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Conflict, Education and the Law:

Enhancing the Protection of Educational Rights in Armed Conflict Through
NGO Integration in International Legal Mechanisms

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Abstract (English)

Education constitutes a fundamental human right and serves as a vital pillar for societal development and sustainable peace. In contexts of armed conflict, educational institutions, teachers and students are increasingly targeted by acts of violence. Despite comprehensive protections under International Human Rights Law (IHRL), International Humanitarian Law (IHL), and International Criminal Law (ICL), enforcement remains difficult, not least due to the changing nature of conflict dynamics. This thesis explores NGOs as pivotal actors in bridging these enforcement gaps through enhanced monitoring and reporting roles in international legal mechanisms: the Convention on the Rights of the Child (CRC) Reporting Cycle, the Monitoring and Reporting Mechanism (MRM) on Grave Violations Against Children in Situations of Armed Conflict, and the Universal Periodic Review (UPR). Using a comparative case study approach, it sheds light on the state of NGO involvement in these mechanisms, particularly in the field of education. It advocates for stronger NGO involvement and proposes practical recommendations for an improved institutionalization of their roles.

Keywords: Children's Rights, Right to Education, Armed Conflict, NGOs, International Legal Mechanisms

Abstract (German)

Bildung stellt ein fundamentales Menschenrecht dar und gilt als zentrale Säule gesellschaftlicher Entwicklung und nachhaltigen Friedens. In bewaffneten Konflikten geraten Bildungsstätten, Lehrkräfte und Schüler*innen zunehmend ins Visier gewaltsamer Angriffe. Trotz umfassender Schutzbestimmungen im Völkerrecht – insbesondere im Internationalen Menschenrechtsrecht, Humanitären Völkerrecht sowie im Völkerstrafrecht – gestaltet sich die Durchsetzung dieser Normen als schwierig, nicht zuletzt aufgrund des sich wandelnden Charakters moderner Konflikte. Diese Arbeit untersucht die Rolle nichtstaatlicher Organisationen (NGOs) als zentrale Akteure bei der Schließung bestehender Umsetzungslücken, insbesondere durch ihre Funktionen in der Überwachung und Berichterstattung in internationalen Rechtsmechanismen: im Staatenberichtsverfahren zur UN-Kinderrechtskonvention ¹ (CRC), im UN-Schutzmechanismus zur Überwachung und

¹ Die Bezeichnung „Staatenberichtsverfahren“ für den CRC Reporting Cycle folgt der Terminologie des Deutschen Instituts für Menschenrechte. Vgl. Deutsches Institut für Menschenrechte: Kinderrechtskonvention (CRC), <https://www.institut-fuer-menschenrechte.de/menschenrechtsschutz/deutschland-im->

Berichtserstattung über Kinder in bewaffneten Konflikten² (MRM) sowie im Allgemeinen Regelmäßigen Überprüfungsverfahren³ (UPR). Mittels eines komparativen Fallstudienansatzes wird der aktuelle Stand der Einbindung von NGOs in diese Mechanismen aufgezeigt – mit besonderem Fokus auf den Bildungsbereich. Die Arbeit spricht sich für eine verstärkte NGO-Beteiligung aus und entwickelt praxisorientierte Empfehlungen zur verbesserten Institutionalisierung ihrer Rolle.

Schlüsselwörter: Kinderrechte, Recht auf Bildung, Bewaffneter Konflikt, NGOs, Internationale Rechtsmechanismen

[menschenrechtsschutzsystem/vereinte-nationen/vereinte-nationen-menschenrechtsabkommen/kinderrechtskonvention-crc](#) (zuletzt abgerufen am 05.06.2025).

² Die Bezeichnung „UN-Schutzmechanismus“ folgt der Terminologie im Bericht der Bundesakademie für Sicherheitspolitik. Vgl. Bundesakademie für Sicherheitspolitik: The Impact of the UN Security Council on the Protection of Children in Armed Conflict, <https://www.baks.bund.de/de/aktuelles/the-impact-of-the-un-security-council-on-the-protection-of-children-in-armed-conflict> (zuletzt abgerufen am 05.06.2025).

³ Die Bezeichnung „Allgemeines Periodisches Überprüfungsverfahren“ folgt der Terminologie des Deutschen Instituts für Menschenrechte. Vgl. Deutsches Institut für Menschenrechte: Allgemeines Periodisches Überprüfungsverfahren, <https://www.institut-fuer-menschenrechte.de/menschenrechtsschutz/deutschland-im-menschenrechtsschutzsystem/vereinte-nationen/vereinte-nationen-menschenrechtsrat/allgemeines-periodisches-ueberpruefungsverfahren> (zuletzt abgerufen am 05.06.2025).

Für meine Eltern

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Acknowledgments

This thesis is dedicated to all children affected by armed conflict – who endure unimaginable suffering and whose opportunities are stripped away due to circumstances beyond their control. May your stories be heard and remembered by the world. I also dedicate this thesis to child protection professionals around the world, who devote their careers to protecting the most vulnerable members of society. The conversations we shared during the writing process of this thesis deeply inspired me. I wish you and your teams safety, health and continued strength.

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Fiona Haiwen Rischka

Vienna, June 5th, 2025

List of Abbreviations

CRC – Convention on the Rights of the Child

CTFMRs – Country Task Forces on Monitoring and Reporting

ECOSOC – Economic and Social Council

ESCR – Economic, Social and Cultural Rights

HRC – Human Rights Council

IAC – International Armed Conflict

ICC – International Criminal Court

ICCPR – International Covenant on Civil and Political Rights

ICESCR – International Covenant on Economic, Social and Cultural Rights

ICL – International Criminal Law

ICRC – International Committee of the Red Cross

IHL – International Humanitarian Law

IHRL – International Human Rights Law

ILC – International Law Commission

INGO – International Non-Governmental Organization

MRM – Monitoring and Reporting Mechanism

NGO – Non-Governmental Organization

NIAC – Non-International Armed Conflict

NHRI – National Human Rights Institution

OHCHR – Office of the United Nations High Commissioner for Human Rights

UDHR – Universal Declaration of Human Rights

UN – United Nations

UNICEF – United Nations Children's Fund

UPR – Universal Periodic Review

On my honour as a student of the Diplomatische Akademie Wien, I submit this work in good faith and pledge that I have neither given nor received unauthorized assistance on it.

Fiona Haiwen Rischka

1. Introduction

1.1 Research Interest

Education is seen as a cornerstone of societal development that plays an immense role in shaping the future of children and laying the groundwork for lasting peace. This vital function is often disrupted by armed conflict, which derails educational structures and undermines the transformative power of learning. In places where conflict persists, the consequences are evident: teachers and students are harmed, displaced or indoctrinated, schools are destroyed or repurposed, and entire generations are left without the skills and knowledge of rebuilding communities.⁴

The ‘right to education’ is firmly embedded in core International Human Rights Law (IHRL) instruments, protections of schools, students and teachers are further reinforced by International Humanitarian Law (IHL) and prosecuted under International Criminal Law (ICL). However, the implementation of these legal obligations is frequently undermined in times of conflict, when state capacities are weak and accountability mechanisms strained. With the shifting nature of warfare and the increasing prevalence of attacks against education, there is an urgent need to explore more effective approaches to legal enforcement.

The recurring upheavals in our world today make it imperative to strengthen existing frameworks through an adaptive, human-centered approach. With this in mind, the thesis focuses on how the right to education can be better protected in conflict settings by enhancing the integration of civil society perspectives – particularly those of NGOs – into international legal mechanisms. Over the years, NGOs have become key actors in the protection of children in armed conflict. Their proximity to affected communities, cultural awareness and ability to collect context-specific data is essential for embracing a human-centered perspective in such mechanisms, and to fulfill the purposes for which they were created.

1.2 Research Question

The **Research Question** this thesis seeks to answer is thus:

⁴ Ann-Charlotte Nilsson, *Children and Youth in Armed Conflict: Volume I*, vol. 43 of *The Raoul Wallenberg Institute Human Rights Library* (Leiden: Brill | Nijhoff, 2013), 219-231.

How can the monitoring and reporting role of NGOs be improved within existing international legal mechanisms to enhance the protection of educational rights in armed conflict?

The following questions will make the research objectives clearer:

- How is the right to education protected in international legal frameworks, and what are the main obstacles to its effective enforcement?
- In what ways do legal mechanisms address the enforcement gap of educational rights during armed conflict?
- What role do NGOs play in monitoring and reporting within international legal mechanisms, what benefits and challenges arise, and how can their involvement be strengthened?

1.3 State of Research and Academic Relevance

The state of research which is related to this thesis' topic can be divided into three categories:

1) concentrates on academic contributions with a *focus on legal frameworks*, contributions of category **2)** focus directly on the role and legal status of *NGOs*, and **3)** focus on contextualizing *practical challenges* of conflict-affected education implementation, mostly through country-specific or regional *case studies*.

1. Legal Focus

There are several legal scholars who have discussed the protection of education in armed conflict, such as Tomaševski⁵, Heymann et al.⁶ and Salha et al.⁷. *Hausler* (2013) provides a particularly comprehensive account of how the right to education is addressed under different legal regimes: IHRL ensuring the continuous application of the right, IHL protecting education-related actors and infrastructure, and ICL establishing accountability for grave violations which

⁵ Katarina Tomaševski, *Human Rights Obligations: Making Education Available, Accessible, Acceptable and Adaptable*, Right to Education Primers, no. 3 (Lund: Raoul Wallenberg Institute of Human Rights and Humanitarian Law, 2001).

⁶ Jody Heymann, Aleta Sprague, and Amy Raub, "The Right to Education: A Foundation for Equal Opportunities," in *Advancing Equality: How Constitutional Rights Can Make a Difference Worldwide* (Oakland: University of California Press, 2020)

⁷ Soheil Salha, Ahmed Tlili, Boulus Shehata, Xiangling Zhang, Awol Endris, Khalid Arar, Sanjaya Mishra, and Mohamed Jemni, "How to Maintain Education During Wars? An Integrative Approach to Ensure the Right to Education," *Open Praxis* 16, no. 2 (2024): 161-162.

may include child recruitment or attacks on schools.⁸ Nilsson devotes considerable attention to education, and examines the interplay between law and humanitarian practice: she emphasizes how international law has evolved to include the right to education in broader child protection frameworks, but notes that enforcement gaps persist, especially in armed conflict.⁹ Both authors address monitoring and reporting mechanisms, especially the UN's MRM, as promising platforms for addressing accountability during armed conflict.¹⁰

While most legal scholars establish that there are sufficient provisions protecting educational rights, most agree that enforcement issues hinder their practical realization, particularly in the context of armed conflict. Alfredsson *et al.* argue that international human rights monitoring mechanisms can serve as valuable tools in this regard. As such mechanisms heavily depend on accurate information and ongoing engagement, they view NGOs as essential contributors, especially in fragile or inaccessible settings¹¹ - This concept is particularly discussed in the chapter by Brett.¹² Moreover, academic literature has paid particular attention to the Universal Periodic Review (UPR) as a legal and participatory monitoring tool. As Etone argues in his work on the UPR in Africa, it can drive state compliance through a cooperative model of peer review and soft accountability.¹³ Gomez and Ramcharan reach similar conclusions, using examples from Southeast Asia of how the UPR led to various national reforms. Both highlight the contributions from civil society actors in these mechanisms.¹⁴

2. NGO Focus

⁸ Kristin Hausler et al., *Protecting Education in Insecurity and Armed Conflict: An International Law Handbook*, 2nd ed. (London: British Institute of International and Comparative Law and Education Above All Foundation, 2019). 30-37, 67-71, 94-99.

⁹ Ann-Charlotte Nilsson, *Children and Youth in Armed Conflict* (Leiden: Brill, 2013), 45-49.

¹⁰ Hausler et al., *Protecting Education in Insecurity and Armed Conflict*, 104-108. and Nilsson, *Children and Youth in Armed Conflict*, 56-59.

¹¹ Gudmundur Alfredsson et al., eds., *International Human Rights Monitoring Mechanisms: Essays in Honour of Jakob Th. Möller*, 2nd revised ed. (Leiden: Brill | Nijhoff, 2009). 15-17, 42-45.

¹² Rachel Brett, "The Role of NGOs – An Overview," in *International Human Rights Monitoring Mechanisms: Essays in Honour of Jakob Th. Möller*, 2nd rev. ed., ed. Gudmundur Alfredsson et al. (Leiden: Brill | Nijhoff, 2009).

¹³ Damian Etone, *The Human Rights Council: The Impact of the Universal Periodic Review in Africa* (New York: Routledge, 2020), 117–124.

¹⁴ James Gomez and Robin Ramcharan, eds., *The Universal Periodic Review of Southeast Asia: Civil Society Perspectives*, 1st ed. (Singapore: Springer, 2018), v–vi.

Several scholars have debated the normative and participatory role of NGOs in international legal processes. *Charnovitz*, as a key scholar in NGO law, describes NGOs as “norm entrepreneurs”, who have long influenced agenda-setting, treaty drafting and even legal interpretation.¹⁵ He argues for their continued participation, such as a codified “duty to consult” NGOs, especially in human rights governance.¹⁶ *Vierucci and Rebasti* similarly argue that while NGOs have become central actors in international legal mechanisms, the absence of clear procedural norms risks undermining their legitimacy and overall fairness of these systems.¹⁷ They suggest that NGOs on one hand should have a more formalized and structured status, and on the other, engage in self-regulation within coalitions, to ensure the best results from NGO participation.¹⁸ While many scholars agree that the involvement of NGOs should come with certain rules and standards, they build on the idea that their contributions help bridge the normative and practical gaps within international law.¹⁹

3. Practical Focus

A third strand of scholarship which is related to this thesis are region- and country-specific studies that illustrate how NGOs have responded – not only through humanitarian aid, but also as monitors of armed conflict and of legal actors in processes surrounding educational violations.

*Lundy*²⁰ (2006) and *Parker et al.*²¹ (2013), studying past civil conflicts, demonstrate in their work how NGOs responded to systemic educational disruptions by engaging in advocacy, legal dialogue, and other forms of intervention, which also contributed to post-conflict phases. Other

¹⁵ Steve Charnovitz, “Nongovernmental Organizations and International Law,” *American Journal of International Law* 100, no. 2 (2006): 350-356.

¹⁶ Charnovitz, “Nongovernmental Organizations and International Law,” 366-369.

¹⁷ Emanuele Rebasti and Luisa Vierucci, “A Legal Status for NGOs in Contemporary International Law?” (paper presented at the European Society of International Law Conference, 2018), 5-9.

¹⁸ Rebasti and Vierucci, “A Legal Status for NGOs,” 6-8.

¹⁹ See, for instance: Claudie Barrat, *Status of NGOs in International Humanitarian Law*, vol. 14 (Geneva: Graduate Institute of International and Development Studies; Brill | Nijhoff, 2014), 246., Mutua, *Human Rights Standards*, 88-89. and Pierre-Marie Dupuy and Luisa Vierucci, eds., *NGOs in International Law: Efficiency in Flexibility?* (Cheltenham, UK: Edward Elgar Publishing, 2008), 5-15.

²⁰ Laura Lundy, “Mainstreaming Children's Rights in, to and through Education in a Society Emerging from Conflict,” *The International Journal of Children's Rights* 14, no. 4 (2006). 348-349, 352.

²¹ Sara Parker, Kay Standing, and Bala Raju Nikku, “Caught in the Crossfire: Children's Right to Education during Conflict – The Case of Nepal 1996–2006,” *Children and Society* 27, no. 5 (2013). 383-384.

studies, such as *Bakare*²² (2018) and *Premunta and Nkongho*²³ (2014), emphasize how NGOs often fill critical gaps left by state or UN actors, especially in documenting rights violations.

In addition to academic works, several international reports underscore the essential role NGOs play in monitoring and accountability frameworks related to attacks on education. Reports by the *Global Education Cluster* (2012)²⁴, *UNESCO* (2020), and the *Watchlist on Children and Armed Conflict*²⁵ all highlight NGOs as key contributors to data collection, early warning, and legal reporting mechanisms. These documents reinforce the broader scholarly consensus that NGOs are not only humanitarian actors but vital participants in the legal processes protecting education during armed conflict.

Research Gap:

Protecting educational rights in armed conflict is a topic that has been discussed across different dimensions. Existing scholarship highlights the importance of legal mechanisms, NGO engagement and context-specific solutions, yet few works thoroughly integrate these approaches to illustrate how education can be more systematically protected within existing frameworks.

A recurring theme proposed by many authors is a more formalized status for NGOs in mechanisms such as the MRM or the UPR, or in legal processes of courts. However, there is no extensive academic research that has been done yet focusing exclusively on the role of NGOs in international reporting and monitoring mechanisms, in the context of education. This thesis therefore seeks to build on these convergences and fill the gap where legal scholarship and practice do not fully intersect.

²² S. S. Bakare, "Boko Haram and the Child's Right to Education in Africa: Examining the Accountability of Non-State Armed Groups," *African Human Rights Law Journal* 18 (2018): 167.

²³ Ngambouk V. Pemunta and Eno-Akpa R. Nkongho, "The Fragility of the Liberal Peace Export to South Sudan: Formal Education Access as a Basis of a Liberal Peace Project," *Journal of Human Security* 10, no. 1 (2014): 70-71.

²⁴ Global Education Cluster, *Protecting Education in Countries Affected by Conflict, Booklet 7: Monitoring and Reporting* (October 2012), 4.

²⁵ This source has various relevant contributions, for instance: Rob Grace, *Implementing the "Children and Armed Conflict" Agenda: Analyzing Data on Trends, Enabling Factors, and Persistent Challenges in Situations with Listed Parties* (New York: Watchlist on Children and Armed Conflict, November 2024).

1.4 Approach to Interdisciplinarity

This thesis is rooted in an interdisciplinary approach that integrates perspectives from *international law* and *politics*, specifically falling into the field of *conflict studies*. By combining legal analysis with political considerations, the research seeks to address both structural and practical challenges in protecting education during times of armed conflict. The case study analysis further considers the political realities that hinder effective enforcement, offering a comprehensive understanding of the issue through an integrated legal and political lens.

1.5 Theoretical Framework

While grounded in international law, this thesis draws on selected normative and interdisciplinary frameworks to clarify the relevance of the topic and methodological approach. This section introduces key theoretical concepts that form the normative orientation and idealistic foundations this thesis builds on.

1.5.1 Development, Modernization and the Realization of Human Rights

Modernization theory became a dominant framework in the second half of the 20th century and continues to shape institutional logics within international relations. The theory assumes that economic and social development lead to more stable and democratic societies that are more likely to respect international norms. It is closely aligned with the global discourse surrounding *development*, which became a global aspiration, ideology and academic field aimed at transforming newly independent states into modern societies. Modernization theory positioned global “underdevelopment” as a problem to be solved by replicating the trajectories of industrialized Western nations, especially following the waves of decolonization after World War II.²⁶ This notion of development was deeply embedded in the West’s international aid architecture. As Dent notes, the “gift of development,” despite being well-intentioned, was often delivered through aid programs that advanced a wider modernization process – one that prioritized economic growth, liberal democracy, and technocratic governance, often at the expense of locally defined needs.²⁷ A central critique postcolonial scholars have since raised is

²⁶ Henry Bernstein, “Modernization Theory and the Sociological Study of Development,” *The Journal of Development Studies* 7, no. 2 (1971): 142.

²⁷ Christopher M. Dent, ed., *China and Africa: Development Relations* (New York: Routledge, 2011). 166.

the cultural superiority that came with framing development and modernization as a normative project.²⁸

While this theoretical approach provides the historical rationale for promoting development and common concerns on a global scale, the critique also closely aligns with the aims of this thesis: As international legal mechanisms often remain structured in ways that reflect modernization's legacy – centralized, state-led and norm-exporting – this thesis argues for a greater inclusion of human- and community-centered perspectives brought by civil society actors.

1.5.2 Human Security: A Human-Centered Normative Shift

The concept of *human security* offers a human-focused outlook on traditional, state-centric security paradigms. The term first appeared in 1994, with the UNDP Human Development Report and was later affirmed in the 2012 UN General Assembly Resolution 66/290. It shifts the focus of security from the state to the individual, and emphasizes protection from poverty, conflict and structural violence. This thematic focus becomes particularly relevant in conflict contexts, where state-based protections often fall short and civilian lives are most at risk.

Sen's *Development as Freedom* (1999) describes the underlying concept of human security as being the expansion of individual freedoms, rather than economic growth. He stresses that poverty, social exclusion and violence are forms of "unfreedom" that block people's ability to live lives they value.²⁹ In armed conflict, Sen's emphasis on capability deprivation thus highlights why the protection of education is essential not only for mere survival but for restoring agency in humans.

Alkire, drawing from Sen's work, defines human security as the protection of the "vital core of all human lives from critical pervasive threats" which is in line with "long-term human fulfillment."³⁰ This includes both *protection* from violence and *empowerment* to support individual capabilities in times of crisis. Although operationalization has proven difficult – often addressing symptoms rather than root causes³¹, human security remains a useful normative framework for integrating rights protection, humanitarian response and development.

²⁸ See Dent, *China and Africa*, 166.

²⁹ Amartya Sen, *Development as Freedom* (Oxford: Oxford University Press, 1999), 36, 87.

³⁰ Sabina Alkire, *A Conceptual Framework for Human Security*, Working Paper 2 (Oxford: Centre for Research on Inequality, Human Security and Ethnicity, Queen Elizabeth House, University of Oxford, 2003), 2.

³¹ Edward Newman, "Human Security: Reconciling Critical Aspirations With Political 'Realities'," *The British Journal of Criminology* 56, no. 6 (November 2016): 1173.

1.5.3 Strengthening Norms Through Practice: Legal Implementation in a Fragmented System

This thesis builds on the widely accepted view that the central challenge in international law today lies less in the absence of legal norms, but in their uneven implementation. For the protection of educational rights during armed conflict, legal obligations exist, but are inconsistently enforced.

Legal scholars and institutions have increasingly argued that the future relevance of international law lies in its application, not in further norm creation. The International Law Commission (ILC) has emphasized that legal authority stems from how norms are interpreted and implemented in practice.³² Similarly, Mutua criticizes that the proliferation of human rights instruments is contributing to “normative inflation,” stressing that the real test of the human rights project is whether it is able to function, especially in difficult contexts.³³ In this context, international legal mechanisms for monitoring and reporting demonstrate a shift from norm creation toward practical enforcement. These mechanisms create structured pathways for documenting violations, engaging responsible actors and fostering accountability.

Finally, with the changing nature of the world, international law must also be open to allowing new actors to contribute to its enforcement. Legal enforcement increasingly relies on both domestic and transnational actors who shape the reputational and institutional costs of non-compliance.³⁴ The inclusion of civil society in legal processes is therefore a highly relevant consideration with regards to the legitimacy and functionality of existing mechanisms. In this context, NGOs, as “norm entrepreneurs,” have been crucial in contributing to the diffusion and internalization of international legal standards through both practical and institutional roles.³⁵

³² International Law Commission, *Fragmentation of International Law: Difficulties Arising from the Diversification and Expansion of International Law*, Report of the Study Group, A/CN.4/L.682, 58th sess. (Geneva: United Nations, 2006), pars. 38–43.

³³ Makau Mutua, *Human Rights Standards: Hegemony, Law, and Politics* (Albany: State University of New York Press, 2016). 2-3.

³⁴ Oona A. Hathaway, “Between Power and Principle: An Integrated Theory of International Law,” *The University of Chicago Law Review* 72 (2005): 472-474.

³⁵ Martha Finnemore and Kathryn Sikkink, “International Norm Dynamics and Political Change,” *International Organization* 52, no. 4 (Autumn 1998): 895-898. and Pierre-Marie Dupuy and Luisa Vierucci, eds., *NGOs in International Law: Efficiency in Flexibility?* (Cheltenham, UK: Edward Elgar Publishing, 2008), 6-7.

1.6 Methodological Framework

1.6.1 Legal Analysis

The first part of this thesis addresses the question of how the right to education is protected under international law, with a particular focus on conflict-affected settings. The analysis will draw on key legal frameworks, including IHRL, IHL and ICL, and be based on a close reading of primary legal sources – notably treaty texts, protocols and official interpretations provided by UN treaty bodies and other authoritative legal actors. It will be complemented by secondary literature from legal scholarship to assess how the right to education is conceptualized, applied and challenged in conflict contexts. This legal analysis provides the foundation for the case study component of the thesis by clarifying which education-related rights are recognized under international law – and, crucially, what responsibilities legal mechanisms are intended to defend and uphold.

1.6.2 Case Studies

This thesis will employ a *comparative case study approach* as its core methodology to explore the state of NGO engagement within existing international mechanisms. By comparing how NGOs participate in each of these frameworks and examining the selected mechanisms in detail, I aim to identify strengths, challenges and opportunities for improvement, highlight where NGO input has the greatest impact, and outline overarching best practices that could be adapted across different institutional settings to strengthen their role in protecting educational rights.

The following three legal mechanisms were selected:

1. **CRC (Treaty Body System):** The CRC Reporting Cycle has a well-established practice of NGO involvement, and is particularly relevant for monitoring education-related issues.
2. **MRM (Security Council Mechanism):** The Monitoring and Reporting Mechanism on Grave Violations Against Children in Armed Conflict relies heavily on NGOs' frontline data and cooperates with them on a national taskforce basis.
3. **UPR (Peer-Review Process):** The Universal Periodic Review's framework engages NGOs in its early stages and is the most universally applicable human rights mechanism.

Given that international mechanisms operate in multilayered legal and political contexts, a case study design offers the analytical depth which is required to examine variations in NGO involvement across different institutional settings. As noted by Yin, comparative case studies are particularly suited for analyses of complex institutional phenomena, especially when the boundaries between the subject and its context are not clearly defined – such as in this thesis, where NGO participation in legal mechanisms is closely related to its specific legal, political and institutional contexts.³⁶

The case selection follows *a most-different systems design*, as according to Gerring as each mechanism varies in legal mandate, institutional structure and procedure.³⁷ Despite these differences, however, they all share the operational component of NGO participation. Following George and Bennett's (2005) model of *structured, focused comparison*³⁸, each case is analyzed along common dimensions: *legal base* and *structured pathway* for NGO involvement, *operational practice*, *impact* and *challenges*.

1.7 Structure

The thesis begins by outlining the state of education in contemporary armed conflicts, focusing on how it is increasingly under attack, and explaining why safeguarding it is vital. The next chapter examines the legal protections surrounding educational rights and explores how these provisions are affected by armed conflict. Chapter 3 introduces NGOs in conflict settings, with a focus on their functions in global governance and international mechanisms as they relate to education. The chapter about Monitoring and Reporting Mechanisms will present an overview and the purpose of these mechanisms, providing the contextual background for the final chapter on case studies. The thesis will be rounded up by concluding recommendations.

³⁶ Robert K. Yin, *Case Study Research and Applications: Design and Methods*, 6th ed. (Thousand Oaks, CA: Sage, 2018). 15.

³⁷ John Gerring, *Case Study Research: Principles and Practices*, 2nd ed. (Cambridge: Cambridge University Press, 2017). 231.

³⁸ Alexander L. George and Andrew Bennett, *Case Studies and Theory Development in the Social Sciences* (Cambridge, MA: MIT Press, 2005). 59.

2. Education and Armed Conflict

2.1 The Impact of Armed Conflict on Education

2.1.1 The Changing Nature of Armed Conflict

Modern armed conflicts have evolved substantially—from conventional inter-state warfare toward more fragmented and irregular forms of violence. Today, wars are increasingly defined by non-state actors, asymmetric tactics and the involvement of civilian populations.³⁹ Moreover, contemporary warfare is characterized by its longevity and unpredictability. Many civil wars last for multiple years to decades, with power dynamics shifting on a continuous basis. This volatility contributes to strategic environments where armed actors now routinely engage in tactics that involve or target civilian populations.⁴⁰ As a result, children and their families now experience the direct and indirect consequences of conflict more than ever. This includes not only exposure to violence, but also displacement, poverty, and the collapse of social structures including healthcare and educational systems. Children are affected directly—by being deliberately targeted, recruited as child soldiers or falling victim to other forms of human trafficking—and indirectly, by the absence of care and structure, lasting trauma and the loss of critical opportunities.⁴¹

2.1.2 Education as Collateral and Target

Armed conflict affects education both directly and indirectly. O'Malley notes the following types of attacks that occur in recent conflicts: mass-casualty strikes - bombing, shootings, poisonings - against classrooms; targeted killings or beatings of teachers, administrators, or vocal students; kidnappings, disappearances, and torture of education actors; sexual violence against pupils and staff; forced recruitment of children as fighters; violent crackdowns on

³⁹ See, for instance: Dean S. Hartley III, *An Ontology of Modern Conflict: Including Conventional Combat and Unconventional Conflict* (Cham: Springer, 2021), 21-25. and Richard Williams and John Drury, "Personal and Collective Psychosocial Resilience: Implications for Children, Young People and Their Families Involved in War and Disasters," in *Children and Armed Conflict: Cross-Disciplinary Investigations*, ed. Daniel Thomas Cook and John Wall (Cham: Palgrave Macmillan, 2020), 58-59.

⁴⁰ Reed M. Wood, Jacob D. Kathman, and Stephen E. Gent, "Armed Intervention and Civilian Victimization in Intrastate Conflicts," *Journal of Peace Research* 49, no. 5 (September 2012): 647-648.

⁴¹ Williams and Drury, "Personal and Collective Psychosocial Resilience," 58-59.

education-rights protests; destruction or looting of school buildings, or their conversion into military posts.⁴²

2.1.2.1 Collateral and Broader-Conflict-Driven Attacks

Educational facilities often suffer extensive damage during broader hostilities. Shelling, airstrikes and other attacks by explosive weapons frequently result in the physical destruction of school buildings, injury or death of students and educators, and long-term educational disruptions.⁴³ For instance, more than 84% of Iraq's higher-education institutions and 45% of Kosovo's schools were reportedly destroyed or severely damaged during periods of conflict.⁴⁴ Additionally, the destruction and lack of documentation necessary for enrollment often creates long-lasting barriers for displaced children. Overall, the indiscriminate impact of military operations on infrastructure and populations near schools has been found to contribute significantly to school closures, declining enrollment and delaying reconstruction efforts.⁴⁵

2.1.2.2 Targeted Attacks & Intentional Violence

In recent years, attacks on education have not only increased in number but also taken on a more targeted and systematic character. The violence afflicted by warring parties is often not arbitrary but instrumental: it aims to sever the relationship between civilians and rival factions, weaken public morale, and destroy infrastructure – such as schools and health facilities – which are linked to state authority.⁴⁶ In fact, the symbolic and strategic role of education in nation-building and legitimacy has made schools a focal point of violence. Armed groups frequently destroy or occupy schools to assert dominance or deny their opponents institutional presence.⁴⁷ Many children recall how their schooling experiences during times of conflict was shaped by

⁴² Brendan O'Malley, "Education under Attack 2010: A Summary," in *Protecting Education from Attack: A State-of-the-Art Review* (Paris: UNESCO, 2010), 39-40.

⁴³ Global Coalition to Protect Education from Attack, *Education Under Attack 2024* (New York: GCPEA, 2024), 12-13.

⁴⁴ Gregory Raymond Bart, "Ambiguous Protection of Schools under the Law of War: Time for Parity with Hospitals and Religious Buildings," in *Protecting Education from Attack: A State-of-the-Art Review* (Paris: UNESCO, 2010), 214.

⁴⁵ Ann-Charlotte Nilsson, *Children and Youth in Armed Conflict* (Leiden: Brill, 2013), 72-75.

⁴⁶ Wood, Kathman, and Gent, "Armed Intervention and Civilian Victimization," 648-649.

⁴⁷ Wood, Kathman, and Gent, "Armed Intervention and Civilian Victimization," 649.

political agendas, by promoting content reflecting certain narratives, reinforcing ideologies and suppressing alternative perspectives and identities.⁴⁸

Overall, the motives of attacks against education are diverse. Particularly ethnic identity has emerged as a central fault line in many of today's conflicts, reinforcing identity-based violence trends.⁴⁹ In some regions, attacks tend to be gender-based, particularly when education for girls or secular curricula are threats to cultural or religious orthodoxy.⁵⁰ The GCPEA reports that in 2022 and 2023, at least ten countries witnessed targeted attacks against girls and women specifically because of their gender. For instance, a suicide bombing at the Kaaj tutoring center in Kabul killed over 54 people—mainly Hazara women and girls—while they were studying for entrance exams.⁵¹

2.1.2.3 Long-term Consequences

The consequences of conflict on education extend far beyond immediate disruption. Long-term studies have demonstrated that educational losses persist for years, with severe consequences for the mental health and overall school experience of children.

Psychological Trauma: Children exposed to armed conflict often experience significant psychological distress, which often leads to post-traumatic stress disorder (PTSD), anxiety and depression. This psychosocial trauma disrupts concentration, memory retention and classroom engagement. After all, war deprives children not only of physical safety but also of the security and psychological structures that education provides. Without schools as a routine anchor, children struggle to process crises and often regress in emotional and cognitive terms.⁵² These mental health factors directly translate into poor academic performance, for both students and educators.⁵³

⁴⁸ Lynn Davies and Christopher Talbot, "Learning in Conflict and Postconflict Contexts," *Comparative Education Review* 52, no. 4 (November 2008): 213.

⁴⁹ Stanley J. Tambiah, "Ethnic Conflict in the World Today," *American Ethnologist* 16, no. 2 (May 1989): 336-337.

⁵⁰ GCPEA, *Education Under Attack 2024*, 38.

⁵¹ GCPEA, *Education Under Attack 2024*, 61-62.

⁵² Soheil Salha, Ahmed Tlili, Boulus Shehata, Xiangling Zhang, Awol Endris, Khalid Arar, Sanjaya Mishra, and Mohamed Jemni, "How to Maintain Education During Wars? An Integrative Approach to Ensure the Right to Education," *Open Praxis* 16, no. 2 (2024): 161-162.

⁵³ Davies and Talbot, "Learning in Conflict," 52.

Generational Learning Gaps: During and after armed conflict, dropout rates rise significantly, especially impacting vulnerable groups such as girls, ethnic minorities and children with disabilities. In Rwanda, children exposed to the genocide were found to complete significantly fewer years of education, with school completion rates dropping by over 18%.⁵⁴ Children in post-conflict zones also tend to fall behind in performance, such as literacy and numeracy skills.⁵⁵ For instance, students exposed to the 1998–2000 Ethiopia–Eritrea war still scored lower points in math and language subjects a decade later.⁵⁶ Exposure to conflict increased grade repetition by 10% and dropout by 5%.⁵⁷ UNESCO data supports this pattern, and found that people who were school-aged during conflicts rarely regain lost educational opportunities, resulting in severe generational learning deficits.⁵⁸ Civil wars globally were shown to reduce school enrolment significantly.⁵⁹

Social Mobility and Opportunity: As one of the few avenues for upward mobility in low-income regions, the disruption of education significantly impacts the long-term economic opportunities of children. The civil war in Nepal led to increased migration of uneducated youth into low-wage labor markets abroad, which in turn reinforced underemployment and national dependency on remittances.⁶⁰ While studying the effects of the civil war in Cambodia, it was found that primary school-aged children during the conflict period not only lost years of schooling,⁶¹ but also demonstrated close to 20% lower monthly earnings and increased early fertility in the long-term perspective.⁶² Moreover, the exclusion of war-affected children from higher education or technical training, alongside the failure to address long-standing social

⁵⁴ Salha et al., “How to Maintain Education During Wars?”, 161.

⁵⁵ Nilsson, *Children and Youth in Armed Conflict*, 200-202.

⁵⁶ Samuel Weldeegzie, “The Persistent Effect of Conflict on Educational Outcomes: Evidence from Ethiopia,” *Journal of Comparative Economics* 51, no. 1 (2023): 2, 5.

⁵⁷ Weldeegzie, “The Persistent Effect of Conflict,” 7.

⁵⁸ UNESCO Institute for Statistics, *The Quantitative Impact of Conflict on Education*, 7-8.

⁵⁹ UNESCO Institute for Statistics, *The Quantitative Impact of Conflict on Education*, 9.

⁶⁰ Tejendra Jnawali Pherali, “*Education and Conflict in Nepal: Impact of Violence on Schools and the Role of Education in Peacebuilding*” (PhD diss., Liverpool John Moores University, 2012). 5-6.

⁶¹ Asad Islam, Chandarany Ouch, Russell Smyth, and Liang Choon Wang, “The Long-Term Effects of Civil Conflicts on Education, Earnings, and Fertility: Evidence from Cambodia,” *Journal of Comparative Economics* 44, no. 3 (2016): 16-17.

⁶² Islam et al., “The Long-Term Effects of Civil Conflicts,” 19-20.

divides, impairs the overall ability of societies to rebuild and develop socially and economically.⁶³

Gendered Impacts: Armed conflict does not affect all children equally. Its consequences are deeply gendered, often amplifying existing social inequalities and reinforcing structural discrimination.

During armed conflict, girls' education is often first to be interrupted. In many communities with patriarchal social structures, girls not only face the danger of violence but also social pressure to stay at home and take on family responsibilities. This gendered division of labor contributes to drastically higher dropout rates for girls.⁶⁴ In addition, sexual violence – including harassment on the way to school, in refugee camps or in the classroom – deters many girls from pursuing education. In Sub-Saharan Africa, many girls report leaving school due to fears of rape by armed actors or even fellow displaced persons.⁶⁵ In Uganda, girls who were abducted by rebels and forced into motherhood were eight times less likely to return to school.⁶⁶ Even during post-conflict reconstruction, recovery plans often prioritize male-dominated economic sectors and overlook the specific educational needs of girls. In African regions previously affected by war, female literacy and secondary school enrollment remains significantly lower than male counterparts.⁶⁷

Boys are more likely to be recruited, both voluntarily or by force, into militias or armed groups. In these environments, they are often coerced, drugged and indoctrinated. In Bosnia, Colombia and Rwanda, boys were found to be more affected by the conflict than girls, as they were more likely to be recruited into armed groups or forced labor.⁶⁸ The militarization of boys' roles also builds on pre-existing gender norms which associate masculinity with violence, control and sacrifice.⁶⁹ In fact, many education systems, even during peacetimes, promote militarized norms that glorify armed struggle and national defense. In conflict settings, these dynamics

⁶³ See, for instance: Julia Freedson, Yvonne Kemper, and Simar Singh, *Children in Armed Conflict Accountability Framework: A Framework for Advancing Accountability for Serious Violations against Children in Armed Conflict* (Cambridge, MA: Conflict Dynamics International, 2015). 4. and Salha et al., "How to Maintain Education During Wars?", 162-163.

⁶⁴ Salha et al., "How to Maintain Education During Wars?", 165.

⁶⁵ Adebayo, "Impact of Armed Conflicts on Education," 9.

⁶⁶ Buvinić, Das Gupta, and Shemyakina, "Armed Conflict, Gender, and Schooling," 314-316.

⁶⁷ Ayotunde Adebayo, "Impact of Armed Conflicts on Education in Africa" (unpublished manuscript, Department of Arts and Social Sciences Education, University of Lagos, n.d.). 6.

⁶⁸ Buvinić, Das Gupta, and Shemyakina, "Armed Conflict, Gender, and Schooling," 312-313.

⁶⁹ Nilsson, *Children and Youth in Armed Conflict*, 223-224.

become even more entrenched, and ideologically abused by armed actors.⁷⁰ When boys stay in militarized environments for extended periods of time, it becomes harder for them to reintegrate into educational systems or civilian society afterwards.⁷¹

2.1.2.4 Post-Conflict Recovery:

Education is an important component for the post-conflict recovery of nations, by not only serving as a platform for psychosocial healing⁷², but also for supporting post-conflict developments. When addressed as a focal point within transitional justice processes, inclusive and equitable education systems can address the underlying factors leading to conflict, by promoting social justice, tolerance and civic responsibility. In contrast, if pre-existing inequalities are replicated in post-conflict schooling, it may contribute to future instability.⁷³ Furthermore, investing in education strengthens long-term state legitimacy and reduces dependency on humanitarian aid. It equips young people with the skills needed for economic growth and supports the emergence of informed, engaged citizens capable of upholding institutions and resisting future conflict.

2.2 The Importance of Protecting Education During Armed Conflict

While ending violent conflict is the ultimate goal and underlying hope of this thesis, education can simply not be suspended until peace is restored. Protecting education *during* war means shielding children from exploitation, preserving community structures and laying the foundation for justice and peace. Education is not a luxury for peaceful times, but a lifeline and stabilizing force during times of crisis. It is by itself a part of the solution to peace: As education is increasingly under attack in recent years, rather than waiting for peace to educate, its importance must be recognized while conflict is ongoing. Across a range of contexts, education has proven to promote protection, social cohesion and long-term resilience.

2.2.1 Protection and Structure in Times of Conflict

⁷⁰ Davies and Talbot, “Learning in Conflict,” 510.

⁷¹ Nilsson, *Children and Youth in Armed Conflict*, 223-224.

⁷² Salha et al., “How to Maintain Education During Wars?”, 165.

⁷³ Pherali, “*Education and Conflict in Nepal*.” 100-102.

During armed conflict, education functions as a protective space, and helps shield children from recruitment, trafficking, child marriage and forced labor. In various war-torn settings, schools are the only remaining structured environments children experience. They not only offer physical shelter, but also a sense of normalcy, routine and emotional security.⁷⁴ Students have been found to use education strategically as a tool for survival and personal empowerment in fragile settings. In contexts of conflict and displacement, children often become more aware of their learning experiences, and recognize education as a pathway to regain agency and build a future after living through a conflict. Education thus becomes more than a right, by presenting a form of self-protection and advancement in environments where formal structures have collapsed or are deeply politically instrumentalized.⁷⁵

2.2.2 A Foundation for Peace and Justice

When delivered in an inclusive and participatory way, education during conflict plays a transformative role in promoting tolerance, civic engagement and justice. Moreover, it has been proven that educational content can foster critical thinking, conflict resolution and historical understanding, which are crucial factors for preventing intergroup tensions. The failure to protect these mechanisms can lead to long-term social fragmentation and persistent inequality.⁷⁶ Education is therefore not only a technical service, but preventing violent actors from exploiting youth and perpetuating cycles of trauma and injustice.

2.2.3 Evidence of Positive Outcomes from Protecting Education During Conflict

2.2.3.1 Poland: Maintaining Education as a Form of Resistance and Expression of National Identity

During the Nazi-occupation of Poland in WWII, Poland faced a systemic attempt to dismantle its educational infrastructure. German authorities closed all universities and secondary schools, which was aimed at restricting basic literacy and numeracy, and to indoctrinate obedience to Germany. Polish educators soon established the *Secret Teaching Organization* in 1939, which

⁷⁴ International Committee of the Red Cross, “Protecting Education from Attack during Armed Conflict,” *Humanitarian Law & Policy*, September 13, 2023, 2-3.

⁷⁵ Davies and Talbot, “Learning in Conflict,” 213.

⁷⁶ Melinda Smith, “Schools as Zones of Peace: Nepal Case Study in Access to Education during Armed Conflict and Civil Unrest,” in *Protecting Education from Attack: A State-of-the-Art Review* (Paris: UNESCO, 2010), 261-263.

was an underground network mobilizing over 11.500 teachers and educating close to 200.000 students during the war.⁷⁷

The Polish ‘underground state,’ which was an initiative to provide an institutional framework for the Polish population, similarly prioritized education not only as a functional necessity, but as a strategy to aid national survival and resistance. It allocated approximately 50% of its civilian budget to education and welfare. University professors, teachers and academics were absorbed into underground schools and presses, forming a major part of the cultural resistance against German occupation.⁷⁸ Children also started to form groups and engaged in civic education as well as patriotic engagement.⁷⁹ These were both cultural and political acts that contributed to national resilience and post-war recovery. As Tomasz Gross writes in *Polish Society Under German Occupation*, this commitment to education was rooted in the goal of “maintaining the internal bond of the conquered nation, to preserve its personality and its active participation in developing independence.”⁸⁰

2.2.3.2 Mozambique: Sustaining Education to Aid Post-War Efforts and Long-term Development

During the civil war in Mozambique (1977-1992), national health and education systems suffered dramatically. However, the Mozambican government still prioritized the protection and continuation of education to the best extent possible.⁸¹ This involved offering technical training courses as well as cooperating with international actors to improve the national pedagogical training program, to address the shortage of educators and authoritarian educational practices.⁸² These efforts in preserving education during the war translated into educational reforms being central for the reforms that followed the war. They had important

⁷⁷ Canadian Teachers’ Federation, “The Secret Teachers’ Organization in Poland,” *Canadian Teachers’ Federation*, February 19, 2019, <https://www.ctf-fce.ca/blog-perspectives/the-secret-teachers-organization-in-poland/>.

⁷⁸ Jan Tomasz Gross, *Polish Society under German Occupation: The Generalgouvernement, 1939–1944* (Princeton, NJ: Princeton University Press, 1979), 235-236.

⁷⁹ Gross, *Polish Society under German Occupation*, 167.

⁸⁰ Gross, *Polish Society under German Occupation*, 256.

⁸¹ Patrick Domingues, *Civil War Exposure and School Enrolment: Evidence from the Mozambican Civil War*, NEPS Working Paper 1/2011 (Centre d’Économie de la Sorbonne, University of Paris 1 Panthéon-Sorbonne), 6.

⁸² Tizuko Morchida Kishimoto and Lucy Sayuri Ito, “Pedagogical Training in Mozambique: The Voice of the Participants,” *Educação e Pesquisa* 44 (2018), 5-6.

implications for Mozambique's development, in human capital terms as well as the transition to peace.⁸³ Moreover, the focus on education services was seen as a crucial factor for re-legitimizing state authority.⁸⁴

2.2.3.3 Other cases

There have been numerous other cases in which protecting and upholding educational systems during conflict has resulted in improvements in access, safety and post-war recovery: During the conflict in South Sudan, schools that remained open during fighting were credited with keeping children out of recruitment by armed groups and aiding overall psychological damage.⁸⁵ In Afghanistan, community-based education models allowed students, particularly girls, to continue learning despite the threat of Taliban attacks on formal schools. Subsequent evaluations demonstrated significantly higher enrolment and attendance rates in these areas.⁸⁶ In Nepal, the "Schools as Zones of Peace" initiative helped create local agreements between conflicting political groups to protect schools from occupation and propaganda. As a result, violence in or around schools dropped substantially, and the initiative was later incorporated into national policy.⁸⁷

2.3 Evolution of Education as a Part of Humanitarian Response

2.3.1 From a Minimalist to Maximalist Approach in Humanitarianism

Traditionally, humanitarianism focused on the idea of "saving lives", with a 'minimalist' approach that prioritized immediate needs such as food, water and medical care.⁸⁸ Donor

⁸³ Domingues, *Civil War Exposure and School Enrolment*, 6 and Kishimoto and Ito, "Pedagogical Training in Mozambique," 14-15.

⁸⁴ Domingues, *Civil War Exposure and School Enrolment*, 6.

⁸⁵ International Committee of the Red Cross, "Protecting Education from Attack during Armed Conflict," *Humanitarian Law & Policy*, September 13, 2023, 2-3.

⁸⁶ Dana Burde, *Schools for Conflict or for Peace in Afghanistan* (New York: Columbia University Press, 2017). 245-252.

⁸⁷ Smith, "Schools as Zones of Peace," 261-266.

⁸⁸ See David Rieff's "Bed for the Night" model (2002) or Layal T.E. Sarrouh and Neil Boothby, "Protection of Children in Humanitarian Crises," in *Children and Armed Conflict: Cross-Disciplinary Investigations*, ed. Daniel Thomas Cook and John Wall (New York: Palgrave Macmillan, 2011), 137. and Nilsson, *Children and Youth in Armed Conflict*, 178.

governments tended to make a clear distinction between developmental concerns and humanitarian response, which categorized education as a secondary task as it was non-life-saving, and impractical to sustain amid crises.⁸⁹ This approach saw a clear focus on providing short-term relief, and took a strong stance against political entanglements of any sort. However, with the nature of modern warfare, humanitarians have started to embrace aspirations of contributing to long-term recovery and addressing underlying vulnerabilities. This includes initiatives addressing a broader protective environment to achieve social stability, and essentially, prevent future conflict. Often termed a ‘maximalist’ approach, it acknowledges the role education plays in societal recovery and long-term peace. This balance between emergency relief and system-building is increasingly viewed as the path towards effective humanitarian child protection.⁹⁰

2.3.2 The Politicization and Resistance to Education in Humanitarianism

However, the mindset of excluding education from humanitarian aid still persists in some circles. This leads to the perception that education is not urgent or essential in crisis situations and ignores the real needs of affected populations, who clearly prioritize access to education even during conflict. While education in conflict situations has become more professionalized and systematically integrated into humanitarian efforts, a lingering bias still exists - one that is mainly rooted in the strict interpretation of political neutrality. As a result, education has not achieved its full potential in alleviating suffering during conflict and continues to receive insufficient funding and attention. Burde argues that aid will in fact always be political in nature - especially in the field of education. Rather than denying this reality, she suggests that openly recognizing its political dimension could help design more effective and transparent aid strategies overall.⁹¹

Despite growing international recognition of the importance of protecting education during armed conflict, implementation gaps remain. The next chapters of this thesis will explore both the legal and practical challenges protecting education entails.

⁸⁹ Nilsson, *Children and Youth in Armed Conflict*, 178.

⁹⁰ Sarrouh and Boothby, “Protection of Children,” 137-139.

⁹¹ Dana Burde, *Schools for Conflict or for Peace in Afghanistan* (New York: Columbia University Press, 2017). 72-77, 337.

3. Legal Protections of Education In Armed Conflict

The right to education is a fundamental human right which is upheld through a range of international legal frameworks. It is enshrined in binding agreements, such as conventions, covenants and charters, as well as non-binding instruments including declarations, recommendations, general comments⁹² and action plans. Ever since the *Universal Declaration of Human Rights*⁹³ (1948) stated that ‘everyone has the right to education’ (Article 26), the right has been proclaimed in numerous subsequent international treaties.⁹⁴

During times of armed conflict, there are three primary legal regimes within international law that are relevant to the protection of the right to education: International Human Rights Law (IHRL), International Humanitarian Law (IHL) and International Criminal Law (ICL). IHRL provides the most explicit and continuous legal basis for the right to education at all times, while IHL serves as a legal framework which applies exclusively during times of conflict. These two regimes are often deemed as being complementary to each other, for they operate in parallel to ensure that educational rights are protected at all times.⁹⁵ While ICL does not establish the right to education as a legal regime, it serves as a critical accountability mechanism by criminalizing serious violations. Together, these regimes form a comprehensive framework that protects, enables, and enforces the right to education across different contexts.⁹⁶

3.1 International Human Rights Law (IHRL)

As opposed to IHL and ICL, IHRL is the legal framework that explicitly establishes and protects educational rights. In the context of education, the foundational instruments of IHRL include the *Universal Declaration of Human Rights* (UDHR), the *International Covenant on Economic,*

⁹² General Comments are non-binding but authoritative interpretations issued by UN human rights treaty bodies. They clarify the scope and meaning of specific rights under the treaties and provide guidance to States Parties, including on implementation and reporting. (OHCHR, *Core Instruments and General Comments*, available at: <https://www.ohchr.org/en/treaty-bodies/treaty-body-general-comments>.)

⁹³ United Nations General Assembly, *Universal Declaration of Human Rights*, December 10, 1948.

⁹⁴ See, for instance: Right to Education Initiative, "International Law," accessed March 31, 2025, <https://www.right-to-education.org/page/international-law>.

⁹⁵ Hausler et al., *Protecting Education in Insecurity and Armed Conflict*, 61-62.

⁹⁶ Kristin Hausler et al., *Protecting Education in Insecurity and Armed Conflict: An International Law Handbook – A Summary*, 2nd ed. (London: British Institute of International and Comparative Law and Education Above All Foundation, 2019). 13-14.

*Social and Cultural Rights*⁹⁷ (ICESCR), the *International Covenant on Civil and Political Rights*⁹⁸ (ICCPR) and the *Convention on the Rights of the Child*⁹⁹ (CRC).

After a brief overview of educational rights in the UDHR, the following section will explore the most pertinent human rights treaties that have relevant provisions for educational rights.

3.1.1 UDHR

The **UDHR** serves as a milestone achievement and foundational document for the history of human rights and was proclaimed by the UN General Assembly in 1948. While being a non-binding document, it is widely credited for having led to the adoption of more than 70 subsequent human rights treaties at both global and regional levels.¹⁰⁰ With Article 26, the UDHR stands for the first international articulation of the ‘right to education’ as a universal human right. Article 26 (1) of the UDHR states:

“Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory.”

Article 2 of the Declaration establishes the concept of *non-discrimination*, and adds that no distinction shall be made on the “status of a country or territory to which a person belongs to”, ensuring educational rights even in non-sovereign or occupied territories. The declaration’s content has been an important guidance for the development of customary international law and binding treaties concerning human rights, such as the ICESCR and the CRC.¹⁰¹

3.1.2 ICESCR

3.1.2.1 On the Concept of Economic, Social and Cultural Rights

Economic, social and cultural rights (ESCR) are fundamental human rights that guarantee individuals access to the basic conditions which are necessary for a life with dignity and full participation in society. They are codified in the **ICESCR** (1966), which is one of the core human rights treaties adopted by the UN, and ratified by 173 parties. Article 1 frames these

⁹⁷ United Nations General Assembly, *International Covenant on Economic, Social and Cultural Rights*, December 16, 1966.

⁹⁸ United Nations General Assembly, *International Covenant on Civil and Political Rights*, December 16, 1966.

⁹⁹ United Nations General Assembly, *Convention on the Rights of the Child*, November 20, 1989.

¹⁰⁰ United Nations General Assembly, *Universal Declaration of Human Rights*, Resolution 217 A (III) (adopted December 10, 1948), <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

¹⁰¹ Hausler et al., *Protecting Education in Insecurity and Armed Conflict*, 75.

rights as being “essential for enabling people to pursue their economic, social and cultural development.” Articles 6 to 15 outline the specific rights protected. They include the right to work, education, adequate food and housing, the highest attainable standard of health as well as participation in cultural life.

It is important to note that, unlike civil and political rights, ESCR are generally subject to the idea of *progressive realization*. This means that states are mandated to take all steps necessary to the maximum availability of resources, to achieve the full realization of these rights.¹⁰²

3.1.2.2 Relevant Articles

The ICESCR’s (1966) Article 13 establishes the right to education as a binding obligation. It promotes the development of individual personalities, dignity, and respect for human rights and freedoms. Article 18(4) reinforces parental choice in children’s education, and Article 10 emphasizes family protection. It is widely regarded as a *multiplier right*, with strong interdependencies across other ESCRs: promoting education contributes to achieving rights to health, work and cultural life.¹⁰³ Moreover, the right to education has a unique structure within the ICESCR: while much of it is also subject to the concept of progressive realization, states have certain immediate obligations to guarantee non-discriminatory access and ensure free and compulsory primary education.¹⁰⁴

In this context, the Committee on Social, Economic and Cultural Rights, in *General Comment No. 13*, acknowledges the difficulties of state parties to ensure the right due to ‘prevailing conditions.’ However, they still clarify that the essential features of education shall exhibit four criteria: Availability, Accessibility, Acceptability and Adaptability (“The 4 As”).¹⁰⁵

3.1.3 ICCPR

In the ICCPR (1966), which is ratified by 174 parties, educational rights are not established directly. However, it supports key civil and political freedoms including parental choice,

¹⁰² Olivier De Schutter, “The Progressive Realization of Human Rights and the Obligation to Fulfil,” in *International Human Rights Law: Cases, Materials, Commentary* (Cambridge: Cambridge University Press, 2010), 461-462.

¹⁰³ Hausler et al., *Protecting Education in Insecurity and Armed Conflict*, 288-289.

¹⁰⁴ Hausler et al., *Protecting Education in Insecurity and Armed Conflict*, 22, 288.

¹⁰⁵ UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 13: The Right to Education (Article 13 of the Covenant)*, E/C.12/1999/10, December 8, 1999.

freedom of choice, and non-discrimination, which are crucial for shaping educational environments.¹⁰⁶

Traditionally, the right to education has been treated as an ESCR. However, this classification becomes problematic in armed conflict, where ESCRs are often afforded weaker legal protection. As Hausler observes:

“...more civil and political rights are considered here than economic, social and cultural rights, while recognizing that the latter are at constant risk of lack of protection, especially in developing and post-conflict societies”¹⁰⁷

Over time, there has been a tendency to view all human rights as interdependent and give equal emphasis to them, particularly in situations where physical safety, non-discrimination and freedom of expression are at stake.¹⁰⁸ For instance, the CRC Committee has emphasized that ESCRs are “*inextricably intertwined*” with civil and political rights (CPRs). The Committee has also stated that both sets of rights should be regarded as enforceable in courts.¹⁰⁹

Educational rights, with a region-specific focus, are also protected under various regional human rights frameworks, including the *European Convention on Human Rights* (1950), the *African Charter on Human and Peoples’ Rights* (1981), the *American Convention on Human Rights* (1978) and its Protocol (1999), the *Arab Charter on Human Rights* (2008) or the *ASEAN Human Rights Declaration* (2012).

3.1.4 CRC

The **CRC** of 1989 elaborates extensively on educational rights, provides practical guidance and supports a vision for the overall purpose of education. With 196 parties, it stands as the most

¹⁰⁶ See, for instance Art. 18 on “the freedom of thought, conscience and religion” or Art. 19 on “the freedom of opinion and expression”

¹⁰⁷ Hausler et al., *Protecting Education in Insecurity and Armed Conflict*, 6.

¹⁰⁸ In this context, Hausler (p. 2) cites the 2012 case of Malala Yousafzai, who was shot by the Taliban for campaigning for girls’ right to attend school. This act was not only an attack on access to education but also a violation of *civil rights*, including the right to life and freedom of expression. Similarly, in 2014, Boko Haram abducted over 270 schoolgirls in Chibok, Nigeria, burned their school, and subjected many to years of captivity. These actions violated multiple civil and political rights, and demonstrate how education becomes a direct target in conflicts shaped by ideology and gender oppression.

¹⁰⁹ UN Committee on the Rights of the Child (CRC), *General Comment No. 5 (2003): General Measures of Implementation of the Convention on the Rights of the Child (arts. 4, 42, and 44, para. 6)*, CRC/GC/2003/5, November 27, 2003, para. 11.

widely accepted human rights treaty. Article 28 acknowledges the idea of achieving the right to education “progressively and on the basis of equal opportunity.” It further introduces concepts such as encouraging different forms of secondary education, ensuring regular attendance at schools, and promoting international cooperation in the field of education for state parties. Article 29 goes beyond access and addresses the purpose and content of education, reiterating aspects such as the development of a child’s personality, talents and abilities, as well as fostering its appreciation for its own culture. With regards to considering different development stages of member states, Article 4 of the CRC requires utilizing the "maximum of available resources" to fulfill educational rights, with a special focus on primary education.¹¹⁰

3.1.5 Derogability and Limitations of IHRL During Armed Conflict

Although IHRL establishes strong legal protections for the right to education, conflict-related conditions often make it difficult for states to fulfill these obligations. Firstly, governance and institutional capacities are usually affected during armed conflict, as governments may lose authority over (parts of) their territory. In this context, the loss of safe, functional learning environments directly undermines the *availability* and *acceptability* of education. When education is provided by humanitarian actors, it may lack integration with national curricula or systems, which raises concerns about *adaptability* in long-term educational outcomes.¹¹¹ As conflict tends to exacerbate existing inequalities, the non-discrimination principle, which remains binding even during emergencies, is similarly difficult to be upheld.¹¹²

The principle of *derogability* governs the extent to which rights can be limited or suspended in certain circumstances and emergency conditions. While human rights treaties are designed to protect individual liberties, several of them include derogation clauses which allow governments to temporarily suspend certain rights. However, such derogations are still subject to certain conditions and do not automatically negate all human rights obligations:

The ICCPR includes a derogation mechanism under Article 4, which permits states to temporarily suspend certain obligations “to the extent strictly required by the exigencies of the

¹¹⁰ Hausler et al., *Protecting Education in Insecurity and Armed Conflict*, 88-89.

¹¹¹ Committee on Economic, Social and Cultural Rights, *General Comment No. 20: Non-discrimination in Economic, Social and Cultural Rights (art. 2, para. 2 of the Covenant)*, U.N. Doc. E/C.12/GC/20 (July 2, 2009), ¶ 6.

¹¹² Committee on Economic, Social and Cultural Rights, *General Comment No. 20: Non-discrimination in Economic, Social and Cultural Rights (art. 2, para. 2 of the Covenant)*, U.N. Doc. E/C.12/GC/20 (July 2, 2009), ¶ 13.

situation” during an emergency that “threatens the life of the nation.” They must be executed in a way that is non-discriminatory, proportional and necessary.¹¹³ Moreover, some rights, including the prohibition of torture, slavery and arbitrary deprivation of life are non-derogable under Article 4(2) and cannot be suspended under any circumstances.¹¹⁴ To reduce the opportunities of abuse during times of conflict, limitations must be further reinforced by informing the UN Secretary-General of the measures taken, the rights affected and the duration of derogation.¹¹⁵

Derogations are far more common in CPR treaties than in ESCR ones. This suggests that ESCR are more flexible and tied to the aforementioned concept of progressive realization, which inherently accommodates crises without requiring formal derogation.¹¹⁶ Legal scholarship and UN treaty bodies still emphasize that certain minimum core obligations must be maintained at all times. According to General Comment No. 13 of the Committee on ESCR, states must guarantee the right to education without discrimination and ensure a minimum level of primary education that is available and accessible to all, even during times of conflict.¹¹⁷

This concept is further reinforced by the CRC. While the CRC does not include a derogation clause, it upholds education as a continuous obligation in both peace and conflict, and stresses that its provisions must be read in harmony with IHL in situations of armed conflict. (CRC, Art. 38) Furthermore, the CRC Committee has clarified that even in emergencies, states must take all appropriate measures to uphold the continuity and quality of education, as it is considered an “integral component in humanitarian relief.”¹¹⁸ In addition, the Committee on ESCR has criticized that states allow military or security concerns to override educational priorities,

¹¹³ Emilie M. Hafner-Burton, Laurence R. Helfer, and Christopher J. Fariss, “Emergency and Escape: Explaining Derogations from Human Rights Treaties,” *International Organization* 65, no. 4 (Fall 2011): 677.

¹¹⁴ Hafner-Burton, Helfer, and Fariss, “Emergency and Escape,” 676.

¹¹⁵ Hafner-Burton, Helfer, and Fariss, “Emergency and Escape,” 677.

¹¹⁶ Hafner-Burton, Helfer, and Fariss, “Emergency and Escape,” 677.

¹¹⁷ Committee on Economic, Social and Cultural Rights, *General Comment No. 20: Non-discrimination in Economic, Social and Cultural Rights (art. 2, para. 2 of the Covenant)*, U.N. Doc. E/C.12/GC/20 (July 2, 2009), ¶ 57.

¹¹⁸ United Nations Committee on the Rights of the Child, *Day of General Discussion on “The Right of the Child to Education in Emergency Situations”*: Recommendations, 49th sess., 3 October 2008, U.N. Doc. CRC/C/49/3, ¶ 29.

particularly when it results in long-term discrimination against displaced populations, minorities and girls.¹¹⁹

This demonstrates that, while certain limitations to the right to education may be unavoidable during conflict, states are not legally permitted to suspend the right altogether. While full realization may be constrained due to conflict-related disruptions, states must at least make every effort to adapt their educational provision to conflict realities.

3.2 International Humanitarian Law (IHL)

3.2.1 Core Principles

IHL, also referred to as the ‘law of armed conflict’ or the ‘law of war,’ is a branch of international law that regulates the conduct of parties engaged in armed conflict. Its primary objective is to limit the extent of hostilities from a humanitarian perspective, by providing protections for individuals who are not involved in hostilities, and by imposing constraints on the means and methods of warfare, to uphold a minimum standard of humanity.¹²⁰ IHL seeks to maintain not only the survival of people but also the surrounding factors constituting societies.¹²¹ Unlike IHRL, IHL focuses on *prohibiting* harmful conduct against humans rather than *granting* specific rights. As such, it does not establish a “right to education”, but contains provisions relevant to the protection of educational settings, personnel and access in armed conflict.¹²²

While the *Hague Regulations*¹²³ of 1907 were crucial for the development of the key principles of IHL, contemporary IHL relies primarily on the Geneva framework. It is built around two key treaty sources: the four *Geneva Conventions* of 1949 and their *Additional Protocols*, which are

¹¹⁹ See for instance: Committee on Economic, Social and Cultural Rights, *Concluding Observations on the Second Periodic Report of the Sudan*, E/C.12/SDN/CO/2, 9 October 2015, para. 29.

¹²⁰ International Committee of the Red Cross (ICRC), *What is International Humanitarian Law?*, Advisory Service on IHL (Geneva: ICRC, March 2022). 2.

¹²¹ Aderlardus Kilangi, “International Human Rights Law versus International Humanitarian Law in Situations of Armed Conflict: A Critique of Invocation of the Doctrine ‘*Lex Specialis Derogat Legi Generali*’ with Reference to the Duty to Protect Life,” *Journal of Law and Ethics* 3 (2018). 73.

¹²² Kilangi, “International Human Rights Law versus International Humanitarian Law,” 110. and Hausler et al., *Protecting Education in Insecurity and Armed Conflict*, 110-111.

¹²³ Hague Convention (IV) Respecting the Laws and Customs of War on Land and Its Annex: Regulations Concerning the Laws and Customs of War on Land, October 18, 1907.

universally ratified. The Geneva Conventions protect the wounded and sick on land and at sea, prisoners of war, and civilians in times of conflict. They have been universally ratified and are widely accepted as customary international law. Additional Protocol I (1977) expands protections for victims of IAC, while Additional Protocol II (1977) addresses NIAC, such as civil wars or internal conflicts involving organized armed groups.¹²⁴

There are four general principles of IHL that apply during all types of conflicts:

- the principle of humanity,
- the principle of distinction between civilians and combatants, and between civilian objects and military objectives,
- the principle of proportionality, and
- the principle of military necessity.

3.2.2 The Distinction between International vs. Non-International Armed Conflict

A fundamental feature of IHL is the differentiation between international and non-international armed conflicts. IACs involve the use of armed force between two or more states, and have more extensive legal obligations than NIACs.¹²⁵

NIACs occur between a state and one or more organized armed groups. They can also occur between such groups within the boundaries of a state. To qualify under IHL, a NIAC must reach a certain level of intensity, and the non-state parties must exhibit a degree of organization. NIACs are governed primarily by Common Article 3 of the Geneva Conventions and Additional Protocol II.¹²⁶ While this distinction remains significant, customary IHL has helped to narrow the gap between the two categories, particularly regarding civilian protection and the conduct of hostilities.¹²⁷

3.2.3 Education and the Core Principles of IHL

IHL does not explicitly enshrine a right to education but provides important indirect protections for education through its broader civilian protection framework. Educational institutions, students and teachers benefit from general protections afforded to civilians and civilian objects

¹²⁴ ICRC, *What is International Humanitarian Law?*, 3-4.

¹²⁵ ICRC, *What is International Humanitarian Law?*, 4.

¹²⁶ ICRC, *What is International Humanitarian Law?*, 4.

¹²⁷ ICRC, *What is International Humanitarian Law?*, 3.

under IHL. This includes the core principles of distinction, proportionality and precautions in attack, which prohibit deliberate targeting of schools unless they are used for military purposes.¹²⁸ Moreover, IHL recognizes the purpose of education as providing normalcy and stability, particularly for children. The specific legal provisions and scope of obligations differ based on whether the conflict is of international or non-international nature.

3.2.3.1 International Armed Conflict (IAC):

For IACs, there are several provisions of the Geneva Conventions and Additional Protocols that become relevant when protecting education in armed conflict. Article 24 of the Fourth Geneva Convention requires that children under 15 who are orphaned or separated due to conflict be provided with education, ideally by teachers of similar cultural backgrounds.¹²⁹ Article 94 addresses situations of *internment*, and mandates that detaining powers support intellectual and educational pursuits. Moreover, Article 50 obligates occupying powers to maintain educational services in cooperation with local authorities, including respecting the cultural background of the child and avoiding the requisition of educational resources or staff.¹³⁰ The related Commentary by the ICRC's Jean Pictet clarifies that occupying powers must not interfere with the established state of education in a territory. More specifically, institutions which are "devoted to the care and education of children" shall be upheld by the occupying forces, who should not only refrain from interfering with them, but actively support and encourage their continuation.¹³¹ NGOs play a crucial role here, as illustrated by Article 142, which encourages cooperation with relief organizations such as the ICRC when an occupying is unable to do so itself. An example of this would be the distribution of educational material.¹³² Article 77 of Additional Protocol I reinforces the special protection of children and their human rights, though it only implicitly includes education under "care and aid".¹³³

¹²⁸ Hausler et al., *Protecting Education in Insecurity and Armed Conflict*, 110-112.

¹²⁹ Nilsson, *Children and Youth in Armed Conflict*, 181. and Hausler et al., *Protecting Education in Insecurity and Armed Conflict*, 111-112.

¹³⁰ Hausler et al., *Protecting Education in Insecurity and Armed Conflict*, 115-116.

¹³¹ Jean S. Pictet, *The Geneva Conventions of 12 August 1949: Commentary – IV Geneva Convention Relative to the Protection of Civilian Persons in Time of War* (Geneva: International Committee of the Red Cross, 1958). 286.

¹³² Hausler et al., *Protecting Education in Insecurity and Armed Conflict*, 112-114.

¹³³ See Kilangi, "International Human Rights Law versus International Humanitarian Law," 111-114. and Hausler et al., *Protecting Education*, 114-115.

3.2.3.2 Non-International Armed Conflict (NIAC):

A shortcoming of IHL is that it offers fewer explicit protections for education in NIACs, as they are subject to a much narrower set of legal protections compared to IACs. While IACs benefit from the full scope of the four Geneva Conventions, NIACs are only governed by Common Article 3 and Additional Protocol II (1977).

Article 4(3)(a) of Additional Protocol II, a customary international norm, requires parties to provide education aligned with parental beliefs.¹³⁴ It states:

“Children shall be provided with the care and aid they require, and in particular:

(a) They shall receive an education, including religious and moral education, in keeping with the wishes of their parents, or in the absence of parents, of those responsible for their care”

Article 11 of Additional Protocol II grants a special protection of “medical units and transports”. Notably, schools are not given special protections under this protocol.¹³⁵ Despite this, the *Rome Statute*¹³⁶ criminalizes attacks on educational institutions in both international (Article 8(2)(b)(ix)) and non-international (Article 8(2)(e)(iv)) conflicts, yet again with the precondition of these sites not being used for military purposes.¹³⁷

3.2.4 Tensions Between Educational Rights and IHL

3.2.4.1 Weak Protection of Schools

In sum, education suffers from relatively insufficient protections under IHL, particularly in NIACs. Unlike medical and religious facilities, they are not afforded any special status or enhanced protections. Once a school is repurposed for military use, which is a tragic but common reality in many armed conflicts, it becomes a lawful military target under IHL.¹³⁸ This

¹³⁴ Nilsson, *Children and Youth in Armed Conflict*, 182. and Hausler et al., *Protecting Education in Insecurity and Armed Conflict*, 116-117.

¹³⁵ Nilsson, *Children and Youth in Armed Conflict*, 182.

¹³⁶ United Nations General Assembly, *Rome Statute of the International Criminal Court*, July 17, 1998, A/CONF.183/9, entered into force July 1, 2002.

¹³⁷ Nilsson, *Children and Youth in Armed Conflict*, 182.

¹³⁸ Gregory Raymond Bart, “Ambiguous Protection of Schools under the Law of War: Time for Parity with Hospitals and Religious Buildings,” in *Protecting Education from Attack: A State-of-the-Art Review* (Paris: UNESCO, 2010), 186.

distinction has resulted in schools being treated with less respect during conflicts and an increased vulnerability to attacks.¹³⁹

3.2.4.2 Non-State Actors

Furthermore, many of the discussed treaties are addressed only to state parties, while many conflict parties today are composed of non-state organized armed groups. They are addressed in Common Article 3 of the Geneva Conventions, as it states to apply to “each party to the conflict.” However, this does not automatically give them legal status as a subject of international law or proper legitimacy. Still, negotiating with them is important, as they are often prominent actors in contemporary conflicts. Organizations (e.g., the UN, NGOs) that want to negotiate with non-state armed groups about respecting international law often first ask permission from the state where the fighting happens. An example would be the NGO Geneva Call, which invites rebel groups to sign *Deeds of Commitment*, an agreement to voluntarily respect specific humanitarian rules, even if they are not states. Overall, it will be important to maintain constructive channels with non-government forces during armed conflicts.¹⁴⁰

3.2.5 Derogability and the Non-Suspension of IHL

Unlike IHRL, the legal framework of IHL operates on the basis of strict non-derogability. This reflects a fundamental structural difference between the two legal regimes. According to the ICRC, since IHL “deals with an exceptional situation – armed conflict – no derogations whatsoever from its provisions are permitted”.¹⁴¹ This legal rigidity serves as a protection against the erosion of basic humanitarian norms, and ensures that minimum standards of treatment and the protection of civilians remain intact under all conditions.

This inherently applies to the treatment of civilian objects, such as schools (Art. 52(2) of Additional Protocol I) and the protections afforded to children under Articles 77 and 78 of Additional Protocol I. Even when conflict escalates or security conditions deteriorate, the principle of distinction between civilian and military targets remains non-derogable.¹⁴²

¹³⁹ Bart, “Ambiguous Protection of Schools,” 195.

¹⁴⁰ See, for instance: UNESCO, *Protecting Education from Attack*, 16.

¹⁴¹ International Committee of the Red Cross (ICRC), *International Humanitarian Law and International Human Rights Law: Similarities and Differences*, Advisory Service on International Humanitarian Law (Geneva: ICRC, January 2003), 3.

¹⁴² A nuance is provided by Article 5 of the Fourth Geneva Convention (regarding individuals posing a national security threat), which can be interpreted as a limited exception to derogability.

Beyond binding treaties, the *Jomtien Declaration* (1990) affirmed that educational rights apply equally in both IAC and NIAC.¹⁴³ Ten years later, the *Dakar Framework for Action* (2000) highlighted serious implementation gaps, particularly for hard-to-reach and marginalized populations. It criticized governments for failing to effectively prioritize girls' education—60% of out-of-school children were girls, with sub-Saharan Africa and South Asia most affected. The report also stressed the urgent need to focus on (post-)conflict regions, where education is most at risk. While states retain primary responsibility, the frameworks emphasize that international support, coordination through UNESCO, and partnerships with NGOs and private actors are essential for realizing education rights in practice.¹⁴⁴

3.3 International Criminal Law (ICL)

3.3.1 Prosecution under ICL

ICL is the branch of international law governing the prosecution and punishment of individuals for crimes considered of global concern: war crimes, crimes against humanity, genocide and aggression. It prohibits egregious conduct, sets out rules for investigations and trials, and holds individuals personally accountable for violations.¹⁴⁵ It emerged from both the moral imperative to prosecute gross human rights violations and the legal evolution of individual criminal responsibility under international law.¹⁴⁶

ICL relies on a combination of treaties, customary international law, general principles, and judicial decisions, and functions through both ad hoc and permanent institutions like the International Criminal Court. It is characterized by key principles such as individual and command responsibility, non-applicability of statutes of limitation for serious crimes, and universal jurisdiction, which allows states or courts to prosecute certain crimes irrespective of where they occurred or who was involved.¹⁴⁷

¹⁴³ Nilsson, *Children and Youth in Armed Conflict*, 190.

¹⁴⁴ Nilsson, *Children and Youth in Armed Conflict*, 193-196.

¹⁴⁵ International Committee of the Red Cross, Advisory Service on International Humanitarian Law, *General Principles of International Criminal Law* (Geneva: ICRC, April 2021). 1.

¹⁴⁶ M. Cherif Bassiouni, *Introduction to International Criminal Law*, 2nd rev. ed. (Leiden: Brill Nijhoff, 2013). 1-2.

¹⁴⁷ Bassiouni, *Introduction to International Criminal Law*. 13-15. and ICRC, *General Principles of International Criminal Law*. 2-4.

3.3.2 Rome Statute

The *Rome Statute* is the treaty establishing the ICC as a permanent international tribunal tasked with investigating and prosecuting individuals for the most serious crimes of concern to the international community: Genocide (Article 6), Crimes Against Humanity (Article 7), War Crimes (Article 8), and, later, the Crime of Aggression (Article 5). It is currently ratified by 125 state parties. Notably, the principle of *complementarity* (Article 17) states that the ICC is a court of last resort, meaning it only intervenes when national jurisdictions are unwilling or unable to genuinely investigate or prosecute. While not protecting education as a standalone right, ICL addresses severe violations, which can become relevant in the prosecution of war crimes and crimes against humanity.¹⁴⁸

3.3.3 Prosecution of Violations against Educational Rights

In the context of education, attacks against schools, educators and students can be prosecuted as war crimes or crimes against humanity – depending on the context and intent.¹⁴⁹ The Rome Statute offers relevant provisions for prosecution: Attacks against schools may be prosecuted under Article 8(2)(b)(ix), as a war crime in IACs. For NIACs, similar attacks are covered under Article 8(2)(e)(iv).

If educational institutions are targeted as part of widespread or systematic attack on civilians, such attacks can also constitute crimes against humanity under the Rome Statute.¹⁵⁰ Deprivation of education may qualify as persecution under the ICC if it meets the criteria of being severe, discriminatory, intentional and part of a “systemic attack.” The ICTY recognized exclusion from education as potential persecution.¹⁵¹ Finally, incitement to genocide, recognized by the ICTR, ICTY, Rome Statute and Genocide Convention, can include educational content if it publicly and directly provokes genocidal acts.¹⁵² However, as of now, it remains untested in international jurisprudence.

3.3.4 Derogation and Criminal Responsibility under ICL

¹⁴⁸ Hausler et al., *Protecting Education in Insecurity and Armed Conflict*, 118.

¹⁴⁹ Hausler et al., *Protecting Education in Insecurity and Armed Conflict*, 239.

¹⁵⁰ Hausler et al., *Protecting Education in Insecurity and Armed Conflict*, 241.

¹⁵¹ Hausler et al., *Protecting Education in Insecurity and Armed Conflict*, 118-119.

¹⁵² Hausler et al., *Protecting Education in Insecurity and Armed Conflict*, 119-120.

Similar to IHL, ICL does not provide for derogation, as it prosecutes the most serious international crimes. The crimes governed by the ICC make no provision for derogation. In fact, it is asserted that violations constituting war crimes or crimes against humanity are never justified, not even during national emergencies or armed conflict.¹⁵³ As articulated by Carlson, IHL functions on a “binary framework” – conduct either complies or violates its norms. Once that line is crossed, ICL imposes non-derogable criminal standards that apply irrespective of the surrounding context or claimed justifications. Violations of IHL therefore may not only present a breach of humanitarian norms, but also trigger individual liability under ICL.¹⁵⁴

This principle was affirmed in the landmark case of *Prosecutor v. Thomas Lubanga Dyilo*, the first trial conducted by the ICC. Lubanga, a former militia leader in the DRC, was found guilty of conscripting and enlisting children under the age of 15 into armed groups – which constitutes a war crime under the Rome Statute. Although the Lubanga case did not center on education per se, the trial proceedings explicitly acknowledged that the recruitment and use of child soldiers had a devastating impact on these children’s right to education and disrupted their development.¹⁵⁵ This demonstrates that despite Lubanga having operated in a volatile environment, where the recruitment of child soldiers may have been seen as a military necessity, these actions were not justified and prosecuted as a consequence. Simultaneously, the case set a precedent for recognizing educational harm within the framework of ICL.¹⁵⁶

3.4 From Legal Norms to Legal Mechanisms: Addressing the Enforcement Gap

As noted by Watkin, “the legal frameworks developed to regulate armed conflict have not evolved at the same pace.” This results in civilians not being protected properly in situations of armed conflict.¹⁵⁷ While this chapter demonstrated that international law offers a multi-layered framework for the protection of education during armed conflict, it must be noted that the mere existence of legal obligations does not ensure they are effectively realized. This challenge is

¹⁵³ *Rome Statute* arts. 8, 33.

¹⁵⁴ Kerstin Bree Carlson, *Model(ing) Justice: Perfecting the Promise of International Criminal Law* (Cambridge: Cambridge University Press, 2018), 45.

¹⁵⁵ International Criminal Court, *Prosecutor v. Thomas Lubanga Dyilo*, Case No. ICC-01/04-01/06, Judgment, March 14, 2012, ¶¶ 271–77.

¹⁵⁶ Hausler et al., *Protecting Education in Insecurity and Armed Conflict*, 118–119.

¹⁵⁷ Kenneth Watkin, “Controlling the Use of Force: A Role for Human Rights Norms in Contemporary Armed Conflict,” *The American Journal of International Law* 98, no. 1 (January 2004): 1–2.

further exacerbated by the changing nature of warfare, the involvement of new actors, and the limited applicability or enforcement of IHRL in conflict settings.¹⁵⁸ As noted by the GCPEA, violations of the right to education – such as attacks on schools, the forced recruitment of children, or systemic discrimination – continue to occur with impunity, particularly in protracted and asymmetric conflicts.¹⁵⁹

UNGA Resolution 64/290 (2010)¹⁶⁰ on “The Right to Education in Emergency Situations” not only declared education a core component of humanitarian assistance, but also called for stronger funding, coordinated responses, and expanded reporting mechanisms.¹⁶¹ As such, it highlighted that legal norms – though symbolically and morally powerful – often remain insufficient in practice. In this context, the *operationalization* of existing rules should be of utmost priority.

4. NGOs in Armed Conflict

4.1 NGOs as Legal and Normative Actors

4.1.1 Definition

Non-governmental organizations (NGOs) are diverse, non-state actors operating independent from government control. This thesis will use the definition as proposed by Steve Charnovitz, who describes that NGOs are “groups of persons or societies, freely created by private initiative, that pursue an interest in matters that cross or transcend national borders and are not profit seeking.”¹⁶²

4.1.2 Norm-Creation and Legal Oversight

¹⁵⁸ See also Hausler et al., *Protecting Education in Insecurity and Armed Conflict*, 295-297.

¹⁵⁹ Global Coalition to Protect Education from Attack, *Education Under Attack 2024* (New York: GCPEA, 2024), 12-13.

¹⁶⁰ United Nations General Assembly, *The Right to Education in Emergency Situations*, A/RES/64/290, July 27, 2010.

¹⁶¹ Nilsson, *Children and Youth in Armed Conflict*, 201-205.

¹⁶² Charnovitz, “Nongovernmental Organizations and International Law,” 350.

Unlike states and many intergovernmental organizations, NGOs are not formal subjects of international law.¹⁶³ However, they have emerged as important actors in the international legal system, by not only shaping the specificities of several human rights treaties, but also the institutional mechanisms that enforce them.¹⁶⁴ In the context of armed conflict, NGOs contribute significantly to the enforcement of human rights, especially in situations where state-based mechanisms fall short. In fact, they are widely regarded as “norm entrepreneurs” – by framing certain state practices as violations of global standards. For instance, NGOs played a crucial role in elevating the issue of child soldiers to an international legal concern, and to its eventual codification as a war crime.¹⁶⁵ They have also shaped the inclusion of topics surrounding gender-based violence in legal instruments.¹⁶⁶

Beyond norm creation, NGOs are vital enforcement agents in international law. NGOs routinely participate in legal oversight by reporting to treaty bodies, offering critical counter-narratives to state reports and helping expose violations of the law.¹⁶⁷ They are also active contributors to follow-up procedures such as shaping national policy reforms.¹⁶⁸

4.1.3 Consultative Roles

While NGOs do not possess formal decision-making power in intergovernmental bodies, Article 71 of the UN Charter provides a basis for their participation by affording them a *consultative status* with the Economic and Social Council (ECOSOC). It has served as a central platform for NGOs to expand their presence in international norm-setting.¹⁶⁹ Over time, ECOSOC solidified this relationship through resolutions in 1950, 1968, and most significantly, 1996, which introduced requirements for democratic governance, transparency, and accountability. NGOs are contributing to meetings, statements and agenda proposals.¹⁷⁰

¹⁶³ Notably, the ICRC and the International Federation of Red Cross and Red Crescent Societies stand apart as they have concluded numerous headquarters agreements with states, which grants them certain privileges and immunities.

¹⁶⁴ Charnovitz, “Nongovernmental Organizations and International Law,” 209-210.

¹⁶⁵ Charnovitz, “Nongovernmental Organizations and International Law,” 266.

¹⁶⁶ Mutua, *Human Rights Standards*, 87.

¹⁶⁷ Emanuele Rebasti and Luisa Vierucci, “A Legal Status for NGOs in Contemporary International Law?” (paper presented at the European Society of International Law Conference, 2018), 1-2.

¹⁶⁸ Mutua, *Human Rights Standards*, 87.

¹⁶⁹ Charnovitz, “Nongovernmental Organizations and International Law,” 357.

¹⁷⁰ Rebasti and Vierucci, “A Legal Status for NGOs,” 3-4.

4.1.4 Formalization Debate

Participatory models have been increasingly challenged due to both the growing volume of NGOs seeking access and the qualitative expansion of their desired influence. In practice, many hybrid arrangements, combining structured pathways for their involvement and informal channels, have led to issues with fragmentation and incoherence.¹⁷¹ As Rebasti and Vierucci argue, the current status of NGO participation in legal frameworks actually threatens the legitimacy of valuable contributions. They emphasize the need for a more formalized approach to their involvement, as well as improved self-regulation among NGOs themselves, including voluntary codes of conduct and accountability mechanisms within coalitions.¹⁷² Particularly for NGOs participating in global governance, it is vital to prioritize local expertise while also safeguarding against the dominance of poorly informed actors and the involvement of illegitimate groups.

4.2 Types of NGOs and Evolution in Armed Conflict

4.2.1 Emergence of NGOs as Humanitarian Actors Shaping Global Governance

The role of NGOs in the humanitarian field has significantly expanded since the late 20th century. This trend came with major increases in funding, which were largely supported by the belief that NGOs could deliver aid faster, operate with more efficiency and flexibility in insecure or inaccessible areas, and be more responsive to local needs.¹⁷³ In fact, many large international NGOs, such as CARE and Oxfam, emerged in war contexts at the time as a response to human suffering in conflict zones. Many of them have since gradually grown into prominent actors in long-term development work.¹⁷⁴

4.2.2 International vs. Local Actors

¹⁷¹ Rebasti and Vierucci, “A Legal Status for NGOs,” 3-5

¹⁷² Rebasti and Vierucci, “A Legal Status for NGOs,” 7-8.

¹⁷³ Jonathan Goodhand, *Aiding Peace? The Role of NGOs in Armed Conflict* (Boulder, CO: Lynne Rienner, 2006). 31-32.

¹⁷⁴ Elizabeth G. Ferris, *The Politics of Protection: The Limits of Humanitarian Action* (Washington, DC: Brookings Institution Press, 2011). 99.

An important distinction is to be made between local and international NGOs, as it has significant implications for their roles in both humanitarian practice and global governance. “Local” or “national” NGOs are often deeply embedded within the communities they serve, and possess strong contextual awareness and competences. They are frequently the first to respond in humanitarian crises, remain engaged in post-crisis monitoring after international actors have withdrawn, and contribute to national policy change.¹⁷⁵ However, local NGOs face persistent structural barriers, particularly in terms of visibility and access to global governance platforms. These barriers include limited funding, lower management capacities, restricted participation in decision-making processes, and challenges navigating complex international compliance frameworks.¹⁷⁶

International NGOs (INGOs) generally hold a dominant position in the humanitarian system. They benefit from stronger connections to donor networks, greater influence in decision-making forums and heightened media visibility. Many INGOs are based in the Global North and may bring with them frameworks and operational models shaped by Eurocentric assumptions, which do not always align with local needs or values. In many instances, they function as intermediaries between donors and local actors, shape funding flows and set priorities.¹⁷⁷

This dynamic contributes to a systemic imbalance between local and international actors, which is a noteworthy consideration in human rights mechanisms. Although “localization” has become a prominent objective in humanitarian discourse and practice, critics argue that its implementation often remains superficial and inequitable.¹⁷⁸

4.2.2.1 Coalition-Building

Coalition-building has been a key factor in the normative successes of NGOs on the international level. Historic campaigns such as the movement for the Landmine Ban Treaty and the Convention on the Rights of the Child were driven by broad, strategic coalitions that united

¹⁷⁵ Grace, *Implementing the “Children and Armed Conflict” Agenda*. 21-22.

¹⁷⁶ Ferris, *The Politics of Protection*, 102-103. and Nils Carstensen, “Understanding the Role of Local Actors in Humanitarian Response,” in *Localising the Response: The Role of Southern Actors in Humanitarian Action*, *Humanitarian Exchange Magazine*, no. 66 (London: Humanitarian Practice Network, March 2016), 10–12.

¹⁷⁷ Caterina Consolo, “The Limitations of Localisation: A View from the Field,” in *Localising the Response: The Role of Southern Actors in Humanitarian Action*, *Humanitarian Exchange Magazine*, no. 66 (London: Humanitarian Practice Network, March 2016), 22–24.

¹⁷⁸ Carstensen, “Understanding the Role of Local Actors,” 14.

both large INGOs and grassroots actors. These alliances amplified advocacy, added legitimacy through diversity, and ultimately influenced international negotiations. The ability of NGOs to present a united front, and coordinate lobbying efforts was a decisive factor.¹⁷⁹ However, coalition-building remains fragile and is often limited by funding competition, divergent agendas and differing views.¹⁸⁰

4.3 NGOs in Monitoring and Reporting During Armed Conflict

4.3.1 Core Monitoring Functions and Relevance to Education

With their frontline observations and local expertise, NGOs have become crucial actors to monitor and report attacks against educational rights, by collecting, verifying and disseminating information about abuses and local needs.¹⁸¹ These roles are particularly vital in fragile contexts where governments are either unable or unwilling to uphold educational rights.¹⁸² Even when information is not actively withheld, state officials tend to understate human rights violations, or choose to not mention them at all.¹⁸³ Today, many national and international NGOs invest significant efforts in producing reliable documentation of abuses, which fills in gaps and informs state and intergovernmental responses, particularly within the UN framework.¹⁸⁴ In mechanisms, they are independent, value-driven organizations whose primary function is to gather and supply reliable information and to expose violations.¹⁸⁵

In the context of education, NGOs collect crucial frontline data, particularly on attacks against educational facilities, school occupation as well as child recruitment within educational settings. This is particularly important as governments themselves can be implicated in education-related

¹⁷⁹ Mutua, *Human Rights Standards*, 105-106.

¹⁸⁰ Margaret Diddams, *Non-Governmental Organizations in Conflict: Case Study Analysis in Côte d'Ivoire and Somalia* (Arizona State University, 2011), 23.

¹⁸¹ See, for instance: Elizabeth G. Ferris, *The Politics of Protection: The Limits of Humanitarian Action* (Washington, D.C.: Brookings Institution Press, 2011), 101. and Pease, *Human Rights and Humanitarian Diplomacy*, 136.

¹⁸² Nilsson, *Children and Youth in Armed Conflict*, 57-61.

¹⁸³ Rachel Brett, "The Role of NGOs – An Overview," in *International Human Rights Monitoring Mechanisms: Essays in Honour of Jakob Th. Möller*, 2nd rev. ed., ed. Gudmundur Alfredsson et al. (Leiden: Brill | Nijhoff, 2009). 676.

¹⁸⁴ Pease, *Human Rights and Humanitarian Diplomacy*, 136.

¹⁸⁵ Brett, "The Role of NGOs – An Overview," 673-675.

abuses, and UN actors often lack timely response or access.¹⁸⁶ These functions have been particularly visible in the UN's MRM, where NGOs provide over 80% of initial alerts in some countries.¹⁸⁷

4.3.2 Effectiveness and Challenges

The effectiveness of NGOs in contributing to monitoring mechanisms rests on their proximity to affected populations, and their ability to operate in insecure areas. This is especially important for education-related violations, where attacks and disruptions often occur in remote areas or affect marginalized populations.¹⁸⁸ At the same time, it is dependent on the credibility and objectivity of their work. Credibility is generally enhanced when NGOs adhere to verification standards, maintain independence and coordinate efforts through established coalitions.¹⁸⁹

Local NGOs, especially those operating with high security risks and in politically sensitive environments, may hesitate in monitoring and reporting efforts. This has been shown to negatively impact the overall success of mechanisms. However, also larger NGOs often face trade-offs between advocacy and maintaining field access, as was seen during the humanitarian crises in Darfur, Ethiopia, and Sri Lanka.¹⁹⁰

Despite these challenges and considerations, NGO involvement in monitoring and reporting has had significant impacts and consequently elevated their role as humanitarian actors. NGO reports have informed advocacy, legal processes, and dialogue with armed actors. In the DRC, Save the Children and CARE participated in the UN's MRM Task Force, improved reporting processes and acted as deterrents to non-state armed groups.¹⁹¹ In the Philippines, the CSC-CRC NGO coalition's contributions to the UPR led to education reforms such as the Enhanced

¹⁸⁶ O'Malley and Smith, *Monitoring and Reporting*, 6-7.

¹⁸⁷ Nilsson, *Children and Youth in Armed Conflict*, 58.

¹⁸⁸ Diddams, *Non-Governmental Organizations in Conflict*, 84.

¹⁸⁹ Pease, *Human Rights and Humanitarian Diplomacy*, 136.

¹⁹⁰ Humanitarian workers in Darfur reported facing retaliation whenever certain advocacy groups such as the *Save Darfur Coalition* launched public campaigns (Ferris, 2011, p. 101). When *Médecins Sans Frontières* made the decision to hold press conferences in Ethiopia to condemn restricted humanitarian access, donor support increased. However, during the Sri Lankan civil war, they refrained from publicizing certain atrocities in order to maintain their field presence. (Pease, 151)

¹⁹¹ Nilsson, *Children and Youth in Armed Conflict*, 976-977.

Basic Education Act of 2012 and the Alternative Learning System, which supports children who became marginalized due to conflict dynamics.¹⁹²

4.3.3 Conflict Sensitivity and Operational Ethics

Conflict sensitivity is increasingly recognized as a necessary principle guiding NGO involvement in monitoring and reporting efforts, as their activities have also attracted a fair amount of criticism. They have been accused of unintentionally exacerbating local tensions, overlooking complex conflict dynamics, or allowing donor pressures to shape their actions rather than contextual needs. To mitigate these risks, frameworks such as the "Do No Harm" (DNH) Project and the Conflict Sensitivity Consortium have been developed. The DNH Project, initiated by Mary Anderson, calls on NGOs to systematically analyze societal dividers and connectors, assess the unintended impacts of their activities, and adapt their interventions accordingly. Similarly, the Conflict Sensitivity Consortium offers practical tools, including conflict assessments and early warning methodologies, to help organizations better align their work with local realities.¹⁹³

Although these frameworks were initially designed to guide aid delivery, their principles are equally relevant for monitoring and reporting efforts. NGOs must ensure that data collection and advocacy do not compromise the safety of local populations or deepen divisions. If applied correctly, the systematic embedding of these conflict sensitivity guidelines into monitoring practices enhances both the reliability of the information gathered and the protection of the communities NGOs aim to serve.

5. Human Rights Monitoring and Reporting Mechanisms

5.1 Evolution

Over time, the international community recognized that there was a need for more structured and effective implementation of established norms.¹⁹⁴ A decisive shift occurred after the 1993 *World Conference on Human Rights*, when UN-treaty bodies started to develop reporting procedures, laying the groundwork for more structured monitoring and reporting practices that

¹⁹² CSC-CRC Coalition, *Mid-Term Report: Universal Periodic Review of the Philippines*, July 2014.

¹⁹³ Ferris, *The Politics of Protection*, 102.

¹⁹⁴ United Nations Office of the High Commissioner for Human Rights (OHCHR), *Training Manual on Human Rights Monitoring*, 1st ed. (New York and Geneva: United Nations, 2001), chap. 16, 327-328.

serve not only as tools of accountability, but also as instruments for legal guidance on human rights issues.¹⁹⁵

In conflict-affected settings, such mechanisms have proven particularly relevant for the protection of education, by helping to detect and respond to violations more rapidly and systematically.¹⁹⁶ The *Global Education Cluster* defines "monitoring" as a tool enabling effective reporting, and "reporting" as the foundation for planning and seeking action against education-related violations. Together, they strengthen prevention, support advocacy, and provide documentation to hold perpetrators accountable.¹⁹⁷

5.2 Types of Mechanisms

Human rights monitoring and reporting mechanisms can be divided into three main categories:

1. Treaty-Based Mechanisms: There are currently ten treaty bodies overseeing ratified human rights treaties, such as the CRC and ICCPR Committees.¹⁹⁸ They review state reports, issue recommendations and sometimes handle individual complaints.¹⁹⁹
2. Charter-Based Mechanisms (Special Procedures): Operating under the UN Charter, these include Special Rapporteurs and Working Groups with thematic or country mandates. They conduct visits issue reports, and respond to urgent cases, applying political and moral pressure rather than legal enforcement.²⁰⁰

¹⁹⁵ Kjærø, Morten. "State Reports." In *International Human Rights Monitoring Mechanisms: Essays in Honour of Jakob Th. Möller*, edited by Gudmundur Alfredsson, Jonas Grimheden, Bertrand G. Ramcharan, and Alfred de Zayas, 17–22. 2nd rev. ed. The Raoul Wallenberg Institute Human Rights Library, vol. 35. Leiden: Brill, 2009. 17.

¹⁹⁶ Zama Coursen-Neff, "Attacks on Education: Monitoring and Reporting for Prevention, Early Warning, Rapid Response, and Accountability," in *Protecting Education from Attack: A State-of-the-Art Review*, ed. UNESCO (Paris: United Nations Educational, Scientific and Cultural Organization, 2010), 114.

¹⁹⁷ Global Education Cluster, *Protecting Education*, 4-5.

¹⁹⁸ Office of the United Nations High Commissioner for Human Rights (OHCHR), "Instruments & Mechanisms," OHCHR website, accessed June 3, 2025, <https://www.ohchr.org/en/instruments-and-mechanisms>.

¹⁹⁹ Bertie G. Ramcharan, "Human Rights in the 21st Century," in *International Human Rights Monitoring Mechanisms: Essays in Honour of Jakob Th. Möller*, 2nd rev. ed., ed. Gudmundur Alfredsson et al. (Leiden: Brill, 2009), 2-3.

²⁰⁰ Petter F. Wille, "The United Nations' Human Rights Machinery: Developments and Challenges," in *International Human Rights Monitoring Mechanisms: Essays in Honour of Jakob Th. Möller*, 2nd rev. ed., ed. Gudmundur Alfredsson et al. (Leiden: Brill, 2009), 5-6.

3. Regional Mechanisms: Bodies such as the European Court of Human Rights or the African Commission provide legally enforceable rulings within their regions, although access and effectiveness vary by context.²⁰¹

5.3 Characteristics

By ratifying an international treaty, a state owes both its own population and the wider international community accountability on how it puts the treaty into practice. Monitoring bodies vary, but they typically work in three ways: 1) Reviewing state implementation, 2) considering individual complaints, and 3) issuing general guidance. Some mechanisms only perform one of these three functions, but the central focus remains to examine how a government is meeting its treaty duties.²⁰²

Treaty-based committees are created by, and limited to, the conventions they monitor. They are mainly composed of independent experts reviewing state party reports, and draft general comments and recommendations. Charter-based bodies, which include the Universal Periodic Review, derive their authority from the UN Charter. They act by majority vote and may scrutinize any state, whether or not it has joined particular treaties.²⁰³

Notably, these mechanisms are largely non-coercive, and relying on dialogue, reporting and persuasion rather than enforcement powers. Their authority comes from international legal instruments, yet most operate through non-binding recommendations.²⁰⁴ Many mechanisms emphasize state cooperation and constructive engagement, and frame criticism in a diplomatic tone to encourage compliance.²⁰⁵

5.4 Effectiveness

The effectiveness of human rights monitoring mechanisms is dependent on a combination of normative authority, state responsiveness and follow-up practice. Treaty bodies and special

²⁰¹ Wille, “The United Nations’ Human Rights Machinery,” 6-7.

²⁰² Morten Kjærum, “State Reports,” in *International Human Rights Monitoring Mechanisms: Essays in Honour of Jakob Th. Möller*, 2nd rev. ed., ed. Gudmundur Alfredsson, Jonas Grimheden, Bertrand G. Ramcharan, and Alfred de Zayas (Leiden: Brill | Nijhoff, 2009), 17.

²⁰³ Office of the United Nations High Commissioner for Human Rights (OHCHR), “Human Rights Mechanism,” *UN Human Rights Regional Office for Europe*, n.d., accessed June 4, 2025, <https://europe.ohchr.org/human-rights/human-rights-mechanism>.

²⁰⁴ Ramcharan, “Human Rights in the 21st Century,” 3.

²⁰⁵ Ramcharan, “Human Rights in the 21st Century,” 4-6.

procedures can successfully spotlight violations and influence reform when states are politically sensitive to international scrutiny.²⁰⁶ Regional mechanisms, particularly those with binding judgments, tend to be more effective when supported by strong legal mandates and robust regional institutions.²⁰⁷ Despite limitations due to their non-binding nature, human rights monitoring mechanisms have demonstrated significant value in shaping state behavior and advancing rights protection. Over time, they have become more balanced, combining critical assessments with constructive recommendations and expanding to include economic and social rights.²⁰⁸ Treaty bodies have evolved to emphasize follow-up and implementation through ongoing dialogue. Furthermore, the reporting process itself often mobilized domestic constituencies for reform, helping to align national policies with international standards.²⁰⁹ When used strategically and in conjunction with other actors, these mechanisms enhance the visibility, coherence and responsiveness of the international human rights system.²¹⁰

5.5 The Importance of Human Rights Monitoring in Armed Conflict

Armed conflict fundamentally challenges the capacity and functioning of international human rights mechanisms.²¹¹ Still, they remain essential in both conflict and post-conflict environments, as their value not only lies in documenting abuses, but also in contributing to accountability processes, promoting legal reform and supporting peacebuilding. Even when immediate enforcement is often limited, the presence of human rights monitors can deter future violations, empower local actors and provide a factual record that can later be used in transitional justice mechanisms.²¹² Thus, while armed conflict complicates their work, it also makes these mechanisms all the more critical for advancing justice and rebuilding trust in legal institutions.

²⁰⁶ Ramcharan, “Human Rights in the 21st Century,” 5.

²⁰⁷ Ramcharan, “Human Rights in the 21st Century,” 6.

²⁰⁸ Lyal S. Sunga, “What Effect if Any Will the UN Human Rights Council Have on Special Procedures?” in *International Human Rights Monitoring Mechanisms: Essays in Honour of Jakob Th. Möller*, 2nd rev. ed., ed. Gudmundur Alfredsson et al. (Leiden: Brill, 2009), 113.

²⁰⁹ Lucy Smith, “Monitoring the CRC,” in *International Human Rights Monitoring Mechanisms: Essays in Honour of Jakob Th. Möller*, 2nd rev. ed., ed. Gudmundur Alfredsson et al. (Leiden: Brill, 2009), 112.

²¹⁰ Smith, “Monitoring the CRC,” 116.

²¹¹ Ilaria Bottigliero, “International Criminal Adjudication Bodies: To What Extent Can They Promote Human Rights Effectively in Post-Conflict Situations?” in *International Human Rights Monitoring Mechanisms: Essays in Honour of Jakob Th. Möller*, 2nd rev. ed., ed. Gudmundur Alfredsson et al. (Leiden: Brill, 2009), 263-264.

²¹² Bottigliero, “International Criminal Adjudication Bodies,” 267-268.

Early manifestations of monitoring and reporting in armed conflicts can be found in the *Ground Rules Agreements* between UNICEF and armed opposition groups in South Sudan²¹³ or the establishment of *monitoring standards* drawing from field experiences in El Salvador, Haiti and Guatemala.²¹⁴ The *Monitoring and Reporting Mechanism* (MRM) was established in 2005 through Resolution 1612 to “provide for the systematic gathering of accurate, timely, objective and reliable information on six grave violations committed against children in situations of armed conflict.”²¹⁵ Grounded in both international and national legal frameworks, the MRM represents a major step forward in embedding child protection in peace and security agendas.

6. Case Studies: NGOs in the CRC Cycle, the MRM & the UPR

The following section of this thesis will examine NGO involvement in the CRC Cycle, the MRM and the UPR. To ensure a structured analysis, each mechanism will be compared along six common categories:

1. *Overview* – a description of how the mechanism arose, what it is intended to achieve and how it addresses educational rights
2. *Legal Base for NGO Involvement* – the normative or statutory provisions that give NGO the possibility to engage
3. *Pathway to Participation* – the formal and informal entry points and structured process through which NGOs participate
4. *Operational Practice* – how cooperation with NGOs functions in practice
5. *Impact* – evidence of concrete changes and improvements brought by NGO involvement
6. *Challenges* – recurring obstacles that can limit the effectiveness of NGO engagement.

6.1 CRC - Reporting Cycle

6.1.1 Overview

The reporting mechanism under the CRC serves as a central accountability process through which state parties are periodically reviewed on their implementation of the Convention and its

²¹³ OHCHR, *Training Manual*, chap. 16., 336.

²¹⁴ OHCHR, *Training Manual*, chap. 16., 328-329

²¹⁵ Office of the Special Representative of the Secretary-General for Children and Armed Conflict, "Monitoring and Reporting on Grave Violations," United Nations, accessed March 31, 2025.

Optional Protocols. The process is overseen by the CRC Committee, a body of 18 independent experts who are mandated to monitor compliance and identify best practices in the protection of children's rights.²¹⁶

It is structured as a cyclical process which includes the submission of reports, pre-sessional meetings, interactive dialogues between the Committee and states, and the issuance of Concluding Observations, which contain the Committee's formal findings and recommendations. The cycle is supported by supplementary inputs from NGOs, UN agencies, and national human rights institutions, allowing the Committee to receive a complete and independent assessment of children's rights on the ground.²¹⁷

Despite the CRC's Concluding Observations being non-binding, they have been shown to influence national policies, legal reforms and programmatic strategies. The mechanism's flexible and participatory design has made it an effective tool for tracking rights implementation in areas such as education—particularly in conflict and post-conflict contexts where children's access to schooling is most at risk.

Several country cases highlight the mechanism's practical impact in areas related to education:

- In Nepal, NGOs used the CRC reporting process to raise concerns over the militarization of schools and the recruitment of children by armed groups during the civil conflict. The Committee incorporated these issues into its Concluding Observations and called for protective measures. These recommendations supported national advocacy and helped lead to policy adjustments around school safety and reintegration of affected children.²¹⁸
- In Moldova, the CRC mechanism was instrumental in advancing legal and policy reforms related to inclusive education and child protection. NGOs submitted detailed alternative reports and monitored follow-up implementation. The Committee's

²¹⁶ Child Rights Connect, *The Reporting Cycle of the Committee on the Rights of the Child: A Guide for NGOs and NHRIs* (Geneva: Child Rights Connect, 2014), 4. and Child Rights Connect, *Global Status of Engagement*. 12.

²¹⁷ Child Rights Connect, *Reporting Cycle*, 4-5. and Nilsson, *Children and Youth in Armed Conflict*, 60-61.

²¹⁸ Child Rights Connect, *Global Status of Engagement in Reporting to the UN Committee on the Rights of the Child*, July 2019. 39.

recommendations were used to lobby for improved school infrastructure and the elimination of discriminatory practices in education.²¹⁹

- In Burundi and Israel, the Committee used the CRC process to bring international attention to attacks on schools as well as the displacement and targeting of students and teachers. These violations were flagged by NGOs and integrated into Concluding Observations, creating external pressure on governments to take preventive action.²²⁰

The CRC reporting mechanism has thus established itself as a flexible and context-sensitive monitoring process, which is particularly crucial for educational rights. National NGOs and international coalitions have promoted this long-term engagement by forming monitoring partnerships and embedding follow-up into broader development and human rights strategies.²²¹

6.1.2 Legal Base for NGO Involvement

NGO involvement is called for explicitly by many official documents of the CRC Reporting Cycle. While the CRC itself does not name NGOs directly, Article 45(a) provides the legal foundation for their involvement by authorizing the Committee to "invite the specialized agencies, the United Nations Children's Fund, and *other competent bodies* as it may consider appropriate to provide expert advice on the implementation of the Convention."²²² This phrasing has been broadly interpreted to include non-governmental organizations, particularly those with expertise in children's rights.

NGO involvement has also been institutionalized in the reporting guidelines and General Comments issued by the Committee. For example, the *2005 Compilation of Guidelines* on periodic reporting explicitly directs states to report on "cooperation with civil society organizations, including *non-governmental organizations* and children's and youth groups, with regard to implementation of all aspects of the Convention," and to explain the consultation process with such groups.²²³ Regarding the specific education-related provisions of the

²¹⁹ Child Rights Connect, *Global Status of Engagement*. 35.

²²⁰ Nilsson, *Children and Youth in Armed Conflict*, 61.

²²¹ Child Rights Connect, *Reporting Cycle*, 4. and Child Rights Connect, *Global Status of Engagement*. 39-45

²²² Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3, art. 45(a).

²²³ United Nations, *Compilation of Guidelines on the Form and Content of Reports to be Submitted by States Parties to the International Human Rights Treaties: Addendum, General Guidelines Regarding the Form and*

Convention (Articles 28, 29, and 31), states are further asked to clarify their collaboration with “local and national organizations of governmental or non-governmental nature.”²²⁴

The Committee has further codified the importance of civil society actors in its *General Comment No. 2*, which emphasizes the importance of independent national human rights institutions (NHRIs) and their cooperation with NGOs. These institutions are encouraged to maintain a pluralistic representation, which includes NGOs, youth-led organizations, trade unions, and academic experts.²²⁵ Importantly, while states are encouraged to consult with NHRIs during the report preparation process, they are reminded that these institutions must remain independent and may not be included in official government delegations when reports are reviewed.²²⁶ NGOs, alongside NHRIs, are expected to “work closely together” in monitoring and promoting children’s rights and to provide independent contributions to the CRC Committee, for instance, during pre-sessional working groups.²²⁷

In *General Comment No. 5*, the Committee reinforces the vital role NGOs play in the mechanism’s implementation. It affirms that while implementation is a state obligation, “it needs to engage all sectors of society, including children themselves,” and explicitly states that “the State needs to work closely with NGOs in the widest sense, while respecting their autonomy.”²²⁸ The Committee has continuously emphasized that NGOs were important contributors while drafting the Convention and should be equally as involved in ensuring its effective implementation. It also highlights that NGOs are instrumental in disseminating the Committee’s concluding observations, raising awareness, and encouraging national debate and accountability.²²⁹

6.1.3 Pathway to Participation

Content of Periodic Reports to be Submitted by States Parties under Article 44, Paragraph 5, of the Convention on the Rights of the Child, U.N. Doc. CRC/C/58/Rev.1 (2005).

²²⁴ United Nations, *Compilation of Guidelines*, U.N. Doc. CRC/C/58/Rev.1, para. 8.

²²⁵ United Nations Committee on the Rights of the Child, *General Comment No. 2 (2002): The Role of Independent National Human Rights Institutions in the Promotion and Protection of the Rights of the Child*, U.N. Doc. CRC/GC/2002/2 (Nov. 15, 2002). Para. 12.

²²⁶ Committee on the Rights of the Child, *General Comment No. 2*, U.N. Doc. CRC/GC/2002/2. Paras. 20-21.

²²⁷ Committee on the Rights of the Child, *General Comment No. 2*, U.N. Doc. CRC/GC/2002/2. Paras. 20, 26.

²²⁸ United Nations Committee on the Rights of the Child, *General Comment No. 5 (2003): General Measures of Implementation of the Convention on the Rights of the Child*, U.N. Doc. CRC/GC/2003/5 (Nov. 27, 2003). Paras. 56, 58.

²²⁹ Committee on the Rights of the Child, *General Comment No. 5*, U.N. Doc. CRC/GC/2003/5. Para. 73.

1. **Initial Preparations and Monitoring:** NGOs are encouraged to begin monitoring state compliance with the CRC long before the reporting deadline. This includes collecting data, identifying trends, and engaging with children themselves.²³⁰
2. **Submission of Alternative or “Complementary” Reports:** Once the state has submitted its periodic report, NGOs can submit their own alternative reports. These should be independent from the state’s submission, even if NGOs also contributed to the government report. Reports can be *comprehensive* (up to 10.000 words) or *thematic* (3.000 words) and must be submitted three months before the pre-session.²³¹ (Info Note SRP, 2) Alternative reports often include an analysis of gaps in implementation, critiques of government data, concrete examples of violations, and suggested recommendations for the Committee.²³² Reports can be submitted individually, or, preferably, through coalitions to enhance representativeness and impact. This ensures geographic and thematic diversity and allows NGOs with limited resources to participate.²³³
3. **Participation in the Pre-Sessional Working Group:** After reviewing the alternative reports, the Committee invites selected NGOs to participate in the pre-sessional working group, which is a confidential meeting with the Committee.²³⁴ NGOs may present key issues, respond to questions, and help shape the “List of Issues” that Committee will send out to the state party.²³⁵
4. **Follow-up to the List of Issues and State Reply:** After the Committee sends out the List of Issues, NGOs may submit additional written comments or reactions to the state’s written replies. This ensures that the Committee receives up-to-date and balanced information before the plenary session.²³⁶
5. **Observing the Plenary Session:** While NGOs cannot directly participate in the plenary sessions where the Committee engages in dialogue with the state, they are encouraged

²³⁰ Child Rights Connect, *Reporting Cycle*, 4.

²³¹ Child Rights Connect, *Reporting Cycle*, 15.

²³² Child Rights Connect, *Reporting Cycle*, 9-12.

²³³ Child Rights Connect, *Reporting Cycle*, 9-10.

²³⁴ Child Rights Connect, *Reporting Cycle*, 19.

²³⁵ Office of the United Nations High Commissioner for Human Rights (OHCHR), “Reporting Guidelines – Committee on the Rights of the Child,” *UN Human Rights Treaty Bodies* website, accessed June 4, 2025, <https://www.ohchr.org/en/treaty-bodies/crc/reporting-guidelines>.

²³⁶ United Nations Committee on the Rights of the Child, *Simplified Reporting Procedure: Information Note for Stakeholders*, n.d., <https://www.ohchr.org/en/treaty-bodies/crc/reporting-guidelines>. 1-2.

to attend the session in Geneva or follow it via webcast. Observing the session can inform national advocacy and help NGOs align their strategies with the Committee's recommendations.²³⁷

6. **Post-Session Advocacy Implementation Monitoring:** Once the Concluding Observations are issued, NGOs play a crucial role in disseminating and monitoring their implementation. They can work with national authorities, train stakeholders, and conduct advocacy to hold states accountable. NGOs may also collect data and prepare follow-up reports for the next reporting cycle.²³⁸

Simplified Reporting Procedure:

As an alternative, the Committee may decide to opt for a Simplified Reporting Procedure (SRP), where it forwards state parties a List of Issues Prior to Reporting (LOIPR). NGOs can contribute by submitting proposals for questions to be included in the LOIPR.²³⁹ These submissions follow the same format and word limits as standard reports and are due three months before the Committee adopts the LOIPR.²⁴⁰ NGOs may also submit additional comments after the state replies to the LOIPR and participate in the pre-session, now held three months (rather than six) before the plenary session under the SRP.²⁴¹

6.1.4 Operational Practice

From 1991 onwards, NGOs have been encouraged to submit information and by 1993 they started to actively participate in pre-sessional meetings of the CRC Committee.²⁴² The NGO Group for the CRC, now *Child Rights Connect*, was central in developing this structure, guiding NGOs in how to draft shadow reports, attend pre-sessions, provide trainings on reporting and monitoring practices and follow up on concluding observations.²⁴³ A study in 2017 showed that civil society reporting has become the norm for this mechanism: over 95% of countries

²³⁷ Child Rights Connect, *Reporting Cycle*, 31.

²³⁸ Child Rights Connect, *Reporting Cycle*, 34-35.

²³⁹ Committee on the Rights of the Child, *Simplified Reporting Procedure*. 1.

²⁴⁰ United Nations Committee on the Rights of the Child, *Simplified Reporting Procedure: Information Note for Stakeholders*, n.d., <https://www.ohchr.org/en/treaty-bodies/crc/reporting-guidelines>. 1.

²⁴¹ Committee on the Rights of the Child, *Simplified Reporting Procedure*. 2.

²⁴² Child Rights Connect, *Global Status of Engagement in Reporting to the UN Committee on the Rights of the Child* (Geneva: Child Rights Connect, July 2019). 24-26.

²⁴³ Child Rights Connect, *Global Status of Engagement*, 28-29.

submitting state reports have corresponding NGO submissions. A study by *Child Rights Connect* shows that between 2009 and 2018, 647 reports came from international NGOs, 305 from national coalitions, and 262 from individual national NGOs.²⁴⁴ From the experience of a smaller local NGO, they have also been able to bring local perspectives to the mechanism, particularly by participation through national coalitions and networks of NGOs.²⁴⁵

6.1.5 Impact of NGO Reporting

The CRC Reporting Cycle has enjoyed a good reputation among NGOs, as it not only encourages their contributions but is also known for recognizing their input.²⁴⁶ In fact, recommendations formulated by NGOs are found to appear regularly in the Committee's Concluding Observations.²⁴⁷ Moreover, as the CRC devotes substantial attention to educational rights, its reporting procedure has become a prime forum for documenting and addressing attacks on education, which is also noticeable in its Concluding Observations.

Some cases have also shown that NGOs in turn have integrated the Committee's recommendations into their long-term campaigns, monitoring efforts and lobbying activities.²⁴⁸

The CRC Cycle therefore presents a mechanism that not only actively engages NGOs in all stages of its process, but also has seen many successes from their participation.

6.1.6 Challenges

Despite the formal openness of the CRC reporting cycle to NGO participation, several challenges persist in practice. One major issue is the uneven level of engagement across countries. In fact, especially in politically sensitive contexts, the Committee must often rely on information provided by international NGOs, which may fail to cover all issues evenly.²⁴⁹ For instance, both Africa and the Asia-Pacific region are characterized by a lower participation of national NGOs, and in some of the countries, no local NGO reports are submitted at all. An interview with a child protection officer from Nepal mirrors this concern, as he observed

²⁴⁴ Child Rights Connect, *Global Status of Engagement*, 35.

²⁴⁵ Bishnu Bhatta (Country Lead – Nepal, Childhood Education International, and Executive Director, PSD Nepal), interview by Fiona Haiwen Rischka, April 2025.

²⁴⁶ Róisín Fegan, Lisa Myers, and Laura Theytaz Bergman, *The Reporting Cycle of the Committee on the Rights of the Child: A Guide for NGOs and NHRIs* (Geneva: Child Rights Connect).

²⁴⁷ Child Rights Connect, *Global Status of Engagement*, 5, 40-41.

²⁴⁸ Child Rights Connect, *Global Status of Engagement*, 41.

²⁴⁹ Child Rights Connect, *Global Status of Engagement*, 6-7, 35.

stronger participation by NGOs based in the capital with larger networks. While his NGO had a positive experience interacting with this mechanism, he noted that it would be crucial for the overall outcome to be more inclusive to rural actors - by translating key documents into local languages, and offering a chance to participate directly in the Geneva-based sessions (virtually). As a result of these shortcomings, he finds that the final recommendations issued by the Committee tend to focus on broader trends, rather than certain localized issues, especially in the context of education.²⁵⁰

Another challenge involves the sustainability of national coalitions. Many are formed on an ad hoc basis, often solely for the purpose of preparing a single report. Once that report is submitted, these coalitions frequently disband due to a lack of funding, strategic planning, or internal coordination.²⁵¹ Competing coalitions or individual NGOs may submit separate and sometimes conflicting reports, which results in fragmentation and prioritization-issues for the Committee.²⁵²

A further limitation which has been observed is the weak follow-up to the Committee's Concluding Observations. While NGOs often mobilize resources for the reporting phase, engagement tends to drop off after the review process, which hinders sustained advocacy and consistent strategies across national monitoring.²⁵³

6.2 MRM – Monitoring and Reporting Mechanism on Grave Violations Against Children in Armed Conflict

6.2.1 Overview

The Monitoring and Reporting Mechanism on Grave Violations Against Children in Armed Conflict (MRM) was established in 2005 under UN Security Council Resolution 1612. It was created to systematically collect accurate, timely and objective information on six specific grave violations committed against children in conflict zones: the *killing and maiming of children*,

²⁵⁰ Bhatta, Bishnu. Interview by Fiona Haiwen Rischka. interview. April 2025.

²⁵¹ Child Rights Connect, *Global Status of Engagement*, 6-7, 43.

²⁵² Child Rights Connect, *Global Status of Engagement*, 45-47.

²⁵³ Child Rights Connect, *Global Status of Engagement*, 45-47.

*recruitment and use of children by armed forces or groups, sexual violence against children, abductions, attacks on schools and hospitals, and the denial of humanitarian access.*²⁵⁴

The mechanism is implemented through Country Task Forces on Monitoring and Reporting (CTFMRs). These are co-chaired by UNICEF and the country's highest-ranking UN official, often in cooperation with non-state actors including international and national NGOs. CTFMRs are responsible for collecting and verifying information on grave violations, developing advocacy strategies, and submitting reports that feed into the annual report of the UN Secretary-General on Children and Armed Conflict. These reports inform the deliberations of the Security Council Working Group on Children and Armed Conflict, which can issue targeted recommendations to listed parties.²⁵⁵

Parties to conflicts are added to the Secretary-General's "list of shame" when there is verified evidence of its involvement in grave violations. The MRM remains operational in a country as long as listed violations persist. Its purpose is not to record every incident, but to establish patterns of abuse that justify action at the highest levels of the UN system.²⁵⁶

A central accountability tool of the MRM is the negotiation of Action Plans between the UN and listed parties. These plans outline specific commitments and serve as a precondition for removal from the Secretary-General's list. The implementation of such plans has led to notable protective outcomes in several contexts.²⁵⁷

Several country experiences underscore the MRM's practical impact in the field of education:

- In Nepal, the MRM was instrumental in securing the reintegration of nearly 3,000 children associated with military forces during and after the civil war. The mechanism helped bring the Communist Party of Nepal-Maoist into compliance through a UN-

²⁵⁴ United Nations Children's Fund (UNICEF), *Field Manual – The Monitoring and Reporting Mechanism (MRM) on Grave Violations Against Children in Situations of Armed Conflict* (New York: UNICEF, 2014), 3.

²⁵⁵ Watchlist on Children and Armed Conflict, *Getting It Done and Doing It Right: A Global Study on the United Nations-led Monitoring & Reporting Mechanism on Children and Armed Conflict* (New York: Watchlist on Children and Armed Conflict, January 2008), 10. and UNICEF, *Field Manual – The Monitoring and Reporting Mechanism*, 7-8.

²⁵⁶ UNICEF, *Global Good Practices Study – Monitoring and Reporting Mechanism*, 11. and UNICEF, *Field Manual – The Monitoring and Reporting Mechanism*, 6.

²⁵⁷ Watchlist, *Getting It Done and Doing It Right*, 9.

negotiated Action Plan. NGOs played a formal and sustained role in information gathering, referral, and community monitoring, marking Nepal as one of the first cases where the MRM completed a full cycle from listing to delisting.²⁵⁸

- In the DRC, where security constraints made UN monitoring extremely difficult, NGO networks became essential for data collection. The MRM was able to document widespread recruitment and use of children, attacks on schools and sexual violence. This information not only shaped the UN's engagement with the Congolese government and non-state actors but also informed the deployment of targeted protection measures such as demobilization programs and advocacy for school demilitarization.²⁵⁹
- In Colombia, the MRM went beyond its formal scope to include context-specific violations of children's rights. The inclusion of national child protection systems and close coordination with local NGOs increased the legitimacy and responsiveness of the mechanism. MRM findings were also used to engage armed groups and shape local protection strategies, including in relation to school access and teacher safety.²⁶⁰

These examples illustrate that the MRM can serve not only as a documentation tool but also as a platform for local engagement and institutional reform. By linking field-based reporting to high-level diplomatic action, and involving NGOs in all stages of monitoring and response, the mechanism has contributed to concrete improvements in child protection.

6.2.2 Legal Base for NGO Involvement

While the MRM is a UN-led mechanism, it is explicitly designed to function in cooperation with multiple local and international stakeholders. The participation of NGOs is both operational and strategic, supported by the foundational documents that guide implementation.²⁶¹ The legal foundation for NGO involvement was established with Resolution 1612: in paragraph 2(b) of the resolution, the Security Council states that the MRM “*must* operate with the participation of and in cooperation with national Governments and relevant United Nations and civil society actors, including at the country level.” By explicitly naming

²⁵⁸ PPCC, *The Monitoring and Reporting Mechanism in Nepal*, 7-9.

²⁵⁹ Watchlist, *Getting It Done and Doing It Right*, 20-21. and Watchlist on Children and Armed Conflict, *Getting It Done and Doing It Right: Implementing the Monitoring and Reporting Mechanism on Children and Armed Conflict in the Democratic Republic of Congo* (January 2008), 5-7.

²⁶⁰ Watchlist, *Getting It Done and Doing It Right*, 19, 23.

²⁶¹ UNICEF, *Field Manual – The Monitoring and Reporting Mechanism*, 1.

“civil society actors” alongside UN agencies and national governments, which is unlike many other mechanisms, the MRM provides NGOs with a legal and institutional mandate to engage in the process.

This mandate has been further elaborated in the *MRM Guidelines*²⁶² published by UNICEF and the Office of the Special Representative of the Secretary-General for Children and Armed Conflict. These guidelines clarify that NGOs are important members of CTFMRs and are vital as frontline actors in identifying violations against children’s rights.²⁶³ In this document, it is also made clear that NGOs may participate either formally as members of the CTFMR or informally by providing information through intermediaries - mostly depending on the organization’s security and political situation.²⁶⁴

Notably, since the adoption of Resolution 1612, subsequent resolutions have progressively strengthened the protection of education in armed conflict. Resolution 1998 (2011) marked a key development by recognizing attacks on schools and hospitals as *grave violations*. Resolution 2143 (2014) built on this by expressing concern over the military use of schools and urging parties to uphold the civilian character of education facilities while enhancing monitoring and reporting. Most recently, Resolution 2601 (2021) reaffirmed the protection of education, condemned attacks and emphasized education’s vital role in peace and security, calling on all parties to ensure education continues during conflict.

6.2.3 Pathway to Participation

NGOs are integrated into the MRM primarily through participation in CTFMRs, which form the operational hub of the mechanism. Formally, NGOs are invited to join these task forces based on their field presence and technical expertise.²⁶⁵ Where direct participation is not possible, they may contribute by sharing their information with trusted partners, networks, or other intermediaries.²⁶⁶

While NGOs are considered vital partners within MRM structures, their inclusion is subject to certain conditions: they must be able to operate independently, impartially and with confidentiality. The risks to staff and communities must be carefully addressed, particularly in

²⁶² United Nations Children’s Fund (UNICEF), *Guidelines – Monitoring and Reporting Mechanism on Grave Violations against Children in Situations of Armed Conflict* (New York: UNICEF, June 2014), 7.

²⁶³ UNICEF, *Guidelines – Monitoring and Reporting Mechanism*, 10.

²⁶⁴ UNICEF, *Guidelines – Monitoring and Reporting Mechanism*, 10, 13.

²⁶⁵ UNICEF, *Guidelines – Monitoring and Reporting Mechanism*, 12.

²⁶⁶ UNICEF, *Global Good Practices Study – Monitoring and Reporting Mechanism*, 48-51.

conflict environments.²⁶⁷ Regardless of format, their participation must align with the MRM's guiding principles such as "do no harm", neutrality, and protection of sources.²⁶⁸

Their involvement typically follows a structured pathway:

- 1) **Monitoring and Alerts:** NGOs identify and report grave violations such as recruitment, abduction or attacks on schools. They often work closely with community structures, including teachers, local leaders and informal protection networks, to gather information. In many settings, these actors serve as the first point of contact for alerts.²⁶⁹
- 2) **Information Sharing and Verification:** Verified information is passed to the CTFMR for being included in official MRM reports. NGOs may help contextualize reports and clarify local dynamics, contributing to the accuracy and relevance of the data.²⁷⁰ In areas with limited UN access, NGO field networks are often the primary source of information.
- 3) **Advocacy and Dialogue:** NGOs also continue to use MRM data for advocacy purposes. Reports may be shared with national governments, donors and UN Security Council members to press for accountability or the signing of Action Plans with listed parties.²⁷¹
- 4) **Programmatic Follow-up and Response:** NGOs are highly encouraged to support the reintegration of former child soldiers, psychosocial services for survivors and education-based rehabilitation. The MRM links data collection directly to programmatic response, and NGO partners are essential in delivering these services to communities.²⁷²

6.2.4 Operational Practice

NGO involvement in the MRM has been shaped by a mix of operational successes, political limitations and security concerns. Notably, NGOs have played essential roles in collecting, verifying, and submitting information on attacks against education, both as formal CTFMR members, or through informal contributions. This has been particularly important for rural or

²⁶⁷ UNICEF, *Global Good Practices Study – Monitoring and Reporting Mechanism*, 50.

²⁶⁸ UNICEF, *Field Manual – The Monitoring and Reporting Mechanism*, 12-13.

²⁶⁹ UNICEF, *Global Good Practices Study – Monitoring and Reporting Mechanism*, 48-50.

²⁷⁰ UNICEF, *Global Good Practices Study – Monitoring and Reporting Mechanism*, 51, 57.

²⁷¹ UNICEF, *Global Good Practices Study – Monitoring and Reporting Mechanism*, 12, 87.

²⁷² UNICEF, *Global Good Practices Study – Monitoring and Reporting Mechanism*, 82. and UNICEF, *Field Manual – The Monitoring and Reporting Mechanism*, 52.

insecure areas where UN access is limited, and attacks on education occur frequently.²⁷³ In Côte d'Ivoire, for instance, NGOs collaborated with the Ministry of Education to survey 9,000 schools, documenting 477 violations and enabling targeted national responses.²⁷⁴

In many contexts, however, NGOs were found to be hesitant to engage – or abstain from formal involvement entirely. In the DRC, smaller NGOs were found to be instrumental in providing field data in regions UN-actors and international counterparts were unable to access. As many of them were reluctant to join the CTFMRs, it prompted a transformation toward decentralizing MRM structures for becoming more inclusive to local actors.²⁷⁵

Furthermore, there has been a key trend of coalition-building among NGOs. In Nepal, the *Partnerships for the Protection of Children in Armed Conflict*, a network of national and international NGOs, managed to leverage their extensive local networks and collaborated with the MRM Task Force to monitor school attacks, threats to teachers, and recruitment in schools.²⁷⁶ However, they still felt largely excluded from the decision-making on case inclusion or advocacy priorities, which remained in the hands of UN agencies.²⁷⁷

6.2.5 Impact of NGO Reporting

UNICEF, in their official MRM guidelines, has confirmed that NGO reports feed directly into the information flow informing the Secretary-General's reports to the Security Council.²⁷⁸ The involvement of NGOs has significantly strengthened the reach and contextual relevance of the MRM. For instance, particularly in Colombia, NGO-coalitions brought in detailed technical expertise and local perspectives, which contributed not only the MRM's quality of data but also the general overview of how grave violations were defined and interpreted locally.²⁷⁹ In Nepal, NGOs went on to use their findings from the MRM process to also link children to local referral and support systems.²⁸⁰ Overall, their contributions have enabled the MRM to function more credibly and responsively, especially in situations where international and state actors lacked

²⁷³ Watchlist on Children and Armed Conflict, *The 1612 Monitoring and Reporting Mechanism: A Resource Pack for NGOs* (New York: Watchlist on Children and Armed Conflict, 2014), 28.

²⁷⁴ Global Education Cluster, *Protecting Education*, 9.

²⁷⁵ Watchlist on Children and Armed Conflict, *Getting It Done and Doing It Right*, 6.

²⁷⁶ Hausler et al., *Protecting Education in Insecurity and Armed Conflict*, 18.

²⁷⁷ PPCC, *The Monitoring and Reporting Mechanism in Nepal*, 9-11.

²⁷⁸ UNICEF, *Guidelines – Monitoring and Reporting Mechanism*, 17, 22.

²⁷⁹ UNICEF, *Global Good Practices Study – Monitoring and Reporting Mechanism*, 35.

²⁸⁰ UNICEF, *Global Good Practices Study – Monitoring and Reporting Mechanism*, 49.

access or cultural knowledge.²⁸¹ Moreover, NGOs have been instrumental actors in upholding the sustainability of monitoring activities beyond the lifespan of UN missions. In many cases, documentation efforts led by NGOs and NHRIs continued to go on after the MRM process had ended.²⁸²

6.2.6 Challenges

Despite their contributions and activities in the mechanism from its early stages, NGOs have noted significant challenges when participating in the MRM. High security risks, especially for local NGOs, are among the forefront of posing a serious barrier, due to the mechanism's focus on conflict zones.²⁸³ This explains the hesitant nature of smaller and more local NGOs of seeking formal membership in the CTFMRs. Many NGOs fear political consequences from MRM reporting, given that the data they provide informs Security Council action and has the potential of provoking backlash in their respective countries.²⁸⁴

Furthermore, capacity limitations, such as insufficient funding, inadequate training, and lack of familiarity with MRM reporting requirements, further constrain engagement, particularly of smaller NGOs.²⁸⁵ Again, particularly smaller NGOs have experienced discouraging engagements with the MRM, also because it is a rather new mechanism. Firstly, the pathway to formal involvement and related channels in Country Task Forces has not been clarified sufficiently. Operating through intermediary actors, mainly NGO networks, has left them not knowing about their overall impact on the mechanism, and resulted in them being divided when reporting sensitive cases.²⁸⁶ The Task Force in the DRC faced limitations because its membership consisted solely of international organizations, namely Save the Children and CARE, with minimal participation from local actors. The Task Force's centralization in Kinshasa further weakened its effectiveness, as staff was not able to access the conflict-affected eastern provinces, North and South Kivu.²⁸⁷

²⁸¹ UNICEF, *Global Good Practices Study – Monitoring and Reporting Mechanism*, 35, 49.

²⁸² UNICEF, *Global Good Practices Study – Monitoring and Reporting Mechanism*, 96-97.

²⁸³ Watchlist, *Getting It Done and Doing It Right*, 14.

²⁸⁴ Watchlist, *Getting It Done and Doing It Right*, 14.

²⁸⁵ Watchlist, *Getting It Done and Doing It Right*, 11. and Watchlist on Children and Armed Conflict, *Getting It Done and Doing It Right (DRC)*, 6.

²⁸⁶ Bhatta, Bishnu. Interview by Fiona Haiwen Rischka. interview. April 2025.

²⁸⁷ Nilsson, *Children and Youth in Armed Conflict*, 977.

Since its establishment, education-sector NGOs have been found to be underrepresented in MRM Task Forces. This mainly stems from the MRM's continuous focus on the issue of child soldiers, despite declaring attacks on schools and hospitals as one of its six focal points. This has ultimately led to gaps in systematically documenting attacks on education.²⁸⁸ MRM studies indicate that where NGO involvement has been strong – such as in Nepal, Colombia or Eastern DRC – more systematic reporting on school attacks and the military use of schools has been achieved.²⁸⁹ In Colombia and the DRC, for instance, MRM findings have been used to support community-based education advocacy, school demilitarization and contributed to national policy reforms.²⁹⁰

Finally, fluctuating relationships with UN agencies have led some NGOs to perceive the MRM as inaccessible or dominated by UN structures and has discouraged meaningful participation.²⁹¹ Advocacy decisions – such as whether to pursue an Action Plan with a listed party – are often taken at the UN level, with limited consultation of local actors who gathered the original evidence.²⁹² Overall, as a mechanism that is often viewed as highly politicized – from the choice of countries under scrutiny to the listing process of alleged perpetrators – the mechanism's long-term trajectory remains uncertain.²⁹³

6.3 UPR – Universal Periodic Review

6.3.1 Overview

The Universal Periodic Review (UPR) was created in 2006 by UN General Assembly Resolution 60/251 as a universal, cooperative mechanism under the auspices of the Human Rights Council (HRC). It was designed to address long-standing gaps in global human rights

²⁸⁸ Global Education Cluster, *Protecting Education*, 9.

²⁸⁹ Partnerships to Protect Children in Armed Conflict (PPCC), *The Monitoring and Reporting Mechanism on Grave Violations against Children in Armed Conflict in Nepal: 2005–2012, A Civil Society Perspective* (Kathmandu: PPCC, 2012), 7-9. and Watchlist, *1612 Monitoring and Reporting Mechanism*, 74.

²⁹⁰ Watchlist, *1612 Monitoring and Reporting Mechanism*, 45, 106.

²⁹¹ Watchlist, *Getting It Done and Doing It Right*, 14.

²⁹² United Nations Children's Fund (UNICEF), *Global Good Practices Study – Monitoring and Reporting Mechanism (MRM) on Grave Violations Against Children in Situations of Armed Conflict* (New York: UNICEF, 2012), 87-90.

²⁹³ Catherine Baillie Abidi and Laura Cleave, "Child Responsive Conflict Early Warning: Prioritizing Children in Peace and Security," *Civil Wars* 26, no. 3 (2024): 483.

monitoring by subjecting all UN Member States—regardless of treaty ratification status or political alignment—to a periodic peer review of their human rights records. As of 2023, the UPR remains the only international mechanism to have reviewed all 193 UN Member States in three full cycles, with the fourth cycle having started in November 2022.²⁹⁴

Structured in three phases, the UPR process consists of:

- The preparation and submission of three key reports—by the state under review, the UN system, and relevant stakeholders, including civil society actors;
- An interactive dialogue during which other states offer recommendations;
- A follow-up period focused on monitoring implementation prior to the next review cycle.

Though UPR recommendations are not legally binding, they possess political and normative influence, particularly when they align with other UN mechanisms including treaty bodies or special procedures. The UPR has thus been credited with reinforcing international norms, encouraging treaty ratifications, and drawing attention to reservations that hinder compliance.²⁹⁵

While the mechanism’s formal output is rooted in peer recommendations, its broader practical impact can be observed in specific national contexts—especially in the field of education, where reforms have followed targeted UPR engagement. A few examples illustrate the mechanism’s ability to translate dialogue into meaningful action:

- In South Africa, education-related recommendations, particularly those addressing inequality and access, were implemented in ways that supported legislative and policy reforms. The UPR served as a complementary accountability tool alongside existing domestic commitments, reinforcing attention to marginalized groups and underfunded regions.²⁹⁶
- In Kenya, the UPR was closely tied to the constitutional reform agenda. Recommendations focused on the realization of economic and social rights, including education, were accepted and subsequently integrated into Kenya’s national

²⁹⁴ Office of the United Nations High Commissioner for Human Rights (OHCHR), “Universal Periodic Review,” OHCHR website, accessed June 4, 2025, <https://www.ohchr.org/en/hr-bodies/upr/upr-home>.

²⁹⁵ Etone, *The Human Rights Council*, 62-63.

²⁹⁶ Etone, *The Human Rights Council*, 173.

development plans. The process provided both external legitimacy and internal pressure for reforms aimed at ensuring education access for historically excluded populations.²⁹⁷

- In Malaysia, the UPR process was actively utilized by the National Human Rights Commission to inform the drafting of the country's National Human Rights Action Plan, with many UPR recommendations on human rights education and training were being incorporated into this plan.²⁹⁸

These examples demonstrate that the UPR has the potential to catalyze and guide domestic reform. While the scope and depth of implementation vary across countries, the mechanism's value lies in its universality, regularity, and capacity to generate both international scrutiny and internal dialogue on rights-related challenges, including in the field of education.

6.3.2 Legal Base for NGO Involvement

The foundation for NGO participation is outlined in the HRC Resolution 5/1 (2007)²⁹⁹, which stipulated that the UPR process must involve broad consultations “with all stakeholders, including civil society organizations.” While not permitted participation at the interactive dialogue stage with states, it establishes that UN Member States „should consult their national human rights institutions and civil society organizations“ (para. 66) and that the Advisory Committee is „urged to establish interaction with States, national human rights institutions, non-governmental organizations and other civil society entities.“ (Para. 82) Additionally, Resolution 60/251 acknowledged that NGOs are important actors in enforcing and protecting human rights at all levels.³⁰⁰

6.3.3 Pathway to Participation

- 1. Early National-Level Engagement:** About one year before a state is reviewed, NGOs can participate in national consultations, to ensure that their input is reflected in the

²⁹⁷ Etone, *The Human Rights Council*, 117-118.

²⁹⁸ Gomez and Ramcharan, *The Universal Periodic Review of Southeast Asia*, 191-192.

²⁹⁹ United Nations Human Rights Council, *Institution-building of the United Nations Human Rights Council*, A/HRC/RES/5/1 (June 18, 2007), ¶ 66 & ¶ 82.

³⁰⁰ Etone, *The Human Rights Council*, 18-19.

official report.³⁰¹ While this is officially encouraged, the actual inclusivity of these consultations varies by country. In some cases, governments may limit participation or co-opt certain NGOs.³⁰²

- 2. Submission of Stakeholder Reports:** Seven to eight months before the UPR review, NGOs may submit stakeholder reports to the OHCHR. Individual NGOs can submit up to 2.815 words, while joined submissions can be up to 5.630 words. These reports are synthesized into a summary by OHCHR, which is one of the three documents forming the basis for the state's review.³⁰³ These submissions should include credible, first-hand, and reliable information, focusing on the period since the last review – they should follow the “S.M.A.R.T. model”, which means that content must be specific, measurable, achievable, result-oriented and time-bound.³⁰⁴
- 3. Pre-Session Advocacy and Lobbying:** Although NGOs cannot speak during the UPR Working Group's interactive dialogue, they can participate in advocacy through UPR Info's pre-sessions. These events, held one month before the review, allow NGOs to present information to diplomats and encourage them to raise specific issues or recommendations during the dialogue.³⁰⁵
- 4. Participation During the Review:** NGOs can attend UPR Working Group sessions as observers but cannot intervene during the interactive dialogue. They are encouraged to participate in side events and informal advocacy in Geneva. However, they are allowed to make oral statements during the Human Rights Council plenary session where the review outcome is adopted.³⁰⁶
- 5. Mid-Term and Follow-Up Reporting:** After the review, NGOs can submit mid-term reports (often halfway through the cycle) to assess progress on accepted recommendations. These reports are considered unofficial but are publicly accessible and can inform diplomatic or UN agency follow-up.³⁰⁷ NGOs also monitor national

³⁰¹ United Nations Office of the High Commissioner for Human Rights (OHCHR), *Universal Periodic Review (Fourth Cycle): Information and Guidelines for Relevant Stakeholders' Written Submissions* (Geneva: OHCHR, 2022), 4.

³⁰² Etone, *The Human Rights Council*, 19.

³⁰³ OHCHR, *UPR: Guidelines for Stakeholders*, 2-3.

³⁰⁴ OHCHR, *UPR: Guidelines for Stakeholders*, 3-5.

³⁰⁵ Etone, *The Human Rights Council*, 19-20.

³⁰⁶ Etone, *The Human Rights Council*, 19-20.

³⁰⁷ Etone, *The Human Rights Council*, 27-28.

implementation and may continue engaging through coalition-building, public awareness, and domestic lobbying.³⁰⁸

- 6. Coalition-Building and Thematic Advocacy:** In the post-review phase, NGOs are encouraged to monitor the implementation of accepted recommendations, form coalitions, cooperate with NHRIs and UN agencies, and use findings to inform future submissions and advocacy strategies.³⁰⁹

6.3.4 Operational Practice

In practice, NGOs have been known to actively engage with the UPR. They have often shaped the content and framing of recommendations, even without direct speaking rights during the sessions. Their input has proven particularly impactful for countries with limited independent institutions or where access to other human rights mechanisms is restricted.

Operational developments in recent years have expanded the toolkit for follow-ups. A notable innovation since Resolution 16/21 is the introduction of voluntary mid-term reports by states. As of March 2023, 87 of such reports had been submitted, and importantly, this practice is now being mirrored by NGOs and NHRIs. They have submitted 82 reports during Cycles 2 and 3 alone.³¹⁰ This reflects their participatory nature and an evolving ecosystem of monitoring.

Additionally, a recent practice involves the UN High Commissioner for Human Rights sending follow-up letters to foreign ministers in each state under review, to further outline priority recommendations and encourage implementation.³¹¹

6.3.5 Impact of NGO Reporting

NGO involvement has been visible through challenging state narratives and offering alternative data, which can directly shape peer recommendations. Studies from Kenya and Myanmar have illustrated how NGO engagement can enhance implementation by sustaining pressure and ensuring follow-ups take place.³¹²

³⁰⁸ Lapa, *UPR: A Practical Guide*, 17-19.

³⁰⁹ OHCHR, *UPR: Guidelines for Stakeholders*, 8-9.

³¹⁰ Etone, *The Human Rights Council*, 27-28.

³¹¹ Etone, *The Human Rights Council*, 27-28.

³¹² Etone, *The Human Rights Council*, 128. and Gomez and Ramcharan, *The Universal Periodic Review of Southeast Asia*, 182.

Furthermore, the UPR has functioned as a capacity-building platform, particularly in regions like Southeast Asia where national and regional human rights frameworks are weaker. By participating in the UPR, NGOs help foster domestic awareness of human rights and reinforce calls for reform in sensitive areas such as education and children's rights.³¹³ Nonetheless, their impact remains uneven, as political resistance and resource constraints have an effect on the final outcomes.³¹⁴

6.3.6 Challenges

Despite some established entry points, civil society participation still faces significant obstacles within the UPR framework. First, political resistance from non-democratic regimes has been hindering the ability of NGOs to engage freely and safely in the mechanism. In regions with shrinking civic space, human rights defenders face harassment, legal restrictions and limited institutional support for their activities.³¹⁵ States from the African and Islamic regional groups have frequently objected to expanding NGO access and criticized their legitimacy.³¹⁶ In such regions, the UPR often remains a low-profile process with minimal media attention and public awareness, hence NGOs are facing additional burdens of enhancing visibility.³¹⁷ Second, the structural dominance of large international NGOs has raised concerns about representativeness. Particularly those based in rural areas or working with marginalized groups are often restricted in participating in the mechanism.³¹⁸ For instance, in Thailand and Fiji, local grassroots organizations have claimed to struggle to access the UPR process compared to their well-funded international counterparts. This dynamic raises questions about whether the UPR operates as a genuinely inclusive platform or reflects a predominantly Western model of regulation.³¹⁹ Moreover, there have been issues regarding the coalition-building process among NGOs. International NGOs have been accused of acting as gatekeepers, sometimes even sidelining domestic actors rather than supporting them. As NGOs are also specialized in different issues,

³¹³ Etone, *The Human Rights Council*, 63.

³¹⁴ Etone, *The Human Rights Council*, 63.

³¹⁵ Etone, *The Human Rights Council*, 218. and ernanda Brandão Lapa, *Universal Periodic Review (UPR): A Practical Guide for Civil Society to Build National Coalitions* (Geneva: Institute for Development and Human Rights and Friedrich-Ebert-Stiftung, 2022). 11.

³¹⁶ Etone, *The Human Rights Council*, 18-19.

³¹⁷ Lapa, *UPR: A Practical Guide*. 44.

³¹⁸ Lapa, *UPR: A Practical Guide*. 36.

³¹⁹ Etone, *The Human Rights Council*, 244-245.

it has been difficult to establish common priorities and strategies.³²⁰ Finally, it has also been criticized that coalitions who form around the UPR review dissolve soon after the process, which makes it difficult to sustain momentum and impact across future cycles.³²¹

6.4 Summary: Comparison of Mechanisms and Main Takeaways

A review of the CRC Reporting Cycle, the Monitoring and Reporting Mechanism and the Universal Periodic Review reveals a common premise but divergent pathways for integrating civil-society expertise into the mechanisms. Evidence confirms that robust NGO participation, through monitoring education-related violations and reporting findings on these different platforms, has raised the quality, credibility and practical impact of each process.

Modes and depth of participation

NGO engagement in the CRC cycle is *dialogical and continuous*, with NGOs being involved in every step of its process. The MRM's integration of NGOs can be described as *operational*, by making them formal members of the respective country-level task forces. In the UPR, NGO input is *front-loaded*, and rather limited during the intergovernmental phase of the process.

Cross-cutting constraints

Despite these formal entry points and theoretical involvement, all three mechanisms display similar constraints: *resource and power asymmetries*, *security risks*, *high transaction costs* and *executive discretion*. Coalition politics and resource disparities allow international NGOs to prioritize agendas, which particularly disadvantages local actors – who often constitute education-related organizations. The dissolution of ad-hoc coalitions is a further problem which was analyzed in each mechanism. Security risks and the high transaction costs of sustained follow-up further deter smaller organizations to participate, particularly in conflict zones. Furthermore, NGO involvement is still largely dependent on the political will of governments. This has tremendous effects on the visibility, credibility and willingness of NGOs to interact with international, and particularly UN-led mechanisms.

Salience of education-specific concerns

In the context of education, a consistent finding is that education-related issues are currently not given priority. Within the MRM, child-recruitment violations overshadow attacks on schools; in the CRC Cycle, broader child-rights themes are often given priority; and in the UPR,

³²⁰ Lapa, *UPR: A Practical Guide*. 33.

³²¹ Lapa, *UPR: A Practical Guide*. 49.

recommendations related to education compete with a wide array of civil and political concerns, which are often deemed more important.

These observations underscore a central lesson for the recommendations that follow: enhancing NGO integration – especially front-line education actors – requires not only stronger legal integration but also practical measures to improve coalition building, safety and sustained follow-up measures within each mechanism’s process.

6.5 Recommendations

1. Legal and Institutional Integration of Education-Focused NGOs

→ Strengthen NGO Participation Across Legal Mechanisms

- Promote stronger legal provisions clarifying the participation of NGOs.
- Encourage states to include education-focused NGOs in national consultation processes/task forces, especially during implementation phases.

→ Recognize Education-Related Violations More Explicitly

- Strengthen the legal framing of education-related violations as serious rights violations within IHRL and IHL-based mechanisms.
- Encourage UN treaty bodies to publish interpretative guidance affirming state obligations regarding education under conflict.

2. Practical Capacity and Inclusiveness of Local NGOs

→ Enhance Support for Grassroots Education NGOs

- Provide financial and technical support for local NGOs to access Geneva-based and digital platforms.
- Standardize the translation of reporting templates, concluding observations and follow-up guidelines into local languages.
- Incentivize inclusive NGO coalitions that seek to involve rural, underrepresented, or conflict-affected education actors.

→ Standardize Education-Specific Indicators and Tools

- Develop shared education-specific indicators (e.g. infrastructure, attendance, gender gaps, attacks) to guide data collection across mechanisms.
- Equip NGOs with mechanism-specific reporting templates and training modules focused on education in emergencies.

3. Coalition-Building and Credibility

→ Support stronger NGO Coordination and Inclusive Practices within Coalitions

- Promote coalition-based reporting approaches of international and local NGOs to ensure diverse, credible and representative education-related monitoring.
- Formalize cooperation between local and international actors. (formalized partnerships, etc.)
- Encourage coalitions to establish internal codes of conduct, verification standards and shared reporting frameworks to enhance reliability and quality of data.

4. Strengthened Follow-Up

→ Improve Mechanism-Specific Follow-Up for Education Violations

- CRC: Invite education NGOs to submit structured mid-cycle updates and contribute to follow-up reports.
- MRM: Create explicit pathways for education NGOs to shape Action Plans and participate in their implementation monitoring.
- UPR: Create explicit pathways for NGOs to shape Action Plans and participate in their implementation monitoring.
- Formalize feedback and acknowledgment of NGO contributions, either in final documents or informally.

→ Promote Cross-Mechanism Synergy and Strategic Use of Data

- Encourage reciprocal referencing of NGO data between MRM, CRC and UPR processes.
- Support international actors in developing cross-mechanism guidance for education reporting.
- Train NGOs in how to strategically use outputs from one mechanism to influence submission to others.

5. Protection and Recognition of NGO Contributions

→ Ensure Safe and Accessible Reporting Channels

- Establish confidential, secure reporting avenues for education-related violations, including attacks on schools and discrimination.
- Recognize NGO data as credible contributions in official reports, and promote public acknowledgment of their role in advancing education rights.

→ Advocate for the Protection of Education-Focused Human Rights Defenders

- UN bodies and mechanisms should more actively engage with the Special Rapporteur on the Right to Education and other mandates to ensure NGO safety.
- States and UN agencies should include protection mechanisms for NGOs in conflict settings, especially where their monitoring may pose security risks.

Conclusion

This thesis examined the intricate relationship between international legal instruments protecting educational rights and the active engagement of NGOs in monitoring and reporting mechanisms. The legal analysis revealed that while International Human Rights Law, International Humanitarian Law and International Criminal Law provide robust legal protections, their enforcement is significantly undermined during armed conflicts.

The comparative analysis of the CRC Reporting Cycle, the Monitoring and Reporting Mechanism and the Universal Periodic Review has demonstrated the critical role NGOs play in bridging the gap between legal commitments and on-the-ground realities. Their frontline presence, proximity to communities and context-sensitive reporting capabilities significantly improve the quality, visibility and responsiveness of legal mechanisms – particularly in the context of education. However, substantial barriers persist, including fragmented operational frameworks, inconsistent inclusion and limited recognition for local actors within both mechanisms and NGO coalitions – who are leading NGO efforts in international settings. Addressing these challenges requires structural reforms that provide clear entry points, procedural guidelines and stronger support for local actors.

While reinforcing the institutionalization of NGO participation is crucial, we must not forget the fundamental fact that ultimate authority and responsibility for enforcing educational rights lie with states. Therefore, strengthening governmental accountability and capacity remains essential, as NGOs, while invaluable collaborators, can never fully substitute the decisive and binding role governments must play in upholding human rights obligations during conflicts.

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