

Report of the Workshop on Children and Armed Conflict: How to Deal with Persistent Perpetrators?

7 and 8 February 2013, Princeton University, USA

I. Introduction

1. The Permanent Mission of Liechtenstein to the United Nations, the Liechtenstein Institute on Self-Determination at Princeton University (“LISD”) and the non-governmental organization Watchlist convened a workshop on Children and Armed Conflict on 7 and 8 February 2013 at Princeton University in Princeton, New Jersey America. The workshop brought together representatives of United Nations Member States, including members of the Security Council, United Nations (Office of the Special Representative for Children and Armed Conflict, DPKO, DPA and OCHA), academics, and NGOs to discuss strengthening Security Council action toward perpetrators of violations against children in situations of armed conflict.
2. The workshop comprised public sessions on Thursday, 7 February to introduce a wider audience to the plight of children affected by armed conflict and two closed sessions on Friday, 8 February. In the first session on Friday, experts examined options and explored innovative and targeted approaches the Security Council and its Working Group on Children and Armed Conflict could use to put pressure on persistent perpetrators of violations against children in situations of armed conflict. The second session discussed opportunities for better mainstreaming the protection of children affected by armed conflict throughout the work of the Security Council. The present report summarizes the discussions in these sessions and provides recommendations, based on these discussions, for strengthening Security Council action in dealing with perpetrators of violations against children in situations of armed conflict.

II. Toward an Innovative and Targeted Approach to Address Persistent Perpetrators of the Rights of Children in Armed Conflict

3. The first session of the workshop concentrated on the issue of so-called “persistent perpetrators,” those who had been listed for five or more years in the annexes to the Secretary-General’s annual reports on children and armed conflict.

4. It was recalled that, in its resolutions 1998 (2011) and 2068 (2012), the Security Council requested the Working Group on Children and Armed Conflict to consider, with the support of the Special Representative of the Secretary-General (“SRSG”) for Children and Armed Conflict, within one year, a broad range of options for increasing pressure on persistent perpetrators of violations and abuses committed against children in situations of armed conflict. Participants to the workshop, including members of the Working Group, expressed the intention that the discussion in this session would assist the Working Group in identifying appropriate options for dealing with different types of perpetrators.
5. Participants took as a starting point for discussion options afforded by the “toolkit” adopted by the Security Council Working Group on Children and Armed Conflict (S/2006/724, annex) in 2006. It was noted that the toolkit was underutilized and that there was a lack of understanding and analysis of how tools were used and their effectiveness in different situations. Participants welcomed the recommendations to increase pressure on persistent perpetrators which were put forward in 2012 by Ambassador Jean-Marc de La Sablière, former Permanent Representative of France to the United Nations.¹ Ambassador de La Sablière’s report has not yet been published as a United Nations document. Participants noted that United Nations endorsement of the report and its findings would amount to a first significant step towards the realization of its recommendations.
6. On the basis of the toolkit and Ambassador de La Sablière’s recommendations, participants discussed generally the range of options available to the Security Council and its Working Group for dealing with persistent perpetrators. Noting that there was considerable variety among perpetrators and that not all perpetrators would respond similarly to the same options, participants sought to identify appropriate tools for targeting specific perpetrators in different situations. Recommendations for possible action, summarized below, were identified in the following areas: (a) Security Council leadership and engagement on children and armed conflict; (b) the Security Council Working Group on Children and Armed Conflict and its toolkit usage; (c) action plan conclusion and implementation; (e) the use of targeted measures; and (f) the role of the International Criminal Court.

A. Security Council Leadership and Engagement on Children and Armed Conflict

7. Participants noted that, in delegating the issue of children and armed conflict to its Working Group, the political engagement of the United Nations Security Council on the protection of children in armed conflict had diminished. The following suggestions were made with a view to increasing the Council’s leadership and engagement:
 - (a) *Mainstream children and armed conflict concerns in all relevant Security Council resolutions*: Participants noted the important role of pen-holders in including children

¹ Ambassador Jean-Marc de la Sablière, *Security Council Engagement on the Protection of Children in Armed Conflict: Progress achieved and the way forward*, June 2012, available at: http://childrenandarmedconflict.un.org/publications/Delasabliere-report_en.pdf.

and armed conflict concerns in initial draft resolutions and stressed that all Security Council Members should contribute to mainstreaming throughout negotiation processes. The issue of mainstreaming was discussed further in session 2 (below).

- (b) *Incorporate a children and armed conflict dimension in the terms of reference and reports of Security Council field visits:* The SRSG for Children and Armed Conflict should brief Council members in informal consultations on concerns related to children and armed conflict prior to the Council's trip. The SRSG could also send a letter to the President of the Council outlining her concerns, as well as any other issues to take up with the host Government and relevant stakeholders' in-country.
- (c) *Raise the issue of children and armed conflict in the context of the informal expert group on the protection of civilians in armed conflict:* Briefings to the Security Council informal group on protection of civilians by the Office for the Coordination of Humanitarian Affairs ("OCHA") were noted as a positive example in raising issues of children and armed conflict outside of the regular Working Group framework. Participants encouraged further involvement of the Office of the Secretary-General for Children and Armed Conflict with the Experts Group, including by allowing Office of the SRSG staff to attend the briefings.
- (d) *Encourage thematic discussion of persistent perpetrators at the Council level:* The Security Council could select a thematic focus for its annual open debate on children and armed conflict on persistent perpetrators, and to organize regular special informal consultations on the issue.
- (e) *The Chair of the Working Group should consider the possibility of regularly briefing the Council during informal consultations on activities of the Working Group, including on challenges if relevant.*

B. The Security Council Working Group on Children and Armed Conflict and Its Toolkit Usage

8. Participants noted that there was room for improvement in the Working Group's use of the toolkit including both in the range of tools used and in ensuring adequate follow-up.² Two of the challenges to making better use of the toolkit were the need to achieve consensus in the Working Group, and the lack of information as to the effectiveness of the different tools. The following suggestions were made:

- (a) All outgoing letters, requests, or demarches made by the Working Group could include requests for feedback, in writing, from the parties concerned.

² For more information on the Security Council Working Group and its working methods, see "*Working Methods 2006-2012. Strengthening the Impact of the Security Council Working Group on Children and Armed Conflict*". Watchlist on Children and Armed Conflict, January 2013.

- (b) The Working Group should continue the practice of field trips in order to enhance interactions between New York and the field. Member States should ensure that the necessary resources are included in their budget calculations.
- (c) The Working Group could make better use of press conferences to highlight specific issues and to raise awareness about children and armed conflict violations and obligations of parties to conflicts with respect to children under international humanitarian and human rights law. In the absence of consensus on a press statement, the Chair could proceed to read out public statements of each adopted conclusion to the press, thus raising their profile.
- (d) The Chair could also proceed to make a statement in his or her national capacity.
- (e) The Working Group should dedicate at least one session a year to the issue of persistent perpetrators.
- (f) The Working Group on Children and Armed Conflict could continue to encourage visits by the Special Representative of the Secretary-General for Children and Armed Conflict to situations of concern to present recently adopted conclusions to relevant stakeholders and to ensure concrete and timely follow-up activities.

C. Action Plan Conclusion and Implementation

9. Participants underlined the need to ensure consistent and coordinated action by all actors in encouraging the conclusion and implementation of action plans to halt violations and in taking other actions against perpetrators who do not conclude or implement action plans. The following suggestions were made:
 - (a) The Special Representative of the Secretary-General for Children and Armed Conflict should continue to engage with parties to conflict for action plans and their implementation, including with persistent perpetrators, where possible, to countries to push for conclusion or implementation of action plans.
 - (b) The Working Group could request specific follow-up reports of the Secretary-General, or briefings by the Special Representative of the Secretary-General for Children and Armed Conflict on specific perpetrators or on challenges in action plan implementation.
 - (c) The Resident Coordinator or Special Representative to the Secretary-General for a specific country could be invited to brief the Security Council or its Working Group, in person or via video-link, on progress made in terms of persistent perpetrators active in the country.
 - (d) Close cooperation should be encouraged between United Nations Country Task Forces on Monitoring and Reporting and other entities engaged in ending violations

against children such as the International Labor Organization, the United Nations Educational, Scientific and Cultural Organization, or the World Health Organization, with a view to include them in the Task Forces.

- (e) The United Nations should ensure adequate support to action plan implementation through appropriately staffed country teams, strengthened peacekeeping missions, and enhanced engagement by resident coordinators.
- (f) Bilateral diplomacy by concerned Member States at the country level should target action plan conclusion and implementation. The establishment of a “Group of Friends” in the Democratic Republic of the Congo was noted as a positive example that could be replicated in other situations. Conditionality policies on bilateral aid were highlighted as an influential tool for accelerating action plan conclusion or implementation.
- (g) External actors, including Member States, engaged in supporting peace negotiations or with other contacts to perpetrators could be mobilized to support action plan conclusion and implementation.
- (h) Members of the Council shall ensure that concerned governments facilitate access to allow for the conclusion of action plans. Where governments continue to refuse access, alternative measures should be explored with the aim of sustainably ending violations.

D. The Use of Targeted Measures

10. Participants noted that targeted sanctions could be an effective tool to increase pressure on persistent perpetrators. It was recalled that in the earlier discussions leading to the adoption of Resolution 1612, the creation of a thematic sanctions committee was initially proposed but did not rally consensus. The creation of the Security Council Working Group on Children and Armed Conflict was retained as a compromise. While participants agreed that a thematic sanctions regime would still be very difficult to achieve politically, the notion that it should remain a goal to work towards was also supported. In addition, participants noted that much better use could be made of existing sanctions committees. Specific recommendations regarding the use of targeted measures included:

- (a) The Council should include grave violations against children as designation criteria in all current and future relevant sanctions committees;
- (b) The SRSG should continue to regularly share information on grave violations against children with relevant sanctions committees;
- (c) In this regard, the Secretary-General should ensure that the Monitoring and Reporting Mechanism is geared toward providing all necessary elements needed for Member States to consider the designation of individuals whose names are brought before the Sanctions Committees by the SRSG;

- (d) The Working Group should also share information regarding child rights violations with relevant sanctions committees by the Working Group, for example by forwarding country-specific conclusions to the relevant sanctions committee;
- (e) All Council Members should consider submitting names of individuals or groups for sanctions, and/or respond to proposed designations by other members;
- (f) Sanctions committees should consider updating the public narratives attached to designated individuals or groups to include grave violations against children where relevant to the Committee's mandate.

E. The Role of the International Criminal Court

11. It was noted that, in situations where violations against children had ceased, affected communities continued to feel the importance of holding perpetrators accountable. In this context, national courts have a primary responsibility. The United Nations and donors should assist in strengthening national judicial capacities to ensure accountability and support the development of child protection legislations that include the criminalization of grave violations against children. The Working Group was urged to support ensuring accountability through national courts and to encourage strengthening of national judicial capacities. However, in contexts where national courts still lack the technical capacities or where the political situation does not allow these courts to perform their functions adequately, the International Criminal Court ("ICC") has a crucial role to play. In this regard it was also noted that the ICC has limited capacities but that "positive complementarity" and synergies between the Court and the Working Group should be explored. When the Security Council is referring situations to the ICC it should not preclude UN financing of resulting investigations and prosecutions.
12. Participants noted Ambassador de La Sablière's recommendations for further cooperation between the Working Group on Children and Armed Conflict and the ICC. The ICC already has jurisdiction in 124 countries, which includes some where the rights of Children are violated. While Security Council referrals of situations to the ICC had only taken place on two occasions, the mere threat of prosecution was seen as a potentially valuable tool for putting pressure on persistent perpetrators. It was noted that there was wide scope for cooperation between the Working Group and the ICC. It was suggested that the Working Group could take the following actions to make better use of the ICC in addressing perpetrators of violations against children:
 - (a) Note that violations against children constitute war crimes or crimes against humanity within the jurisdiction of the ICC;
 - (b) Invite concerned States Parties to the ICC Statute to refer a situation to the ICC or invite the ICC Prosecutor to consider examining situations of grave violations against children in situations of armed conflict;

- (c) Invite the Prosecutor or Deputy Prosecutor to brief the Working Group;
- (d) Encourage the continued exchange of information between the Prosecutor and the Special Representative of the Secretary-General for Children and Armed Conflict;
- (e) Transmit conclusions of the Working Group to the ICC Prosecutor.

III. Child Protection Language in UN-Mandated Missions: Review and Scope for Improvement

13. The second session of the workshop examined how children and armed conflict concerns can be better mainstreamed in the Security Council's country-specific work. The need for better mainstreaming had been highlighted in the morning session and during the Security Council's previous open debate on children and armed conflict. It was pointed out that resolutions authorizing or renewing mission mandates are prime targets for mainstreaming for two reasons. First, it is important to have missions properly empowered to address child protection concerns. Second, mission mandate resolutions frequently serve as the primary point of entry for the Council in addressing country situations.
14. Participants drew attention to the fact that children and armed conflict experts in Security Council missions lack the time necessary to follow each country situation in significant detail. Several participants welcomed the new Children and Armed Conflict Monthly Updates³ from Watchlist for providing handy alerts on forthcoming issues combined with useful recommendations for Security Council or Member States action. The importance of pen-holders receiving such recommendations as early as possible in order to incorporate in the "zero drafts" of resolutions was also emphasized. It was noted that involvement of Security Council coordinators could help mainstream children and armed conflict by facilitating a dialog between country specific and thematic experts with in missions.
15. Watchlist introduced a draft checklist for developing children and armed conflict-friendly Security Council resolutions (annexed to this report). The draft checklist was based on Security Council's children and armed conflict resolutions (including resolutions 1612, 1882, and 1998) and included ongoing revisions to the checklist contained in the Children and Armed Conflict smartphone application developed by Watchlist and Liechtenstein. On the basis of this checklist, participants examined Security Council resolutions mandating the United Nations Assistance Mission in Afghanistan (UNAMA) and the African Union Mission in Somalia (AMISOM), both of which would be due for renewal in March 2013.

³ <http://watchlist.org/advocacy/monthly-updates>.

16. Regarding UNAMA, participants highlighted the need for UNAMA to prioritize support to action plan implementation. They noted that the elimination of the child protection section and child protection advisers in the mission hindered the timely implementation of the action plan signed by the Government. In this regard, they reiterated the importance of ensuring a stand-alone child protection capacity within the mandate structure. They also highlighted the need to take into better account concerns of children in relation to ongoing and future peace process efforts. Participants supported the continued inclusion, called for in resolutions 1612, 1882, and 1998 of children and armed conflict as a specific aspect of the Secretary-General's missions reports, as this also reinforces the call for enhanced mainstreaming of the issue within the permanent missions in New York.
17. Regarding AMISOM, participants noted the ongoing discussions of the future United Nations presence in Somalia and its relationship to AMISOM. Participants recognized that strong child protection capacity within the new UN presence in Somalia is critical for the successful implementation of the two action plans signed by the Somali Government and for ensuring effective monitoring and reporting of grave violations by armed forces and groups in Somalia. Participants also recognized that AMISOM should be cognizant of child protection concerns during its operations. The participants recommended the inclusion of a Child Protection Advisor within AMISOM to mainstream child protection concerns in its operations.

IV. Recommendations

1. Based on the discussions over the two sessions of the workshop, the following key recommendations were identified by the workshop organizers for taking action against persistent perpetrators of violations against children in situations of armed conflict and for better mainstreaming children and armed conflict concerns:

A. Recommendations to the Security Council

- (a) Ensure an adequate child protection mandate and request timely and sufficient child protection capacity in all relevant Security Council-authorized missions, including peacekeeping and special political missions, with a specific focus on monitoring and reporting of violations and support to action plan conclusion and implementation;
- (b) Incorporate a children and armed conflict dimension in the terms of reference and reports of all Security Council field visits;
- (c) Include violations against children as designation criteria in all relevant sanctions committees and consider options for extending the sanctions regimes to other situations of armed conflict involving violations against children;
- (d) Subject individuals responsible for violations to sanctions and include references to violations against children in the review of narrative summaries issued by sanctions committees.

- (e) Invite regularized briefings of the SRS-CAAC to all relevant sanctions committees;

B. Recommendations to the Working Group on Children and Armed Conflict

- (a) Make better use of field trips, press conferences, and press statements by the Chair of the Working Group to draw attention to violations against children and to the work of the Working Group;
- (b) Request written feedback from all concerned parties on steps taken to implement recommendations contained in Working Group conclusions;
- (c) In its consideration of options to increase pressure on persistent perpetrators, review the use and effectiveness of its toolkit, with a specific focus on which tools have proven or could prove most effective in inducing compliance by different types of perpetrators;
- (d) Invite briefings, in-person or via video-link, from the relevant Resident Coordinator or Special Representative of the Secretary-General for a given country on the situation in relation to perpetrators, including efforts made and challenges encountered in action plan implementation and conclusion;
- (e) Transmit conclusions to the chairs of relevant sanctions committees and to the ICC Prosecutor.

C. Recommendations to Member States

- (a) Mainstream children and armed conflict within foreign ministries and related government agencies, encouraging in particular the use of bilateral diplomacy and conditionality in development or military assistance to spur action plan conclusion and implementation;
- (b) Establish a “Group of Friends” at the country level to target action plan conclusion and implementation through bilateral diplomacy;
- (c) Support efforts to strengthen national accountability mechanisms, including the development of legislation criminalizing violations against children and building investigative and prosecutorial capacities, as well as disarmament, demobilization and reintegration (“DDR”) programs.

D. Recommendations to the Secretary-General

- (a) Include children and armed conflict as a specific aspect of all country reports as requested by Security Council resolutions 1460 (2003), 1612 (2005), 1882 (2009), and 1998 (2011);

- (b) Include a section on impact of the Working Group's conclusions and recommendations in each country-specific report on the situation of children and armed conflict;
- (c) Encourage all relevant Resident Coordinators and Special Representatives to prioritize the monitoring and reporting of violations against children and the conclusion and implementation of action plans;
- (d) Ensure timely deployment of an adequate number of child protection advisers in all relevant United Nations peacekeeping, peacebuilding, and political missions to support the monitoring and reporting of violations and action plan conclusion and implementation.

Annex: Checklist for Drafting Children and Armed Conflict-Friendly Security Council Resolutions

1. Reference all relevant children and armed conflict resolutions, reports, and conclusions;
2. Condemn and call for an end to all violations against children and for compliance with international humanitarian law and human rights law;
3. Demand accountability for perpetrators;
4. Encourage conclusion and implementation of action plans to halt violations;
5. Use sanctions to increase pressure on perpetrators of violations against children;
6. Include specific provisions on the protection of children and the deployment of child protection advisers in any mission mandate;
7. Call for compliance with international humanitarian law and human rights law by peacekeeping forces;
8. Encourage support to DDRRR (Disarmament, Demobilization, Repatriation, Reintegration and Resettlement) for children associated with armed forces and armed groups;
9. Include child protection concerns in peace processes;
10. Request specific reporting by the Secretary-General on children and armed conflict in all country reports.