

**Evolution of the United Nations protection
agenda for children affected by armed conflict:
towards an 'era of application' of
international standards**

Tonderai W. Chikuhwa
2007

About the Ford Institute for Human Security

The mission of the Ford Institute for Human Security is to conduct research that focuses on a series of transnational threats to the human rights of civilian populations. The Institute's purpose is to generate independent research, disseminate policy papers, and advocate nonpartisan policy proposals available to both domestic and international policymakers.

In today's increasingly globalized world, there has been a shift from traditional threats focused on the territorial integrity of nations to global threats that center on the safety of individuals. The Ford Institute for Human Security at the University of Pittsburgh recognizes the critical importance of these emergent problems in human security.

This working paper is a product of the Ford Institute's working group, "Child Soldiers Initiative: Building Knowledge about Children and Armed Conflict". The Child Soldiers Initiative is an ongoing network of scholars, policymakers and representatives of civil society engaged in promoting and developing policy proposals addressing the recruitment and reintegration of child soldiers.

Evolution of the United Nations protection agenda for children affected by armed conflict: towards an 'era of application' of international standards

Tonderai W. Chikuhwa

One boy tried to escape [from the rebels], but he was caught... His hands were tied, and then they made us, the other new captives, kill him with a stick. I felt sick. I knew this boy from before. We were from the same village. I refused to kill him and they told me they would shoot me. They pointed a gun at me, so I had to do it. The boy was asking me, "Why are you doing this?" I said I had no choice. After we killed him, they made us smear his blood on our arms. They said we had to do this so we would not fear death and so we would not try to escape. . . I still dream about the boy from my village who I killed. I see him in my dreams, and he is talking to me and saying I killed him for nothing, and I am crying

Susan, 16, abducted by the Lord's Resistance Army in Uganda

Introduction

The horrors that are being visited on children in the context of war is a blight on the conscience of humankind. Today, in so many of the conflicts around the globe, children are being brutalized in unimaginable ways. Not only are civilians, particularly children, women and the elderly, increasingly the primary targets and victims of atrocities, but children are also becoming some of the worst perpetrators of brutalities against their own families and communities. They are being forced to give expression to the hatreds of adults. Ironically, at the same time as the situation on the ground deteriorates for children, we are witnessing an unprecedented elaboration and strengthening of international child protection norms and standard. The central dilemma that confronts the international community is not the lack of protection standards but rather the

prevailing culture of impunity of those who commit grave violations against children. The critical challenge of the moment is to bridge the gap between existing standards and the catastrophic situation of children on the ground. The United Nations Secretary-General has referred to this as embarking on an 'era of application' of international standards and norms to end impunity for grave child rights violations.

This paper traces the evolution of the United Nations protection agenda for children affected by armed conflict (CAAC)¹ since the publication in 1996 of the seminal report of Graca Machel entitled "The Impact of Armed Conflict on Children"² This report was so profoundly disturbing in its articulation of the plight of children in situations of armed conflict, that it galvanized the resolve of member states of the United Nations to address this problem in a more concerted and systematic manner. As a step towards this end, in 1997 the General Assembly accepted one of the key recommendations of Graca Machel to establish the mandate of the Special Representative of the Secretary-General for Children and Armed Conflict, as the convening focal point for the United Nations protection agenda for CAAC.³ This essay highlights some of the notable progress that has been registered for CAAC in the ten years since the Graca Machel report, focusing in particular on the strategic engagement of the Security Council on CAAC. The essay argues that the systematic engagement of the Council has led to a powerful momentum towards an 'era of application' of international norms and standards for the protection of children on the ground, and has generated both energy and pressure within the United Nations system to address the issue of CAAC in a more purposive and strategic way. The essay examines the evolution of the Security Council resolutions on CAAC as a center-piece of the protection agenda, as well as the key features of the annual report of the Secretary-General on CAAC, arguing that the resolutions and report serve as 'tandem-instruments' of a regime to

engender compliance of parties to conflict with international standards. Finally, the essay lists a number of significant developments that illustrate an unprecedented resolve and orientation towards the protection of CAAC by key policy-level entities.

‘Snapshot of the situation’ for children

There are presently more than 30 situations of concern where children are suffering severe and systematic abuses. It is conservatively estimated that over two million children have been killed in situations of armed conflict in the last decade, while six million children have been permanently disabled or injured. Over 250,000 children continue to be exploited as child soldiers, and tens of thousands of girls are being subjected to rape and other forms of sexual violence. Abductions are also becoming more systematic and widespread. Since 2003, over 14 million children have been forcibly displaced within and outside their home countries, and between 8,000 and 10,000 children are killed or maimed every year as a result of landmines.

The 2006 annual report of the Secretary-General to the Security Council on Children and Armed Conflict⁴ documented grave violations against children in 12 situations of concern, from Burundi, Côte d’Ivoire, the Democratic Republic of the Congo, Somalia, Chad, the Sudan and Uganda, to Colombia, Myanmar, Nepal, the Philippines and Sri Lanka. Furthermore, the report explicitly cited 40 parties, both state and non-state actors, for commission of grave violations against children.

‘Era of application’ campaign and instituting a compliance regime for CAAC

In order to reverse the trend of abominations against children in the context of armed conflict, the international community must now begin to deliver on the ‘paper promises’ that

have been made to children. There is an urgent need for a redirection of focus and energy from the elaboration of international protection norms and standards to their application on the ground.

In the development of the United Nations protection agenda for CAAC, advocacy efforts have focused on four elements which define the 'era of application' campaign:

- Systematic monitoring and reporting of grave violations against children, as a basis for action to end the impunity of those who are committing abuses;
- Mainstreaming of CAAC concerns into the policies, priorities and programmes of United Nations entities and institutional processes, as well as more fundamental integration of this issue in relevant institutions and processes beyond the United Nations;
- Strategic advocacy, awareness-raising and dissemination of CAAC norms and standards;
- Recognizing, supporting and enhancing the capacity of local civil society actors, organizations and networks, who represent the frontline of protection and rehabilitation of CAAC.

Significant energy has been directed in particular towards the structuring of a monitoring, reporting and compliance regime, as the corner-stone of the 'era of application'. The central challenge in this project has been to negotiate an effective balance between acute political sensitivities and constraints, and the imperative of ensuring the highest threshold of protection for children. The political dimension of the agenda has extended beyond the realm of member states of the United Nations, to the often vexed internal political dynamics between United Nations agencies, departments, funds and programmes. The agenda has also balanced the critical engagement and politics of NGOs as important stakeholders and partners. The monitoring, reporting and compliance regime may be disaggregated as follows:

- Review of the conduct of parties to conflict, resulting in the systematic naming and listing of offending parties for grave child rights violations;
- Initiation of dialogue with parties to conflict leading to the preparation and implementation of action plans to halt grave child rights violations;
- Establishment of a monitoring and reporting mechanism to provide systematic and reliable information on violations and compliance, as a basis for action;
- Taking of concrete action by key policy and decision making bodies, both at national and international levels, to stop, prevent and halt the commission of grave violations against children.

Progress achieved towards an ‘era of application’

In spite of the dire circumstances for children in many situations of armed conflict, the past several years have nonetheless seen significant advances in the development of the protection agenda. This progress is beginning to coalesce into tangible protection for children on the ground.

Developing and strengthening norms and standards

Very notable has been the elaboration and strengthening of the international normative infrastructure for the protection of children. This includes the adoption of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, as well as far-reaching standards and instruments such as the Rome Statute for the International Criminal Court (ICC), which classifies war crimes against children; the African Charter on the Rights and Welfare of the Child - - the first regional treaty establishing age 18 as a minimum age

for all recruitment and participation in hostilities; International Labour Organization Convention 182, which defines child soldiering as one of the worst forms of child labour and sets 18 as the minimum age for forced or compulsory recruitment; as well as six resolutions of the Security Council on CAAC.⁵ As ‘paper promises’ for children, these standards represent a remarkably high threshold of protection. The emphasis of the ‘era of application’ campaign is to make good on these commitments to children by engendering compliance with the norms by parties to conflict.

Incorporating children’s concerns into peace negotiations and accords

Children’s issues are also increasingly being reflected in peace negotiations and accords, on the premise that the inclusion of their concerns in these critical processes at the peace-making phase carries significant implications for the provision of adequate attention and resources for intervention programmes for children in the aftermath of conflict. Examples include the explicit inclusion of children’s concerns in the Good Friday Agreement in Northern Ireland in 1998, and in the 1999 Lomé Peace Agreement for Sierra Leone. Most recently, child protection provisions have also been included in the New Comprehensive Ceasefire Agreement for Darfur, adopted in May 2006. Child protection considerations are also being integrated more systematically into specific initiatives of the United Nations such as the recently established and innovative United Nations Peacemaker Databank which has been designed to strengthen the mediation infrastructure and capacity of the Organization.⁶ It is anticipated that the analysis of child protection provisions in existing peace agreements, combined with the specific child protection guidelines for mediators contained in UN Peacemaker will facilitate more systematic inclusion of children’s concerns in peace negotiations and accords.

Mainstreaming CAAC issues within the United Nations system

In the past several years, the United Nations system has made considerable progress in mainstreaming the issue of children and armed conflict into entities of the organization, as well as key institutional processes convened by the United Nations system such as the Consolidated Appeals Process for Humanitarian Emergencies or the Poverty Reduction Strategy Papers framework for multilateral donor assistance to post-conflict countries. Increasingly, children's issues are reflected in relevant cross-cutting thematic activities across the United Nations system. Concerted advocacy has led to increased commitment to, and promotion of, concerns relating to children affected by armed conflict by senior management of the United Nations, and the integration of children's concerns more consistently into policies, priorities and programmes. In-house knowledge, expertise and training, to inform policies, strategies and day-to-day operations are also increasing.⁷ However, it is important to stress that these gains remain fragile and could weaken and dissipate unless they are consolidated and institutionalized.

Inclusion of CAAC in mandates of United Nations peacekeeping operations

One of the most tangible examples of more fundamental mainstreaming of CAAC in important areas of work of the United Nations is the increasing orientation of United Nations peacekeeping mandates and operations towards child protection. Since 2001, the United Nations has instituted the practice of deploying Child Protection Advisers to Peacekeeping Operations, to advise the Special Representatives of the Secretary-General in the mainstreaming of children's concerns in the work of peacekeeping operations across civilian, military and police components, and to support the advocacy and programmes of national governments, child protection agencies

and NGOs on the ground.⁸ The impetus for this practice derives from the resolutions of the Security Council on CAAC, which explicitly request the Secretary-General to systematically assess the need, number and role of child protection advisers in preparation of each United Nations peacekeeping mission, and for their deployment to peacekeeping operations on a case-by-case basis.⁹ The engagement of United Nations peacekeeping on CAAC has also led to important conversations within the United Nations system about complementarity of efforts, more effective collaboration and delineation of division of labour on children's issues, which legitimately cross-cut into the mandates and spheres of responsibility of multiple United Nations actors.

Integrating the protection of children affected by war into the agendas and programmes of regional and other international organizations

Regional organizations and groupings have also begun to incorporate CAAC concerns more systematically into their agendas, policies and programmes, including in the area of post-conflict reconstruction and rehabilitation. The most notable examples include the adoption by the European Union of guidelines on children and armed conflict¹⁰; and the establishment by the Economic Community of West Africa (ECOWAS) of a Child Protection Unit within its Secretariat as a locus of advocacy to ensure more systematic orientation of ECOWAS to children's issues, particularly in its peacemaking and peacekeeping engagements.¹¹ Other multilateral groupings such as the Human Security Network have also consistently included CAAC on their agendas, maintaining the issue as an advocacy priority and undertaking specific initiatives.

Increased global awareness and advocacy on children affected by armed conflict issues

The past several years have also seen a significant increase in overall coverage on CAAC, as well as a more sophisticated treatment of the issue particularly by the media. This awareness and publicity of the plight of war-affected children has been an important factor in maintaining the pressure on the United Nations system and other important policy-level institutions to make commitments and undertake concrete actions and initiatives on behalf of CAAC.

Engagement of civil society

Civil society organizations and groupings are also engaging more concertedly on CAAC concerns, including NGOs, faith-based groups and communities, academia, women's groups, and children and youth themselves. NGOs in particular have played a critical role in the development and advancement of the agenda. In recent years the space has also been increasingly opened for more direct exchange between civil society and key United Nations entities such as the Security Council.¹² The role of academia is also crucial, particularly to ensure that the significant gaps in knowledge that exist on CAAC issues are systematically assessed and addressed. These gaps include the lack of the most basic data such as the global number of child soldiers; or, understanding of cross-border dimensions of conflict and impact on child recruitment, re-recruitment or 'recycling' of child combatants. The conspicuous gaps in knowledge that exist are significantly hampering effective advocacy and programme response.¹³

CAAC on the United Nations peace and security agenda

Placing children firmly on the international peace and security agenda has represented the central strategic imperative of the mandate of the Special Representative of the Secretary-General for Children and Armed Conflict, working in concert with key United Nations partners, member states and NGOs. The most impressive aspect of progress on the CAAC agenda has been the concerted, purposive and systematic engagement by the United Nations Security Council on this issue since 1999. This engagement of the Security Council has generated high momentum towards an 'era of application' of international standards and ending of the impunity of those who commit grave violations against children.

Raising the stakes on CAAC

The engagement of the Security Council has raised the stakes considerably on all sides of the issue. From the perspective of state and non-state parties who are committing grave violations, the perceived and actual risk-level for abusing children has risen appreciably as the Security Council has moved closer to adoption of sanction measures against them in successive resolutions. There are clear signs that this is beginning to affect their behaviour. From the perspective of United Nations system actors, the engagement of the Security Council has resulted in a new sense of urgency and pressure within the system, to re-evaluate and re-direct priorities, to coordinate better, to define more clearly territories for collaboration on CAAC, and to determine and agree divisions of labour to deliver protection for children on the ground. From the perspective of the Security Council itself the stakes have also risen, because as the rigour and sophistication of its engagement on this issue have increased, so has the level of outside interest, understanding and scrutiny of the work of the Council in this area. Concerted action for children is increasingly perceived by the Security Council as a matter of its credibility. The CAAC

agenda has also raised the stakes in other ways, by opening the door for more systematic engagement of the Security Council on a number of other critical thematic human rights concerns such as *Women Peace and Security* and *Protection of Civilians in Armed Conflict*. It is clear that the evolution of the CAAC agenda will have a direct bearing on the development and advancement of other thematic agendas in the Security Council.

Political dimension of CAAC agenda in the Security Council

The engagement of the Security Council on a thematic human rights issue such as CAAC has necessitated a fundamental shift in the mode of business of the Council and a re-definition of the scope of its engagement. This has required the negotiation of both practical and political considerations and constraints.

In its mode of work, the Security Council adopts a situation-specific approach, focusing primarily on country situations of concern. The threshold consideration for inclusion on the agenda of the Council is a determination by the members that a given situation poses a legitimate threat to international peace and security. Hence, the Security Council has on its present agenda some of the worst situations of conflict and instability such as Sudan, Cote d'Ivoire, the Democratic Republic of the Congo, Somalia, Iraq, Afghanistan and Haiti. Yet, it is clear that what makes it onto the formal agenda and what does not, is also a political determination by Security Council members. Thus, for instance, it is conspicuous that a number of grave situations where there has been protracted conflict over many years and where those conflicts also have significant international dimensions and implications, are not formally on the agenda of the Security Council, such as Colombia, Sri Lanka, Nepal and Uganda.

The engagement of the Security Council on the thematic issue of children and armed conflict must be viewed against this political back-drop. When the Council adopted the first resolution on CAAC - - SCR1261 (1999) - - it signaled that the situation of children in situations of armed conflict constitutes a legitimate threat to international peace and security that belongs on its agenda. The practical implication of this decision is that the Council is now increasingly compelled to focus on all situations of concern where children are being abused in the context of armed conflict, including situations such as Colombia, Sri Lanka, Nepal and Uganda, which are a focus of the Secretary-General's CAAC agenda. Therefore, the central political pre-occupation and concern within the Council, and more broadly among many member states of the United Nations, is that thematic issues such as CAAC may be used to 'back-door' specific country situations onto the agenda of the Security Council.¹⁴ This has been a concern, for example, for Colombia (which has otherwise been actively supportive of the CAAC agenda), as well as for permanent members of the Security Council such as the United Kingdom and the Russian Federation as the CAAC agenda has focused on the commission of violations by paramilitary groups in Northern Ireland and by Chechen rebels.

This central political 'dilemma' has become an increasingly vexed question as the CAAC agenda has evolved and the Security Council moves closer to adoption of sanction measures against violators. It is a testament to the political will of all stakeholders, particularly member states, that these significant political considerations have so far been over-ridden by a broad-based consensus on the imperative to protect children in situations of armed conflict.

At the same time, it should also be noted that the proactive engagement of the Security Council on CAAC has exacerbated the inherent tension between the Council and the United Nations General Assembly, which views the work of the Security Council on any thematic

human rights issue as a fundamental encroachment on its mandate and terrain. There are many voices in the General Assembly that would wish to see the issue of CAAC move out of the sphere of the Security Council altogether, which has represented a constant and underlying political challenge of the mandate of the Special Representative of the Secretary-General for Children and Armed Conflict.

Evolution and import of the Security Council resolutions on CAAC

The six Security Council resolutions on children and armed conflict since 1999, represent an important pillar in the international normative protection infrastructure for children, and should be understood specifically as instruments to compel parties to conflict to adhere to international child protection standards.

Security Council resolution 1261 (1999) marked the entry-point of the Council on CAAC. 1261 (1999) represents the first resolution of the Security Council on a thematic concern, and affirms that the protection of children in situations of armed conflict constitutes a legitimate threat to international peace and security. The resolution outlines a broad framework for the protection of children and may be read alongside Graca Machel's report on the "Impact of Armed Conflict on Children". The resolution essentially draws out the major themes and priorities outlined by Graca Machel, as the broader framework of engagement of the Security Council on CAAC. It should be noted that the five subsequent resolutions do not add any significant new substantive elements, but rather focus on and refine critical aspects of SCR1261(1999). In this sense the first resolution may be viewed as the 'foundation stone' of the Council's formal engagement on CAAC.

The subsequent resolutions have sought to advance the CAAC agenda of the Council by strategically identifying critical substantive elements and orienting them towards concrete measures on behalf of children. Even though the resolutions have dealt with multiple aspects of the agenda such as inclusion of child protection in peacekeeping mandates, responsibility and engagement of regional groups, importance of explicit programmes for disarmament, demobilization and reintegration of children, etc. throughout, the central emphasis has been to structure a monitoring, reporting and compliance regime. Thus, Security Council resolution 1314 (2000) provides a more specific plan of action for child protection, calling for an end to impunity for those who abuse children, including through their exclusion from amnesty provisions; for intensified efforts to obtain the release of abducted children; and, for the inclusion of child protection advisers in United Nations peacekeeping operations. The key feature of Security Council resolution 1379 (2001) was to formally establish the practice of monitoring, reporting and compliance by mandating the preparation and publication by the Secretary-General of a list of parties that recruit or use children in situations of armed conflict, as an annex of his annual report to the Security Council on CAAC. Resolution 1460 (2003), endorses the Secretary-General's call for an 'era of application' and broadens the scope for monitoring and reporting by calling on parties identified in the Secretary-General's list to provide information on steps they have taken to halt the recruitment and use of children, with the expressed intention of the Security Council to consider taking appropriate steps where insufficient progress has been made.

SCR 1539 (2004) as a 'unifying' resolution of monitoring, reporting and compliance elements of the agenda

Resolution 1539 (2004), marks a watershed moment of the agenda in that it specifies, concretizes and unifies the key elements of the monitoring, reporting and compliance regime that have been introduced in the previous resolutions:

- The Security Council requests the Secretary-General to provide information on progress and compliance by parties named in the annexes to his report, taking into account information concerning other violations and abuses being committed against children. The broadening of the focus to other grave violations has been critical, because hitherto the Council's formal engagement had been pegged to the issue of recruitment and use of child soldiers as a violation of international law. SCR 1539 (2003), for the first time, articulates other categories of grave violations against children, thereby expanding the protection framework.
- The Security Council, for the first time, introduced the notion of preparation by parties to conflict of concrete time-bound action plans to end grave violations for which they have been cited.¹⁵
- The Secretary-General was requested to devise, as a matter of priority, an action plan for a systematic and comprehensive monitoring and reporting mechanism.
- The Council expresses its intention to consider imposing "targeted and graduated measures" against those parties to conflict who commit grave violations against children, which may include *inter alia*, "a ban on the export or supply of small arms and light weapons and of other military equipment and on military assistance, against these parties if they refuse to enter into dialogue, fail to develop an action plan or fail to meet the commitments included in their action plan".

- The Security Council also formally assigned the primary responsibility to ensure effective follow-up to resolutions and commitments on children affected by armed conflict to the heads of United Nations country presence, namely the Special Representatives of the Secretary-General and United Nations Resident Coordinators.

SCR1612 (2005) and the operationalization of the engagement of the Security Council on CAAC

Even as it advances the protection of children in a number of crucial respects, perhaps the most significant added value of SCR 1612 (2005), adopted in July 2005, is that it operationalizes the engagement of the Security Council on CAAC by mandating the implementation of an infrastructure for monitoring and reporting of grave child rights violations and compliance with international child protection standards:

- The Security Council requests the Secretary-General to implement the monitoring and reporting action plan as specified in the 2005 report of the Secretary-General to the Security Council, to record six grave violations committed against children.
- The Security Council requests the heads of UN country presence to initiate contact with the parties to conflict listed in the Secretary-General's report with a view to engaging in dialogue leading to the preparation and implementation of time-bound action plans to halt the recruitment of child soldiers and other grave abuses;
- The Security Council establishes a Working Group on Children and Armed Conflict to review reports on violations and action plans by parties to conflict, and to make specific recommendations to the Security Council and other policy-level bodies for action;
- The Security Council mandates the Secretary-General to continue reporting specific information on grave violations against children and prepare monitoring lists naming

offending parties in situations on the Council's agenda as well as other situations of concern.

Security Council Working Group on Children and Armed Conflict (SCWG-CAAC)

The central import of the SCWG-CAAC is that it further deepens and systematizes the engagement of the Council on CAAC. In a practical sense the Security Council adjusts its frequency and mode of engagement on CAAC. Because, even though CAAC has formally been on the agenda of the Security Council since 1999, the Council has continued to deal with this issue on a seasonal basis in its annual Open Debate on CAAC. Such seasonal engagement has been inadequate from the perspective of timely response to immediate protection needs of children and rapidly evolving situations on the ground. The establishment of the SCWG-CAAC provides a vehicle for child protection practitioners on the ground to seize the attention of the Security Council on situations and incidents of concern for children on an as-needs-basis, throughout the course of the year. It is anticipated that the annual Open Debate of the Council on CAAC will continue to serve as an important moment on the calendar of the Security Council to advance the CAAC agenda.

Terms of reference of the SCWG-CAAC

On 2 May 2006, the SCWG-CAAC formally adopted its terms of reference,¹⁶ demonstrating again the resolve of Security Council to transcend political considerations to maintain the primacy of the imperative to protect children in situations of armed conflict. The terms of reference provide a robust framework of engagement and protection, the key features of which are:

- SCWG-CAAC will consist of all the members of the Security Council;
- SCWG-CAAC will meet formally at least every two months, with possibility of additional meetings on the request of the working group chair or any member of the working group, on an as-needs-basis;
- Terms of reference provide for a regular substantive exchange between the SCWG-CAAC and any relevant authority;
- SCWG-CAAC will review information emanating from the Secretary-General's monitoring and reporting mechanism on grave violations against children, as well as other relevant information presented to it;
- SCWG-CAAC will review progress on the preparation and implementation of action plans by parties to conflict named by the Secretary-General;
- Based on its review of information, SCWG-CAAC will make recommendations to the Security Council on possible measures to promote the protection of children;
- SCWG-CAAC may also address requests for action for the protection of children to other bodies within the United Nations system;
- SCWG-CAAC makes provision to ensure transparency of its engagement.

Secretary-General's report on CAAC as a complimentary protection instrument

In understanding the evolution of the United Nations protection agenda for CAAC, and particularly the monitoring, reporting and compliance regime aspect, it is important to appreciate the relationship between the reports of the Secretary-General on CAAC and the resolutions of the Security Council. The report of the Secretary-General defines the United Nations substantive agenda for children and armed conflict, including the situations designated of concern for

children. The specification of the agenda is based on the imperative of establishing the highest possible threshold of protection for children. The Security Council resolutions respond to the policy recommendations contained in the Secretary-General's annual report, and on the basis of these recommendations the Council has in turn played a leading role in determining the direction and pace of the agenda. Thus, the Secretary-General has challenged the Security Council with far-reaching recommendations on CAAC, and in turn the Council has responded vigorously through proactive engagement, challenging the United Nations system, NGOs and other key stakeholders to act more effectively within the purview of their own mandates, roles and responsibilities.

The 'conversation' between the United Nations Secretariat and the Security Council through the vehicles of the Secretary-General's report and Security Council resolutions, has been the primary mode for advancing the CAAC protection agenda. In this sense the Secretary-General's report may be understood beyond its narrative account of the plight of children, as an instrument to bridge the gap between the reality on the ground for children and the norms and standards for their protection. The report, therefore, has served a dual function of raising the level of substantive engagement on the key aspects of the CAAC problematic, at the same time as it has progressively evolved into a more focused monitoring and compliance report - - the so called *report-of-record* - - on commission of abuses against children. The tone, tenor and calibration of the conversation between the Secretary-General and the Security Council on CAAC represents both the technical and political heart of the agenda, and the 'art' and innovation of the mandate of the Special Representative of the Secretary-General as the United Nations system convening focal point for this exchange.

Critical features of the Secretary-General's report

It was recognized early on that the report of the Secretary-General must be crafted in a specific way if it is to serve as an instrument to facilitate concrete action by the Security Council and other important policy-level actors. At a minimum, the report had to:

- Represent the different aspects, dimensions and nuances of the CAAC problematic, and to serve as a vehicle to enhance the United Nations system understanding on CAAC;
- Focus more explicitly the attention of the Council on those parties to conflict who are committing violations; hence, the institution and evolution of the Secretary-General's listing exercise as a focus-point for the Council, and a clear signal to those committing violations that the United Nations 'means business' on CAAC;
- Ensure that focus was maintained on all parties to conflict who commit violations, both state and non-state actors;
- Ensure that the Council maintained its focus on all situations of concern for children, beyond the limited number of situations that are on the Security Council's country-specific agenda; hence the graduated expansion of the listing exercise to include two list annexes, which combined cover all situations of concern for children;
- Ensure that the threshold level of specificity on the parties listed was gradually increased, as a basis for action against explicitly named groups or individuals;
- Forge a consensus understanding and agreement on the grave violations that constitute the basis for monitoring and reporting; this was also a process of ensuring an expansion beyond the tight focus of the Security Council on the child soldiering dimension of CAAC;

- Offer a viable technical road-map for a monitoring, reporting and compliance regime, within the context of political considerations and constraints;
- Ensure that information contained in the report is un-impeachable in its reliability, accuracy and timeliness; this will be facilitated by the Secretary-General's monitoring and reporting mechanism.

The Secretary-General's Monitoring and Reporting Mechanism

The Fifth Report of the Secretary-General to the Security Council on Children and Armed Conflict¹⁷, represents the culmination of a graduated strategic process since 1999 to build-in all of the features outlined above, and develop a compliance report-of-record on the commission of grave violations against children. The center-piece of the Fifth report is the specification by the Secretary-General of a structured mechanism to monitor and report on grave violations against children in situations of armed conflict. The mechanism is the product of extensive consultations since 2001 among United Nations system entities, NGOs, national governments, regional organizations and civil society in conflict-affected countries. The monitoring and reporting mechanism will operate at three principal levels¹⁸:

- i. Country level: Information gathering, coordination, action and preparation of reports at country-level;
- ii. Headquarters Level: Coordination, scrutiny and integration of information, and preparation of reports at headquarters-level;
- iii. Destinations for action: Monitoring information included in reports shall be used to obtain concrete action to ensure compliance to be taken particularly by bodies that constitute 'destinations for action' such as national governments, regional

organizations, the Security Council, the General Assembly, the Commission on Human Rights, the International Criminal Court, the Committee of the Rights of the Child, United Nations Country Teams and United Nations Peacekeeping Operations, among others.

Categories of grave violations against children

As a point of departure, the monitoring and reporting mechanism will seek to monitor six grave abuses against children in the context of armed conflict: Killing or maiming of children; Recruiting or using child soldiers; Attacks against schools or hospitals; Rape or other grave sexual violence against children; Abduction of children; Denial of humanitarian access for children.

Dividends of the momentum generated by the United Nations CAAC agenda

The strong momentum that has been generated on CAAC, especially as a result of the purposive engagement of the Security Council, has begun to bear fruit in terms of concrete developments that make a qualitative difference for children in situations of armed conflict. The international community is orienting itself increasingly toward an ‘era of application’ of international child protection standards. Highlighted schematically below are a number of significant developments over the past year, which merit closer attention in the context of discussions on application of standards and ending impunity of those who commit grave violations against children.

Indictment by the International Criminal Court of Thomas Lunabga Dyilo

On 18 March 2006, the Chief Prosecutor of the International Criminal Court issued a statement announcing the indictment of Thomas Lubanga, founder and leader of a militia group in Ituri, in the Democratic Republic of the Congo, for commission of war crimes: *conscripting and enlisting children under the age of 15 years; and, using children to participate actively in hostilities*. In his statement, the prosecutor also stressed:

*This is the first case, not the last. The investigation is ongoing, we will continue to investigate more crimes committed by Thomas Lubanga Dyilo and we will also investigate other crimes committed by other groups. This is important, it's a sequence. We will investigate crimes committed by other militias and other persons - - this is the first case, not the last....We are totally committed to staying in Congo - - to make sure justice is done.*¹⁹

Successful prosecution of Jean-Pierre Biyoyo in Democratic Republic of the Congo

On 19 March 2006, Major Jean-Pierre Biyoyo became the first person to be convicted in a national judicial process for recruiting child soldiers, and was sentenced to 5 years imprisonment by a military tribunal. The case establishes an important precedent in that it represents the first time that a DRC court has tried and convicted a soldier for recruitment of children.²⁰

Indictment of Charles Ghankay Taylor by the Special Court for Sierra Leone

Former President of Liberia, Charles Taylor, was transferred into the custody of the Special Court for Sierra Leone on 17 March 2006, indicted on 11 counts of war crimes and crimes against humanity, including “conscripting or enlisting children under the age of 15 years

into armed forces or groups, or using them to participate actively in hostilities”.²¹ The case sets an important precedent by indicting, for the first time, a former head-of-state for recruitment and use of children. It should also be noted that the recruitment of children has been included in the list of counts against all eleven individuals who have so far been indicted by the Special Court.

Submission of Action Plan to end recruitment and release children by Force nouvelles, Cote d’Ivoire; Action Plans by four pro-government Militia Groups

In November 2005, the Force nouvelles, one of the parties listed by the Secretary-General for recruitment and use of child soldiers in Cote d’Ivoire, submitted a concrete, time-bound action plan in the context of dialogue established under the framework of SCR 1612 (2005). In the action plan the group commits to taking measures to prevent recruitment of children, and to the release of all children associated with their fighting forces. The pressure exerted on the group in the framework of SCR 1612 (2005), also opened the possibility of child protection dialogue beyond the issue of recruitment and use of children. Thus, for example, the top leadership of the Force nouvelle, at the behest of the United Nations, issued a Command Order to its forces in April 2006, ordering the release of all children in detention in the northern half of Cote d’Ivoire which is under rebel control, and putting an end to the practice of detention of children. The issue of juveniles in detention has been a major child protection concern in rebel controlled and administered territory given the non-existence of functional justice systems.²² The 2006 report of the Secretary-General to the Security Council states that the Forces armées des Forces nouvelles (FAFN) has made all efforts to comply with the action plan of 2005. Furthermore, FAFN agreed in 2006 to establish an independent verification commission with UNICEF to ensure compliance with the action plan.²³ In September 2006, four of the main pro-government militia groups,

FLGO, MILOCI, APWé, and UPRGO also committed to action plans to prevent recruitment of children and to identify and release all children associated with their forces.²⁴

Adoption of sanction by the UN Security Council for the crime of recruitment in Cote d'Ivoire

On 7 February 2006, the Security Council Sanctions Committee for Cote d'Ivoire, established pursuant to resolution 1572 (2004), approved a list of individuals subject to specific sanction measures, including travel ban and attachment of financial assets. Martin Kouakou Fofie of Force nouvelles, Commandant of Korogo Sector, was listed in this regard, under the citation that forces under his command had engaged in recruitment of child soldiers, abductions, and sexual abuse and exploitation. It is important to note that these sanction measures were not adopted in the framework of resolution 1612 (2005) on children and armed conflict, but it signals the willingness of the Council to consider imposing sanction measures for violations against children under the frame of existing sanctions regimes.

Recommendation of Sudan Expert Panel for sanctions for violations against children

On 19 April 2006, the Secretary-General's Panel of Experts on Sudan issued the following recommendation:

Recommendation 11. The Security Council should request the Committee to consider information on children and armed conflict presented to the Council by the Secretary-General under the monitoring and reporting mechanism established in Council resolution 1612 (2005). The Committee would then use this information to assist in the deliberations on possible designation of individuals who commit violations of international humanitarian or human rights law as

being subject to the measures in subparagraphs 3 (d) and 3 (e) of resolution 1591 (2005).25

Subparagraphs 3 (d) and 3 (e) of Security Council resolution 1591 (2005) refer to sanction measures as follows:

3 (d) that all States shall take the necessary measures to prevent entry into or transit through their territories of all persons as designated by the Committee pursuant to subparagraph (c) above, provided that nothing in this paragraph shall obligate a State to refuse entry into its territory to its own nationals;

3 (e) that all States shall freeze all funds, financial assets and economic resources that are on their territories on the date of adoption of this resolution or at any time thereafter, that are owned or controlled, directly or indirectly, by the persons designated by the Committee pursuant to subparagraph (c) above, or that are held by entities owned or controlled, directly or indirectly, by such persons or by persons acting on their behalf or at their direction, and decides further that all States shall ensure that no funds, financial assets or economic resources are made available by their nationals or by any persons within their territories to or for the benefit of such persons or entities;

Most significantly, the recommendation illustrates an increasing cohesion of various frameworks of the Security Council, and reinforces the assertion that the Council is prepared to consider

sanction measures against those parties who commit grave violations against children under the framework of existing country-specific sanctions regimes.

Recommendations by the Security Council Working Group on Children and Armed Conflict

Since the initiation of the working group pursuant to Security Council resolution 1612, the Secretary-General has for the first time presented to the Council country specific reports on the situation of children and armed conflict in the Democratic Republic of the Congo, Sudan, Burundi, and Cote d'Ivoire, with reports to the working group on Nepal, Sri Lanka and Somalia anticipated in February 2007. In response to these reports of the Secretary-General, the working group recommends to the Security Council, amongst other specific conclusions, the referral of continued grave violations against children by parties in DRC and Cote d'Ivoire to the existing Security Council Sanctions Committees established for these two situations.

Conclusion

Although the plight of children in many situations of armed conflict around the globe remains grave and unacceptable, collaborative efforts over the last eight years among United Nations entities, governments, regional organizations, NGOs and other civil society groups, have resulted in notable progress, and have created a strong momentum for the protection of children on the ground. These advances include the elaboration and strengthening of international norms and standards for the protection of children; more fundamental mainstreaming of CAAC concerns in the United Nations system and beyond; and, increasingly, the broadening of the global circle of stakeholders and action on behalf of CAAC. Perhaps most significantly, the systematic and purposive engagement of the Security Council has raised the stakes considerably

on this issue, not only for those who are committing grave violations, but also for the United Nations system and other actors who are charged with advocacy and programme interventions for CAAC. We are beginning to witness a ‘turning-of-the-tide’ for children, as commitments translate to concrete action for their protection. However, it is also evident that the progress that has been registered thus far remains fragile and may dissipate if not consolidated and reinforced. Even higher levels of commitment and more effective collaboration of key entities of the international system will be required to achieve the ‘era of application’ of child protection standards.

Notes

-
- ¹ CAAC is used as shorthand to denote “children and armed conflict” and “children affected by armed conflict”.
- ² Graca Machel, 1996, ” “The Impact of Armed Conflict on Children”, United Nations document A/51/306 and Add.1
- ³ General Assembly resolution A/RES/51/77 of 1997 recommended that the Secretary-General appoint for a period of three years a Special Representative for Children and Armed Conflict, as a high-level independent advocate for war-affected children. The General Assembly has since extended the mandate of the Special Representative on three occasions, most recently in resolution A/RES/60/231 of January 2006.
- ⁴ 6th Report of the Secretary-General to the Security Council on Children and Armed Conflict, October 2006, United Nations document A/61/529-S/2006/826
- ⁵ For a compendium of protection standards refer to: “Children and Armed Conflict: International Standards for Action,” 2003, Human Security Network and the Office of the Special Representative of the Secretary-General for Children and Armed Conflict.
- ⁶ United Nations Peacemaker, United Nations Department of Political Affairs (<http://peacemaker.unlb.org>)
- ⁷ The 2004 Report of the Special Representative of the Secretary-General for Children and Armed Conflict to the General Assembly, United Nations document A/59/426, deals exclusively with the issue of mainstreaming of CAAC in the United Nations system.
- ⁸ Refer to 2005 Report of the Special Representative of the Secretary-General for Children and Armed Conflict to the General Assembly, United Nations document A/60/335
- ⁹ Refer to United Nations Security Council resolutions 1379 (2001), 1460 (2003), 1539 (2004) and 1612 (2005).
- ¹⁰ Refer to “European Union Guidelines on Children and Armed Conflict,” Council of the European Union document, adopted by the Political and Security Committee (PSC) at its meeting on 4 December 2003.
- ¹¹ Refer to the “Accra Declaration and the Plan of Action on War-Affected Children in West Africa,” African Union document
- ¹² A case in point is the annual Arria Formula briefings of NGOs to the Security Council, preceding the annual Open Debates of the Security Council on CAAC.
- ¹³ In this regard, reference may be made to the initiative of the Research Consortium on Children and Armed Conflict, which was established in 2002 under the auspices of the New York-based Social Science Research Council, bringing together 19 academic and research institutions to engage on a number of specific projects, such as data collection on CAAC; research into changing trends in warfare that detrimentally impact children; and, traditional norms, values and practices that protect children in times of war and in post-conflict recovery. The Special

Representative of the Secretary-General for Children and Armed Conflict has also outlined critical research priorities in her Strategic Plan for CAAC 2006-2008.

- ¹⁴ The Secretary-General has made it clear that the focus of the CAAC agenda is not on situations of concern, but rather on parties that commit grave violations against children. The mention of country situations is for the purpose of locating geographically these parties to conflict rather than to name specific countries as situations of concern.
- ¹⁵ It has been determined that an agreed and written action plan should include the following elements: i) Commitment by the listed party to immediately end violations; ii) Commitment by the listed party to release all children within its ranks; iii) Commitment by the listed party to cooperate with DDR program; iv) Specific measures to prevent recruitment and re-recruitment of children iv) Designation by listed parties of a high-level focal point to liaise with the UN team during the implementation of the action plan; v) Agreed, time-bound benchmarks for measuring progress and compliance; vi) Issuance of formal instructions by the political and military leadership of the listed party to their chain-of- command, reflecting commitments contained in the action plan; vii) Agreed arrangements for access by the UN team for monitoring and verification of the action plan.
- ¹⁶ Refer to letter dated 2 May 2006 from the Permanent Representative of France to the United Nations (Chair of the SCWG-CAAC) addressed to the President of the Security Council, transmitting the Terms of Reference of the SCWG-CAAC, United Nations document S/2006/275
- ¹⁷ Report of the Secretary-General to the Security Council on Children and Armed Conflict, (United Nations document symbol-number: A/59/695-S/2005/72)
- ¹⁸ As specified in the report cited above.
- ¹⁹ Statement by Luis Moreno-Ocampo, Chief Prosecutor of the International Criminal Court, The Hague, 18 March 2006; and, International Criminal Court, public Document no: ICC-01/04-01/06, 17 March 2006, “Decision to Unseal the Warrant of Arrest Against Mr. Thomas Lubanga Dyilo and related documents”
- ²⁰ Source: iafrica.com, Agence France Presse, *DRC recruiter for child soldiers convicted*, posted 19 March 2006.
- ²¹ Special Court for Sierra Leone, Case No. SCSL-2003-01-I, The Prosecutor against Charles Ghankay Taylor, Amended Indictment.
- ²² United Nations Department of Peacekeeping Operations confidential Code Cable no: 396, 28 November 2005; Code Cable no: 151, 4 May 2006.
- ²³ 6th Report of the Secretary-General to the Security Council on Children and Armed Conflict, October 2006, United Nations document A/61/529-S/2006/826
- ²⁴ 6th Report of the Secretary-General to the Security Council on Children and Armed Conflict, October 2006, United Nations document A/61/529-S/2006/826
- ²⁵ Second Report of the Panel of Experts established pursuant to resolution 1591 (2005) concerning the Sudan, United Nations S/2006/250. Rec. 11