

CHILDREN RIGHTS IN INVESTIGATIONS: HIGHLIGHTS FROM THE COMMUNITY OF PRACTICE

Background

Children are estimated to account for one-third of the earth's population. They are often disproportionately impacted by human rights crises. In 2024, 473 million children globally are estimated to be living with the effects of war and conflict.¹ Despite the UN Security Council annually monitoring six grave violations² against children in times of conflict to prevent and end them, violations against children have been rising, and investigation and prosecution of crimes against children have only recently been given greater priority in international accountability efforts.

To address this gap, Justice Rapid Response (JRR) has prioritized the deployment of child rights expertise in a wide range of engagements with international, national, and civil society partners, including investigating crimes against children in Afghanistan, Burundi, Colombia, Iraq, Libya, Myanmar, and Syria. Since 2015, JRR, UN Women, and the Office of the High Commissioner for Human Rights (OHCHR) have partnered to integrate child rights experts in Human Rights Council-mandated investigations, with 17 JRR child rights experts deployed to date.

For several years, child rights experts deployed by JRR to accountability efforts have called for the opportunity to meet and 'take stock' of their work. In response to this call, JRR, UN Women, and Save the Children convened two meetings of child rights experts in 2023, with the financial support of the European Union. The meetings focused on mainstreaming child-centered approaches in human rights and criminal investigations. The meetings provided an invaluable opportunity for child rights experts to create a community of practice and share lessons learned and innovative approaches.

Key Takeaways

1. Embedding a child-centered approach and breaking silos

Team members in an investigation often view child rights issues as a 'sub-category' of the overall investigation and relevant to child-specific crimes or violations only. All investigators should consider whether children were involved in or impacted by the violations they are investigating, whatever their focus area. Child rights considerations must be visible throughout the entire report and recommendations, as well as in any press statements or other interactions with the media.

2. Engaging with children

Investigation teams tend to perceive children as more complex and sensitive to interviews than adults in light of safety and well-being risks, informed consent, and the risk of re-traumatization. Child rights experts are of the view that engaging directly with children, including through interviewing when appropriate, is crucial to ensuring their voices are heard and their views are reflected in the analysis, findings, and outcomes of an investigation. Child experts recalled that direct engagement also requires a specialized set of skills. While children have the right to be heard and to participate in investigations, interviewing is not the only way to directly engage with children. Other modalities exist to ensure

¹ <https://www.unicef.ch/en/current/news/2024-12-27/not-new-normal-2024-one-worst-years-unicef-s-history-children-conflict>

² Killing and maiming of children; recruitment or use of children in armed forces and armed groups; attacks on schools or hospitals; rape or other grave sexual violence; abduction of children; and denial of humanitarian access for children.

children's participation, such as surveys, child-friendly focus groups, and community consultations where children are present and can participate.

Experts endorsed the call for internationally agreed guidance that would avoid situations where investigators took a 'black and white' approach to interviews (i.e., to 'always interview unless...' or to 'never interview unless...'). Developing a guidance tool that informs decision-making about a child's best interests would foster investigators' confidence when dealing with children and questions around interviewing them - ultimately facilitating the safe hearing and consideration of more children's voices.

"If children can undertake feats such as crossing the Mediterranean alone, they should be supported to give evidence via interview if they choose to do so." Quote from a child rights expert at the experts' meeting.

3. Collection of evidence

There was a general call for an improved and streamlined methodology to be agreed upon between child rights experts, including minimum standards for gathering evidence from children. Child rights experts and investigative teams must be rigorous in collecting information and preparing files, ensuring the best possible use of information that can also be shared with and used by other accountability mechanisms. Investigation teams should seek to corroborate information provided by a child in an interview in line with human rights monitoring and investigation methodology. Experts called for increased coherence around tools and best practices across mechanisms, not to have to 'reinvent the wheel' in each setting in which they work.

4. Cooperation between UN entities and NGOs

In some situations, a lack of cooperation among UN entities and between UN entities and NGOs poses a challenge to successfully using and sharing information collected from children. Before an entity interviews a child, it should, where feasible, consult with the entity that might use the information (whether an international investigative mechanism, a domestic court, or another entity), acknowledging this may not be realistic in many circumstances. Ways of sharing information on engagement and interviews with children, planned or undertaken, should be explored and practiced, including considering whether conducting a joint interview may be appropriate.

Moving Forward

Child rights experts expressed a strong need for a culture of knowledge sharing and a community of practice. JRR will continue fostering knowledge management and facilitating opportunities to share experiences and best practices among child rights experts and the broader justice community. The ultimate goal is to strengthen accountability for crimes and violations against and affecting children and mainstream the protection of child rights in human rights and criminal investigations.

Top tips to mainstream child rights (in a box)

1. Include a child rights expert among the start-up members of an investigation team until the investigation work is complete.
2. Prioritize all crimes and violations against and affecting children, including their impact, in all phases of the investigation, particularly at the planning and prioritization phase, applying an intersectional approach.
3. Uphold children's right to participation by engaging with them more broadly as rights holders rather than as victims.

4. Take an aged and context-specific approach to engaging with children,
5. Respond to calls for justice by victims and those affected by crimes and violations by keeping communities, victims, and witnesses informed of what happens to the evidence they provide.
6. Create a child rights-focused checklist for investigators to consider as they gather evidence (for example, “Were any children involved in these events?”).
7. Child rights experts can engage with investigators individually and suggest further child-focused approaches and activities.
8. Provide training session(s) on child rights issues to the broader investigative team, including Experts and Commissioners³.
9. Provide ongoing updates on child rights issues to core team members. Providing updates as the investigation unfolds will ensure that child rights issues remain visible throughout and can be incorporated more fully into reporting and recommendations.

Who we are

Justice Rapid Response is the only global facility that provides rapidly deployable experts to investigate international crimes and serious human rights violations and to enable a holistic, gender-sensitive, and inclusive approach to justice. <https://www.justicerapidresponse.org/>

Save the Children’s “Protecting Children in Armed Conflict” program is contributing towards stopping the war on children in Africa. Our ambition is to ensure that children in Africa who are caught up in armed conflict and humanitarian crises receive the comprehensive protection they deserve from violence, abuse, neglect, and exploitation. We are actively engaged in enhancing accountability for crimes and violations against children affected.

UN WOMEN works to ensure that transitional justice processes include women as leaders and participants, and that they have the expertise needed to address women’s rights violations and sexual and gender-based violence, to transform gender inequality as a root cause of conflict.

³ A first useful tool for capacity building is the E-Learning Course on Mainstreaming a Child Rights Approach developed by JRR and Save the Children available at: <https://kayaconnect.org/course/info.php?id=7792>