



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/2006/66
23 February 2006

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sixty-second session
Item 13 of the provisional agenda

RIGHTS OF THE CHILD

**Report of the Special Representative of the Secretary-General
for children and armed conflict, Karin Sham-Poo***

* This document is submitted late so as to include the most up-to-date information possible.

Summary

The current report provides an update of ongoing efforts to highlight grave violations against children in armed conflict in order to bring pressure to bear on parties to conflict who violate the rights of children.

The Secretary-General, in his 2005 report to the Security Council and the General Assembly on children and armed conflict (A/59/695-S/2005/72), launched the era of application campaign for the enforcement of existing international child protection norms and standards on the ground. Member States have the primary obligation for the enforcement of international human rights standards, but the collaborative efforts of all relevant United Nations entities are essential in ensuring the protection of these rights. Key to the era of application campaign is the monitoring and reporting for compliance regime set forth in the Secretary-General's 2005 report and endorsed by the Security Council in July 2005. The report highlights elements of ongoing cooperation with the key components of the United Nations human rights system, while highlighting issues for further cooperation in light of reform efforts under way.

The report concludes that reform efforts create a strong momentum for the incorporation of the issue of children affected by armed conflict into the policies, strategic plans and programmes of the key United Nations human rights entities. The Special Representative takes the opportunity to call for the renewal of the commitment by the key United Nations entities to ensure, within their respective roles, that the era of application of international norms and standards for the protection of the rights of war-affected children becomes a reality.

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I. INTRODUCTION

1. The present report is submitted pursuant to General Assembly resolution 51/77 of 12 December 1996, which created the mandate of Special Representative of the Secretary-General for children and armed conflict and requested the Special Representative to submit an annual report to the Commission on Human Rights. This report is devoted to a discussion of key issues and proposals for more systematic mainstreaming of the matter of children affected by armed conflict into the work of the United Nations human rights system, particularly in light of the reform efforts currently under way. This report should be read in the context of the report of the Special Representative to the General Assembly (A/60/335) submitted on 7 September 2005 and the 2005 report of the Secretary-General to the Security Council and the General Assembly on children and armed conflict (A/59/695-S/2005/72).

2. Member States have the primary obligation for the enforcement of international human rights standards, especially for the protection of the most vulnerable, among them children affected by armed conflict. The United Nations High Commissioner for Human Rights has called for the implementation on the ground of all international norms and standards that protect human rights. Along the same lines, the Secretary-General, in his 2005 report to the Security Council and the General Assembly on children and armed conflict, launched the era of application campaign for the enforcement of international norms and standards for the protection of the rights of children affected by armed conflict by proposing a formal, structured and detailed compliance regime to protect war-affected children on the ground.

3. The Secretary-General's package includes a detailed action plan for implementing a monitoring and reporting mechanism on grave violations against children in situations of conflict, as well as a call to the international community to implement targeted measures against those parties to conflict that commit such grave violations. The Security Council endorsed the Secretary-General's call for the era of application campaign by adopting its ground-breaking resolution 1612 (2005) on children and armed conflict on 26 July 2005. Beyond the Security Council, Member States have explicitly endorsed the era of application campaign in the 2005 World Summit Outcome document (A/60/L.1) and the 2005 General Assembly resolution on the Rights of the Child (A/60/505), in both cases calling upon all States to take concrete measures to ensure accountability and the compliance of those responsible for grave abuses against children.

4. The application and enforcement on the ground of international norms and standards for the protection of children in situations of armed conflict requires the collaborative efforts of all key United Nations entities, Member States, non-governmental organizations and local civil society networks. The United Nations human rights system is an important component in this regard.

II. MONITORING AND REPORTING FOR COMPLIANCE AS AN ASPECT OF THE ERA OF APPLICATION CAMPAIGN

5. Although significant advances in the protection of children affected by armed conflict have been made in recent years, the situation for children remains grave and unacceptable on the ground. The international community continues to be faced with a cruel dichotomy. On the one

hand, clear and strong protection standards and concrete initiatives exist for war-affected children. On the other, atrocities against children and impunity for violators continue largely unabated on the ground. This is why the Special Representative has urged the international community to redirect its energies from the normative task of elaboration of standards to the enforcement mission of ensuring their application on the ground. A central aspect of the era of application is the gathering of timely information for the attention of appropriate “destinations for action” - institutions and bodies which may engender compliance by exerting influence and pressure on violators of children’s rights.

6. It may be recalled that the 2004 report of the Special Representative to the Commission on Human Rights presented the action plan on monitoring and reporting requested in Security Council resolution 1539 (2004). Security Council resolution 1612 (2005) adopted the monitoring and reporting action plan proposed by the Secretary-General in his 2005 report to the Security Council and the General Assembly on children and armed conflict. In the initial phase, the Security Council requests the Secretary-General to implement the mechanism in Burundi, Côte d’Ivoire, Democratic Republic of the Congo, Somalia and Sudan, while also taking into account in this initial phase ongoing monitoring and reporting initiatives by the United Nations Children’s Fund (UNICEF) and other United Nations entities in situations of armed conflict not on the Council’s agenda. The monitoring and reporting mechanism will be implemented in all situations of concern addressed in the Secretary-General’s annual report on children and armed conflict after an assessment of the progress in implementation of the mechanism, scheduled for July 2006. The monitoring and reporting mechanism will review the conduct of all parties to conflict, governments as well as insurgent groups.

7. The mechanism will focus on six grave child rights violations in situations of conflict: the killing or maiming of children; recruiting or using child soldiers; attacks against schools or hospitals; rape and other grave sexual violence against children; abduction of children; and denial of humanitarian access to and for children. The purpose of the monitoring and reporting mechanism is to attain timely, accurate, objective and reliable information on such grave violations as a basis for concrete action against violators by key decision-making bodies that constitute “destinations for action”, such as, inter alia, the Commission on Human Rights, the Committee on the Rights of the Child, national governments, regional organizations, the International Criminal Court, the Security Council and the General Assembly.

8. As part of the implementation process, the Special Representative convened the Task Force on Children and Armed Conflict¹ in September 2005 to discuss the implementation of Security Council resolution 1612 (2005). In this regard, a Steering Committee on monitoring and reporting,² co-chaired by the Office of the Special Representative and UNICEF, was established to undertake regular review of the implementation and functioning of the mechanism, and the preparation and dissemination of briefing notes and other guidance material to United Nations country presence.

9. Security Council resolution 1612 (2005) also creates a dedicated Security Council working group on children and armed conflict, consisting of all its members, to review monitoring reports and action plans by parties to conflict to end violations for which they have been cited, consider other relevant information presented to it, and recommend concrete and targeted measures against violators. Under the chairmanship of France, the Security Council working group convened for the first time in November 2005 to discuss the terms of reference of

the working group and the implementation of Security Council resolution 1612 (2005). The establishment of a dedicated Security Council working group on children and armed conflict further deepens the engagement of the Council on this issue by providing a means for the Task Force on Children and Armed Conflict to turn the attention of the Security Council to the matter of children and armed conflict on a regular basis and throughout the year, in addition to the annual Open Debate of the Security Council on children and armed conflict.

10. The Security Council, in its resolutions 1539 (2004) and 1612 (2005), also requests parties to armed conflict, in situations which are on the agenda of the Council, to prepare and implement time-bound action plans to halt the recruitment and use of child soldiers and other grave violations for which they are cited in the Secretary-General's report. In October 2005, guidance on dialogue and action plans was sent by the Task Force on Children and Armed Conflict to all United Nations country presences to facilitate such dialogue. This further systematizes existing practice whereby the Special Representative and UNICEF have routinely engaged in dialogue with all offending parties. The sole objective of such dialogue has been to elicit from these parties firm commitments for the protection of children, including halting the recruitment and use of child soldiers; releasing abducted children; observing humanitarian ceasefires to facilitate feeding and immunization and allowing access for humanitarian relief and protection of displaced populations. It is important to note that the engagement with these parties does not have any implications as to their political or legal status, and, therefore, does not confer legitimacy or legal status to an insurgent or other group.

III. THE UNITED NATIONS HUMAN RIGHTS SYSTEM AND THE PROTECTION OF THE RIGHTS OF CHILDREN AFFECTED BY ARMED CONFLICT

A. Office of the High Commissioner for Human Rights: the plan of action and the protection of children affected by armed conflict

11. The mandate of the United Nations High Commissioner for Human Rights is to protect the effective enjoyment of all human rights by all, and to coordinate human rights protection activities in the United Nations system. The plan of action submitted by the High Commissioner for Human Rights (A/59/2005/Add.3) highlights armed conflict, violence and impunity among the challenges that contribute to the violation of human rights on the ground, and relates the lack of implementation of international human rights norms and standards to gaps in knowledge, capacity, commitment and security at a national level. The plan of action also proposes that the Office of United Nations High Commissioner for Human Rights (OHCHR) should respond to these challenges with a strategy of pursuing protection and empowerment by increasing dialogue and engagement with countries, and exercising leadership and building partnerships with United Nations agencies and civil society. In light of the above, OHCHR, working closely with the Office of the Special Representative, UNICEF, and other United Nations system partners, plays a central role in the ongoing development, strengthening and implementation on the ground of the international norms and standards for the protection of the rights of children affected by armed conflict.

12. Building partnerships with United Nations actors has been identified in the plan of action as one of the key elements for addressing the implementation gap of international standards and norms for the protection of human rights. Throughout its mandate, the Office of the Special Representative has worked closely with OHCHR in creating awareness of the rights of war-affected children and the mainstreaming of their concerns in the United Nations system. OHCHR is an active member of the Task Force for Children and Armed Conflict and its Steering Committee on monitoring and reporting. The former has been convened by the Special Representative since 2001 to bring together relevant United Nations entities to work on issues relating to children affected by armed conflict, and is an important vehicle for deeper and fundamental mainstreaming of the concerns of war-affected children in the United Nations system. OHCHR also has focal points on children and armed conflict in both its Geneva and New York offices that coordinate and collaborate with the Office of the Special Representative.

13. The Office of the Special Representative would like to continue to strengthen its strategic partnership with OHCHR in further developing its engagement on the protection of the rights of children affected by armed conflict in its dialogue and engagement with Member States. The strengthening of OHCHR's human rights monitoring capacity within peacekeeping operations and country missions has been noted with interest in this regard.

14. The plan of action calls for OHCHR to play a more active role at the global level, shaping and contributing to the international debate on issues relevant to the protection of human rights. The Office of the Special Representative welcomes the efforts of OHCHR to ensure that the protection and rehabilitation of war-affected children receives the highest priority in policies, processes and programmes in conflict and post-conflict situations, both through OHCHR's focus on rule of law projects and through thematic expertise. OHCHR can play an essential role in advocating the incorporation of the issue of children affected by armed conflict when reviewing topics such as transitional justice and counter-terrorism.

B. The era of application and the Commission on Human Rights

15. The Secretary-General's compliance regime campaign to ensure the era of application of international norms and standards for the protection of children affected by armed conflict identifies the Commission on Human Rights as a key "destination for action". As such, the Commission receives monitoring information on country situations during its annual session through the annual report of the Secretary-General on children and armed conflict as well as through ad hoc reports prepared in connection with country-specific situations. The Commission on Human Rights should continue to incorporate specific children and armed conflict concerns when considering country-specific and thematic human rights concerns into its discussions and resolutions. As stated earlier in this report, it should be noted that the violations covered by the monitoring and reporting mechanism focus on six grave child rights violations in situations of conflict: the killing or maiming of children; recruiting or using child soldiers; attacks against schools or hospitals; rape and other grave sexual violence against children; abduction of children; and denial of humanitarian access to and for children.

16. The Office of the Special Representative has been encouraged by the practice of a number of special rapporteurs who have incorporated a section on children affected by armed conflict in their reports. The Office of the Special Representative will continue to take part in dialogue and engage in information exchange on children affected by armed conflict with the

special procedures as appropriate. The annual meeting of the special procedures is another opportunity for the Office of the Special Representative to advocate the inclusion of children and armed conflict issues into the work of the special procedures if so called upon.

C. The era of application and the Committee on the Rights of the Child

17. The Committee on the Rights of the Child is an important “destination for action”. As such, the Office of the Special Representative continues to provide information on the status of the protection of the rights of war-affected children in specific country situations ahead of country reviews. The implementation of the monitoring and reporting mechanism on grave child rights violations will expand and facilitate this practice in collaboration with the Task Force on Children and Armed Conflict and its steering committee. The initial country reports and recommendations of the Committee on the Rights of the Child on the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict as well as those submitted in relation to the Convention on the Rights of the Child and addressing the issue of children and armed conflict will constitute a basis for continued advocacy of the Office of the Special Representative in this regard.

IV. CONCLUSION AND RECOMMENDATIONS

18. **The United Nations human rights system plays an essential role and has the responsibility of ensuring the protection of the rights of war-affected children on the ground. Collaborative efforts deployed over the past several years have led to the current strong momentum for the protection of war-affected children. The reform efforts that are currently under way in the United Nations human rights system are oriented towards increasing implementation of international human rights norms and standards at the national level. The plan of action submitted by the High Commissioner provides concrete proposals for the implementation of international human rights norms and standards at the country level. These reform efforts create a strong momentum for the incorporation of the issue of children affected by armed conflict into the policies, strategic plans and programmes of the key United Nations human rights entities and for securing that adequate financial support is in place. The Special Representative calls for the renewal of the commitment by the key United Nations human rights entities to ensure, within their respective roles, that the era of application of international norms and standards for the protection of the rights of war-affected children becomes a reality.**

19. **In light of the information presented above, the Special Representative of the Secretary-General recommends that:**

(a) OHCHR should continue to prioritize the protection of the rights of war-affected children in the terms of reference, work plans and programmes in stand-alone missions and integrated human rights components of peace operations, including provision of adequate child protection expertise in these operations, in a framework of coordination and cooperation with other child protection actors in such settings;

(b) OHCHR may wish to further ensure adequate child protection expertise in the context of its commissions of inquiry or fact-finding missions investigating serious and widespread human rights abuses;

(c) When considering country-specific and thematic human rights concerns, the Commission on Human Rights should continue to incorporate specific children and armed conflict concerns into its discussions, technical cooperation programmes and resolutions, including increased awareness of the six grave child rights violations identified by the Secretary-General and specified in the monitoring and reporting mechanism.

Notes

¹ The Task Force on Children and Armed Conflict was established in 2001 under the chairmanship of the Office of the Special Representative for Children and Armed Conflict, and consists of the Department of Political Affairs, the United Nations Children's Fund, the Department of Disarmament Affairs, the Department of Peacekeeping Operations, International Labour Organization, Office for the Coordination of Humanitarian Affairs, Office of the United Nations High Commissioner for Human Rights, Office of Legal Affairs, Office of the Special Adviser on Africa, Office of the Special Adviser on Gender Issues and Advancement of Women, United Nations Development Programme, Office of the United Nations High Commissioner for Refugees and UNIFEM.

² The following are the members of the Steering Committee on monitoring and reporting: Office of the United Nations Special Representative to the Secretary-General for Children and Armed Conflict, United Nations Children's Fund, Department of Peacekeeping Operations, Office for the Coordination of Humanitarian Affairs, Office of the United Nations High Commissioner for Human Rights, United Nations Development Programme and Office of the United Nations High Commissioner for Refugees.
