



# Children in Armed Conflict Accountability Framework

A Framework for Advancing Accountability for Serious  
Violations against Children in Armed Conflict

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June 2015

## **Mission Statement**

Conflict Dynamics International is an independent, not-for-profit organization founded to prevent and resolve violent conflict, and to alleviate human suffering resulting from conflicts and other crises around the world.

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## Key terms used in this Framework

### **Children in Armed Conflict (CAC)**

**accountability** refers to the prevention and remedy of serious violations of international law committed against children in armed conflict. This Framework intentionally applies a broad definition of accountability that includes both judicial and nonjudicial actions that may take place at any point in a conflict cycle – and at different levels (i.e., local, national, regional, international).<sup>1</sup> The Framework defines CAC accountability as consisting of four interrelated components that provide a structure for developing strategic approaches to accountability. These components are assigning responsibility, enforcing laws and norms, reforming systems, and empowering children. The definition of CAC accountability in this Framework does not refer to other meanings of the term “accountability,” such as accountability of humanitarian or development organizations toward the people they seek to assist.

### **CAC accountability mechanism**

refers to any institution, program, policy, legislation, or other arrangement that is designed to address a specific aspect of accountability for serious violations against children in armed conflict. CAC accountability mechanisms may not exclusively address violations against children or relate solely to conflict settings, but may also deal with broader populations and nonconflict settings. These mechanisms can operate at the local, national, regional (including subregional), and/or international level, as well as across these levels. Figure 1 presents examples of different types of CAC accountability mechanisms operating at various levels.

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1 “Judicial” refers to actions pertaining to a judge, court, or court system.

**Figure 1: CAC accountability mechanisms**



## Executive summary

The *Children in Armed Conflict Accountability Framework* is a practical resource that promotes accountability for serious violations of international law committed against children in armed conflict (CAC accountability). Developed in response to the significant gap that exists in preventing and remedying these violations, the Framework presents:

1. **a comprehensive definition and structure** for understanding CAC accountability, which is underpinned by international as well as relevant national laws and norms, and builds on the roles and responsibilities of State, non-State, and other actors;
2. **practical guidance** in the form of a step-by-step methodology for developing well-informed, context-specific, and feasible options for advancing CAC accountability.

The Framework is global in its scope of application; it is not linked to any one context or region. It focuses on individuals who directly suffered serious violations of international law in the context of armed conflict when they were below the age of 18, and addresses all serious violations of international humanitarian law and human rights law, as well as crimes under other bodies of international law. The Framework is primarily designed to assist policymakers and practitioners engaged in variety of sectors (e.g., child protection, human rights, justice, transitional justice, peacebuilding) working at the local, national, regional, and international levels.

**Definition and structure of CAC accountability:** CAC accountability refers to the prevention and remedy of serious violations of international law committed against children in armed conflict. This includes both judicial and nonjudicial actions that may take place at any point in a conflict cycle – and at different levels of intervention. The definition and structure are underpinned by international as well as relevant national laws and norms, and builds on the roles and responsibilities of State, non-State, and other actors. CAC accountability consists of four interrelated components:

- **assigning responsibility** for violations through gathering, analyzing, and/or publicly releasing information about perpetrators;
- **enforcing laws and norms** through sanctions, prosecutions, and/or imposing other (legitimate) consequences on perpetrators;
- **reforming systems** by negotiating, developing, adapting, implementing, and/or raising awareness of relevant institutions, laws, policies, and/or standards;<sup>2</sup>
- **empowering children** and their communities by involving those affected in accountability processes and decisions and ensuring that they benefit from tangible remedies and redress.

In addition, several features further characterize the four components of CAC accountability. These are: dual focus on prevention and remedy; interconnections among components; comprehensive action across components; timing of actions; and sequencing of actions.

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2 Reforms may relate to State and non-State institutions and/or policies.

**Guidance for developing strategic approaches to CAC accountability:** Drawing on the definition and structure, the practical guidance provides support for identifying opportunities and challenges related to CAC accountability and for developing and prioritizing options for implementation. It uses practical case examples from nine situations of armed conflict to illustrate the methodology. The methodology is presented in two parts:

<p><b>Part 1:</b> Understand the CAC accountability environment</p>	<p><b>Step 1:</b> Examine influencing factors.</p>	<ul style="list-style-type: none"> <li>Identify factors that influence CAC accountability.</li> <li>Analyze the nature and level of influence of each factor.</li> </ul>
	<p><b>Step 2:</b> Examine accountability mechanisms.</p>	<ul style="list-style-type: none"> <li>Identify accountability mechanisms.</li> <li>Analyze functionality of mechanisms, linkages between them, and levels of activity (in each component and in the context as a whole).</li> </ul>
<p><b>Part 2:</b> Develop strategic options</p>	<p><b>Step 3:</b> Identify options.</p>	<ul style="list-style-type: none"> <li>Review documentation gathered from analysis exercises.</li> <li>Identify emerging opportunities and challenges.</li> <li>Brainstorm strategies for seizing opportunities and mitigating challenges.</li> <li>Research precedents or lessons learned from the given context (and/or other contexts) to provide additional ideas or innovations.</li> <li>Identify potential options to advance accountability.</li> </ul>
	<p><b>Step 4:</b> Prioritize options.</p>	<ul style="list-style-type: none"> <li>Determine potential risks and mitigation strategies.</li> <li>Determine organizational capacity to implement options.</li> <li>Determine the potential influence of contextual factors on successful implementation of options.</li> <li>Identify highest priority option(s).</li> <li>Develop an implementation plan for priority option(s).</li> </ul>

Overall, the Framework enables users to:

- **draw attention to the urgent need** to achieve accountability for CAC violations and engage key decision makers toward that goal;
- **develop innovative approaches** to advance CAC accountability based on a comprehensive analysis of the context, existing and potential mechanisms, and opportunities for linkages between accountability mechanisms;
- **make well-informed decisions to ensure the direction of limited resources** toward accountability actions that are feasible, realistic, and likely to lead to high-impact results for children and their communities;
- **increase cooperation** among actors working at various levels and in fields related to CAC accountability (e.g., child protection, justice, peacebuilding, or related fields), such as facilitating joint analysis or planning;
- **conduct impact assessments of CAC accountability efforts** and identify areas for targeted technical, financial, or other support.

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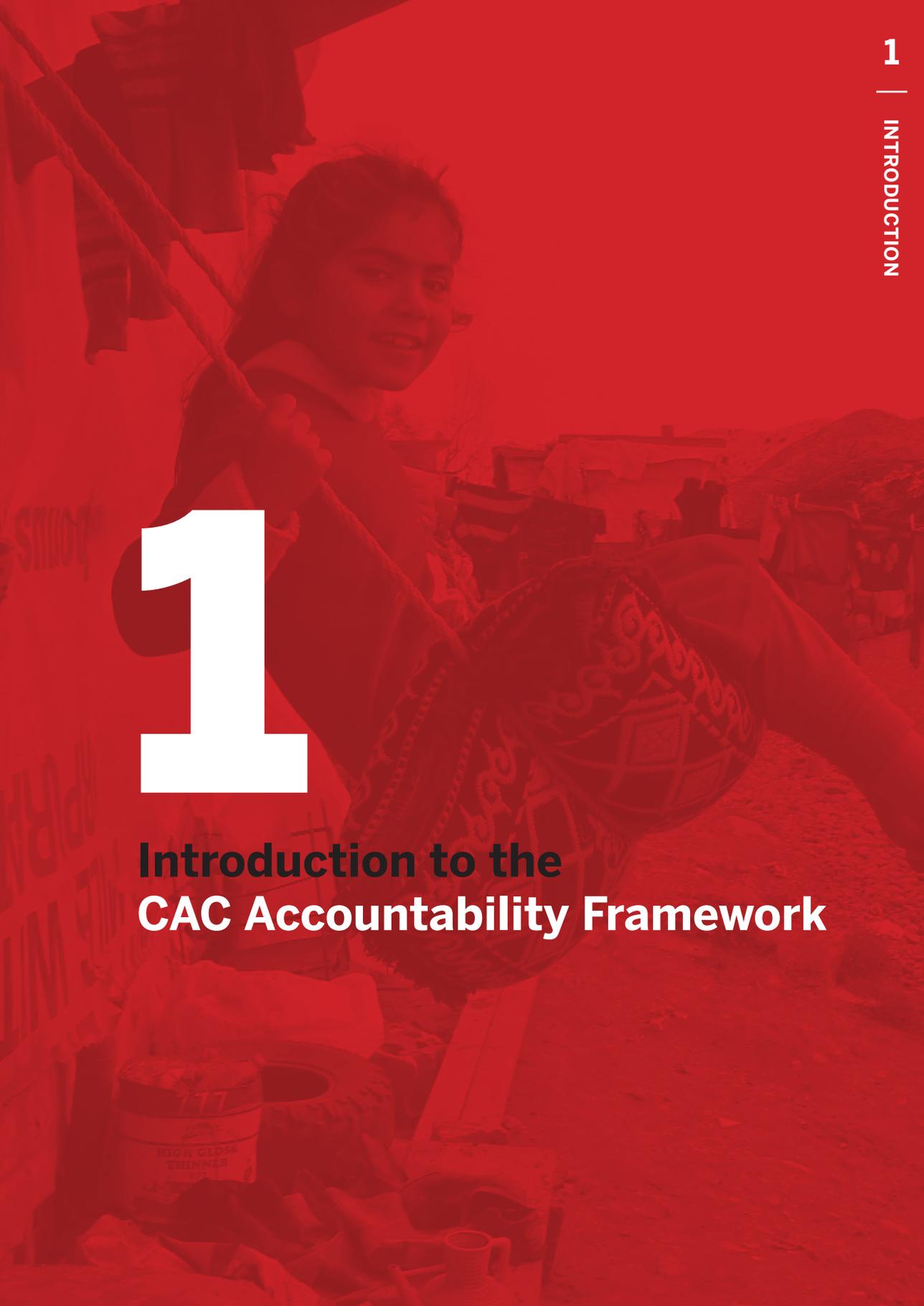
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# 1

## Introduction to the CAC Accountability Framework



## Introduction

This *Children in Armed Conflict Accountability Framework* (“CAC Accountability Framework”) is a practical resource that promotes accountability for serious violations of international law committed against children in armed conflict (CAC accountability). This includes redressing past violations and preventing future violations, both of which contribute to the overall protection of children and long-term prevention of violent armed conflict.

This Framework provides individuals and organizations working in child protection, justice, peacebuilding, and related fields (“users”) with:

1. **a comprehensive definition and structure** for understanding CAC accountability, which rests on international as well as relevant national laws and norms, and builds on the roles and responsibilities of State, non-State, and other actors in advancing CAC accountability;
2. **practical guidance** in the form of a step-by-step methodology for developing well-informed, context-specific, and feasible options for action that supports users to develop and implement strategic approaches for advancing CAC accountability.

The Framework specifically enables users to:<sup>3</sup>

- **draw attention to the urgent need** to achieve accountability for CAC violations and engage key decision makers toward that goal;
- **develop innovative approaches** to advance CAC accountability based on a comprehensive analysis of the context, existing and potential mechanisms, and opportunities for linkages between accountability mechanisms;
- **make well-informed decisions** to ensure the direction of limited resources toward accountability actions that are feasible, realistic, and likely to lead to high-impact results for children and their communities;
- **increase cooperation** among actors working at various levels and in fields related to CAC accountability (e.g., child protection, justice, peacebuilding, or related fields), such as facilitating joint analysis or planning;
- **conduct impact assessments of CAC accountability efforts** and identify areas for targeted technical, financial, or other support.

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<sup>3</sup> Users may also benefit from applying the concepts and guidance presented in this Framework to broader accountability efforts geared toward a wider civilian population.

# 1.1

## Background: The CAC accountability gap

States, civil society, the United Nations (UN), and others have highlighted the impact of armed conflict on children over the past decade,<sup>4</sup> yet accountability efforts seldom result in tangible improvements to the security and well-being of children and their communities. Additionally, perpetrators are rarely held to account for their actions, emboldening them to continue committing serious violations against children with impunity.

A significant gap exists in preventing and remedying serious violations committed against children in armed conflict.<sup>5</sup> Causes of this accountability gap include:<sup>6</sup>

- **Lack of attention to children in general accountability processes:** Accountability initiatives that address violations against a broad civilian population often treat children as a subgroup under general categories such as “civilians” or “women and children.” As a result, some programs and policies do not adequately support or meet the particular needs of children.
- **Underutilization of child-specific accountability mechanisms:** Accountability mechanisms specifically designed to address violations against children often are not implemented consistently or effectively, and therefore fall short of their potential to advance CAC accountability.
- **Fragmented approaches to CAC accountability:** Collaboration among different types of accountability mechanisms and across sectors and levels on the issue of CAC is often ad hoc or nonexistent. This may be due to lack of technical knowledge, organizational culture, insufficient capacities, or other reasons. For example, it may manifest as weak interactions between the child protection sector and those working in the area of justice, peacebuilding, or related fields, or as weak interactions between different types of child protection actors, such as those working on monitoring and documentation and those working on program delivery. While such interactions may be complicated, the tendency of “working in silos” creates missed opportunities for improving accountability outcomes for children.

4 For more information on the impact of armed conflict on children, see UN Security Council, *Report of the Secretary-General on children and armed conflict, A/68/878–S/2014/339* (15 May 2014); UN Office of the Special Representative of the Secretary-General for Children and Armed Conflict (OSRSG-CAAC) and UNICEF, *Machel Study 10-Year Strategic Review: Children and Conflict in a Changing World* (New York: 2009).

5 For more information, see Conflict Dynamics International, *Bridging the Accountability Gap: New Approaches to Addressing Violations against Children in Armed Conflict* (Cambridge: 2011); *Report of the Secretary-General on children and armed conflict, A/68/878–S/2014/339* (2014), para. 9; Watchlist on Children and Armed Conflict, *Action Plans to Prevent and End Violations Children* (New York: 2013).

6 Conflict Dynamics International, *Bridging the Accountability Gap* (2011). See also International Center for Transitional Justice, *Through a New Lens: A Child-Sensitive Approach to Transitional Justice* (New York: 2011).

# 1.2

## About this Framework

### 1.2.1 Objectives

The overarching objective of the CAC Accountability Framework is to advance accountability for serious violations of international law committed against children in armed conflict by redressing past violations and preventing future violations.

The primary objectives of the Framework are to:

- **promote a working definition of CAC accountability** in response to the current lack of a common understanding of the concept of CAC accountability among users;
- **guide users to develop strategic approaches to CAC accountability** in response to the lack of practical guidance for practitioners and policymakers in these areas;
- **increase priority and attention accorded to CAC in accountability processes** in response to the tendency to neglect CAC in general accountability processes;
- **improve the functionality of CAC accountability mechanisms** in response to their tendency to fall short of their full potential, due to incomplete or inadequate implementation;
- **increase the coherence of CAC accountability efforts** in response to inefficient, fragmented approaches and missed opportunities for collaboration among individuals and organizations working on different aspects of CAC accountability at various levels.

### 1.2.2 Scope of the Framework

This Framework is global in its scope of application; it is not linked to any one context or region. The concepts and guidance presented are applicable at all levels of intervention (i.e., local, national, regional, and international) and during all stages of conflict (i.e., emerging, active, and postconflict), and can be tailored for use in individual contexts.

Armed conflict affects children in numerous ways. This Framework focuses on individuals who directly suffered serious violations of international law in the context of armed conflict when they were below the age of 18.<sup>7</sup>

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<sup>7</sup> This approach is consistent with the designation in Article 1 of the *Convention on the Rights of the Child* ("CRC") (1989) of children as human beings under the age of 18 years.

This Framework addresses *all* serious violations of international humanitarian law and human rights law, as well as crimes under other bodies of international law (see Section 2.1 – International laws and norms), including killing, maiming, forced recruitment and/or use of children, attacks on schools and hospitals, enforced disappearance, forced displacement, rape and other forms of sexual violence, abduction, torture and inhumane treatment, among others. The scope thus includes, but is not exclusive to, the “six grave CAC violations” recognized by the UN Security Council in the context of the UN-led Monitoring and Reporting Mechanism (MRM)<sup>8</sup> (see In Focus: Practical challenges of defining “children affected by armed conflict”).

### 1.2.3 Structure of the Framework

This Framework has three sections, each of which is designed to promote and support the advancement of CAC accountability:

- **Foundations:** Describes two foundational aspects underpinning the concept of CAC accountability.
- **Definition and structure of CAC accountability:** Outlines four interrelated components that define and provide a structure for accountability for serious violations committed against children in armed conflict and presents features related to this definition.
- **Guidance for developing strategic approaches:** Provides practical guidance in the form of a step-by-step methodology for developing and prioritizing well-informed, context-specific, and feasible strategies for improving CAC accountability.

### 1.2.4 Target audience

This Framework is designed to assist individuals and organizations engaged in child protection, human rights, justice, transitional justice, rule of law, security, peacebuilding, and other related areas working at the local, national, regional, and international levels. This includes policymakers and practitioners at headquarters and field levels, such as national authorities, parties to armed conflict, representatives of international and regional organizations, donors, national and international nongovernmental organizations (NGOs), and members of civil society. The Framework can also be a useful resource for children and communities affected by armed conflict.

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8 UN Security Council Resolution 1612 (2005) established the UN-led Monitoring and Reporting Mechanism (MRM) to provide timely and reliable information on six grave violations committed against children in armed conflict to the UN Security Council and others. The six grave violations are killing and maiming; recruitment and/or use of children; attacks on schools and hospitals; rape and other forms of sexual violence; abduction; and denial of humanitarian access. Note that the six violations were selected “based on their suitability for monitoring and verification, their egregious nature and the severity of their consequences on the lives of children.” For further information, see OSRSG-CAAC, *The Six Grave Violations Against Children During Armed Conflict: The Legal Foundations*, Working Paper No. 1 (New York: 2009/2013) and UNICEF, OSRSG-CAAC, and Department of Peacekeeping Operations (DPKO), *Guidelines: Monitoring and Reporting Mechanism on Grave Violations Against Children in Situations of Armed Conflict* (New York: 2014).

## IN FOCUS

**Practical challenges of defining “children affected by armed conflict”**

This Framework focuses on those individuals who directly suffered serious violations of international law in armed conflict when they were below the age of 18 (see Section 1.2.2 – Scope of the Framework). In some cases, this may involve addressing past violations that were perpetrated against children who have subsequently passed age 18. As a result, practitioners and policymakers working on CAC accountability may face a number of related practical challenges, such as:

- structuring accountability mechanisms to meet the different and evolving needs and interests of youth and adults;
- directing resources to ensure that relevant individuals receive adequate attention, particularly since child protection agencies are often mandated to provide services only for children currently under the age of 18;
- managing issues related to assigning criminal responsibility and liability of adult members of armed forces or groups who were recruited and/or used as children and who may be implicated in the commission of crimes at a time when they were over the age 18.<sup>9,10</sup>

Additionally, practitioners may face some context-specific complexities that make it difficult to precisely define the target group for CAC accountability efforts, as shown in the following examples:

- children born as a result of rape or while in captivity in armed conflict;
- children who are deprived of educational, healthcare, and other social and cultural opportunities as a result of armed conflict;
- children who are associated with armed forces or groups because they are dependents of adult members;
- children separated from their families during armed conflict;
- children exposed to physical and/or psychological abuse, exploitation, or neglect due to weakened or collapsed State institutions, family, and community-based structures as a result of armed conflict and related factors.

9 International legal standards and practice provide that, in general, children who were recruited and/or used by armed forces or groups and are implicated in the commission of crimes while they were still under the age 18 should be considered primarily as victims and therefore not be criminally prosecuted for such crimes. See Article 26 regulating exclusion of jurisdiction over persons under eighteen: *Rome Statute of the International Criminal Court* (“Rome Statute”) (1998); UNICEF, *Principles and Guidelines on Children Associated with Armed Forces or Armed Groups* (“Paris Principles”) (February 2007), paras. 8.6, 8.7, 8.9; UN General Assembly, *United Nations Standard Minimum Rules for the Administration of Juvenile Justice* (“The Beijing Rules”), A/RES/40/33 (29 November 1985); and others.

10 In some cases, children affected by armed conflict and their communities may seek to understand and process the causes and consequences of their actions. Complementary transitional justice approaches that are in line with international norms and standards can facilitate accountability aims for crimes implicating children, including truth-telling procedures, traditional ceremonies, and memorials, as well as reparations in the form of community service.

# 2

## **Foundations of CAC accountability**

## Foundations of CAC accountability

International laws and norms and roles and responsibilities of relevant actors constitute key foundations of CAC accountability. These two aspects provide a normative base that underpins the Framework's definition of CAC accountability (see Section 3 – Definition and structure of CAC accountability). These foundations also set basic parameters for practitioners and policymakers as they develop strategic approaches to advance CAC accountability (see Section 4 – Guidance for developing strategic approaches to CAC accountability).

This section presents the foundations of CAC accountability, which include:

### Laws and norms

- international humanitarian law
- international human rights law
- international criminal law
- international refugee law
- standards, declarations, and resolutions.

### Roles and responsibilities of key actors

- States
- non-State armed groups
- international and regional organizations
- civil society and other local actors.

# 2.1

## International laws and norms

International laws and norms entitle children affected by armed conflict to special safeguards and care due to their stage of physical and mental development. These laws and norms are intended to protect children affected by armed conflict and to prohibit, prevent, punish, and provide remedies for violations against them. Some regional laws and norms are also relevant.

Important sources of international obligations governing CAC accountability include:<sup>11</sup>

- **International Humanitarian Law (IHL)**, including the four Geneva Conventions and their two Additional Protocols, other conventions relating to the conduct of warfare and the means and methods of warfare,<sup>12</sup> and rules of customary international humanitarian law;<sup>13</sup>
- **International Human Rights Law (IHRL)**, including the Universal Declaration of Human Rights, the core international human rights treaties, particularly the Convention on the Rights of the Child (CRC) and its Optional Protocol on the Involvement of Children in Armed Conflict (OPAC) and the International Labour Organization's Convention on the Worst Forms of Child Labour (No. 182),<sup>14,15</sup> and regional human rights conventions;<sup>16</sup>
- **International Criminal Law (ICL)**, including the Rome Statute of the International Criminal Court (ICC), the Convention on the Prevention and Punishment of the Crime of Genocide, and jurisprudence from international criminal tribunals,<sup>17</sup> as well as customary international law;

11 For further guidance on international human rights and humanitarian law pertaining to serious violations against children in armed conflict, see International Bureau for Children's Rights, *Children and Armed Conflict: a Guide to International Humanitarian and Human Rights Law* (Montreal: 2010); UNICEF, OSRSG-CAAC, and DPKO, *Field Manual Monitoring and Reporting Mechanism on Grave Violations Against Children in Situations of Armed Conflict, Annex 2: International Legal Foundations and Standards* (New York: 2014); OSRSG-CAAC, Working Paper No. 1 (2009/2013).

12 This includes *Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction* (1997); *Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction* (1994); *Hague Convention (II) with respect to the Laws and Customs of War on Land* (1899); and *Hague Convention (IV) Respecting the Laws and Customs of War on Land* (1907).

13 Customary international law constitutes rules that arise from "a general practice accepted as law" and exist independently from treaty law. For more information, visit International Committee of the Red Cross, "Customary IHL Database," <https://www.icrc.org/customary-ihl/eng/docs/home> [accessed 8 April 2015].

14 International Labour Organization (ILO), *Convention on the Worst Forms of Child Labour (No. 182)* ("Convention 182") (1999) is generally considered to fall under IHRL, but technically generates from International Labour Law.

15 Other relevant international human rights treaties include *International Covenant on Civil and Political Rights* (1966); *International Covenant on Economic, Social and Cultural Rights* (1966); *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment ("CAT")* (1984); and *International Convention for the Protection of All Persons from Enforced Disappearance ("ICAPED")* (2006).

16 These include *Convention for the Protection of Human Rights and Fundamental Freedoms* (1950) and its additional protocols ("European Convention on Human Rights"); *American Convention on Human Rights* ("Pact of San Jose, Costa Rica") (1969); *African Charter on Human and Peoples' Rights* ("Banjul Charter") (1981); *African Charter on the Rights and Welfare of the Child* ("ACRWC") (1990); *African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa* ("Kampala Convention") (2009); and *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa* ("Maputo Protocol") (2003).

17 "International criminal tribunals" include the ICC and other international tribunals prosecuting war crimes, crimes against humanity, and other crimes under international law.

- **International Refugee Law**, including the Convention Relating to the Status of Refugees and the Protocol Relating to the Status of Refugees, as well as other laws applicable to refugees;<sup>18</sup>
- **Standards, declarations, and resolutions**, including resolutions of the UN Security Council and the UN General Assembly, specifically Security Council resolutions on children and armed conflict and country-specific resolutions, General Assembly resolutions on children's rights, the UN Basic Principles and Guidelines on the Right to a Remedy and Reparations for Victims of Gross Violations of International Human Rights,<sup>19</sup> and other related documentation.<sup>20</sup>

*National laws and policies* can reinforce the application of international laws and norms in a specific country context. In some cases, national laws may provide stronger protection than international laws and norms. For example, while the CRC-OPAC permits the enlistment of individuals over age 15, many countries have set the minimum age of enlistment to State armed forces at 18 years. On the other hand, in situations where national legislation is absent or falls short of protections offered by international provisions, international laws and norms may take precedence, depending on each country's system of domestic law.<sup>21</sup>

Some international laws and norms underpinning CAC accountability include aspects of customary international law that are applicable to all States regardless of a State's particular treaty commitments and irrespective of local law. Some examples include:<sup>22</sup>

- children's entitlement to special protection during armed conflict<sup>23</sup>
- requirement to ensure the least harm possible to children<sup>24</sup>
- prohibition of indiscriminate and disproportionate attacks<sup>25</sup>

18 Consider also *Convention Governing the Specific Aspects of Refugee Problems in Africa* ("OAU Convention") (1969); *Cartagena Declaration on Refugees* ("Cartagena Declaration") (1984); and declarations by the UN General Assembly and the UN High Commissioner for Refugees' Advisory Executive Committee.

19 UN General Assembly, *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law* ("Basic Principles and Guidelines"), A/RES/60/147 (21 March 2006).

20 These include UN General Assembly, *A World Fit for Children*, A/RES/S-27/2 (11 October 2002); UNICEF, *Paris Principles* (2007); UN Economic and Social Council (ECOSOC), *Resolution 2005/20: Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime*, E/RES/2005/20 (22 July 2005); and UN Security Council Resolutions 1261 (1999), 1314 (2000), 1379 (2001), 1460 (2003), 1539 (2004), 1612 (2005), 1882 (2009), 1998 (2011), 2068 (2012), and 2143 (2014).

21 Certain international treaties include specific provisions for domestication of international norms, such as *Geneva Conventions* ("GC") (I-IV) (1949); *Convention on the Prevention and Punishment of the Crime of Genocide* (1948); and *CAT* (1984).

22 Some provisions of customary international law also apply to non-State parties to conflict. See *Prosecutor v Sam Hinga Norman*, Decision on Preliminary Motion Based on Lack of Jurisdiction (Child Recruitment), Case No. SCSL-2004-14-AR72(E), Special Court for Sierra Leone, 31 May 2004, para. 22. Of note, the decision cites *inter alia* UN General Assembly, *Impact of armed conflict on children* ("Machel report"), A/51/306 (26 August 1996).

23 See *GC (IV)* (1949), arts. 14, 17, 24, 38(5), 50, 76, 82, 89, 94, 132; *Additional Protocol (I) to the Geneva Conventions* ("AP (I)") (1977), arts. 70, 77; *Additional Protocol (II) to the Geneva Conventions* ("AP (II)") (1977), art. 4(3); *CRC* (1989), art. 38(4); *ACRWC* (1990), arts. 22, 23, 24; *American Convention on Human Rights* ("Pact of San Jose, Costa Rica") (1969), art. 19.

24 See *GC (I-IV)* (1949), Common Article 3; *GC (IV)* (1949), generally; *AP (I)* (1977), arts. 48, 77; *AP (II)* (1977), arts. 4, 13.

25 See *Rome Statute* (1998), art. 8(2)(e); *AP (I)* (1977), arts. 48, 51, 52, 57; *AP (II)* (1977), arts. 4, 13.

- prohibition of recruitment and/or use of children under the age of 15.<sup>26</sup>

Relevant international laws and norms also contain human rights obligations that States must uphold under all circumstances, even during times of emergency and armed conflict. These “nonderogable” rights include norms against torture, enforced disappearance, enslavement, and deprivation of the right to life.

# 2.2

## Roles and responsibilities

States, parties to conflict, regional and international organizations, and affected children and communities are some of the actors who have principal roles and responsibilities related to CAC accountability. These include protecting children from violations, remedying past violations, and preventing future violations.

### IN FOCUS

#### Types of responsibility

The term “responsibility” conveys two primary meanings. This Framework covers both aspects of responsibility:

- **individual responsibility** of those committing CAC violations (i.e., perpetrators);
- **responsibility of different State and non-State actors** that have legal and other duties under international law (and in some instances under national laws) to prevent and remedy CAC violations (see Section 2.2 – Roles and responsibilities).

<sup>26</sup> The recruitment or use of children under the age of 15 in armed conflict is prohibited under *AP (I)* (1977), art. 77(2); *AP (II)* (1977), art. 4(3); *Rome Statute* (1998); *CRC* (1989); *ACRWC* (1990); and ILO, *Convention 182* (1999). See also *Prosecutor v. Sam Hinga Norman*, paras. 52-53; and UN Security Council, *Report of the Secretary-General on the establishment of a Special Court for Sierra Leone*, Enclosure: Statute of the Special Court of Sierra Leone, S/2000/915 (4 October 2000), art. 4(c).

## 2.2.1 States

States, including those that are party to armed conflict, bear primary responsibility to protect children and prevent and remedy serious CAC violations. Under international law States are specifically obligated to:

- conduct prompt, fair, thorough, and genuine investigations, and where sufficient evidence exists, conduct independent and impartial prosecutions of those alleged to have committed violations;<sup>27</sup>
- take actions to provide effective remedies, including reparations, to victims and prevent similar violations from occurring in the future if a State is found responsible for violations of IHL or IHRL or failed to prevent or punish these violations;<sup>28</sup>
- prevent, investigate, punish, and ensure redress for human rights violations committed by State actors and third parties, for example, private individuals, commercial enterprises, or other non-State actors;<sup>29</sup>
- provide effective protection, as well as assistance, to victims and witnesses of crime;<sup>30</sup>
- promote the “physical and psychological recovery and social reintegration of a child victim of...armed conflict.”<sup>31</sup>

Some relevant State actors include national and local authorities, government ministries (e.g., Ministry of Defense, Foreign Ministry, Justice Department, Social Ministry), national security forces (e.g., army, police, intelligence services), and judicial actors (e.g., judges, prosecutors).

## 2.2.2 Non-State armed groups

Non-State armed groups (NSAGs) are subject to legal and practical obligations under international law that continue to evolve.<sup>32</sup> As a party to conflict, NSAGs have

27 The Rome Statute explicitly confirms the obligation of States to prosecute international crimes in its preamble, and reinforces these obligations through the operation of the principle of complementarity. Consider also the obligations on the duty to prosecute as provided under *GC (I)* (1949), art. 49; *GC (II)* (1949), art. 50; *GC (III)* (1949), art. 129; and *GC (IV)* (1949), art. 146; and *AP (I)* (1977), art. 85; as well as *CAT* (1984), arts. 4-6; *ICAPED* (2006), arts. 4-7; and UN General Assembly, *Basic Principles and Guidelines* (2006), para. 4.

28 UN General Assembly, *Basic Principles and Guidelines* (2006), affirmed in *Prosecutor v. Thomas Lubanga Dyilo*, Decision establishing the principles and procedures to be applied to reparations, Case No. ICC-01/04-01/06, International Criminal Court, 7 August 2012.

29 See *supra* footnote 27.

30 *United Nations Convention against Transnational Organized Crime and the Protocols Thereto* (2001), arts. 24-25. Also see ECOSOC, E/RES/2005/20 (2005); UN General Assembly, *Basic Principles and Guidelines* (2006), paras. 5, 12, 22.

31 *CRC* (1989), art. 39, cited by *Prosecutor v. Thomas Lubanga Dyilo*, para. 212.

32 The practice of the UN Security Council and its resolutions and reports acknowledge circumstances in which NSAGs are obliged to comply with human rights law. See UN Security Council Resolutions 1265 (1999), Preamble; 1193 (1998), paras. 12, 14; 814 (1993), para. 13. See also UN Human Rights Council, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston - Mission to Sri Lanka*, E/CN.4/2006/53/Add.5 (27 March 2006); Andrew Clapham, “Human rights obligations of non-state actors in conflict situations,” *International Review of the Red Cross*, Vol. 88, No. 863 (September 2006), 497. Consider also UN General Assembly, *Universal Declaration of Human Rights* (10 December 1948), Preamble; and the application of the prohibition of torture to NSAGs (*Prosecutor v. Anto Furundzija*, Judgment, Case No.: IT-95-17/1-T, International Criminal Tribunal for the former Yugoslavia, 10 December 1998, para. 162; Human Rights Committee, *Sadiq Shek Elmi v. Australia*, UN Committee Against Torture, 25 May 1999, para. 6.5). The *Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict* (2000) is one of the few human rights treaties to explicitly refer to NSAGs, prohibiting armed groups from recruiting or using persons under the age of 18 years in hostilities.

obligations under IHL to protect children and other civilians.<sup>33</sup> Similar to State parties to conflict, NSAGs are specifically obligated to:

- give protection to, and collect and care for, civilians, the wounded, and the sick;<sup>34</sup>
- provide care, aid, and education to children and prohibit the recruitment and/or use of children under the age of 15 years into armed forces or groups;<sup>35</sup>
- conduct hostilities in accordance with the obligations contained in Common Article 3 to the four Geneva Conventions.<sup>36</sup>

Moreover, under international criminal law, individual members of NSAGs and others can be held criminally responsible for war crimes, crimes against humanity, and genocide.<sup>37</sup>

In addition, some NSAGs have confirmed their obligations by adopting commitments, declarations, codes of conduct, and special agreements to respect obligations under international law, such as UN Action Plans<sup>38</sup> or Geneva Call's Deed of Commitment.<sup>39</sup> Moreover, Action Plans generally include accountability provisions calling for repercussions for commanders or other members of armed forces or groups that do not uphold the Action Plan.

## 2.2.3 International and regional organizations

**International and regional organizations** often play a key role in establishing and implementing norms, obligations, and standards underpinning CAC accountability. For example, international bodies such as the UN Human Rights Council or the UN Security Council can mandate an independent commission of inquiry to document violations (which is also relevant to State actors as they are likely to include recommendations to the State and other actors). Regional and subregional

33 GC (I-IV) (1949), Common Article 3 and AP (I) (1977).

34 Ibid.

35 AP (II) (1977), art. 4(3). Additional Protocol (II) is considered to be triggered when NSAGs operate under a responsible command and exercise control over a part of the territory, such that they can conduct sustained and concerted military operations and implement the Protocol.

36 UN Human Rights Council, Resolution 1991/71 (1991), preambular para. 6, operative para. 9. See also UN General Assembly Resolutions 45/172 (1990) and 46/133 (1991); Jean S. Pictet, International Committee of the Red Cross, *Commentary, IV. Geneva Convention Relative to the Protection of Civilian Persons in Time of War* (Geneva: 1958), pg. 37; Anne-Marie La Rosa and Caroline Wuerzner, "Armed Groups, Sanctions and the Implementation of International Humanitarian Law," *International Review of the Red Cross*, Vol. 90, No. 870 (June 2008), 328; *Prosecutor v. Sam Hinga Norman*, para. 22.

37 Consider *Rome Statute* (1998), art. 25.

38 An Action Plan is a commitment made to the UN by a party to armed conflict to end grave violations against children in armed conflict through concrete, time-bound steps, and other provisions. Action Plans were first mandated by UN Security Council Resolution 1539 (2004), para. 5. For more information on Action Plans and CAC accountability, see Watchlist on Children and Armed Conflict, *Action Plans to Prevent and End Violations Against Children* (New York: 2013).

39 Geneva Call, "Deed of Commitment under Geneva Call for the Protection of Children from the Effects of Armed Conflict," [http://www.genevacall.org/wp-content/uploads/dlm\\_uploads/2013/12/DoC-Protecting-children-in-armed-conflict.pdf](http://www.genevacall.org/wp-content/uploads/dlm_uploads/2013/12/DoC-Protecting-children-in-armed-conflict.pdf) [accessed 8 April 2015]. For signatories to Geneva Call's various commitments for NSAGs, see Geneva Call, "Armed Non State Actors," [www.genevacall.org/how-we-work/armed-non-state-actors/](http://www.genevacall.org/how-we-work/armed-non-state-actors/) [accessed 8 April 2015].

organizations and arrangements, such as the African Union (AU) and the European Union (EU), may also play a role in CAC accountability efforts based on their specific mandates.<sup>40</sup>

The roles and responsibilities of **UN agencies and international NGOs** relating to CAC accountability vary depending on their mandate or mission. Some UN agencies and international NGOs working on human rights and/or in the justice sector specifically work to strengthen accountability for serious violations of international law. Their activities may include documentation, advocacy, and provision of technical support.

Humanitarian and other operational organizations generally focus on provision of humanitarian goods and services and may not necessarily prioritize accountability measures. Yet, their mandates and/or missions may nevertheless intersect with CAC accountability in regard to protecting civilians and preventing future violations. When States are unable or unwilling to fulfill their obligations to protect children, humanitarian and operational organizations often support States and/or work with the approval of States to operate child protection systems. This may include provision of healthcare, educational opportunities, family tracing and reunification, safe spaces, and related programs.

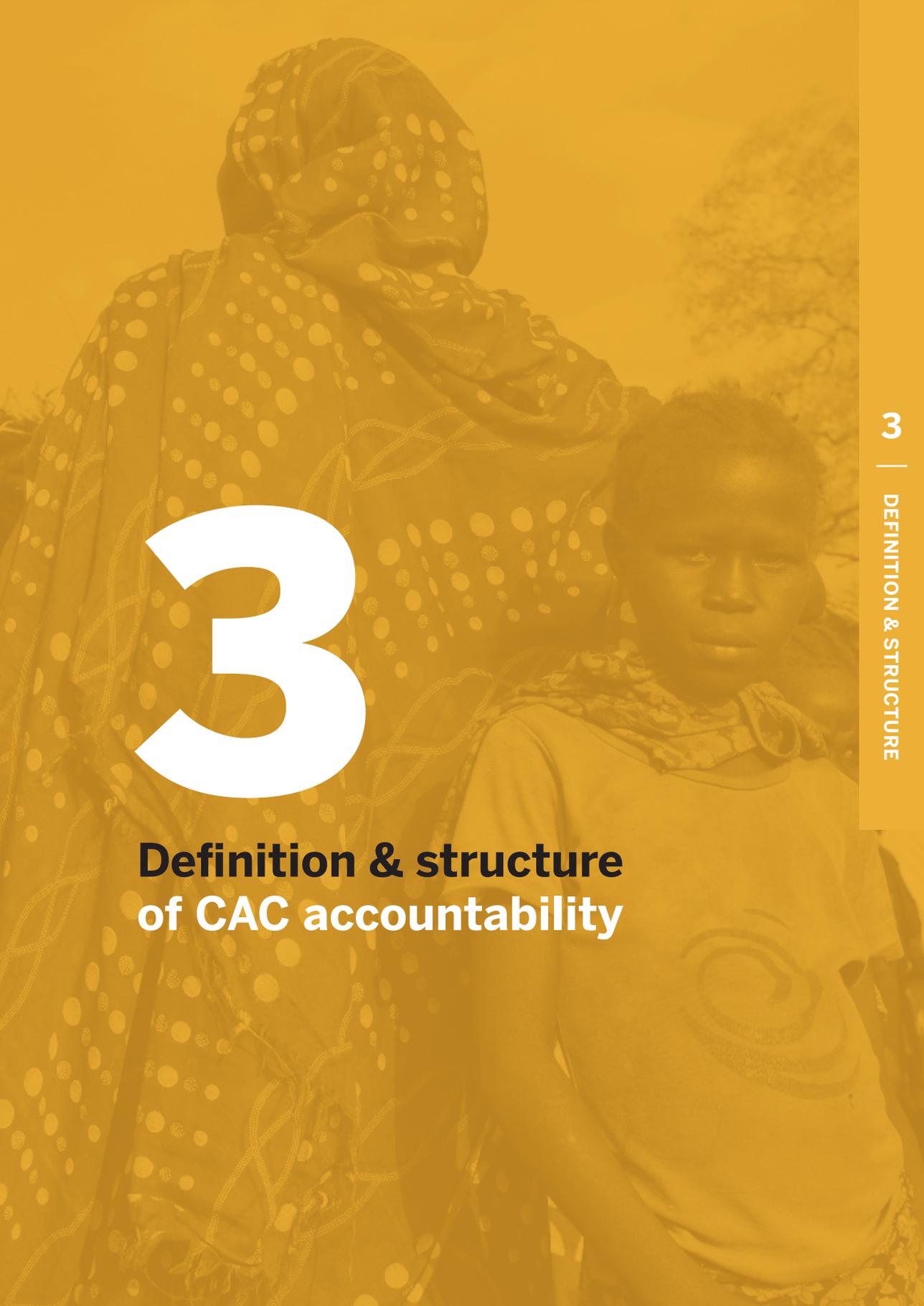
## 2.2.4 Civil society and other local actors

Local communities often assume responsibilities related to holding States accountable to their obligations to protect children and remedy and prevent violations. At the same time, in many instances, communities also support States in upholding obligations. In particular, traditional, religious, or other community leaders may carry specific responsibilities related to CAC accountability, based on local customs. For instance, when traditional practices align with international laws and norms, cultural leaders may act as mediators or conduct ceremonies to help facilitate family and community acceptance of separated children or those formerly associated with armed forces or groups. Many local and national NGOs have specific missions relating to CAC accountability and work in areas such as monitoring and reporting, advocacy, service provision, and others.

Affected children and youth often express a desire to play an active role in peace-building processes and accountability decisions in order to seek truth, justice, and reparation. Civil society and other actors can support this role for affected children (and youth) in a manner that is appropriate to their ages and evolving capacities.

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40 The European Union's Guidelines on Children and Armed Conflict offer a range of tools for members to engage with countries listed for committing grave violations in the annexes of the Secretary-General's annual report on children and armed conflict, including political dialogue, crisis management operations, training, and other measures (see European Union, *EU Guidelines on Children and Armed Conflict*, 15634/03, (9 December 2003)). The African Union has also committed to integrate the protection of CAC into its security and peace policies and operations (see African Union, *Open Session of the Peace and Security Council of the African Union on "Children and Armed Conflicts in Africa,"* Concept Note (8 May 2014)).



# 3

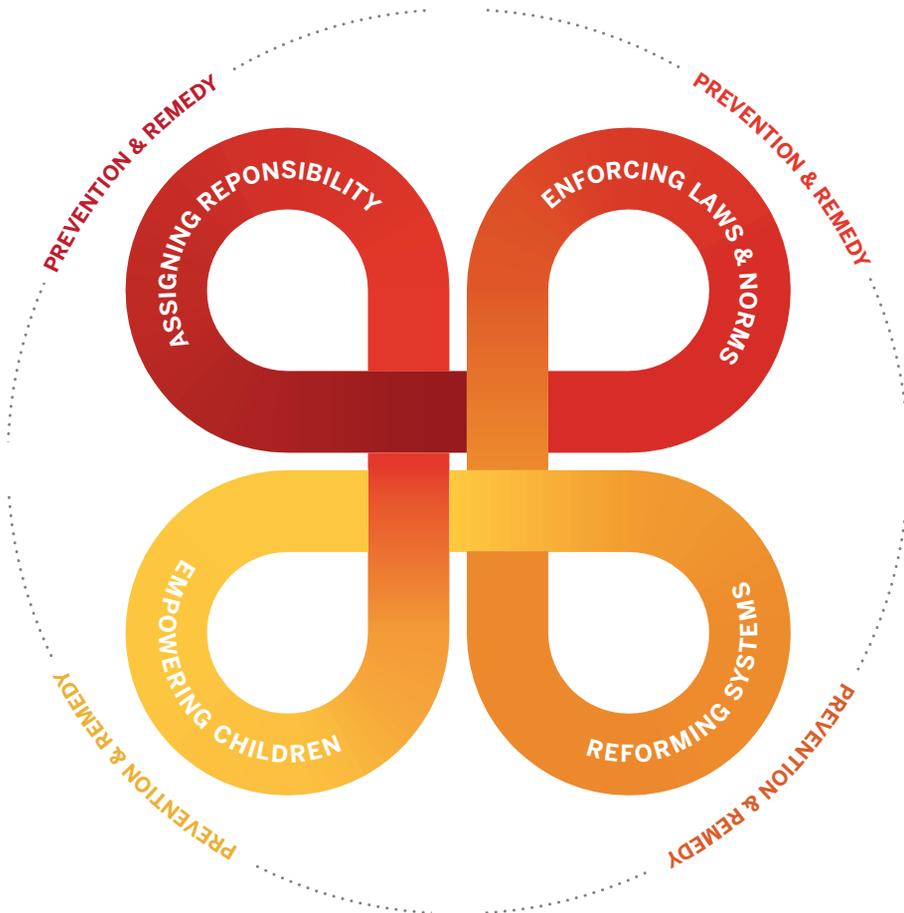
## **Definition & structure of CAC accountability**

## Definition and structure of CAC accountability

CAC accountability refers to the prevention and remedy of serious violations of international law committed against children in armed conflict. This includes both judicial and nonjudicial actions that may take place at any point in a conflict cycle – and at different levels (i.e., local, national, regional, international). CAC accountability consists of four interrelated components:

- **assigning responsibility**
- **enforcing laws and norms**
- **reforming systems**
- **empowering children.**

These components provide a structure for developing strategic approaches to accountability (see Section 4 – Guidance for developing strategic approaches to CAC accountability). CAC accountability is underpinned by the foundations of CAC accountability, international laws and norms, and roles and responsibilities of relevant actors (see Section 2 – Foundations of CAC accountability).



# 3.1

## The four components of CAC accountability

The four components of CAC accountability describe sets of actions that are collectively required to provide remedy for past violations committed against children and to prevent future violations. Each component includes judicial and nonjudicial actions, as well as punitive and nonpunitive actions. In addition to defining CAC accountability, these four components provide a structure for developing strategic approaches to advance accountability (see Section 4 – Guidance for developing strategic approaches to CAC accountability).



### 3.1.1 Assigning responsibility

This refers to gathering, analyzing, and/or releasing information to assign responsibility to perpetrators for violations committed against children in armed conflict. Perpetrators may include persons, groups, or institutions. This component may also entail assigning responsibility to States or others for failure to prevent violations. Establishing the facts and exploring underlying causes are also important outcomes of assigning responsibility.



### 3.1.2 Enforcing laws and norms

This refers to enforcing existing laws, policies, and norms, usually through sanctions, prosecutions, and/or imposing other (legitimate) consequences on perpetrators of CAC violations, such as removal from public office. Actions to enforce relevant international, regional, or national laws and norms are intended to hold perpetrators directly accountable for their actions, deter potential perpetrators, and also help (re-)establish the rule of law.



### 3.1.3 Reforming systems

This refers to reforming (or developing) State and non-State institutions and/or policies in order to strengthen (or build) systems that provide remedies for past violations and prevent future violations.<sup>41</sup> Actions include negotiating, developing, adapting, implementing, and/or raising awareness of relevant institutions, laws, policies, and/or standards. This component also involves resolving underlying structural factors that contributed or may contribute to CAC violations.

41 Examples of systems include child protection systems, transitional justice systems, and national judicial systems.



### 3.1.4 Empowering children

This refers to facilitating involvement of affected children and communities in accountability processes and decisions (appropriately reflecting differences in gender and age) and ensuring that they benefit from tangible remedies and prevention. This component builds on the potential of bringing the voices and perspectives of children, youth, and communities affected by armed conflict into decision making, assuming their roles as stakeholders in society, including in accountability and peace processes.<sup>42</sup>

Table 1 outlines the primary objectives for each of the four components of CAC accountability and offers examples of relevant CAC accountability mechanisms or actions. Some of the actions listed as examples can relate to more than one component, for example, criminal prosecution; reparations; disarmament, demobilization, and reintegration (DDR) (see Section 3.2.2 – Interconnections among components).

**Table 1: Overview of the four components of CAC accountability**

Component	Primary Objective	Examples of Accountability Mechanisms or Actions
<b>Assigning responsibility</b> through gathering, analyzing, and/or publicly releasing information	To determine which persons, groups, or institutions are responsible for committing (or failing to prevent) CAC violations	<b>Judicial:</b> criminal investigations (domestic, regional, international, hybrid); civil suits (legal petitions, affidavits, witness testimony)  <b>Nonjudicial:</b> commissions of inquiry; fact-finding missions; some forms of monitoring and reporting and truth-telling procedures; treaty body reporting systems; traditional or community-based justice mechanisms
<b>Enforcing laws and norms</b> through applying sanctions, prosecuting and/or imposing other (legitimate) consequences against perpetrators of CAC violations	To enforce existing laws, policies, and norms	<b>Judicial:</b> criminal prosecutions (local, national, regional, international, hybrid); civil suits (asset recovery, corporate liability, court-ordered reparations); other judicial remedies (fines and penalties)  <b>Nonjudicial:</b> removal from political power; travel bans; asset freezes

<sup>42</sup> Reparations are particularly important for empowering children and communities as they require the State and others to publicly acknowledge the violations that occurred. The experience of public acknowledgment of violations reaffirms the rights of children affected by armed conflict (see Section 3.2.2 – Interconnections among components).

**Table 1: Overview of the four components of CAC accountability (continued)**

Component	Primary Objective	Examples of Accountability Mechanisms or Actions
<p><b>Reforming systems</b> by negotiating, developing, adapting, implementing, and/or raising awareness of relevant laws, policies, norms, and/or institutions</p>	<p>To strengthen (or develop) CAC accountability systems</p>	<p><b>Judicial:</b> reform to laws and/or legal frameworks, including justice sector reform, and child protection laws; creation of judicial instruments (e.g., courts, special prosecutors, and police units)</p> <p><b>Nonjudicial:</b> formal commitments, plans, strategies (e.g., UN Action Plans or Geneva Call's Deed of Commitment); security sector reform (SSR) and other institutional reforms, including vetting procedures,<sup>43</sup> transitional justice reforms; increasing institutional capacity<sup>44</sup></p>
<p><b>Empowering children</b> by involving them in accountability processes and decisions (appropriately reflecting differences in gender and age) and supporting their recovery and building resilience</p>	<p>To facilitate involvement of children and communities and ensure they benefit from tangible remedies and prevention</p>	<p><b>Judicial:</b> programs/policies facilitating children's access to justice; court-ordered reparations</p> <p><b>Nonjudicial:</b> children's participation in documentation of violations; child/youth consultations on institutional reforms; support of child-/youth-led initiatives; humanitarian programming (e.g., reintegration programs, family reunification, psychosocial, economic, and other support); public apologies; memorials</p>

43 Vetting usually entails a formal process for the identification and removal of individuals responsible for abuses, especially from police, prison services, the army and the judiciary. UN Security Council, *Report of the Secretary-General on the Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies*, S/2004/616 (23 August 2014), para. 52.

44 Increasing institutional capacity may entail financial support, hiring staff with specific expertise, raising awareness, and providing trainings, among others.

# 3.2

## Important features of CAC accountability

Five features further characterize the four components of CAC accountability by clarifying their objectives, relations with one another, and application. These features are:

- dual focus on prevention and remedy
- interconnections among components
- comprehensive action across components
- timing of actions
- sequencing of actions.

### 3.2.1 Dual focus on prevention and remedy

Each of the four components has an inherent focus on both prevention and remedy. While not required, in some cases it may be possible for a single program, policy, or action to focus on both prevention and remedy. For example, a government program that provides educational scholarships or catch-up learning opportunities to formerly abducted children can also strengthen a child's resilience against future violations. This exemplifies the strong connections between dealing with the past and taking proactive steps to prevent violations from (re-)occurring.

Table 2 illustrates aspects of both prevention and remedy in each of the four components.

**Table 2: Dual focus on prevention and remedy**

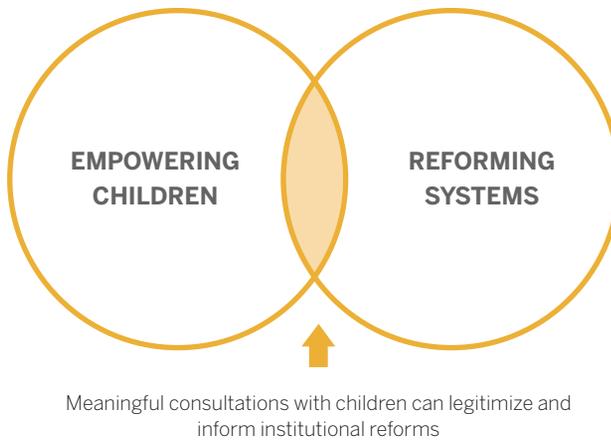
Component	Remedy	Prevention
<b>Assigning responsibility</b>	Expose the perpetrator and publicly acknowledge the violation.	Alert communities, deter potential perpetrators, and inspire and inform response.
<b>Enforcing laws and norms</b>	Fight impunity, ensure children's right and access to justice.	Deter potential perpetrators and reinforce the rule of law.
<b>Reforming systems</b>	Change the system that allowed the violation to occur.	Change the system to render children safe from future violations.
<b>Empowering children</b>	Support children's recovery and provide remedies for harm suffered.	Strengthen children's capacity to protect themselves and/or others from violations.

## 3.2.2 Interconnections among components

The four components closely relate to one another and build on each other. These connections can have a positive multiplier effect on CAC accountability outcomes.

- **“Empowering children” and “Reforming systems”**  
Meaningfully consulting children (i.e., incorporating their experiences, insights, and perspectives into decision making about accountability processes) can legitimize and inform institutional reforms.

**Figure 2: Example: Connections between “Empowering children” and “Reforming systems”**



- **“Reforming systems” and “Enforcing laws and norms”**  
Restructuring and strengthening the capacity of actors in the security and/or judicial sector can facilitate efforts to hold perpetrators accountable.
- **“Enforcing laws and norms” and “Assigning responsibility”**  
Imposing sanctions on perpetrators of CAC violations can encourage others to document violations committed by the same or other perpetrators.

Components can also be connected through programs or actions that relate to multiple components. For example, **reparations programs** are particularly important for advancing CAC accountability as they relate to each of the four components. The UN Basic Principles and Guidelines specify the following five forms of reparations: restitution, compensation, rehabilitation, satisfaction, and guarantees of nonrepetition.<sup>45</sup>

Table 3 illustrates how different forms of reparations relate to each of the four components of CAC accountability.

<sup>45</sup> For a full definition of each of these forms, see UN General Assembly, *Basic Principles and Guidelines* (2006).

**Table 3: CAC accountability components and reparations**

Examples of Reparations	Relevant CAC Accountability Component	Relevant Form of Reparations
Public apology by a party to conflict for CAC violations	Assigning responsibility	Satisfaction (official declarations, apologies and tributes to the victims)
Asset freeze by a regional or international body against (an) alleged perpetrator(s) of CAC violation(s)	Enforcing laws and norms	Satisfaction (effective measures aimed at the cessation of continuing violations)
Policy of national armed forces that prohibits CAC violations	Reforming systems	Guarantee of nonrepetition (ensuring effective civilian control of military and security forces)
Provision of medical care by national authorities to children who suffered physical injury due to armed conflict	Empowering children	Restitution (medical and psychological care and access to legal and social services)

**DDR programs** are another example of how the four components are connected through a program or system. In contrast to reparations programs, a DDR program may not be primarily or intentionally designed for the purpose of accountability. Yet, the program may still reflect multiple components of CAC accountability, as illustrated in the following examples:

- Information collected through the DDR process can serve as a basis for actions to hold groups and individuals responsible for recruiting and using children and committing other violations against them.<sup>46</sup> (Assigning responsibility)
- Information gained through DDR processes may contribute to implementation of enforcement measures against perpetrators. (Enforcing laws and norms)
- DDR is often part of a broader process of security sector reform, which can include measures to prevent child recruitment and/or use. (Reforming systems)
- Reintegration measures can include programs that serve to empower children, such as catch-up educational opportunities, livelihoods trainings, and others. (Empowering children)

<sup>46</sup> UNICEF, *Paris Principles* (2007), para. 6.15.

### 3.2.3 Comprehensive action across components

This Framework emphasizes the need for a multidimensional approach to CAC accountability. Each of the four components represents an essential part of CAC accountability and together they reflect fundamental rights to truth, justice, and effective remedy and reparations, including guarantees of nonrepetition.<sup>47</sup> Therefore, accountability depends on actions in all four components in any given context.

This does not mean that individual accountability mechanisms are responsible for action in more than one component. Rather, it means that, on the whole, different mechanisms would be working to achieve results for children and their communities across all four components. For example, accountability is not fully achieved if some organizations are documenting and reporting serious CAC violations without others pursuing actions in the other three component areas, such as imposing sanctions on implicated perpetrators, strengthening the capacity of State authorities toward prevention and providing care, and other appropriate supports to affected children and their communities.

### 3.2.4 Timing of actions

CAC accountability is most effective when it takes place as close in time to the occurrence of the violation as possible. Taking swift action can help mitigate the impact of the violation on the child and boost the potential preventive capability of the action. For example, if an armed group attacks school children on their way to school, an immediate response — such as investigating the incident, arranging for protective adults to accompany students to school, and providing children with proper care for physical or psychological injuries — can have a range of positive effects, such as enabling children to safely continue attending school. By engaging promptly and comprehensively, accountability mechanisms and/or related actors can reduce the negative impact of a violation on a child's development and send a signal to perpetrators, communities, and others that violations against children are unacceptable and that there will be serious consequences for committing such violations.

In some instances, policymakers tie comprehensive CAC accountability to progress in a peace process even though these processes can be long and politically contested. This approach can delay time-sensitive actions in remedying and preventing violations, which can negatively impact the chances of building sustainable peace in the long term. Moreover, this approach assumes that a peace agreement or political transition will bring new opportunities to address accountability concerns, which may not always be the case.

This Framework highlights the relevance of the four components of CAC accountability at all points of a conflict cycle, including during emerging and active conflict, as well as in the aftermath of armed conflict. There is a range of accountability actions that policymakers and practitioners pursuing accountability can take, even in the

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<sup>47</sup> These four rights also guide transitional justice approaches, which include judicial accountability, such as criminal investigations and prosecutions, as well as truth-seeking and memorialization, reparations, and institutional reforms as core elements. See UN General Assembly, *Basic Principles and Guidelines* (2006).

most volatile conditions. For instance, the UN can engage in dialogue with parties to armed conflict, regardless of the parties' political status or the stage of conflict, to support their adoption of an Action Plan for halting grave CAC violations.

### **3.2.5 Sequencing of actions**

The nature of the components is nonsequential. This provides opportunities for prioritizing all four components at once. Ideally, different mechanisms would pursue actions within each of the components in parallel, based on their distinct mandates and capacity. Yet, in some instances there may be dependencies among certain actions that necessitate sequencing. For example, criminal investigations always precede prosecutions and sentencing.

In some contexts, where it may not be practically possible to progress to the same extent in all four components at a given time, progress in one component can build opportunities or space for future progress in other areas. For example, in the midst of intense armed conflict it may not be feasible or possible for national courts to pursue criminal prosecutions, yet civil society and others may continue to carefully monitor and document sexual violence or rape for later use in legal proceedings and/or other accountability efforts. Still, it is worth noting that in such a scenario there may also be other methods for enforcing laws and norms that could be practical and possible, such as imposition of sanctions, for example, asset freezes or travel bans on armed forces or groups known to commit sexual violence in the context of armed conflict.



# 4

## **Guidance for developing strategic approaches to CAC accountability**

## Guidance for developing strategic approaches to CAC accountability

Drawing on the CAC accountability foundations, definition, structure, and features, this section provides practical guidance to users (i.e., individuals and organizations using this Framework) to develop strategic approaches to advance CAC accountability. It guides users to identify opportunities and challenges related to CAC accountability and to develop and prioritize options for taking action.

The practical guidance consists of the following steps presented in two parts:

### Understand the CAC accountability environment

Step 1: Examine influencing factors

Step 2: Examine CAC accountability mechanisms

### Develop strategic options

Step 3: Develop options

Step 4: Prioritize options

Users can adapt the guidance to meet their specific needs by tailoring the exercises for:

- a specific context (e.g., a specific country or region affected by armed conflict);
- a specific level (e.g., local, national, regional, or international level);
- a specific accountability system or mechanism (e.g., national judicial system, UN human rights regime, the UN-led MRM);
- a specific CAC violation (e.g., attacks against schools and hospitals; denial of humanitarian access).

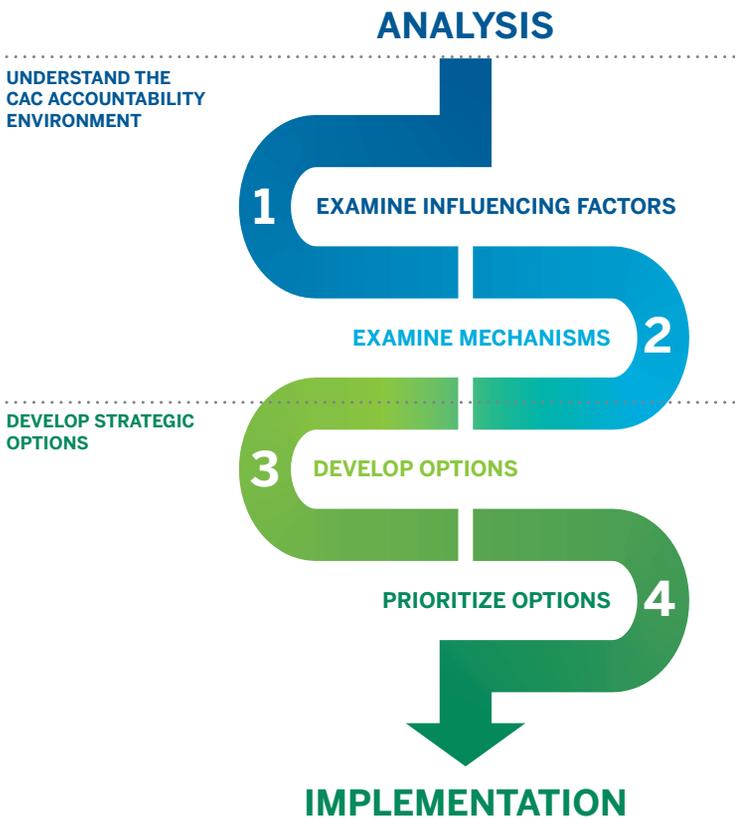
During and even after completing the guidance steps, it is important for users to regularly review their work and make adjustments when needed in order to reflect the evolving circumstances of armed conflicts as well as the evolving experiences, needs, and interests of children. When possible, it is useful to record the outcomes of the exercises presented in this guidance.

# 4.1

## Understand the CAC accountability environment

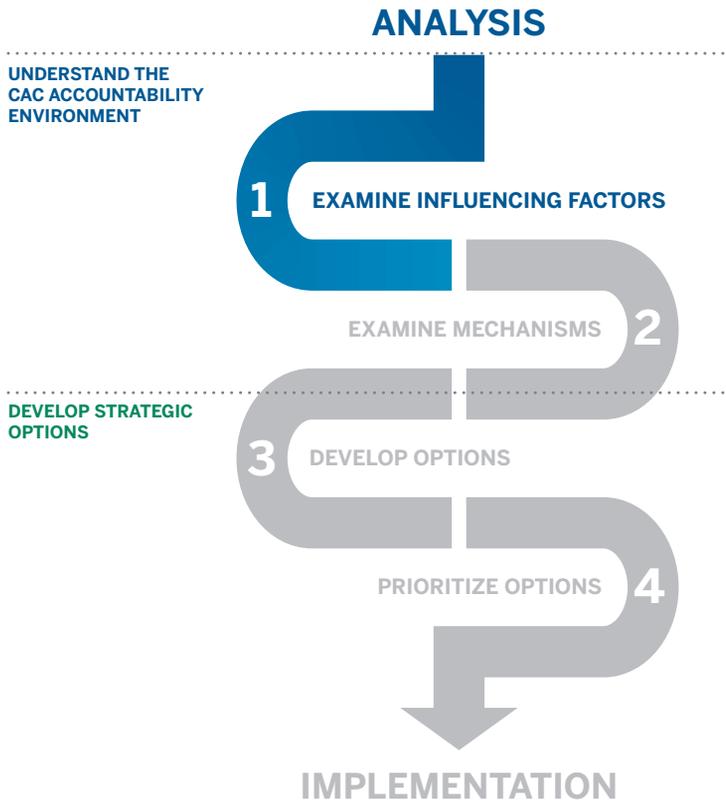
Understanding the context is central to developing a strategic approach to CAC accountability. There are several aspects for users to consider in any given context, which vary in nature and relative importance from one conflict setting to another. The first steps (Steps 1 and 2) guide users to analyze these aspects. The primary aspects for consideration are:

- contextual factors that influence CAC accountability
- functionality and other aspects of CAC accountability mechanisms
- levels of CAC accountability activity
- existing or potential linkages among CAC accountability mechanisms.



## 4.1.1 Step 1: Examine influencing factors

This step guides users to identify and analyze contextual factors that influence CAC accountability outcomes in different ways.



### Identify influencing factors

Users can identify influencing factors by considering the foundations of CAC accountability (see Section 2 – Foundations of CAC accountability) and using the four components as a structure for organizing the influencing factors (see Section 3.1 – The four components of CAC accountability).

For instance, by identifying and considering a State’s compliance with a relevant international treaty, such as the CRC-OPAC, users may evaluate a government’s willingness and ability to engage on CAC accountability. Table 4 provides some questions, organized according to the foundations and the four components, that users can consider to help identify influencing factors in a specific context. It also provides correlating examples of influencing factors.

**Table 4: Identifying influencing factors**

INFLUENCING FACTORS CATEGORIZED BY THE FOUNDATIONS OF CAC ACCOUNTABILITY		
Foundations (see Section 2.1 - International laws and norms)	Questions for Consideration	Examples of Influencing Factors
Compliance with international laws and norms	<ul style="list-style-type: none"> <li>• Has the State ratified relevant international treaties?</li> <li>• In practice, do parties to armed conflict comply with relevant laws and norms?</li> </ul>	<ul style="list-style-type: none"> <li>• Level of compliance with CRC provisions</li> <li>• Existence of national child rights laws or policies</li> </ul>
Respect for roles and responsibilities	<ul style="list-style-type: none"> <li>• Are local and national authorities willing and/or able to fulfill relevant obligations under national and/or international laws in regard to CAC accountability?</li> <li>• Are other actors (e.g., NSAGs, international bodies, local communities) fulfilling their respective roles and responsibilities?</li> </ul>	<ul style="list-style-type: none"> <li>• Level of willingness among political actors to support accountability mechanisms</li> <li>• Level of technical knowledge of relevant obligations under national and international laws in regard to CAC accountability</li> </ul>

INFLUENCING FACTORS CATEGORIZED BY THE FOUR COMPONENTS OF CAC ACCOUNTABILITY		
Components (see Section 3.1 - The four components of CAC accountability)	Questions for Consideration	Examples of Influencing Factors
Assigning responsibility	<ul style="list-style-type: none"> <li>• Is timely and relevant information about serious CAC violations publicly available?</li> <li>• Do any parties to conflict obstruct/facilitate access to information?</li> </ul>	<ul style="list-style-type: none"> <li>• Level of coordination across data collection efforts</li> <li>• Level of involvement of victims in the documentation of CAC</li> </ul>
Enforcing laws and norms	<ul style="list-style-type: none"> <li>• Are perpetrators of CAC violations identifiable and accessible?</li> <li>• Do any parties to conflict obstruct/facilitate investigation, prosecuting, and sentencing perpetrators of CAC violations?</li> </ul>	<ul style="list-style-type: none"> <li>• Level of intimidation and threats to members of the judiciary and/or victims and witnesses</li> <li>• Use of amnesty provisions</li> </ul>
Reforming systems	<ul style="list-style-type: none"> <li>• Do relevant ministries/organizations have the mandate, resources, and/or capacities to pursue reforms?</li> <li>• Has the State engaged in judicial, security sector, and other reforms? Has there been a DDR process for adults/children?</li> <li>• Is a peace process underway? If yes, what is the stage and nature of this process?</li> </ul>	<ul style="list-style-type: none"> <li>• Level of “good” governance practices and technical capacity of existing state structures</li> <li>• Level of impartiality of the national justice systems</li> <li>• Level of success of DDR process</li> </ul>

**Table 4: Identifying influencing factors (continued)**

INFLUENCING FACTORS CATEGORIZED BY THE FOUR COMPONENTS OF CAC ACCOUNTABILITY		
Components (see Section 3.1 - The four components of CAC accountability)	Questions for Consideration	Examples of Influencing Factors
Empowering children	<ul style="list-style-type: none"><li>• Have children affected by armed conflict (especially older children/youth) participated in decision making related to CAC accountability before, during, and/or after the conflict?</li><li>• How does the State treat children differently from adults? Are there societal differences in the perception and treatment of boys and girls?</li><li>• Do educational, economic, and other opportunities exist for conflict-affected youth?</li></ul>	<ul style="list-style-type: none"><li>• Level of involvement of affected children and their communities in transitional justice mechanisms</li><li>• Level of youth unemployment</li><li>• Level of resources available for empowerment and prevention activities</li></ul>

### Analyze influencing factors

Some factors have a positive, enabling influence on CAC accountability while others have a negative or constraining influence. In some instances, influence may be mixed or uncertain. For example, heavy investment of resources by the State and donor governments to reform relevant institutions is likely to have an enabling influence on CAC accountability, while parties to conflict obstructing, intimidating, or threatening judges and prosecutors is likely to have a negative influence. Other factors, such as an upcoming election or newly initiated peace negotiations, may have a mixed or uncertain influence on CAC accountability.

Additionally, the degree of influence (i.e., high, medium, or low) that different factors have on CAC accountability varies from one context to another and may fluctuate over time.

The following questions facilitate analysis of influencing factors in a specific context:

Is the factor's **type of influence** on CAC accountability mostly positive, mostly negative, mixed, or uncertain?

- **Positive:** factors that mostly enable CAC accountability.
- **Negative:** factors that mostly inhibit CAC accountability.
- **Mixed:** factors that enable certain aspects of CAC accountability and inhibit others.
- **Uncertain:** factors that do not clearly enable or inhibit CAC accountability.

Is the factor's degree of influence on CAC accountability high, medium, or low?

- **High:** factors that have a strong impact on CAC accountability.
- **Medium:** factors have a moderate impact on CAC accountability.
- **Low:** factors that are present but have limited impact on CAC accountability.

Figure 3 plots the key points for analysis on a matrix categorized by type and degree of influence. This matrix can indicate which influencing factors users may want to try to mitigate due to potential risk or leverage as a potential opportunity. Some factors may hover between quadrants, for example if their influence is uncertain or mixed.

**Figure 3: Matrix to support analysis of factors by type and degree of influence**

		TYPE OF INFLUENCE	
		Positive	Negative
DEGREE OF INFLUENCE	Low	<b>Potential opportunity</b> Increased humanitarian access to certain areas  Upcoming elections	<b>Potential Risk</b>
	High	<b>Opportunity</b> Strong technical capacity Strong judiciary	<b>Risk</b> Inadequate resources Corruption

## Influencing factors

### Low prioritization of CAC accountability in Nepal

Since the end of the armed conflict in Nepal in 2006, national authorities, civil society members, and others have tended to place a low level of importance on CAC accountability issues.

Some individuals interviewed as part of the research underpinning this Framework attributed this low level of prioritization to the fact that many of the children who suffered violations during the armed conflict were no longer under the age of 18 and no longer comprised a visible or cohesive group to which programs or policies could be easily targeted. At the same time, interviewees emphasized that many of these young adults remained in risky and insecure circumstances and retained the right to redress for past violations. Additionally, relevant international and national coordination structures that existed during the armed conflict, such as the MRM or the Children Associated with Armed Forces and Armed Groups (CAAFAG) Working Group, had since been dissolved.

The low level of prioritization is further reflected in the fact that Nepal's Truth and Reconciliation Commission and Commission of Investigation on Disappeared Persons, the primary vehicles for addressing crimes committed during the armed conflict, were not designed to specifically address CAC violations.<sup>48</sup>

### High prioritization of implementing the UN Action Plan in Chad

In 2013, the Government of Chad committed troops from the National Army (Armée Nationale Tchadienne (ANT)) to the new UN Multidimensional Integrated Stabilization Mission in Mali (MINUSMA).<sup>49</sup> However, various actors raised concerns that inserting the Chadian troops could breach the UN's human rights policies (and undermine the UN-led MRM) because the ANT had not successfully implemented its 2011 UN Action Plan to end the recruitment and use of children in the national army and the security forces.<sup>50</sup>

<sup>48</sup> For more information, see UN Office of the High Commissioner for Human Rights, *OHCHR Technical Note: The Nepal Act on the Commission on Investigation of Disappeared Persons, Truth and Reconciliation, 2071 (2014) – as Gazetted 21 May 2014 (2014)*.

<sup>49</sup> UN Security Council Resolution 2100 (2013) mandated the takeover of the African-led Support Mission to Mali (AFISMA) into a UN peacekeeping mission (MINUSMA) on 1 July 2013. Chad was a troop-contributing country to AFISMA.

<sup>50</sup> While the process leading up to the signing of the Action Plan had benefited from high-level bilateral diplomacy and from the presence of the United Nations Mission in the Central African Republic and Chad (MINURCA), inadequate resources and capacities of the government and the UN, as well as limited political commitment by the relevant government, slowed down its implementation. For more information, see Watchlist on Children and Armed Conflict, *Action Plans to Prevent and End Violations Against Children* (New York: 2013).

Working to insert Chadian troops in MINUSMA, the UN supported the Government of Chad to “fast track” implementation of the Action Plan through the joint development of a 10-point road map, intended to ensure compliance with some aspects of the Action Plan.<sup>51</sup> By the end of November 2013, the UN had asked Chad to implement five out of the ten short-term measures stipulated in the road map and permitted Chad to deploy its troops with MINUSMA.

Subsequently, the Chadian Government made some advances toward improving its policies and practices on child recruitment and use. Advances included improved methods for age verification; a presidential directive establishing 18 as the minimum age for recruitment into the armed and security forces, and imposing “penal and disciplinary sanctions” against violators; a presidential decree criminalizing child recruitment and use; and some trainings on child protection and international humanitarian law for Chadian troops prior to deployment with MINUSMA.<sup>52</sup> In May 2014, the UN Secretary-General removed ANT from his annual list of parties known to recruit and/or use children for military purposes.

Despite some progress, the 2014 UN Secretary-General’s report on children and armed conflict also highlighted the need to continue screening and training the Chadian armed and security forces and to operationalize additional aspects of the road map, including measures such as free and accessible birth registration.<sup>53</sup> Furthermore, some UN and NGO representatives interviewed for this Framework highlighted the need to ensure long-term institutionalization of these advances for child protection and accountability, citing concerns about a possible rollback once attention and resources have decreased.<sup>54</sup>

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51 *Report of the Secretary-General, A/68/878-S/2014/339* (2014).

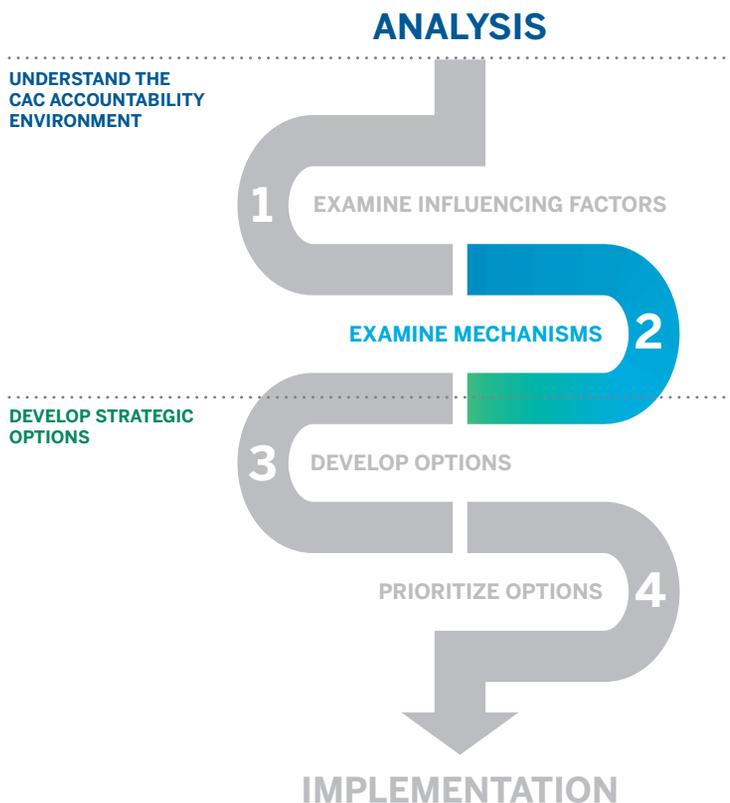
52 *Ibid.*

53 *Ibid.*

54 Child Soldiers International, *Chad: Briefing on the status of implementation of the June 2011 Action Plan on children associated with armed forces and groups and its 10-Point Roadmap* (London: 2014).

## 4.1.2 Step 2: Examine CAC accountability mechanisms

This step guides users to identify accountability mechanisms and analyze various aspects of their existence, specifically regarding their functionality, their levels of activity, and linkages among them.

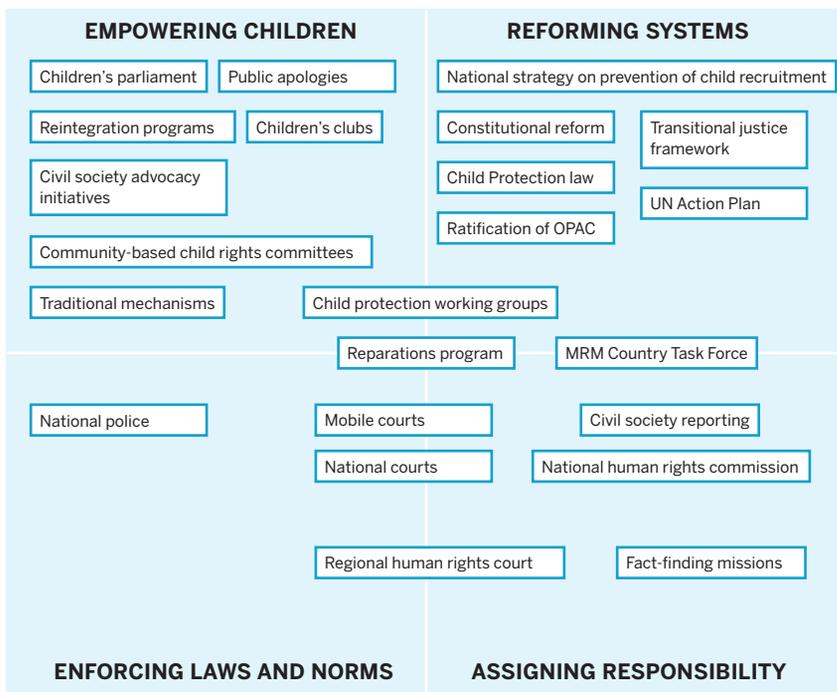


### Identify accountability mechanisms

The four components of CAC accountability provide an effective structure for mapping accountability mechanisms.<sup>55</sup> It is important to identify and include in the map all accountability mechanisms, both those that are “successful” and those that are “less successful.” Users can conduct this exercise by focusing on mechanisms active at one or more levels. For example, a local actor may find it easier and more useful to identify those accountability mechanisms that exist in their community and municipality rather than mechanisms at the international level. Sample map 1 includes a range of national and international mechanisms that may appear in a given context and plots them according to CAC accountability components. Some mechanisms may fall in more than one component area.

<sup>55</sup> Users can also choose from other possible organizing structures for the mapping process, such as sorting mechanisms by level (i.e., international, regional, national, local), type of actor (i.e., government, UN, NGO, civil society), or by type of mechanism (i.e., judicial and nonjudicial).

## Sample map 1: Mechanisms organized by the four components



### Analyze the functionality of mechanisms

Three criteria serve as starting points for analyzing the functionality of mechanisms:

- set-up (purpose and structure)
- implementation (activities toward achieving mission/mandate)
- outcomes (results of the activities).

Reasons for satisfactory or unsatisfactory performance in these three areas may be the result of internal factors that are specific to the mechanism or they may be external or contextual (see Section 4.1.2 – Examine CAC accountability mechanisms).

In addition to considering current levels of functionality, users can also explore the untapped potential of a mechanism to advance CAC accountability.

Table 5 provides sample guiding questions to begin analyzing the functionality of mechanisms.

**Table 5: Analyzing the functionality of mechanisms**

Aspects of Functionality	Category	Questions for Consideration
<b>Set-up</b> (as specified in mandate and formal or informal commitments)	Specificity	<ul style="list-style-type: none"> <li>Does the mechanism specify its commitment toward achieving accountability for CAC?</li> </ul>
	Strength of commitment	<ul style="list-style-type: none"> <li>Is the commitment binding and/or widely known and accepted by actors associated with the mechanism? By the community?</li> </ul>
	Flexibility	<ul style="list-style-type: none"> <li>Does the mechanism’s set-up restrict its ability to engage on CAC accountability, for example, by interdicting contact with certain types of actors, actions in certain territories, etc.?</li> <li>Are all relevant groups of CAC addressed?</li> </ul>
<b>Implementation</b>	Capacity, durability, affordability	<ul style="list-style-type: none"> <li>Does the mechanism have sufficient technical capacity, staff, and financial resources?</li> </ul>
	Timeliness	<ul style="list-style-type: none"> <li>Does the mechanism act (and follow through) in a timely manner that is commensurate with the urgency of the situation?</li> </ul>
	Participation	<ul style="list-style-type: none"> <li>Does the mechanism facilitate the safe and meaningful participation of children and youth (of different ages and gender) in decisions that directly affect them?<sup>56</sup></li> <li>Do children and affected communities have access to timely and relevant information from the mechanism?</li> </ul>
	Adherence to relevant laws and norms	<ul style="list-style-type: none"> <li>Does the mechanism operate in a manner that is consistent with relevant international and national laws and norms? (See Section 2.1 – International laws and norms.)</li> </ul>
	Monitoring and evaluation	<ul style="list-style-type: none"> <li>Does the mechanism regularly monitor and evaluate its progress in achieving CAC accountability and shift course as/when needed?</li> </ul>
<b>Outcomes</b>	Satisfaction of communities	<ul style="list-style-type: none"> <li>What degree of satisfaction do children and communities express for outcomes of this mechanism?</li> </ul>
	Remedy and prevention	<ul style="list-style-type: none"> <li>Has the mechanism contributed to remedying and preventing CAC violations, e.g., through reform, changing social norms, rehabilitating perpetrators?</li> </ul>

56 For further reference on resources to facilitate meaningful child and youth participation, please see Save the Children, *A Toolkit for Monitoring and Evaluating Children’s Participation: A six-part guide on how to monitor and evaluate children’s participation in programmes, communities, and in wider society* (London: 2014); International Center for Transitional Justice, *Engaging Children and Youth in Transitional Justice Processes: Guidance for Outreach Programs* (New York: 2012).

## Functionality of mechanisms

### Weak capacity of military justice mechanisms in Democratic Republic of Congo (DRC)

Despite widespread evidence of the recruitment and/or use of children by armed forces and groups in DRC, as of mid-2015 there had not been a single conviction by national military courts for this crime. In DRC, military courts have exclusive jurisdiction over members of the military and armed groups.

In 2006, a military tribunal in Bukavu convicted Jean-Pierre Biyoyo, a former leader of a Mai Mai militia faction in South Kivu known for recruiting and using children, of the crime of “abduction by deceit” under Congolese law. However, this was not technically a conviction for the war crime of recruitment and/or use of children and did not involve application of the Rome Statute for the conviction.<sup>57</sup>

Military justice actors consulted for this Framework attributed the lack of convictions for this crime in part to insufficient technical capacity and resources of the courts to deal with conflict-related crimes against children. For example, some interviewees noted that relevant offices lack the skills required to conduct age verification to support charges of recruitment and use of children.

Additionally, there is limited awareness among judicial authorities of the Congolese Child Protection Law (2009), which prohibits the recruitment and use of individuals below the age of 18 into armed forces or groups and the national police, and which sanctions violators with imprisonment and/or fines.<sup>58</sup> It is important to note that military justice actors also attributed the lack of convictions to the FARDC’s inability to arrest NSAG commanders due to the FARDC’s lack of territorial control over certain areas where NSAGs operate.

The UN and some international NGOs offer some judicial assistance in DRC, such as mobile courts (“*audiences foraines*”), which travel to sites of serious crimes in eastern Congo to support investigations and prosecutions of members of armed forces or groups accused of having committed serious violations. As of mid-2015, these initiatives had primarily focused on cases of sexual violence.

### Set-up and outcomes of ILO complaints mechanism in Myanmar

In 2007, the International Labour Organization (ILO) established an accountability mechanism in Myanmar to enable victims of forced labor, including recruitment or use of children for military purposes, to seek redress from government authorities.<sup>59</sup> The ILO established this mechanism on the basis of a “Supplementary Understanding with the Government of Myanmar.”

Through this mechanism, citizens are able to lodge complaints regarding alleged recruitment or use of children for military purposes (or other forms of forced labor). If government authorities deem the case to be valid, it may lead to the release of the child(ren), formal apology, imposition of punitive consequences against the perpetrator(s), compensation for the victim(s), guarantees of nonrecurrence, and/or other remedies.

Approximately 440 children were released and reunified with their families through this mechanism between February 2007 and September 2014. Actions taken through this mechanism also reportedly resulted in punitive measures against 272 perpetrators, mainly military personnel, primarily through judicial or administrative punishment and, in a few cases, imprisonment.<sup>60</sup>

Despite this progress, this system does not provide a comprehensive structure to release *all* children from armed forces and groups in Myanmar or to address underlying causes, such as the army’s informal recruitment quota system.<sup>61</sup> The mechanism also does not proactively identify cases of CAC violations, and only focuses on underage recruitment and/or use.

In 2012, the UN and ILO secured additional commitments from the Government of Myanmar toward ending violations against children, including recruitment and/or use. These were: a new Memorandum of Understanding between the government and the ILO (March 2012), in which the government pledged to end the use of forced labor, including recruitment of children, by December 2015; and a UN Action Plan to end child recruitment and use of children by the national armed forces (July 2012).

57 While the DRC Military Justice Code does not include the crime of child recruitment and use, the Rome Statute’s provisions related to crimes against children can be directly applied in DRC, which has signed and ratified the Rome Statute. See *Avocats Sans Frontières, The Application of the Rome Statute of the International Criminal Court by the Courts of the Democratic Republic of Congo* (Brussels: 2009). See also *Judgment of Biyoyo case*, DRC National Ministry of Defense, Military Justice, Tribunal Militaire de Garnison de Bukavu, Pro-Justicia, Jugement R.P. 096/2006 and RP 101/2006, RMP 292/KMC/06 and RMP 206/KMC/06, 17 March 2006; Child Soldiers International, *Briefing on the recruitment and use of children in the Democratic Republic of the Congo (DRC) to the UN Security Council Working Group on Children and Armed Conflict* (London: 2014), pg. 5.

58 Child Soldiers International, *Briefing on the recruitment and use of children in DRC* (2014).

59 For more information, see ILO, “Forced labour complaint mechanism,” <http://ilo.org/yanmar/complaints/lang-en/index.htm> [accessed 8 April 2015].

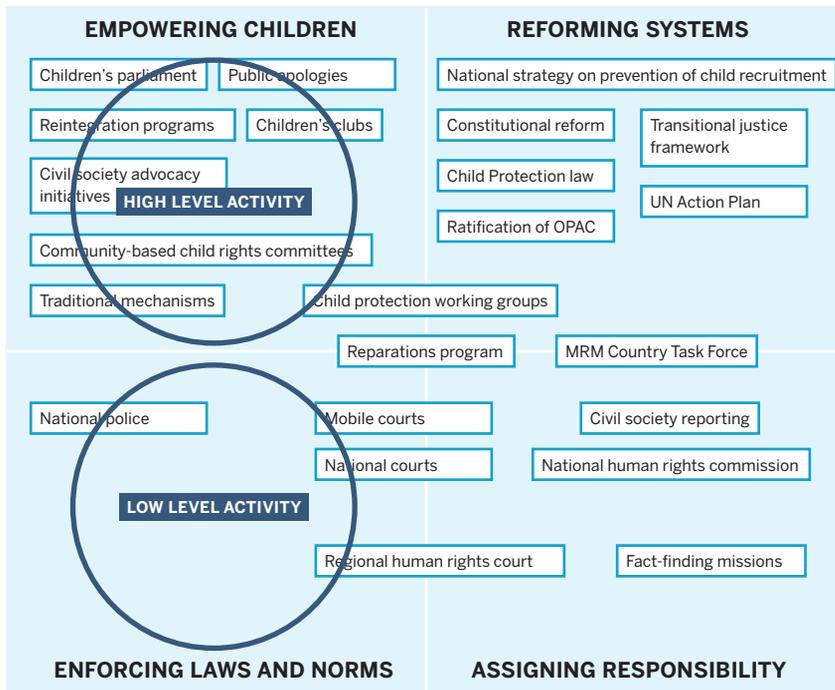
60 ILO, *Update on the Operation of the Complaint Mechanism in Myanmar*, GB.322/INS/INF/2, (30 October-13 November 2014).

61 For example, an “informal recruitment quota system and ongoing pressures to recruit into the Myanmar army” continues to put children at particular risk. Child Soldiers International, *Under the radar: Ongoing recruitment and use of children by the Myanmar army* (London: 2015).

## Analyze level of activity

Users can draw on the mapping exercise (see Section 4.1.2 – Examine CAC accountability mechanisms) to help determine the levels of activity related to advancing CAC accountability. For example, a map organized by the four components of CAC accountability will quickly reveal the level of activity in each component and in the context as a whole.<sup>62</sup> Sample map 2 indicates a high level of activity in the “empowering children” component and a low level of activity in the “enforcing laws and norms” component.

### Sample map 2: High and low level of activity



It is important to note that levels of activity are not automatic indicators of functionality or impact (see Section 4.1.2 – Examine CAC accountability mechanisms). Similarly, a low level of activity does not necessarily indicate a need for creating new mechanisms, nor does a high level of activity automatically mean that there are inefficiencies or redundancies in CAC accountability efforts. These matters can be determined through deeper research and analysis.

<sup>62</sup> It is also possible to use maps organized differently to reveal other key aspects. For example, a map organized by level might show high, medium, or low activity at different levels (i.e., international, regional, national, or local) or within a level (i.e., high level of activity at local level).

The following questions for consideration can assist deeper analysis:

High Level of Activity	Low Level of Activity
<p>What are the likely reasons for the high level of activity (e.g., response to need, political attention)?</p>	<p>What are the likely reasons for the low level of activity (e.g., lack of funding, access constraints, insecurity)?</p>
<p>Is there a need to reduce activity in this area?</p> <ul style="list-style-type: none"> <li>• Are activities redundant? Are they complementary?</li> </ul>	<p>Is there a need to increase activity in this area?</p> <ul style="list-style-type: none"> <li>• Does the low level of activity indicate a lack of need?</li> <li>• Are there logistical or other constraints to increasing activity?</li> </ul>
<p>How easy would it be to change the level of activity?</p> <ul style="list-style-type: none"> <li>• Could existing resources be easily reallocated?</li> <li>• Could (a) mechanism(s) adjust work plans to address other under-represented areas of activity?</li> </ul>	<p>How easy would it be to change the level of activity?</p> <ul style="list-style-type: none"> <li>• Are additional resources accessible?</li> <li>• Is it possible to leverage potential linkages with (a) mechanism(s) working in other areas?</li> <li>• Are there opportunities to increase technical capacity?</li> </ul>

## Level of activity

### Low level of activity and outcomes in Syria

In Syria from 2011 to early 2015, government forces and various armed opposition groups were accused of committing serious violations against children.<sup>63</sup> While some national and international organizations had been documenting information on serious violations of international law, for the most part, efforts to achieve accountability for serious CAC violations had been extremely limited and violations had continued unabated.<sup>64</sup>

According to a February 2015 report by the Independent International Commission of Inquiry on the Syrian Arab Republic, judicial proceedings in criminal, ad hoc military, and religious courts in areas under the control of both the government and various non-State armed groups were found not to be in accordance with international standards.<sup>65</sup>

At the international level, the UN Security Council had been unable to reach consensus to refer the situation in Syria to the International Criminal Court. In part, the political deadlock in the UN Security Council contributed to the overall lack of progress on CAC accountability because a referral could lay the groundwork for prosecution of war crimes, including conscripting, enlisting, or using children under 15 years old for active participation in hostilities.<sup>66</sup> Furthermore, humanitarian actors had not been able to carry out protection activities in many areas with high need due to insecurity and constraints imposed by parties to armed conflict.<sup>67</sup>

### High level of activity in reforming systems, but limited outcomes in Uganda

Since the end of the armed conflict in 2006, the Ugandan Government, with support from international and national actors, has created a range of new laws, policies, and institutions in order to redress and prevent serious violations against civilians, including children. Among others, this includes:

63 *Report of the Secretary-General, A/68/878-S/2014/339* (2014), paras. 144-153. See also Human Rights Watch, "Maybe We Live and Maybe We Die": *Recruitment and Use of Children by Armed Groups in Syria* (New York: June 2014).

64 For a list of civil society organizations working on documenting violations, see Public International Law & Policy Group and The Syria Justice and Accountability Centre, *Mapping Accountability Efforts in Syria, Annex 1: Actors Documenting Syria Transitional Justice Evidence* (New York: February 2013).

65 UN Human Rights Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, A/HRC/28/69* (5 February 2015), pg. 16.

66 See UN Security Council, *7180th meeting: The situation in the Middle East, S/PV.7180* (22 May 2014); Human Rights Watch, "Maybe We Live and Maybe We Die" (2014).

67 Human Rights Watch, "Maybe We Live and Maybe We Die" (2014).

- the Ugandan High Court's International Crimes Division (ICD), which tries genocide, crimes against humanity, war crimes, and other international crimes;
- the Human Rights Directorate within the national army, the Uganda People's Defence Force (UPDF);
- the Children's Act of 1997;
- measures to implement the UN Action Plan, such as trainings for the UPDF on child protection.<sup>68</sup>

Despite these reform activities, as of early 2015, the Ugandan Cabinet had not approved the final draft national transitional justice policy to provide the resources and comprehensive institutional structure needed to significantly advance CAC accountability.<sup>69</sup> A draft version of the policy (as of April 2015) pointed to a "lack of a holistic and coherent Government Policy and the inadequate legal framework to deal with crimes or wrongs in pre-conflict, conflict, and post-conflict situations..."<sup>70</sup>

The draft policy explicitly noted that the "special needs of women and children were not considered in the reintegration process/packages."<sup>71</sup> For example, in the absence of a distinct policy, many children (and women) received an amnesty certificate that entitled them to a "reinsertion package" consisting of 263,000 Ugandan shillings (about US\$120), a mattress, a blanket, a hoe, a machete, cups, plates, and seeds.<sup>72</sup> While the amnesty certificate protected these individuals from criminal prosecution, it also obscured any distinctions between them and other members of armed forces or groups, including high-ranking commanders. As a result, those individuals who suffered violations when they were children during the armed conflict and subsequently grew into adults had not received reparations or other adequate forms of remedy. Many continued to face high levels of social stigmatization and economic marginalization.<sup>73</sup>

68 Individuals interviewed for this Framework also mentioned other actors associated with the judiciary. For a complete overview of the judiciary, see Uganda Courts of Judiciary, *Judiciary Staff Handbook* (Kampala: 2006).

69 The draft policy envisions the (re)design of a number of accountability mechanisms, including the creation of a reparations program for victims affected by armed conflict, the reform of the Amnesty Act (preventing blanket amnesty), legislation on witness protection and victim participation, a transitional justice act to address matters of jurisdiction and implementation, guidance and capacity-building on traditional justice mechanisms, a national truth-telling process, and an autonomous commission to implement the policy.

70 Government of Uganda, Justice, Law and Order Sector (JLOS) Transitional Justice Working Group, *Transitional Justice Framework: The Republic of Uganda*, Final draft (2014).

71 Ibid.

72 IRIN, "Uganda: Lack of Funding Stalls Ex-Combatants' Reintegration," 18 June 2012, <http://www.irinnews.org/report/95672/uganda-lack-of-funding-stalls-ex-combatants-reintegration> [accessed 8 April 2015].

73 Advisory Consortium on Conflict Sensitivity, *Northern Uganda Conflict Analysis* (London: 2013); UN Security Council, *Letter dated 25 June 2012 from the Secretary-General addressed to the President of the Security Council*, Annex: Regional strategy to address the threat and impact of the activities of the Lord's Resistance Army, S/2012/481 (25 June 2012).

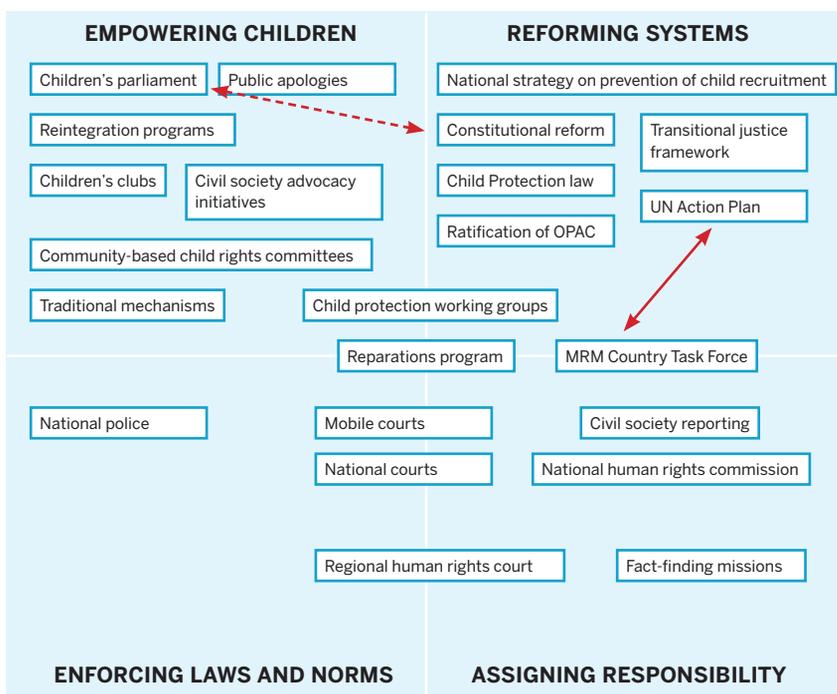
## Identify and analyze linkages among mechanisms

Linkages, or working relationships, among accountability mechanisms may take various forms, such as information sharing, joint/coordinated activities, or financial partnerships. They may be formal or informal, active or inactive, planned, or ad hoc. Analyzing linkages helps users identify opportunities to build on or revamp existing relationships, create new relationships, or divest from ineffective ones.

Leveraging positive linkages can have tangible benefits for CAC accountability. For example, child rights parliaments can submit information and recommendations to inform a constitutional reform process to ensure that the CRC is incorporated into national law. This can include provisions to ensure that children's rights are protected during armed conflict. In other cases there may be reasons to limit linkages between mechanisms. For example, humanitarian organizations may be reluctant to engage on sensitive issues with judicial or politically oriented institutions for fear of compromising the humanitarian principles. When appropriate, understanding and exploring linkages can lead to more strategic interventions.

Users can capture information about linkages in the same map used in the previous exercises. Sample map 3 indicates a linkage between the UN Action Plan and the MRM Country Task Force (solid red line) and a potential linkage between the children's parliament and the constitutional reform process (dashed red line).

**Sample map 3: Linkages among accountability mechanisms**



## Linkages among mechanisms

### Potential linkage between the UN and the ICC in South Sudan

The Human Rights Division of the UN Mission in South Sudan (UNMISS) published two reports in February and June 2014 that included extensive documentation of human rights violations, including CAC violations, committed by parties to conflict following the outbreak of violence in December 2013.<sup>74</sup> Additionally, UNICEF reported that between the outbreak of conflict and December 2014, more than 12,000 children were used by government and opposition armed forces.<sup>75</sup> The evidence gathered and documented by the investigatory teams could serve as the basis for charges before a national court or the ICC, according to individuals interviewed for this Framework. Moreover, these reports may also deter perpetrators from committing future violations.

### Linkages between the MRM Country Task Force and local communities in Afghanistan

Many serious violations committed against children in armed conflict in Afghanistan remain underreported. In part, this is due to fear of reprisals and general insecurity that hamper the ability to monitor violations. To manage this challenge, the UN-led Country Task Force on Monitoring and Reporting works with subregional task forces around the country. These subregional task forces mobilize community leaders and elders to raise awareness of child rights at the local level and, when feasible and appropriate, contribute information about cases of serious violations against children, particularly in conflict-affected areas. This linkage allows the Country Task Force to expand its network of potential sources of information.<sup>76</sup>

74 United Nations Mission in South Sudan, *Interim Report on Human Rights: Crisis in South Sudan* (21 February 2014); United Nations Mission in South Sudan, *Conflict in South Sudan: A Human Rights Report* (8 May 2014).

75 UNICEF, "One year after conflict, children still under daily threat in South Sudan," press release, 12 December 2014, [http://www.unicef.org/southsudan/media\\_15898.html](http://www.unicef.org/southsudan/media_15898.html) [accessed 8 April 2015].

76 UNICEF, OSRSG-CAAC, and DPKO, *Global Good Practices Study: Monitoring and Reporting Mechanism on Grave Violations against Children in Situations of Armed Conflict* (New York: 2013).

## Potential opportunities and risks related to “linkages” in Colombia

With Decree 4690 in 2007, the Government of Colombia established the Intersectoral Commission for the Prevention of Recruitment and the Use of Children and Youth by Armed Groups. This Commission was responsible for coordinating actions by all State entities at both national and local levels related to preventing the illegal recruitment of children. With Decree 0552 in 2012, the Commission expanded to also coordinate efforts related to prevention of sexual violence against girls, boys, and adolescents and extended from nine to 22 governmental members, including the Ministry of Defense.<sup>77</sup>

In the years since its establishment, the Commission has developed strategies, projects, programs, agreements, emergency-response working groups, and institutional action plans to prevent the recruitment and use of children and/or sexual violence against them. According to an evaluation conducted by UNICEF in 2013, some of the Commission’s efforts have proven to be effective in mobilizing actors and enhancing collaboration on protection issues, especially prevention of recruitment.<sup>78</sup> Moreover, the evaluation specifically highlighted the benefits of important strategic alliances with various national entities, including the Colombian army and national police, noting that “[t]hese alliances allow UNICEF to regularly contribute and give technical input to policies and the development and implementation of action plans and to participate in coordinating mechanisms.”<sup>79</sup>

Although Colombia is among the few conflict-affected countries that specifically prohibit the military use of schools in military policy, some individuals interviewed for this Framework indicated that the membership of the Ministry of Defense within the Commission may pose risks, citing several concerns. These include the implication of the armed forces in child rights violations, such as use of children for intelligence purposes;<sup>80</sup> sporadic reports of occupation of schools by armed forces;<sup>81</sup> and involvement of children in civic-military campaigns, which may put children and educational staff at increased risk.<sup>82</sup>

77 Vice-presidency of the Republic of Colombia, “Comisión intersectorial para la prevención del reclutamiento, la utilización y la violencia sexual contra niños, niñas, y adolescentes por grupos organizados al margen de la ley y grupos delictivos organizados,” <http://historico.vicepresidencia.gov.co/Iniciativas/Paginas/PrevencionReclutamiento.aspx> [accessed 8 April 2015].

78 UNICEF, *Evaluation of UNICEF Programs to Protect Children in Emergencies: Colombia Country Case Study* (New York: 2013).

79 Ibid.

80 UN Security Council, *Report of the Secretary-General on children and armed conflict in Colombia*, S/2012/171 (21 March 2012).

81 *Report of the Secretary-General*, A/68/878–S/2014/339 (2014); Global Coalition to Protect Education from Attack (GCPEA), *Education under Attack 2014* (New York: 2014).

82 Ibid.

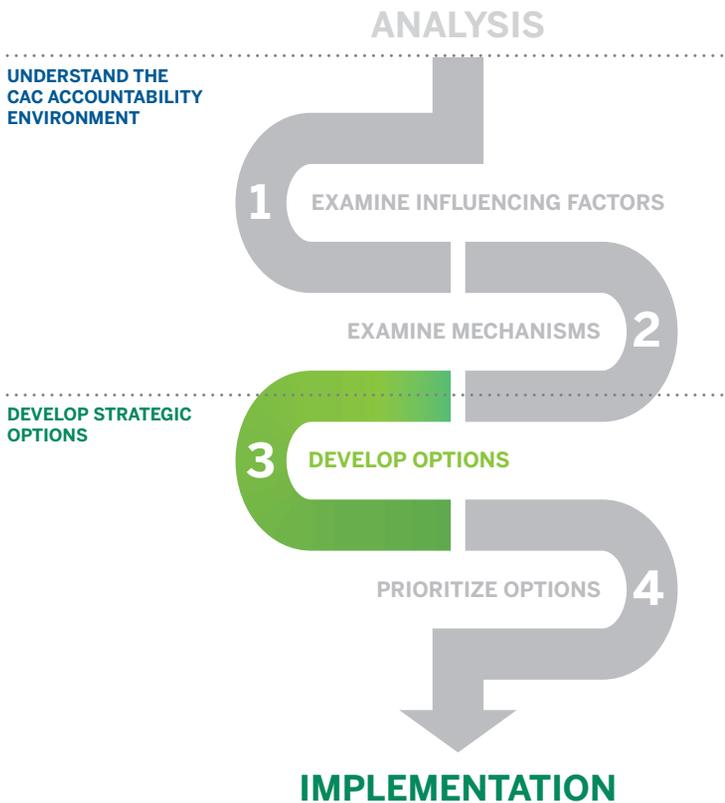
# 4.2

## Develop strategic options

Well-informed, context-specific, and feasible options for action form the core of a strategic approach to advance CAC accountability. Building on the information gathered and analysis conducted in Steps 1 and 2, Steps 3 and 4 support users to identify and prioritize tailored options and move toward their implementation.

### 4.2.1 Step 3: Identify options

Options to advance CAC accountability can take a wide range of forms, related to, for example, institutional capacities, resources, public support, coordination, or political engagement. To facilitate the process of developing options, it is important for users to openly generate options and then carefully consider feasibility and expected impact (see Section 4.2.2 – Prioritize options).



Building on the analysis conducted in Steps 1 and 2, users can identify potential options to strengthen CAC accountability outcomes by following these substeps. It may be useful to record the resulting options in a table, matrix or other format.

- Carefully review the documentation from the various analysis exercises of Steps 1 and 2.
- Identify emerging opportunities and challenges.
- Brainstorm strategies for seizing opportunities and mitigating challenges.
- Research precedents or lessons learned from the given context (and/or other contexts) to provide additional ideas for options.

Table 6 presents sample options for advancing CAC accountability based on examples of opportunities and challenges identified in Steps 1 and 2.

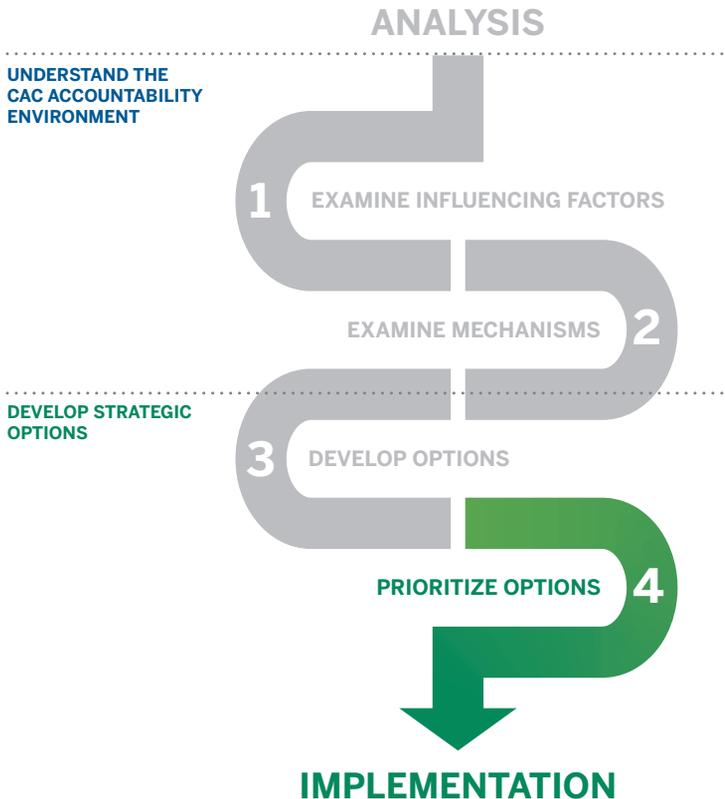
**Table 6: Sample options based on previous analysis**

Points of Analysis	Opportunity/Challenge	Examples of Potential Options
<b>Influencing factors</b>	Government not prioritizing CAC accountability	<ul style="list-style-type: none"> <li>• Conduct trainings for government officials to enhance their understanding of State roles and responsibilities related to CAC and accountability.</li> <li>• Work to integrate CAC accountability issues into reform processes and relevant funding streams.</li> </ul>
	Limited influence of children/communities in decisions affecting them	<ul style="list-style-type: none"> <li>• Use media and social media to inform and facilitate participation of affected children and youth.</li> <li>• Conduct participatory surveys, support workshops, roundtables, or other public sessions with children's parliaments or youth groups to obtain feedback and inputs.</li> </ul>
<b>Accountability mechanisms</b>	National courts lacking technical capacity to address CAC accountability issues	<ul style="list-style-type: none"> <li>• Appoint CAC accountability focal point(s) within the Ministry of Justice.</li> <li>• Provide technical support to lawyers, judges, prosecutors, and/or other relevant actors.</li> </ul>
<b>High and low level of activity</b>	Low level of activity in component "Enforcing laws and norms"	<ul style="list-style-type: none"> <li>• Establish improved protections for victims and witnesses with special attention to needs of child victims and witnesses.</li> <li>• Strengthen monitoring, reporting, and verification of CAC violations to enable application of sanctions by third-party States, regional organizations, and/or the UN.</li> </ul>
<b>Linkages</b>	Limited communications between actors working on child protection and security sector reform (SSR) at the local level	<ul style="list-style-type: none"> <li>• Improve exchange of information among relevant actors (e.g., cross-attendance at relevant coordination meetings, joint meetings/workshops, online forums, joint missions).</li> <li>• Establish a CAC focal point within SSR structures and SSR focal points within CAC accountability structures when appropriate.</li> </ul>

## 4.2.2 Step 4: Prioritize options

This step provides questions for consideration to assist users in prioritizing option(s) based on potential risks, feasibility, and contextual considerations.

Initially, it is important not to discount options that may seem unusual, controversial, or infeasible in order to allow for the possibility of new and innovative ideas. After developing a set of potential options, it is useful to narrow them down based on practical and contextual considerations.



### Potential risks

Consider the following questions to evaluate the potential risks of each proposed option. For each identified risk, it can be helpful to consider if there are measures that could mitigate the likelihood or impact of the risk:

- What degree and scope of impact is the action likely to have?
- Will the action increase security risks to staff, children, communities, or others?
- Is the action likely to cause harm in any way? What are the threats, the likelihood of occurrence, and the potential impact if they do occur?
- Is the action in line with organizational mandate, policies, and values, such as security or staffing policies, quality standards?

- Is the action in line with relevant international laws and norms pertaining to CAC accountability?
- Is the action sustainable over the short, medium, and long term?
- How likely is it that the action will succeed in achieving the desired result?

For example, supporting investigations and prosecutions of serious CAC violations committed by parties to conflict may not be in line with an organization's mandate and therefore could potentially compromise the organization's integrity and/or its ability to successfully implement programs.

### **Feasibility**

Consider the following issues to determine if the organization has the capacity to implement the proposed action:

- human resources (availability and technical competence);
- financial resources (availability and feasibility to secure);
- logistical capacity;
- opportunity costs (i.e. would the allocation of resources to this option preclude the organization from pursuing other important objectives?).

For example, an organization with a mandate to monitor and report on serious violations against children may not have the technical capacity to undertake documentation for evidentiary use in legal proceedings.

### **Contextual considerations**

Consider the following questions to determine the potential impact of contextual factors on the proposed option:

- Are there any contextual factors that rule out the possibility of undertaking the action or that would limit an action's impact (e.g., current phase of conflict)?
- Are there any contextual factors that would enable the implementation of the action or boost its impact (e.g., new government)?

For example, a new ceasefire agreement may enable an organization to conduct a fact-finding mission on alleged cases of sexual violence in the context of armed conflict in an area that was previously inaccessible due to ongoing military operations and insecurity.

After considering potential risk, feasibility, and contextual aspects, users can identify the highest priority option(s) and develop a plan to ensure successful implementation of the option(s). This plan comprises a tailored and practical strategy for advancing CAC accountability. Individual organizations may have their own specific project management or implementation tools that can assist development of this plan and actual implementation. Implementation plans often include the following elements:

- implementation timeframe
- roles and responsibilities
- staff capacity and competencies
- funding needs
- risk management strategies
- coordination with external partners and stakeholders
- monitoring and evaluation

The four steps presented in this section on practical guidance support users to develop and implement context-specific, well-informed actions to prevent and remedy CAC violations. Table 7 presents a summary of the four step methodology.

**Table 7: Summary of four step methodology**

<b>Part 1:</b> Understand the CAC accountability environment	<b>Step 1:</b> Examine influencing factors.	<ul style="list-style-type: none"> <li>• Identify factors that influence CAC accountability.</li> <li>• Analyze the nature and level of influence of each factor.</li> </ul>
	<b>Step 2:</b> Examine accountability mechanisms.	<ul style="list-style-type: none"> <li>• Identify accountability mechanisms.</li> <li>• Analyze functionality of mechanisms, linkages between them, and levels of activity (in each component and in the context as a whole).</li> </ul>
<b>Part 2:</b> Develop strategic options	<b>Step 3:</b> Identify options.	<ul style="list-style-type: none"> <li>• Review documentation gathered from analysis exercises.</li> <li>• Identify emerging opportunities and challenges.</li> <li>• Brainstorm strategies for seizing opportunities and mitigating challenges.</li> <li>• Research precedents or lessons learned from the given context (and/or other contexts) to provide additional ideas or innovations.</li> <li>• Identify potential options to advance accountability.</li> </ul>
	<b>Step 4:</b> Prioritize options.	<ul style="list-style-type: none"> <li>• Determine potential risks and mitigation strategies.</li> <li>• Determine organizational capacity to implement options.</li> <li>• Determine the potential influence of contextual factors on successful implementation of options.</li> <li>• Identify highest priority option(s).</li> <li>• Develop an implementation plan for priority option(s).</li> </ul>

## **CAC Accountability Resource Database**

For additional guidance on designing and implementing strategic options to advance CAC accountability, please visit the Children and Armed Conflict (CAC) Accountability Resource Database [www.cacaccountability.org](http://www.cacaccountability.org). This database features a selection of practical resources, including tools, trainings, and manuals that are related to different aspects of CAC accountability. Practitioners and policymakers can use these resources to support the practical application of the CAC Accountability Framework in specific contexts.

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