**Inputs to the report of the OHCHR to the Human Rights Council on**

***“The rights of the child and family reunification”***

In response to the call of the OHCHR for inputs to their report to the Human Rights Council on *“The rights of the child and family reunification”,* the Office of the Special Representative for Children and Armed Conflict (OSRSG CAAC) is submitting the following information in response to questions 3A-B and 4.

***3. A. What are the main human rights concerns for children living in conflict, children in detention or whose parents are detained, or children allegedly associated with terrorism or terrorist groups, regarding their right to be reunited with their families?***

**Children living in conflict** are at risk of suffering violations and abuses of international law, including but not limited to recruitment and use by parties to conflict, rape and other forms of sexual violence, killing and maiming and abduction. They are also at risk of being separated from their parents or caregivers, leading to an increased risk of violations and abuses of their rights. The latest report of the Secretary-General on children and armed conflict[[1]](#footnote-2) published in May 2021 reported a 90% increase in the number of abducted children, with 3,202 children abducted in at least 21 conflict situations around the world. Abductions were often carried out in conjunction with the recruitment and use of children by armed forces and armed groups or rape and sexual violence perpetrated against them. In 2020 alone, 8,521 children were recruited and used by armed forces and armed groups and 1,268 were victims of rape and other forms of sexual violence. The risk for children to be recruited and used by conflict parties was further exacerbated by the Covid-19 pandemic as well as the deteriorating security situation in some contexts, which represented push and pull factors for grave violations. Children are also frequently recruited, abducted and trafficked across borders making family tracing and reunification even more challenging.

**Children allegedly or formerly associated with armed groups, including groups designated as terrorist groups by the UN,** are particularly vulnerable and at riskof being detained for their alleged association. These children are often perceived and treated as perpetrators rather than victims of offences against international law. In addition, they are often stigmatized so that even when they manage to return to their families and communities, they are not accepted and are subjected to violence and discrimination. They are also often denied the documentation needed to access basic services, such as health and education. In the case of foreign children, countries of origin often refuse to repatriate them, either alone or with their mothers, because of security concerns.

**Children in detention,** either because of their own or their family’s association or alleged association with armed groups, including those designed as terrorist groups by the UN, are exposed to a high number of risks and are often denied their basic rights. For example, they often do not have access to basic humanitarian and other essential services, including food, water, shelter, education, medical care, mental health and psychosocial support and family tracing/family reunification. In many instances, they are not able to communicate with their families, who often are not even aware of their detention. Frequently, detention is being wrongfully used as a first resort measure with a lack of due process and respect for international juvenile justice standards in prosecuting children for security-related charges. In 2020, the United Nations verified the detention of more than 3,200 children for their alleged association with armed groups, including children actually or allegedly associated with armed groups or for their parents’ association with these armed groups.[[2]](#footnote-3) Children are often detained in inhumane conditions in rehabilitation/“re-educational” centers or detention-like camps. In these centers and camps, they are at risk of suffering from other forms of violence, including torture, physical violence or sexual violence, and even of being re-recruited.

**Children born of sexual violence in conflict** are particularly vulnerable. They are often abandoned, orphaned, rejected by or separated from their caregivers and communities for multiple reasons, including due to trauma or stigmatization resulting from sexual violence. They may also face the challenge of statelessness, including due to difficulties in accessing birth registration. These challenges may increase the risk for these children to be exposed to grave violations.

***3. B. How can the best interests of children separated from their families in these situations be more effectively upheld without discrimination?***

In order to uphold the best interest of the child without discrimination, as per articles 2 and 3 of the Convention on the Right of the Child,[[3]](#footnote-4) it is crucial that children are not discriminated against in any way based on their involvement or alleged involvement in hostilities. Even when associated or allegedly associated with armed forces or groups, including those groups designated as terrorist groups by the UN, they must be considered as victims and not as perpetrators and not be discriminated against because of their association or alleged association.

To effectively uphold the best interests of children when released or otherwise separated from armed forces or armed groups, including those designated as terrorist groups by the UN, they should be **handed over swiftly to civilian child protection actors** who can provide them with age- and gender-specific support, including long-term reintegration as well as family tracing and family reunification programs without any discrimination.

In addition, articles 2 and 3 of the Convention on the Rights of the Child must be applied to all the other articles of the Convention, including the right for a child to have his or her family traced and be reunited and the right to be reintegrated, and must be the basis to any policy and action related to children. In the case of judicial or administrative proceedings affecting a child, his or her opinion must be heard in accordance with his or her age and maturity.[[4]](#footnote-5) Concerning safe repatriation, in line with the ‘best interest of the child’ principle, decisions affecting children should be made on an individualized basis, including in relation to maintaining family unity, repatriation with their siblings and primary caregiver, unless it is considered in the best interest of the child not to do so.

States concerned should facilitate the voluntary repatriation of children who are in camps for owing to suspected family ties with ISIL fighters in accordance with their obligations under international law, including the principle of non-refoulement and the best interests of the child, and in line with the Global Framework on United Nations Support to Member States on Individuals Returned from the Syrian Arab Republic and Iraq, adopted in 2020. States concerned should collectively develop solutions for those children, whose human rights are under grave threat.

***4. What are the main gaps and strategic priorities to strengthen international cooperation on upholding the rights of children in cross-border situations who are separated from their families?***

Child reintegration programs are often too short term. It is crucial to ensure that sustainable and long-term reintegration programs for children are in place and towards that end to ensure collaboration across the humanitarian-development-peace nexus.

Child reintegration programming should be framed within broader formal and informal child protection interventions that prioritize prevention and comprehensive response services, including investments in child protection, education and health care systems strengthening both at the national and community levels, with emphasis placed on aspects of social reintegration that support and engage parents, families and communities and that promote psychosocial recovery, prevention, and address stigma, and encourage social cohesion.[[5]](#footnote-6)

Family-based support plays a crucial role in reintegration. The capacity of families to support and invest in their children must be incorporated early on in system strengthening programs, from a reintegration programming perspective as well as from a preventive approach. If it is not in the best interests of the child to be reunited with his or her family, when the family cannot be located, or when the family is not in a position to take care of their children, an alternative caregiver or guardian should be assessed and appointed to support the child’s progress toward a durable alternative care solution. [[6]](#footnote-7)

1. Report of the Secretary-General on children and armed conflict (May 2021), A/75/873–S/2021/437. [↑](#footnote-ref-2)
2. Report of the Secretary-General on children and armed conflict (May 2021), A/75/873–S/2021/437. [↑](#footnote-ref-3)
3. Convention on the Rights of the Child (“CRC”) (1989). [↑](#footnote-ref-4)
4. CRC, article 12. [↑](#footnote-ref-5)
5. Global Coalition for Reintegration, *Gaps and Needs for Successful Reintegration of children associated with armed groups or armed forces* (2020) [↑](#footnote-ref-6)
6. Ibid., p. 8. [↑](#footnote-ref-7)