

BRIEF GUIDE ON CHILD PROTECTION AND INTERNATIONAL LAW FOR CANADIAN POLICE OFFICERS DEPLOYED IN PEACEKEEPING OPERATIONS

Helping Canadian police deployed abroad
to understand and use international norms
and standards applicable to child protection
in emergencies.



BUREAU
INTERNATIONAL
DES DROITS DES ENFANTS
INTERNATIONAL
BUREAU
FOR CHILDREN'S RIGHTS
OFICINA
INTERNACIONAL
DE LOS DERECHOS DEL NIÑO
المكتب الدولي لحقوق الطفل



Royal Canadian
Mounted Police

Gendarmerie royale
du Canada

CHILD PROTECTION

A photograph of two young boys playing soccer in a rural, arid environment. The boy in the foreground, wearing a white shirt and dark pants, is running towards the left. The boy in the background, wearing an orange shirt and dark shorts, is kicking a soccer ball. They are on a dirt ground next to a mud-brick building with a thatched roof. A yellow bucket and a metal box are on the ground. In the background, there are trees and a fence.

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INTRODUCTION

Children are entitled to special protection under international norms and laws, UN Security Council resolutions and other UN policies and guidelines. This protection applies in times of peace as well as in times of armed conflict.

The framework for the protection of children is applicable to all components of UN peacekeeping operations. In addition, specific UN Security Council resolutions and Department of Peacekeeping Operations (DPKO) / Department of Field Support (DFS) policies outline the legal obligations of UN personnel to protect children in all UN operations, including UN Police.

As Canadian police personnel deployed in international missions, child protection is at the heart of your responsibility and you have a duty to understand and apply international laws and norms on child protection. Your mandate involves advocating for the application of all relevant international norms and standards applicable to child protection.

Therefore, you should be able to:

- Understand how legal obligations and mandates guide the work of UN Police
- Understand how the different instruments included in the child protection frameworks serve you as UN police officer in fulfilling your mandate; (i.e. international legal framework, UN Security Council resolutions, DPKO/DFS policies and national legislation).

As Canadian police personnel deployed in international mission, whether as UN police officers or on bilateral missions, you will encounter many situations involving children during your deployment. Therefore, it is crucial that you understand how international laws, norms and guidelines, as well as UN policies regulate your roles and responsibilities and guide your actions.

During your deployment, you will work in collaboration with host State police services. In such case, you will also need to understand the national legal framework of your mission area, as host State police operate under national laws. Several types of national legal frameworks relate to international laws and norms in terms of child rights.

INTERNATIONAL CHILD PROTECTION FRAMEWORK

The body of international laws and guidelines that protect children is vast and complex. It is composed of a series of international legal instruments, norms, guidelines and policies. These can be broadly categorized into three frameworks:

- The *international legal and normative framework*, divided into **International Humanitarian Law** and **International Human Rights Law**. It includes several conventions that are legally binding on States that have ratified them, and a series of international norms and guidelines that are non-binding.
- The *UN Security Council framework*, composed of a series of **resolutions** on child protection issues and the mandates of the various **UN peacekeeping missions**. This includes provisions on child protection.
- The *UN Department of Peacekeeping Operations / Department of Field Support (DPKO/DFS) framework*, which includes the **new policy on Child Protection** in United Nations Peace Operations, and other policies and standards of conduct for all peacekeeping personnel.

I. PRELIMINARY DISTINCTIONS

International Humanitarian Law (IHL) regulates the methods and means of warfare and the treatment of people in times of war, including children, affected by armed conflict or child combatants. It applies only in times of armed conflict.

International Human Rights Law (IHRL) regulates the way in which States treat people under their jurisdiction, with several benchmarks related to children. Its provisions are applicable both in times of peace and in times of armed conflict. There is also a branch of international law that applies to individuals (**International Criminal Law**).

Both IHL and IHRL apply to States and organized armed groups.

International Refugees Law regulates the legal definition of a refugee, the rights arising from this status and the legal obligation of receiving countries. The rights of refugee children are clearly articulated in international refugee law. However, internally displaced children are covered under international human rights law.

II. INTERNATIONAL HUMANITARIAN LAW

The **four Geneva Conventions** of 1949 and **The Hague Conventions** (commonly referred to as the “**laws of war**”) regulate how States and armed groups should behave in times of armed conflict. Convention IV of 1949 regulates the treatment of civilians in times of war, which means an armed conflict between States.

The Geneva Conventions also have two additional protocols:

- **Additional Protocol I of 1977** affords special protection to children in times of war and sets 15 years as the age limit for recruitment into armed forces.
- **Additional Protocol II of 1977** addresses rights of civilians (including children) in times of non-international armed conflict, such as civil wars, insurgencies and other forms of internal armed conflict. Additional Protocol II is especially important nowadays since armed conflicts mostly fall into the category of internal (intrastate) conflict.

The **laws of war** (**The Hague Conventions**) are a series of international conventions that address the use and trafficking of weapons, and ban certain types of weapons, such as antipersonnel mines and cluster bombs and munitions.

Children are therefore afforded special protection under IHL and it is the duty of UN police personnel to protect them.

III. INTERNATIONAL HUMAN RIGHTS LAW

In addition to conventions that protect general human rights, there are certain conventions that specifically target the rights of the child.

1. MAIN INSTRUMENTS RELATING TO CHILDREN IN INTERNATIONAL HUMAN RIGHTS LAW

The main instruments relating to children and International Human Rights Law include:

- **The UN Convention on the Rights of the Child (CRC), 1989**¹

The Convention outlines the fundamental rights of children, including:

- Right to be registered at birth and have a legal identity
- Freedom of expression
- Right to education and health care
- Freedom of thought and religion
- Protection against all forms of violence
- Protection of especially vulnerable children such as refugees, displaced children, disabled children, etc.
- Protection from economic and sexual exploitation
- Protection from torture, and unlawful and arbitrary detention
- Legal rights of children in conflict with the law

The **CRC is the most widely ratified human rights convention**. Some of its key advancement includes the rights of the child to express his or her point of view and to be heard in decision-making processes that affect his/her life. The CRC also states that children - alongside adults - should be recognized, respected and protected as rights holders rather than only being considered as passive objects of protection and care.

The CRC is based on the guiding principle of the **best interests of the child**, which means that any decision impacting a child should always consider his or her best interests. This main principle includes three other principles: **survival and development, non-discrimination and participation**.

¹ UN Convention on the Rights of the Child, 1989, <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

- The Optional Protocol to the CRC on the Involvement of Children in Armed Conflict, 2002²

This Optional Protocol establishes the minimum age for children to take part in hostilities to 18 years and prohibits the forced and compulsory recruitment of children under 18 into national armed forces. However, children between 15 and 18 years can voluntarily enroll into national armed forces under certain circumstances. Canada, the United Kingdom and the United States are among the States that have ratified this protocol and use this clause to mobilize boys and girls aged 16 and 17.

The Protocol stipulates however that armed groups (non-State actors) are prohibited from recruiting and using children under the age of 18 years. States have a duty to criminalize such recruitment.

- The Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography, 2002³

This Optional Protocol prohibits all forms of sexual violence, exploitation, abuse and neglect, including the sale and trafficking of children for any purpose, as well as child prostitution and pornography in State Parties to the Convention.

- The Optional Protocol to the CRC on Communication Procedures, 2011⁴

This protocol allows children to seek justice directly at the Committee on the Rights of the Child if the national legal system has not been able to provide a remedy for a child rights violation.

- The African Charter on the Rights and Welfare of the Child, 1990⁵

This African Charter is an African Union document that replicates most of the provisions of the CRC, including those providing protection to children in armed conflict. It is legally binding on African States that have ratified it.

² Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, 2002, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPACCR.aspx>

³ Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, A/RES/54/263 of 25 May 2000, entered into force on 18 January 2002, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPSCCRC.aspx>

⁴ Optional Protocol to the Convention on the Rights of the Child on a communications procedure, entered into force in April 2014, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPICCRC.aspx>

⁵ African Charter on the Rights and Welfare of the Child, 1990, http://www.achpr.org/files/instruments/child/achpr_instr_charterchild_eng.pdf

⁶ ILO Convention No. 182, International Labor Organization, http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182

- The ILO Convention 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor, 1999⁶

It identifies recruitment and use of anyone under the age of 18 in armed conflict as one of the worst forms of child labor and calls on States to make it a criminal offense. In addition to the legal instruments that address specifically children, many international instruments dealing with human rights in general are applicable to children.

The ILO Convention is a solid document to support your advocacy against the use of anyone under the age of 18 in hostilities.

2. INTERNATIONAL INSTRUMENTS ADDRESSING HUMAN RIGHTS IN GENERAL

While those instruments do not distinguish children's rights specifically, they concern all human rights and therefore also apply to children (e.g., refugee children and disabled children).

The *International Covenant on Civil and Political Rights* (ICCPR) is part of the *International Bill of Human Rights* and is a multilateral treaty⁷ that commits Member States to respect the civil and political rights of individuals. This includes the right to life, freedom of religion, speech, freedom of assembly, electoral rights and rights to due process and fair trial. Children, as any other human beings, are protected by these instruments.

Other conventions address specific human rights, for example:

- The *UN Charter of 1945*
- The *UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* of 1984
- The *Convention relating to the Status of Refugees* of 1951 and its *Optional Protocol of 1967*
- The *Convention on the Elimination of Discrimination against Women* of 1979 and *Optional Protocol of 1999*
- The *UN Convention on the Rights of Persons with Disabilities* of 2006

⁷ The International Covenant on Civil and Political Rights (ICCPR), General Assembly Resolution 2200A, (XXI) of 16 December 1966, entered into force on 23 March 1976, <http://www.ohchr.org/Documents/ProfessionalInterest/ccpr.pdf>

IV. INTERNATIONAL GUIDELINES

In addition to international legally binding instruments, the international community has developed a series of international guidelines to regulate the way States treat children. Those guidelines apply in times of peace as well as in times of armed conflict and they address all aspects of the interactions of children with a State's justice system. As they are guidelines, they are not legally binding but rather aim at establishing minimum standards to treat children.

1. MAIN UNITED NATIONS GUIDELINES RELEVANT TO JUSTICE FOR CHILDREN

The term "justice for children" recognises that children can come into contact with the justice and other related systems in a variety of contexts, including in civil and administrative procedures, and that consequently the justice systems must be competent to deal with all children who come into contact with it, whether those children are in conflict with the law, victims, witnesses, or in contact with the law for other reasons. All boys and girls who come into contact with the law, notwithstanding their status as victims, witnesses or alleged offenders, have specific right that must be upheld by all actors involved. The United Nations have adopted a series of guidelines and rules that are specific to justice for children:

- The *UN Standard Minimum Rules for the Administration of Juvenile Justice* (Beijing) 1985
- The *UN Guidelines for the Prevention of Juvenile Delinquency* (Riyadh) 1990
- The *UN Rules for the Protection of Juveniles Deprived of their Liberty* (Havana) 1990
- The *UN Standard Minimum Rules for Non-Custodial Measures* (Tokyo) 1990
- The *UN Guidelines for Action on Children in the Criminal Justice System* (Vienna) 1997
- The *UN Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime* 2005
- The *General Comment No. 10 on Children's Rights in Juvenile Justice* 2007
- The *Guidance Note of the Secretary General on the UN Approach to Justice for Children* 2008

Those guidelines and standards provide practical orientations to adopt in order to make the justice system more child-friendly and coherent with a human-right based approach. It is the duty of any Canadian police personnel serving abroad to be familiar with these standards and to promote them with the national counterparts.

2. UN PARIS PRINCIPLES AND GUIDELINES ON CHILDREN ASSOCIATED WITH ARMED FORCES OR ARMED GROUPS

The *UN Principles and Guidelines on Children Associated with Armed Forces or Armed Groups* (Paris, 2007) aim at preventing the use and exploitation of children in armed conflicts and at better protecting children in contexts of armed conflict. The principles' objectives are⁸:

- To prevent the unlawful recruitment and use of children by armed forces and armed groups
- To facilitate the release of children associated with armed forces and armed groups
- To facilitate their reintegration
- To ensure the most protective environment for all children

These guidelines are useful in the design and implementation of disarmament, demobilization and reintegration programmes (DDR) and to ensure that children's rights are properly considered at all stages. The principles also address best practices when managing cases involving refugee or displaced children, and the specific situation and needs of girls associated with armed forces or groups.

3. UN MODEL STRATEGIES AND PRACTICAL MEASURES ON THE ELIMINATION OF VIOLENCE AGAINST CHILDREN IN THE FIELD OF CRIME PREVENTION AND CRIMINAL JUSTICE

This *Model Strategy*⁹ were created by the UN Economic and Social Council in 2013. They include five categories of strategies and practical measures:

- Legal reforms on children's rights and prevention strategies to eliminate violence against children
- Reforms of law enforcement agencies and judicial systems to enhance detection and investigation of violations of children's rights and improve criminal proceedings in line with international standards
- Programs and interventions to enhance coordination between the various actors of a child protection system
- Strategies and measures to prevent and respond to violence against children in

⁸ Paris Principles and Guidelines on Children Associated with Armed Forces or Armed Groups: http://www.google.ca/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0ahUKEwjy_KP6p_LJAhVNpYMKHdLDDgEQFgggMAA&url=http%3A%2F%2Fwww.unicef.org%2Femerg%2Ffiles%2FParis-Principles310107English.pdf&usq=AFQjCNFxeio4fHDwMKcLFCBgFRoYTs211A&bvm=bv.110151844,d.amc

⁹ Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice, UN Economic and Social Council, 2013, See <http://www.unodc.org/unodc/en/justice-and-prison-reform/tools.html> for additional resources

contact with the justice system, including the elimination of torture and ill-treatment of children in places of detention

- Strategies and programs to strengthen accountability and oversight mechanisms

If you do not have enough time to read all the international standards on justice for children, the Model Strategy is perhaps a good starting point, because it is comprehensive, practical and recent.

V. INTERNATIONAL CRIMINAL LAW

While International Humanitarian Law and International Human Rights Law both apply to States and organized groups, International Criminal Law applies to individuals. This body of international law addresses individual criminal responsibility at the international level in the same way that national criminal justice systems address crime at the national level.

The **International Criminal Court (ICC)** was created as a permanent body to investigate and prosecute individual perpetrators of **genocide, crimes against humanity and war crimes**. The ICC has jurisdiction over crimes committed in the territory of State Parties or by nationals of State Parties after 2002, when the Statute of the Court became operational. To this date, 123 States are parties to the Rome Statute¹⁰.

The **Rome Statute of the ICC of 1998**¹¹ specifically defines crimes against children:

- Under the crime of genocide as the **forcible transfer of children from one group to another**
- Under crimes against humanity as **trafficking and enslavement of children**
- Under war crimes as **deliberate attacks on schools and conscription or enlistment of children under 15 years by armed forces and armed groups**.

1. THE LUBANGA CASE

The ICC has prosecuted and convicted Thomas Lubanga Dyilo for forcibly recruiting and enlisting children under the age of 15 years. Mr. Lubanga was convicted on 10 July 2012 and sentenced to 14 years in prison.

¹⁰ For the list of State Parties, see the ICC website: https://www.icc-cpi.int/en_menus/asp/states%20parties/Pages/the%20states%20parties%20to%20the%20rome%20statute.aspx

¹¹ ICC Rome Statute: https://www.icc-cpi.int/en_menus/icc/about%20the%20court/frequently%20asked%20questions/Pages/3.aspx

2. THE TAYLOR CASE

The Special Court for Sierra Leone (SCSL) operated between 2002 and 2013 to prosecute those who bear the greatest responsibility for crimes committed in Sierra Leone's internal conflict (from 1991 to 2002). The Court prosecuted and convicted seven accused of conscription and enlistment of children under the age of 15 years into armed forces or groups and active use of children in hostilities. It was the first international tribunal to prosecute this type of crime. Consequently, it established important international jurisprudence.

The most prominent person to be accused was Charles Ghankay Taylor, former president of Liberia. The Court found him guilty of conscripting and enlisting children under 15 years, among other crimes, on 26 April 2012. He was sentenced to 50 years in prison and both his conviction and sentence were confirmed on appeal in 2013. It was the first time a head of state was prosecuted and found guilty of a crime against children at the international level, and it created a precedent to combat impunity for this type of crime.

Transfer of Charles Taylor to the Special Court, New York Times, 29 March 2006



PEACEKEEPING OPERATIONS



VI. THE UN SECURITY COUNCIL FRAMEWORK

The changing nature of conflicts in the 20th century and the growing targeting of civilians by armed forces and groups have increased the impact of armed conflicts on children. Recognizing this trend, the UN Secretary General appointed Ms. Graça Machel as independent expert in 1996 to prepare a report on the impact of armed conflict on children. Her report¹² demonstrated the horrible impact of armed conflict on children and called for action by the international community. Following the publication of her report, the **Office of the Special Representative for Children and Armed Conflict** was created in 1997 to serve as the global advocate for children in armed conflict. In 2006, a **Strategic Review**¹³ of the Machel report was published, looking at progress made and remaining challenges. The Review serves as a foundation and a platform for action.

1. UNSC RESOLUTIONS ON CHILDREN AND ARMED CONFLICT

Since the initial Machel report, the UN Security Council has adopted several resolutions to address the issue of children in armed conflict. The focus of these resolutions includes¹⁴:

- The condemnation of recruitment and use of children by armed forces and groups
- The consideration of special needs of children in Disarmament, Demobilization and Reintegration (DDR) programmes
- The definition of the six grave violations of children's rights in times of armed conflict and the establishment of the Monitoring and Reporting Mechanism (MRM), including the creation of the Secretary General's "list of shame" for parties or individuals committing grave violations against children
- A recognition of the contribution of youth in the prevention and resolution of conflict and the rise of radicalisation to violence and violent extremism amongst youth

The topic of children and armed conflict was the **first thematic resolution to ever be adopted by the UN Security Council**. All previous resolutions had a geographical focus. Since 1999, the situation of children in armed conflict regularly appears on the Security Council's agenda, which considers their fate as a threat to peace and security.

¹² "Impact of Armed Conflict on Children" Report of Graça Machel, 1996, <http://www.unicef.org/graca/>

¹³ "Machel Study 10-Year Strategic Review: Children and Conflict in a Changing World", UNICEF, April 2009

¹⁴ For the constantly updated list of UN Security Council resolutions on children and armed conflict, see <http://www.securitycouncilreport.org/un-documents/children-and-armed-conflict/>

It is your duty to advocate for the full consideration of girls and boys in matters related to peace and security. The experience, point of view and meaningful role of children and young people in peace and reconciliation is now a regular concern of the Security Council.

In 2005, the Security Council requested in Resolution 1612 the UN Secretary General to establish a monitoring and reporting mechanism (MRM) to provide timely and reliable information on the six grave violations against children to the Security Council. The MRM is led at the country level by the Country Task Force on Monitoring and Reporting (CTFMR), co-chaired by the UNICEF Country Representative and by the highest UN representative in the country (SRSG or Resident Coordinator). The MRM and its Task Forces monitor and report on the six grave violations against children:

- Recruitment and use of children
- Killing and maiming of children
- Sexual violence against children
- Attacks against schools and hospitals
- Abduction of children
- Denial of humanitarian access

All these violations must be monitored and reported. All parties to the conflict should be monitored (international forces, national armed forces, non-state armed groups, as well as UN political and military components). There are detailed MRM field manual as well as guidelines available for additional information, which would be resourceful documents once deployed in your respective mission.

2. UN RESOLUTIONS ON WOMEN, PEACE AND SECURITY

The UN Security Council has also recognized sexual and gender-based violence as an international peace and security issue. Girls experience armed conflict differently from boys and are therefore entitled to specific protection and actions. This special protection is at the center of several resolutions¹⁵ that focus on the following specific topics:

- The protection of women and girls from gender-based violence and ending impunity for such crimes
- Considering the specific needs of women and girls in DDR programmes

¹⁵ For the constantly updated list of UN Security Council resolutions on women, peace and security, see <http://www.securitycouncilreport.org/un-documents/women-peace-and-security/>

United Nations Security Council resolutions are not all considered as binding on Member States. When a resolution contains recommendations, it is not considered as binding. On the other hand, when a resolution implies decisions, it shall be considered as binding.

The particular attention paid by the international community to the different experience of boys and girls in conflict and justice processes means that your behaviour, action and advocacy must always take into account gender inequalities. This responsibility is also reflected in Canada's Feminist International Assistance Policy.

3. UN PEACE OPERATION MANDATES

As issues of child protection in armed conflicts were gaining prominence within the UN system, the mandates of UN peacekeeping operations also evolved to include more child protection issues. In 2016, eight UN peacekeeping operations currently in existence had a child protection mandate and extensive provisions on child protection.

While each mission mandate is unique and tailored to the specific situation of the host State, similarities exist in the provisions on child protection. All missions now have a mandate to protect civilians and protect and promote human rights, and all have one or more of the following provisions specifically related to children¹⁶:

- **Protection of civilians**, especially women and children affected by armed conflict or criminality, including internally displaced children and refugee children
- **Child protection** as cross-cutting issue throughout the mission mandate
- **Protection and promotion of human rights**, especially those of vulnerable groups like children
- **Monitoring, investigation and reporting on violations** and abuses against children, including all forms of sexual violence, and identification and prosecution of perpetrators
- **Prevention of the recruitment** and use of children by armed forces and groups
- Special attention to the **needs of children in disarmament, demobilization and reintegration** programs

¹⁶ These provisions are summarized from the mandates of the following UN peacekeeping missions in which UNPOL are currently deployed: MINUSCA (Central African Republic), MINUSMA (Mali), MINUSTAH (Haiti), MONUSCO (DRC), UNAMID (Darfur/Sudan), UNMIL (Liberia), UNMISS (South Sudan) and UNOCI (Côte d'Ivoire).

- **Addressing juvenile justice issues** such as arbitrary or prolonged pre-trial detention and prison conditions

The mission mandate gives mission components, including UN Police, their specific and direct mandate to act on child protection issues. As UN Police, you are in a unique position to fulfil parts of this mandate, as you work directly with the host State police and judicial system. Through your mentoring and advocacy, you can help host States to bring their treatment of children up to international standards. For a mission that does not have a specific child protection mandate, the protection of children is intrinsically included within the overall Protection of Civilian's mandate.

4. UN DPKO/DFS POLICIES AND STANDARDS

In 2009, UN Department of Peacekeeping Operations (DPKO) and Department of Field Support (DFS) published a policy on *Mainstreaming the protection of children affected by armed conflict within UN peacekeeping missions*. This policy applies to all personnel of peacekeeping missions. It aims at guiding the actions of all UN personnel when interacting with children and in their work on child protection. Canada supports these policies and standards and ensures they apply to all its police missions, whether under UN auspices or on bilateral deployments. The main guidelines are:

- Monitoring and reporting grave violations committed against children
- Negotiating action plans for the release of children from armed groups
- Ensuring that all peacekeeping personnel are trained on child protection
- Advocacy on child protection issues
- Role and functions of Child Protection Advisers
- Standards of Conduct for Peacekeepers
- UN Policy on Sexual Exploitation and Abuse
- Prohibition of Child Labor in Peacekeeping Operations

The purpose of this new Policy is to reaffirm the role of DPKO, DFS and Department of Political Affairs in the protection of all children, girls and boys, affected by armed conflict in United Nations peace operations. This includes both peacekeeping and special political missions.

The Policy reiterates the adherence of the United Nations to the International normative framework and standards and the obligations for all UN Personnel to child protection during peace operations.

¹⁷ Human Rights Due Diligence Policy on United Nations Support to Non-United Nations Security Forces (2013). http://www.ohchr.org/Documents/HRBodies/SP/AMeetings/20thsession/IdenticalLetterSG-25Feb2013_en.pdf

The policy's main focuses on the respect for children's rights are:

- Sexual exploitation and abuse
- Child labor
- Detention of children
- Military use of schools

Canadian police personnel deployed in international missions are forbidden to favour directly or indirectly any form of child labour, and are prohibited to engage in any form of sexual relation or intercourse during their deployment, including with anyone under the age of 18 and anyone from the host country.

A section is also dedicated to the deployment of troops to United Nations peace operations that are repeatedly listed in the annexes of the Secretary-General's annual reports on children in armed conflict for committing grave violations against children. These States are prohibited from participating in United Nations peace operations.

In addition, in compliance with the *United Nations Human Rights Due Diligence Policy*¹⁷, United Nations peace operations shall not provide support to or conduct joint operations with non-United Nations law enforcement officials that recruit or use children or commit other grave violations against children.

The obligations related to UN Police Component are (article 14):

- To ascertain that child protection is integrated into their work, including in their mentoring and advising activities, as well as in their capacity building efforts in support of the host State police

The Relevant issues that should be taken into account by UN Police Component are:

- Child sensitive interviewing techniques
- Monitoring child protection concerns through community-oriented policing
- Compliance with international norms and standards, including those in relation to the apprehension and detention of children
- Prevention and response to violations and abuses against children, including SEA



VII. NATIONAL LEGAL FRAMEWORKS¹⁸

In order to fulfill their mandate to build the capacity of the host State police or to enforce laws in the host State in executive missions, Canadian police personnel deployed in international missions need to familiarize themselves with national laws, including those pertaining on child protection.

1. THE IMPORTANCE OF NATIONAL LAWS

Host State police and Canadian police personnel deployed in international missions must work within the host State's legal system. National legislation will determine what constitutes an offence or a crime in the host State, the extent of the powers of the police and other specific legal provisions relating to children. Host State laws will determine, among other things:

- The age of criminal responsibility in the host State
- The minimum age of consent
- The minimum legal age for marriage
- The criminalization of certain harmful practices such as female genital mutilation, corporal punishment in schools and detention centers, etc.
- The operational framework for diversion
- Standards operating procedures stating how the role and responsibilities of law enforcement officials is circumscribed in relation to those of other actors in the national child protection system

It is important for Canadian police personnel deployed in international missions to understand that while some of the national legal provisions in the host State may not be in line with international standards, host State police are still bound by them. Documents to look for once you are deployed are:

- **the host State's constitution;**
 - **criminal code;**
 - **code of criminal procedure;**
 - **police act or any specific laws relating to children such as a child act or a juvenile code.**
-

¹⁸ Source: "UN Police and Different Legal Systems", STM for Police

Canadian police personnel deployed in international missions are not empowered to change the host State's legal system, but they can advocate to change the national laws and practices and bring them more in line with international standards.

In exercising your function as UN Police, you must observe internationally recognized human rights standards and must not discriminate any person on any grounds, such as gender, ethnicity, language, religion, political or other opinion, national, ethnic or social origin, sexual orientation, or any other grounds. You must uphold international criminal justice standards in all aspects of your work, including specific standards related to child protection.

2. DIFFERENT LEGAL SYSTEMS

The host State's legal system will vary depending on the mission you are deployed to. Some host states will have a **common law** system, others a **civil law** system or a legal system based on **Islamic Law**. The nature of the legal system will impact criminal procedures and police work. Furthermore, some countries have mixed legal systems.

In addition to these three basic legal systems, some countries will have a traditional legal system that operates in parallel with the official legal system. These traditional legal systems are often referred to as "**customary law**" and may or may not form part of the official legal system.

In some countries, customary law will apply for minor offenses that can be addressed through traditional local systems of conflict resolution and will be recognized by the official legal system. In other countries, customary law will be applied by local communities in contravention of official laws. For example, some forms of punishment for an offense under customary law can be prohibited by the official legal system.

As Canadian police personnel deployed in international missions, you must understand the nature of the national legal system, promote the implementation of international norms and standards according to the principle of the best interests of the child, and get informed on child protection issues in the context of the national legal system.

You can do this by discussing with your colleagues from the child protection system. This will help you identify opportunities to promote a system better suited to children's rights.

3. USE OF THE DIFFERENT LEGISLATIVE FRAMEWORKS

Host State police and UN Police Officers must work within the framework of the legal system of the host State. National legislation will determine what constitutes an offence or a crime in the host State, the extent of the powers of the police and other specific legal provisions relating to children. These will include for example:

- The age of criminal responsibility in the host State
- The minimum age of consent
- The minimum legal age for marriage
- The criminalization of certain harmful practices such as female genital mutilation, corporal punishment in schools and detention centers, etc.
- The operational framework for diversion
- Standards operating procedures stating how the role and responsibilities of law enforcement officials is circumscribed in relation to those of other actors in the national child protection system

It is important for Canadian police deployed in international missions to understand that while some of the national legal provisions in the host State may not be in line with international standards, host State police are still bound by them. In exercising your function as UN Police, you must observe internationally recognized human rights standards. You must uphold international criminal justice standards in all aspects of your work, including specific standards related to child protection.

Function	National Laws	International Laws
Behaviors of UNPOL officers	Respect National Laws: Age of consent may be at 15 years of age	Respect UN standard of conduct: No sexual intercourse with any child under 18 or 18 years old.
Monitoring and Reporting	Report violations of international laws in line with international definition: Even if the age of adulthood in the country is 15 years, still report violations for children under 18 years	Report violations of international laws in line with international definition: Even if the legal age for recruitment in the armed forces is 16, monitor and report any use and recruitment of children by armed forces and groupes under the age of 18
Advising and Mentoring	Need to be aware of national laws to be able to promote international law: If a country uses arbitrary detention, the promotion of international standards on alternative methods to detention could be used	Need to be aware of international laws to report on breaches: Death penalty can be imposed by national laws but is not in international laws. Must report for advocacy at high level

Peacekeeping mandates have increasingly included child protection concerns. Each component of the mission has responsibilities in child protection and must take into account child rights issues within its respective core activities. All peacekeepers – police, military and civilians – must be aware of their responsibilities and receive training in child protection that enables them to fulfil their role in the mission.

It is important for you, as Canadian police personnel deployed in international missions, to identify and understand the system of coordination in your area of deployment and to identify if there is a Standard Operating Procedure framework or Multi-sectorial Agreement already in place.



A photograph showing the silhouettes of several children reaching their arms up towards a large, bright sun in a cloudy sky. The children are in the foreground, and their arms are extended upwards. The sun is a large, bright circle in the upper center of the frame. The clouds are soft and white against a warm, orange-yellow background.

CONCLUSION

A structured compilation of international laws and norms that protect children's rights guides the work of UNPOL and the Canadian government. On the strategic level, conventions, treaties and resolutions determine the legal obligation of UN personnel as well as Canadian police and military troops to protect children in all peacekeeping contexts, including Canadian police personnel.

It is important for you to understand that international, Canadian and UN policies serve to operationalize those obligations and what they mean for daily work on the tactical level.

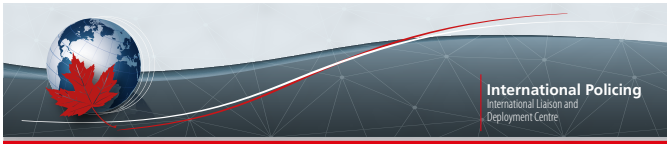
It is critical for Canadian police personnel deployed in international missions to understand how international laws, norms and guidelines apply to their role, how national law of host states applies to host state police and that differences between these laws can cause challenges for them.



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