Two key findings emerged from the research conducted that warranted further discussion and a deeper examination of their implications on children in armed conflict settings. Interviews with a diverse set of organizations’ representatives in the field of child protection, children’s rights and monitoring and reporting revealed both a general lack of awareness of attacks on schools occurring in the DRC and a profound under-prioritization of this grave violation. The under-prioritization of attacks on schools is particularly observable when compared to the over-emphasis on the recruitment and use of children by armed groups, which has been evidenced since the onset of the MRM’s implementation. This study also evidenced that sexual violence has more recently increasingly become prioritized. This prioritization of child soldiers, and then more recently of sexual violence, reflects a shift in what is globally perceived as a ‘hot button’ issue in the field of humanitarianism and human rights, as well as among popular mainstream media.

Main findings from this study also exposed a bifurcation in accountability approaches in monitoring and reporting activities. A majority of local NGOs appeared to demonstrate a more victim-focused approach to accountability or ‘downward’ accountability to affected children by linking monitoring to responses in efforts to provide psychosocial, legal and medical support in a way that serves to foster empowerment and build capacity. Whereas in contrast, INGOs and UN bodies formally engaged in the MRM seemed to favour a more perpetrator-focused approach reliant on punitive or penal measures, with accountability flowing upwards to those higher up on the ‘chain of command,’ culminating in the UN Security Council. While local grassroots organizations were better able to achieve a more factual appraisal of children’s lived experiences in the DRC by embracing a more macro approach capturing the ‘big picture,’ UN bodies and INGOs adopted a more micro approach by mostly focusing on holding the
‘big fish’ perpetrators to account for their violations. A deeper examination of MRM accountability by examining sanctions and other punitive actions taken against perpetrators revealed that it is failing to achieve accountability, even at this upward level.

Ultimately, these major findings revealed that a blinkered approach to monitoring and reporting grave violations against children have significant implications for the protection of children and their rights in armed conflict settings. If the MRM is ineffective in collecting large-scale data on the true scope and scale of the issue due to the challenges highlighted in this study, the result is an inability to produce a trend analysis that can be used to both prevent future violations and inform effective programmatic responses on-the-ground. Therefore, the MRM is not meeting its intended purpose to ensure that children are safe and protected in such vulnerable contexts such as armed conflict. By not effectively linking monitoring to response, children remain at risk and will continue to be exposed to grave human rights violations and will continue to be unsupported by the necessary psychosocial, medical and legal assistance required for their protection, rehabilitation, and reintegration. Additionally, if the MRM is failing to be accountable using its current punitive perpetrator-focused approach, then such targeted measures (such as sanctions) will increasingly become ‘empty’ and will not set a strong precedent to deter future perpetrators of grave violations against children.

Ultimately, it is clear through this study’s results that greater financial commitment is urgently required for the MRM and other monitoring and reporting initiatives as all informants uniformly attested to the lack of financial support and the need for such initiatives to be more strongly resourced. Additionally, major pitfalls in the MRM revealed in this study highlight the need for a more diverse set of actors to engage in the MRM, including local representation, and greater coordination for the Mechanism to be a piece of a broader effort to protect children from the impacts of armed conflict.

Despite these research findings, lots of questions remain on how to most efficaciously improve monitoring and reporting efforts in order to best protect children in conflict settings. As part of filling this critical knowledge gap, envisioned next steps include examining the advantages and disadvantages of engaging local actors in the MRM. While it is certainly a missed opportunity for the MRM to not be
engaging more with existing local capacities, as grassroots groups may be better positioned to monitor and report on grave violations against children for trend analysis and programmatic response, further research is needed to better explore the possible weaknesses in this approach so as to produce an effective surveillance system that maximally protects children.