

A discussion paper

April 2013

action plans to prevent and end violations against children

The Role of Action Plans in the UN's Children and Armed Conflict agenda

The inclusion of children and armed conflict (CAAC) in the agenda of the Security Council is a vital step towards protecting children in situations of armed conflict from some of the most egregious violations of their rights. The successes of the Monitoring and Reporting Mechanism (MRM) have been well documented; to date, a total of 23 action plans have been adopted by 21 parties to armed conflict (two parties having concluded two action plans).

The 11th Report of the UN Secretary-General on Children and Armed Conflict (2012) listed 32 persistent perpetrators of grave violations against children— that is, those who were perpetrators for a period of five years or longer —, and proposed measures to increase pressure on these perpetrators to end violations. One of the recommendations focused on action plans, an important tool in preventing and ending violations.

This discussion paper examines the key elements that lead to the adoption of action plans. It examines the challenges encountered in action plan implementation, and it suggests recommendations for addressing these challenges. The paper also highlights the need for the UN to engage with non-State armed groups for the purposes of action plan adoption and implementation. Finally, the paper suggests ways in which action plans can be further used to promote accountability.

In preparing this paper, Watchlist conducted 49 qualitative interviews with members of the UN Security Council Working Group on Children and Armed Conflict, UN agencies and offices at UN headquarters and at the country-level, nongovernmental organizations, diplomatic missions and independent experts.

The findings and recommendations are meant to inform discussion regarding the next steps the UN could take, both at headquarters and in the field, to further improve the protection of children affected by armed conflict.



about watchlist

Watchlist on Children and Armed Conflict strives to end violations against children in armed conflicts and to guarantee their rights. As a global network, Watchlist builds partnerships among local, national and international nongovernmental organizations, enhancing mutual capacities and strengths. Working together, we strategically collect and disseminate information on violations against children in conflicts to influence key decision-makers to create and implement programs and policies that effectively protect children.

Watchlist on Children and Armed Conflict is a project of Tides Center, a non-profit public charity.

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Key recommendations

Action plan adoption and implementation:

To the Security Council and its Working Group on Children and Armed Conflict:

- Request the Secretary-General to publish a report on perpetrators, with a focus on action plan adoption and implementation, and discuss the report's findings and recommendations in a special session of the Working Group.
- Request the Resident Coordinator or Special Representative of the Secretary-General for a specific country to raise the needs and rights of children with the national political leadership repeatedly and consistently; and brief the UN Security Council and/or its Working Group on progress made in terms of perpetrators active in the country, in person or via video-link.
- When the time-frame of an action plan has not been respected, request prompt follow-up information from the Resident Coordinator or Special Representative of the Secretary-General regarding their efforts towards action plan compliance.
- Ensure an adequate child protection mandate and request timely and sufficient child protection capacity with direct access to mission leadership in all Security Council-authorized missions, with a specific focus on monitoring and reporting of violations and support to action plan conclusion and implementation.

To Member States:

- Mainstream children and armed conflict within foreign ministries and related government agencies, encouraging in particular the use of bilateral diplomacy and conditionality of military assistance to listed parties to spur action plan conclusion and implementation.
- Establish a "Group of Friends" at the country-level as a means to promote action plan adoption and implementation.

To the Country Task Force on Monitoring and Reporting (CTFMR):

- Ensure ownership of action plan commitments through a consultative process with the concerned

government and/or non-State party, and UN and non-governmental actors prior to action plan conclusion. The affected community should be consulted and their perspective incorporated including, where appropriate, affected children.

- Programmatic activities, designed to implement action plan commitments, should be drafted by key stakeholders at the country-level, including the listed party, the UN and the affected community. The programmatic activities, output indicators and measurable results, should be adapted to each given context, and provided with the appropriate financial support and resources. The country-specific implementation plan can be further used for resource mobilization and compliance monitoring.
- Establish a designated action plan monitoring task force, with a regularized reporting schedule, to monitor action plan compliance. Include the structure, its reporting requirements and consequences for non-compliance, in the action plan.

To the Donor Community:

- Address the critical need for sufficient and predictable resources to prevent and respond to grave violations, and to implement action plans. For example, consider establishing a revolving, pooled fund that provides seed money to government actors, UN agencies and partners upon action plan conclusion to start short-term programming. The pooled funds can support political momentum, help bridge a funding gap and allow for fundraising efforts towards longer-term funding.

Action plans and armed non-State actors (ANSAs):

To the UN Secretary-General and his Special Representative on Children and Armed Conflict:

- Replicate, as soon as possible, the successful outreach of the past two years promoting action plan conclusion with listed governments, now focused on armed non-State actors.

To Member States:

- Allow unconditional access for the UN to armed non-State actors for the conclusion, implementation and completion of action plans.

- For third-party negotiators: Mobilize armed non-State actors in support of action plan adoption and implementation. For example, consider organizing Regional Conferences on Children and Armed Conflict to sensitize perpetrators, with a focus on action plans.

Action plans and accountability:

On Transparency:

- To the Signatory Parties: Wide dissemination of action plan commitments by signatory parties (State and non-State entities) should immediately follow action plan signature. All stakeholders, including civil society and affected communities, should be aware of the standards to which action plan compliance is to be measured.

On Institutional Reform:

- To the MRM Technical Reference Group: Conduct research into how the CTFMR members and the 1612-mechanism can contribute to national justice reform in support of child protection, and related processes.

On Impunity:

- To Member States / Donor Community: Support efforts to strengthen national accountability mechanisms, including the development of legislation criminalizing violations against children, and building investigative and prosecutorial capacities.
- To the Security Council and its Working Group on Children and Armed Conflict: Invite concerned States Parties to the International Criminal Court (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; invite the Prosecutor or Deputy Prosecutor to brief the Working Group; encourage the exchange of information between the Prosecutor and the Special Representative of the Secretary-General for Children and Armed Conflict; and transmit conclusions of the Working Group to the ICC Prosecutor.

Introduction

The 11th Report of the UN Secretary-General on Children and Armed Conflict (2012) listed 32 persistent perpetrators of grave violations against children, that is, those who were perpetrators for a period of five years or longer. The report called for “further decisive and immediate action ... to halt these violations, and to ensure that persistent perpetrators are brought to account.”¹ It encouraged the Security Council to put increasing pressure on these perpetrators and to consider applying targeted measures, including linkages with sanctions regimes, high-level consultations on persistent perpetrators and the development of closer cooperation with national and regional courts to address violations by persistent perpetrators.² Furthermore, the report recommended that the donor community address “the funding gaps for the implementation of action plans, including the monitoring of compliance with action plans, and sustainable, long-term reintegration needs of children formerly associated with armed forces or armed groups”³ and that Member States allow access and facilitate contact between the United Nations and non-State armed actors (hereinafter ANSAs) to monitor, report on and conclude action plans to end grave violations against children.⁴

On October 17, 2012, the Special Representative of the Secretary-General Leila Zerrougui outlined the way forward for children and armed conflict in her statement to the UN General Assembly. She argued that “now, we must focus on implementing the tasks given to us ... as best as possible, especially on monitoring and reporting, dialogue and action plan implementation.”⁵

Against this backdrop, and in the interest of contributing positively to this important discussion, Watchlist on Children and Armed Conflict conducted research on the successes and challenges associated with one of the key existing tools available to the UN to end grave violations against children: action plans.

The research suggests that action plans play a positive and strategic role in bringing an end to grave violations against children. To date, 23 action plans have been adopted by 21 parties to armed conflict (two parties having concluded two action plans). This includes

13 persistent perpetrators. Action plans have been implemented and completed in four countries (Cote d'Ivoire, Uganda,⁶ Nepal and Sri Lanka) resulting in the delisting of eight parties from the UN Secretary-General's report.⁷ Given the recent delisting of two parties to conflict on the basis of action plan implementation,⁸ and the calls for action to be taken to hold persistent perpetrators to account, a reflection on action plans is both timely and appropriate.

This paper considers six situations in which action plans have been concluded: Chad, Democratic Republic of the Congo (DRC), South Sudan, Afghanistan, Nepal and the Philippines. Action plans have been signed with six parties (Armée Nationale Tchadienne (ANT), Forces Armées de la République Démocratique du Congo (FARDC), Afghan National Police, Unified Communist Party of Nepal-Maoist (UCPN-M), Sudan People's Liberation Army (SPLA) and the Moro Islamic Liberation Front (MILF) – the Philippines). Of these six action plans, one has been satisfactorily implemented leading to the delisting of the party from the Secretary-General's report (the UCPN-M). Less success has been made to date on implementation of the other action plans. However, in cases in which the action plan has yet to be fully implemented, such as in DRC or Afghanistan, the framework developed is considered by respondents to be a useful tool.

Part I of this paper focuses on the process by which action plans have been adopted. Part II examines the practice of action plan implementation. Part III outlines the "next frontier" for UN engagement: dialogue with non-State armed actors for the purpose of action plan adoption, implementation and completion. Finally, recognizing the vital role that action plans can play in ending violations and contributing to wider protective environments, Part IV of this paper looks at the question of accountability for grave violations against children and examines the extent to which action plans could be further used to contribute to accountability.

Methodology

The findings and recommendations presented in this paper are based on 49 qualitative interviews⁹ with child protection actors, including with staff of UN offices and agencies, staff of international and national NGOs, members of the UN Security Council Working Group on Children and Armed Conflict, staff of diplomatic missions in the countries examined and members of the Group of Friends of CAAC. Interviews were conducted in, or with stakeholders from, six countries; Chad, DRC, South Sudan, Afghanistan, Nepal and the Philippines.¹⁰ These countries were considered because they represent a wide range of different scenarios and stages of implementation of action plans by State forces or ANSAs. While no two countries or conflict situations are the same, lessons from individual cases can be drawn regarding the dynamics which facilitate or challenge the action plan process.

The focus of this paper is on action plans to end the recruitment and use of children, which currently make up the largest proportion of action plans. Action plans to bring an end to sexual violence, killing and maiming and attacks on schools and hospitals will inevitably highlight the need for additional changes in the process by which plans are adopted and implemented.

Finally, this paper is not an exhaustive review. As well as the differences from one conflict situation to another, the structure of the CTFMR, the government's response and the diplomatic support lent to both, differs from case to case. Therefore, a fully representative study of action plans would require an exhaustive review of each of the 14 conflict situations mentioned on Annex I and II of the Secretary-General's report, and the parties to the conflicts listed within.

However, it is hoped that the paper's preliminary findings facilitate further research, analysis and discussion by outlining issues that headquarters and country-level stakeholders raised as lessons learned.

I: Factors which support action plan adoption

In this section, three factors which contribute to action plan adoption are highlighted, and suggestions are made as to how to further strengthen them.

The three factors are: (i) political interest in the action plan by the signatory party; (ii) consistent UN advocacy,

supported by bilateral demarches; and (iii) a UN mission structure which facilitates senior-level engagement. These elements should continue to be ensured or strengthened where they are lacking.

Figure 1: Action plans to date

Situation of Concern	Total Number of Parties Who Signed Action Plans	Action Plans Signed	Action Plans Completed
Afghanistan	1	<ul style="list-style-type: none"> ● Afghan National Security Forces (ANSF) January 30, 2011. (Recruitment and Use, with annex on Sexual Violence) 	No
Chad	1	<ul style="list-style-type: none"> ● Armée Nationale Tchadienne (ANT), June 15, 2011. (Recruitment and Use) 	No
CAR	3	<ul style="list-style-type: none"> ● Union des forces démocratiques pour le rassemblement (UFDR), 2007 (Recruitment and use) ● People's Army for the Restoration of Democracy (APRD), October 2011. (Recruitment and Use) ● Convention of Patriots for Justice and Peace (CPJP), November 21, 2011. (Recruitment and Use) 	No No No
Cote d'Ivoire	5	<ul style="list-style-type: none"> ● Forces armées des Forces nouvelles (FAFN), November 2005. (Recruitment and Use) ● FLGO, September 2006. (Recruitment and Use) ● MILOCI, September 2006. (Recruitment and Use) ● APWE, September 2006. (Recruitment and Use) ● UPRGO, September 2006. (Recruitment and Use) 	Yes Yes Yes Yes Yes
DRC	1	<ul style="list-style-type: none"> ● Forces Armées de la République Démocratique du Congo (FARDC), October 4, 2012. (Recruitment and Use, with references to Sexual Violence) 	No
Myanmar	1	<ul style="list-style-type: none"> ● Tatmadaw Kyi, June 27, 2012. (Recruitment and Use) 	No
Nepal	1	<ul style="list-style-type: none"> ● Unified Communist Party of Nepal – Maoist (UCPN-M), December 2009. (Recruitment and Use) 	Yes
Philippines	1	<ul style="list-style-type: none"> ● Moro Islamic Liberation Front (MILF), August 1, 2009. (Recruitment and Use) 	No
Somalia	1	<ul style="list-style-type: none"> ● Transitional Federal Government (TFG), July 3 2012. (Recruitment and Use) ● Transitional Federal Government (TFG), August 6, 2012. (Killing and Maiming) 	No No

Situation of Concern	Total Number of Parties Who Signed Action Plans	Action Plans Signed	Action Plans Completed
South Sudan	1	<ul style="list-style-type: none"> ● Sudan People's Liberation Army (SPLA) (as ANSA), November 2009. (Recruitment and Use) ● Sudan People's Liberation Army (SPLA) (as State actors), March 12, 2012. (Recruitment and Use) 	Replaced by 2012 AP No
Sri Lanka	1	<ul style="list-style-type: none"> ● Tamil Makkal Viduthalai Pulikal (TMVP), 2008. (Recruitment and Use) 	Yes
Sudan	3	<ul style="list-style-type: none"> ● Sudan Liberation Army (SLA)/Minnawi, June 2007. (Recruitment and Use) ● SLA/Free Will, June 2010. (Recruitment and Use) ● SLA/Abu Gasim, 2010. (Recruitment and Use) 	No No No
Uganda	1	<ul style="list-style-type: none"> ● Uganda People's Defense Force (UPDF), August 2007. (Recruitment and Use) 	Yes

(i) Political interest of the signatory party

Whether the action plan is between the UN and a State or an ANSA, political interest of the prospective signatory party is often crucial to the adoption of an action plan.

In DRC, for example, action plan negotiations only started in earnest in 2012; six years after the Congolese armed forces were first listed.

On March 23, 2009, the DRC government signed a peace agreement with the Congrès National pour la Défense du Peuple (CNDP), after which its combatants integrated into the Forces Armées de la République Démocratique du Congo (FARDC). Some CNDP members, such as Bosco Ntaganda, acceded to commanding positions within the DRC army. Overall, the UN was able to identify and release many children from the newly integrated FARDC units. However, it wasn't until the conviction of Thomas Lubanga by the ICC and the M23 mutiny led by former CNDP elements in 2012 that the action plan could be taken forward with the newly elected DRC government. Before that, the presence of known perpetrators from the CNDP within the FARDC may have undercut the political will of the government to take action plan development forward.

On the UN side, the Comprehensive Strategy on Combating Sexual Violence (2009), later validated in the government's broader National Plan of Action on Security Council Resolution 1325 (2010), and related efforts to protect women in conflict required a considerable amount of political, financial and human capital.

As shown in the example of DRC, the UN and other stakeholders must be ready to act when parties do show an interest in action plan development and signature.

(ii) Sustained, high-level advocacy

A strong inter-agency approach and sustained, high-level advocacy by in-country UN leadership and the broader diplomatic community, contributes to facilitating progress on action plan adoption.

In Nepal, joint, consistent and sustained advocacy by the SRSG, and later the Resident Coordinator and UNICEF Representative was highlighted as critical to achieving positive results. In addition, the two visits of the SRSG-CAAC were cited as useful in expediting progress towards the signing of the action plan, and a technical mission by the Office of Special Representative of the Secretary-General (OSRSG)-CAAC in 2010, following the mission of the Security Council Working Group (SCWG)-CAAC,

supported final discussions on the last actions required by the UCPN-M to be delisted from the Secretary-General's report.

In the case of Chad, the presence of the United Nations Mission in the Central African Republic and Chad (MINURCAT), its unusual mandate devoted to the protection of civilians, human rights and the rule of law, and support of the SRSG-CAAC were all influential in securing action plan signature. The process to adopt the action plan took two years, and involved at times daily contact with the government. Senior mission leadership, including the Deputy SRSG, was reportedly highly engaged in the humanitarian dialogue with the Chadian authorities, at the provincial- as well as national-level.

The role of bilateral diplomacy, exercised by supporters of the CAAC agenda, was also quoted as a contributing factor to action plan adoption. In both Chad and DRC, US diplomats made demarches with government authorities at critical moments during the negotiations. The US Child Soldier Prevention Act of 2008¹¹ was reportedly instrumental during such interventions, as was the option to deny "waivers" for the prohibition to grant US military assistance to the government of a country that is known to recruit or use children as soldiers.

In DRC, an in-country "CAAC Group of Friends" mirrored a similar informal information-sharing group of UN Member States established in New York. The members of the Group of Friends reportedly made several demarches with government authorities in support of action plan adoption.

Finally, respondents mentioned that Member States engaged in peace negotiations as third-country facilitators could use their contacts to mobilize interest and support for action plans. This could be the case for Qatar, for example, where the Taliban announced it had established a political office, or Norway as a third-country facilitator in the Philippines, or Norway and Cuba as facilitators for negotiations between the Government of Colombia and FARC (see Section III on action plans and engaging armed non-State actors).

recommendations

To the Security Council and its Working Group on Children and Armed Conflict:

- Request the Secretary-General to publish a report on perpetrators, with a focus on action plan adoption and implementation, and discuss the report's findings and recommendations in a special session of the Working Group.
- Request the Resident Coordinator or Special Representative of the Secretary-General for a specific country to raise the needs and rights of children with the national political leadership repeatedly and consistently; and brief the Security Council and /or its Working Group on progress made in terms of perpetrators active in the country, in person or via video-link.

To the Secretary-General:

- Encourage Resident Coordinators and Special Representatives for countries where listed perpetrators are active to prioritize, within UN Country Teams or Missions, the monitoring and reporting of violations against children and the conclusion and implementation of action plans.

To Member States:

- Mainstream children and armed conflict within foreign ministries and related government agencies, encouraging in particular the use of bilateral diplomacy and conditionality on military assistance to listed parties to spur action plan conclusion and implementation.
- Establish a "Group of Friends" at the country-level as a means to promote action plan adoption and implementation.

“ It is crucial that agencies are made aware of their roles and responsibilities, and to actively seize on the issue. This needs to come from top-down. ”¹²

(iii) UN Mission structure

Dedicated leadership, supported by a stand-alone Child Protection Unit with access to senior-level management, was consistently raised in interviews as a crucial factor for ensuring that child protection is a priority for the UN in-country.

In Nepal, negotiations with the UCPN-M for the release of children and the signing of an action plan were particularly protracted. In February 2009, UN Secretary-General Ban Ki-moon appointed Karin Landgren, who had been UNICEF's Head of Child Protection for many years, as his Representative in Nepal and Head of the United Nations Mission in Nepal (UNMIN). In 2009, UNMIN's Child Protection Section consisted of two staff. The head of section reported directly to the SRSG, and she ensured that child protection was part of all substantive meetings. The SRSG spent a large amount of time on negotiations with the Maoists, particularly during critical junctions in the process.

Another advantage in Nepal was the fact that SRSG Landgren, as head of the UNMIN, led the negotiations on the release of children with the Maoists on behalf of the UN Country Team. Such proximity to the issue offered a number of programmatic advantages, as the following example shows. In the negotiations with UCPN-M, the composition of the reintegration package for minors posed a significant hurdle. While UN agencies and non-governmental organizations prepared for a package of services, it was deemed necessary by the UN Country Team to provide the children with financial support to bridge the period between their release and the start of reintegration services. While the Humanitarian Coordinator (HC)/Resident Coordinator (RC) had funds available for such a payment, political approval to allocate the funds was required. In the case of Nepal, the head of the Child Protection Section had direct access to the SRSG, and within one day the necessary approvals were obtained, and the negotiation process unblocked.

Sometimes, a UN mission structure is not considered helpful in the advancement of action plan commitments. On January 30, 2011, the Afghan National Security Forces (ANSF) signed an action plan with the United Nations regarding recruitment and use of children, with an annex on sexual violence. While the Afghan government worked constructively with the United Nations towards compliance, the United Nations Mission in Afghanistan (UNAMA) proposed in its budget for 2013 to abolish two international positions from its three-member Child Protection Unit and to redeploy the remaining national staff member to the Human Rights Unit, thus merging the Child Protection Unit into the Human Rights Unit. In the same budget proposal, UNAMA proposed a further 11 percent reduction of the Human Rights Unit.¹³ Opponents of this restructuring questioned UNAMA's resulting ability to support action plan implementation with ANSF.¹⁴



recommendations

To the Security Council and its Working Group on Children and Armed Conflict:

- Ensure an adequate child protection mandate and request timely and sufficient child protection capacity with direct access to mission leadership in all Security Council-authorized missions, with a specific focus on monitoring and reporting of violations and support to action plan conclusion and implementation.

To the United Nations Development Program (UNDP):

- Request the Resident Coordinator for a country where listed perpetrators are active to integrate the action plan (and wider MRM-process) into the UN Country Team's workplan as a standing agenda item.

II: Factors which support action plan implementation

In this section, we examine the practice of action plan implementation and suggest how to respond to some of the current challenges.

The following factors were identified as supporting implementation of action plans: (i) ownership of action plans; (ii) transparency of action plans; (iii) early development of an “implementation plan”; (iv) provision of sufficient and predictable resources; and (v) clear consequences for non-compliance.

(i) Ownership of action plans

In the Philippines, children associated with armed groups live within their own communities, and are not necessarily part of a clear military command and control structure. Stakeholders noted that the affected community and the Moro Islamic Liberation Front (MILF) considered the conventional definition of a child associated with an armed force or armed group was therefore not easily applicable to their case. Yet the action plan contained provisions such as a “classical” disarmament, demobilization and reintegration (DDR) process, whereas child protection actors involved in the Philippines believe that a programmatic response focused more on community engagement and investment in awareness-raising would be more effective.

In South Sudan, the Sudan People’s Liberation Army (SPLA) failed to implement its first action plan on the recruitment and use of children, signed as a non-State actor in 2009. In 2011, the independence of South Sudan brought about an important change for the SPLA, as the group assumed the duties of a national army. This shift reportedly raised interest in signing a new action plan. In an effort to foster implementation, local ownership was promoted throughout the development of the new plan. In December 2011, a three-day meeting took place, bringing together UN, government and non-governmental actors. The action plan’s requirements were discussed, as well as South Sudan’s ability to implement them. The “revised” action plan (2012) is reportedly perceived to be a “home grown” product that responds to international standards on child protection, yet is also sensitive to local realities.



recommendations

To the Country Task Force on Monitoring and Reporting (CTFMR):

- Ensure ownership of action plan commitments through a consultative process with the concerned government and/or non-State party and UN and non-governmental actors prior to action plan conclusion. The affected community should be consulted and their perspective incorporated – including, where appropriate, affected children.

(ii) Transparency of action plans

In all cases, respondents noted that an enhanced role for civil society, including in monitoring, reporting and supporting advocacy, can contribute to ending violations.

A review of the countries suggests that transparency regarding the action plan process is not uniform. In many cases, the drafting of an action plan is done confidentially, to protect the negotiations. Action plan signature itself is typically widely reported, though to date, action plan agreements are not made public unless the listed party chooses to do so.

Confidentiality during negotiations leading up to action plan adoption can be conducive to open and honest discussion and lead to results. However, final action plan commitments should be widely disseminated by the signatory parties to facilitate a community-wide effort to monitor successful implementation and compliance.

In Chad, civil society organizations were largely uninvolved in monitoring and reporting violations and in action plan drafting prior to its signature. This was not a serious disadvantage during the tenure of MINURCAT in Chad, as the mission included a human rights team. However, after MINURCAT’s withdrawal, there was a decrease in human, financial and material resources available for action plan implementation. Progress on

“ The parties to conflict are keen to develop the action plans, but less keen to translate the words into action. ”¹⁵

action plan implementation since has been slow, owing largely to limited resources and capacity in-country on the part of the government and UN, as well as a lack of demonstrated commitment by the government to take progressive action to protect children from violations. If the action plan had been widely publicized, it could have motivated civil society engagement and advocacy in support of action plan implementation at the community-level.

recommendations

To the signatory parties:

- Wide dissemination of action plan commitments (State and non-State entities) should immediately follow its signature. All stakeholders, including civil society and affected communities, should be aware of the standards to which action plan compliance is to be measured.

(iii) The early development of an “implementation plan”

Achievable programmatic activities, adapted to the specific context, are crucial to an action plan’s successful and timely implementation.

In Nepal, when implementing the action plan, the flexibility at the country-level to devise a tailored programmatic approach to some of the specifics of the Nepal case, including the treatment of discharged minors, was reportedly considered to be a factor in its successful implementation and completion.

Whereas an action plan spells out the legal framework, scope, commitments, activities and de-listing requirements, it does not typically break down the commitments into programmatic objectives and related budgets. Some of the more recently adopted action plans, such as in

Myanmar, have been accompanied by efforts to coordinate the response and develop “implementation plans” that further break down the action plan commitments and activities by roles and responsibilities, programs, output indicators, budgets and measurable results.

Much like a country’s humanitarian action plan and consolidated appeal process, an “implementation plan” would describe the exact role and task that each agency or actor will take on as part of the action plan, offer a description of staffing needed and provide a financial “bottom line” in terms of programmatic costs involved. The development of an implementation plan can offer an opportunity to plan for tailored programs based on localized needs assessments, and – in the case of reintegration programs – a market analysis. In order to be successful, implementation planning should involve all members of the CTFMR, including UN agencies, government representatives, donors and non-governmental organizations. The implementation plan could be further used for resource mobilization and compliance monitoring.

recommendations

To the Country Task Force on Monitoring and Reporting:

- Programmatic activities, designed to implement action plan commitments, should be drafted by key stakeholders at the country-level, including the listed party, the UN and the affected community. The programmatic activities, output indicators and measurable results, should be adapted to each given context, and provided with the appropriate financial support and resources. The country-specific implementation plan can be further used for resource mobilization and compliance monitoring.

“ A key requirement is that the right tools and personnel are in place to lead this process. ”¹⁶

(iv) Sufficient and predictable resources

Sustainably ending grave violations requires sufficient and predictable resources until action plan implementation is complete. Resources to implement the action plan are critical to ending violations, including resources for public information/awareness raising, release and reintegration programs, training programs, publications and human resources. The need to mobilize these resources should in turn inform the time-frame set out for action plan implementation.

In Chad, the government signed an action plan with the United Nations in 2011; however, progress on action plan implementation has been slow, owing largely to limited resources and capacity in-country on the part of government, UN and civil society. The Chad action plan reportedly lists the relevant UN agencies, NGOs and government institutions that have responsibility for implementing the action plan, without a corresponding plan to mobilize resources for such implementation. Further funding shortfalls to UN agencies in Chad meant that action plan signature was not followed by funding to implement its provisions.

In contrast, in Nepal, action plan implementation was well funded throughout. For example, the pooled Nepal Peace Trust Fund (NPTF), a funding mechanism designed to support Nepal's peace process after the Comprehensive Peace Accord in 2006, had funding readily available for the cantonment and rehabilitation of ex-combatants, and the support to conflict-affected persons and communities.

Action plans must be accompanied by sufficient and predictable resources. At the country-level, the UN agencies and NGOs that typically lead action plan implementation are often not in a position to start programs because organizational budgets are drafted and finalized ahead of time, sometimes for a 3 - 5 year period, without advance knowledge of when an action plan will eventually be signed, and what it will involve. Once the action plan commitments are known, fundraising for programmatic implementation takes time. Recognition of this funding gap is necessary, and support is required to fill it.



recommendations

To the Donor Community:

- Address the critical need for sufficient and predictable resources to prevent and respond to grave violations, and to implement action plans. For example, consider establishing a revolving pooled fund, either at the global- or country-level, that provides seed money to government actors, UN agencies and partners upon action plan conclusion to start short-term programming. The pooled funds can support political momentum, help bridge a funding gap and allow for fundraising efforts towards longer-term funding.

(v) Consequences for non-compliance

Action plans include a time-frame for completion. However, for the time-bound strategy of the action plan to be effective, non-adherence should result in clear and direct consequences for the party involved, such as, for example, a public denunciation of the failure to implement action plan commitments.

However, in no case reviewed were direct consequences for non-compliance reported. For example, in the Philippines case, the expiration of the action plan time-frame was not a catalyst for action, and this was regarded by some respondents as a missed opportunity. The lack of consequences led to uncertainty regarding the future of the action plan and sent mixed messages to the Moro Islamic Liberation Front (MILF) regarding the need to implement the action plan within the terms of the original agreement.

A concern among respondents was that the lack of clear consequences for non-compliance would weaken the apparatus overall, sending a signal that failure to implement an action plan was an acceptable outcome.

Currently, compliance or non-compliance with action plan commitments is reported on through the Secretary-General's annual report, the Secretary-General's country-specific reports and through the Global Horizontal Note (GHN). Issues with these avenues for monitoring and reporting on compliance are 1) the limited periodicity of the Secretary-General's country-specific and annual reports and 2) the confidential nature of the GHN.

One solution could be to set up a strict monitoring structure. For example, in DRC a tri-fold UN/Government of DRC cooperation structure was established to monitor the implementation of the action plan. The government's Inter-ministerial Committee on CAAC meets upon request and availability. The UN and its partners meet twice a year through the Country Task Force on Monitoring and Reporting. In addition, a Joint Technical Working group on Children and Armed Conflict, which includes a focal point for the CTFMR and a focal point for the government, meets twice a month.

In addition to a monitoring structure, there must be a mechanism for rapid response if implementation is found to be lacking, with the ability to trigger a high-level reaction upon each breach of the action plan. For such a rapid response mechanism to work, direct involvement of senior officials is necessary.

The inclusion of formalized structures and consequences – for example, in the action plan itself – and regularized public reporting on action plan compliance, could enhance the progress made by the listed party towards implementation.

recommendations

To the Security Council and its Working Group on Children and Armed Conflict:

- When the time-frame of an action plan has not been respected, request prompt follow-up information from the Resident Coordinator or Special Representative of the Secretary-General regarding their efforts towards action plan compliance.

To the CTFMR:

- Establish a designated action plan monitoring task force, with a regularized reporting schedule, to monitor action plan compliance. Include the structure, its reporting requirements and consequences for non-compliance, in the action plan.

III: The next “frontier”: engaging armed non-State actors

In his 2012 report, former Permanent Representative of France to the United Nations, Ambassador de la Sablière, said that *“by the end of 2012, it is expected that action plans will be concluded with all armed forces listed.”* He therefore believed that *“the problem of recruitment and use of children by Government forces is on its way to being resolved.”* Ambassador de la Sablière also noted, however, that *“In most cases, the persistent perpetrators of violations against children are non-state actors.”* He added, *“This has become, at this stage of the implementation of the system, the major problem.”*¹⁷

The annexes to the Secretary-General’s reports do not provide information on the scope or extent of violations by armed non-State actors (ANSAs) or the extent to which those ANSAs committing violations are reflective of the practices of non-State actors generally. However, the data do show that violations by ANSAs are widespread, with listed violations occurring in all situations except Syria, and that they are committed by a large number of different actors.

It is widely assumed that ANSAs present particular challenges for the Monitoring and Reporting Mechanism established by Security Council Resolution 1612. However, the nature of these challenges is not clearly understood. In this section, we examine some of the challenges that can limit the adoption and implementation of action plans by ANSAs.

(i) Action plan conclusion

ANSAs appear to have concluded action plans at a lower rate than State actors. However, many ANSAs may have disbanded or otherwise disappeared from existence before concluding action plans. A comparison across persistent perpetrators (i.e., perpetrators listed for a

period of five years or longer) is more useful. Ten of 33 (33 percent) of non-State persistent perpetrators have concluded action plans as opposed to four out of six (67 percent) of State persistent perpetrators.¹⁸

However, it should be noted that three of the four action plans with State persistent perpetrators were only concluded following the submission of the Secretary-General’s 11th annual report in April 2012. Prior to this recent increase of action plans concluded by State actors, ANSA persistent perpetrators had concluded action plans at a higher rate than State persistent perpetrators.

Several challenges have been put forward as obstacles to concluding action plans with ANSAs. These include the following:

Ephemeral nature of armed non-State armed groups

Unlike State actors which are relatively stable, ANSAs frequently have transitory existences. Concluding action plans requires both time for negotiation and a vision for implementation in the future. Some armed groups may cease to exist before negotiations can be completed. Others may lack the long-term vision required for negotiating action plans. Still others may achieve their goals and lay down arms before an action plan can be negotiated. Thirty of 120 (25 percent) of non-State actors disappeared, either by disbanding or merging with other groups, before concluding action plans. Another 18 ANSAs were delisted upon the end of the conflict without completing action plans. Together, these account for 48 (40 percent) of ANSAs. For many of these groups, negotiation of action plans may not have been the most feasible means of reducing violations.

Government opposition

A common reason given for the lack of conclusion of action plans by ANSAs is government opposition to UN negotiations with ANSAs.

Government opposition has generally precluded negotiation of action plans in at least two countries, Colombia and Myanmar. These countries contain respectively five and nine of the ANSAs which have been listed to date, or only 12 percent of the ANSAs listed. Crucially, several ANSAs in these countries have expressed an interest in ending violations.¹⁹ The Secretary-General's 2012 annual report identifies two groups (both from Myanmar, among six ANSAs currently listed in Myanmar) which have sought to conclude action plans but were blocked by government opposition. In its June 2012 action plan with the United Nations, Myanmar committed to facilitate processes that seek to conclude action plans with ANSAs. This commitment is limited to those groups that are "under the legal fold." At the time of publishing, the UN had not yet started negotiations with the listed ANSAs in Myanmar.

Government opposition, direct or indirect, cannot be ruled out in other countries. For example, while the Government of Sudan does not formally oppose the United Nations engaging with ANSAs, political difficulties with the government are created by doing so. There have been 19 ANSAs listed to date for Sudan. If figures for Sudan are included in this overview, the percentage of ANSAs listed in countries where governments preclude action plan negotiations would rise to 28 percent, or almost one out of three of all ANSAs listed to date.

Lack of interest or will

A third possible reason for the lack of action plan conclusion by ANSAs is a lack of interest or will on their part.

This seems plausible for some groups such as the Lord's Resistance Army whose modus operandi involves large-scale child recruitment and abductions. However,

even the Lord's Resistance Army has made commitments (in the 2008 Juba accords) to release children.²⁰ Of the 34 ANSAs currently listed which have not concluded action plans, at least 10 (including the LRA and Taliban²¹) have expressed some form of commitment to ending violations.

For example, the Justice and Equality Movement (JEM) signed a memorandum of understanding regarding the protection of children in Darfur with the UN in 2010. In July 2012, JEM held consultations with the United Nations in Austria, hosted by the Austrian Study Centre for Peace and Conflict Resolution (ASPR) during which JEM agreed to the establishment of an Operational Mechanism to identify any children who may be associated with its forces for demobilization and reintegration. This action plan / operational mechanism²² was issued in September 2012 and published on JEM's website. The plan envisages full implementation by March 30, 2013. The UN did not co-sign the document.

Of all ANSAs currently listed, 18 (43 percent) have concluded an action plan or otherwise expressed interest in ending violations. It appears that there is potential interest for concluding action plans among ANSAs.

Lack of UN engagement

Another possible reason for the lack of action plan conclusion by ANSAs is insufficient engagement by UN actors. This hypothesis is difficult to test, but anecdotal evidence from Geneva Call suggests that the MRM might be able to do more to directly engage ANSAs.²³ The recent increase in action plans concluded by State actors in 2012 also suggests that a concerted push by the UN does lead to the conclusion of more action plans. Keeping in mind the above-mentioned potential interest among ANSAs, it is likely that more UN engagement could lead to more action plans, at least among those ANSAs which are sufficiently stable and with sufficient long-term vision.

Variety among non-State actors

A final challenge confronting action plan conclusion with ANSAs is the wide diversity of ANSAs. There is a much greater range among ANSAs than among State actors, potentially increasing the difficulty of deploying standardized action plans from one ANSA to the next. This is more of an operational challenge than a principled objection to concluding action plans by ANSAs.

(ii) Action plan implementation

Once an action plan is adopted, ANSAs have been more likely to implement the action plan than State actors. Seven of 17 (41 percent) ANSA action plans have been implemented, as opposed to only one State action plan. It should be kept in mind, however, that five of the six State actor action plans²⁴ were only concluded in the past two years (three of which were in the past year). It is also worth bearing in mind that five of the seven implemented ANSA action plans involve Côte d'Ivoire. Nevertheless, two persistent perpetrator non-State groups have implemented action plans in Nepal and Sri Lanka. Worth noting, all seven action plans were implemented concurrently with the ending (or at least winding down) of armed conflict.

recommendations

To the UN Secretary-General and his Special Representative on Children and Armed Conflict:

- Replicate, as soon as possible, the successful outreach of the past two years promoting action plan conclusion with listed governments, now focused on armed non-State actors.

To Member States:

- Allow unconditional access for the UN to armed non-State actors for the conclusion, implementation and completion of action plans.
- For third-party negotiators: Mobilize armed non-State actors in support of action plan adoption and implementation. For example, consider organizing Regional Conferences on Children and Armed Conflict to sensitize perpetrators, with a focus on action plans.

IV: Action plans and accountability

Recognizing the vital role that action plans can play in ending violations and contributing to wider protective environments, Part IV of this discussion paper looks at the question of accountability for grave violations against children and examines the extent to which action plans could be further enhanced to contribute to accountability. Our research suggests that action plans can contribute to accountability processes and that these contributions can be enhanced if action plans are widely publicized and understood by all actors, including civil society and affected communities.

Accountability, in relation to action plans, has been defined to have four constituent elements:

- i. Imposing legitimate consequences for perpetrators, including sanctions or other measures to punish perpetrators through legal channels, and reflecting international legal standards.
- ii. Assigning responsibility for violations committed, including establishing a historical and factual record identifying the individuals/entities responsible for violations committed.
- iii. Preventing or deterring future violations, including de-legitimizing individuals or organizations responsible for violations, institutionalizing of human rights and child rights norms and institutional reform as it relates to accountability.
- iv. Reconciling and repairing societies and individuals affected by conflict, including provision of a space for truth telling and moral condemnation of perpetrators, and provision of reparations for individuals and communities.²⁵

The following sections examine the use of action plans and their contribution to the wider accountability environment. Three general conclusions are drawn: (i) action plans should be publicly available and signatories should be willing to help raise awareness about the plan; (ii) while action plans are not directly linked to transitional justice processes, they can help lay the groundwork for such processes by strengthening linkages

with institutional reform; (iii) to ensure that violations do not reoccur, finalization of the action plan should be followed by continued high-level engagement and investment in the fight to end impunity.

(i) Publication of the action plan and investment in awareness-raising

In Nepal, the action plan process, and the associated delisting of the UCPN-M as a result of action plan implementation, is thought to have contributed to accountability by openly playing out a process of engagement between the UN and the UCPN-M to release former and current child recruits through media reporting of the “naming and shaming” process, and through high-profile visits from the SRSG-CAAC, EU missions and the UN Security Council. This public process also sent a signal to political and military entities regarding the implications of recruiting children. In this way, the process contributed to the public assigning of responsibility for violations and may have played a preventative role.

In June 2012, the Government of Myanmar signed a plan of action with the United Nations on the recruitment and use of children. While the signing ceremony was covered by the press, the action plan was not made available to the public, beyond the members of the Country Task Force on Monitoring and Reporting. In July 2012, a civil society member testified before the Security Council: *“We welcome this and other progress. However, we note that change has been confined to central Burma/Myanmar and that the military has not significantly changed its behavior in rural areas. If the action plan allows villagers to confront soldiers for abusing its standards, it can improve their ability to hold perpetrators to account. This requires the action plan to be transparent and understood by all actors.”*²⁶

Action plans contain a section on awareness-raising. In Myanmar, the action plan reportedly stipulates that signatories make agreed upon contents known to the public, within two weeks of action plan signature. To date, action plan commitments have yet to be widely disseminated in Myanmar.

“ While the DDR package was useful in its own right, it did not bring about accountability. ”²⁷

recommendations

To the Signatory Parties:

- Wide dissemination of action plan commitments by signatory parties (State and non-State entities) should immediately follow action plan signature. All stakeholders, including civil society and affected communities, should be aware of the standards against which action plan compliance is to be measured.

(ii) Linkages to institutional reform

“Ending violations cannot happen without investment or capacity building on rules of law, security sector reform and payment for military staff. These are long-term structural issues that must be addressed.”²⁸

Given the challenges associated with rule of law and justice in countries affected by conflict, more immediate measures aimed at ending violations are more likely to show results in the short term. However, opportunities do exist to link action plans with longer term institutional reform, for example by ensuring that legislative changes are included in action plans. In Chad, for example, the action plan reportedly included a provision to criminalize recruitment and use of children, and a commitment to accelerate the adoption of the Child Protection Act, which prohibits the recruitment and use of individuals under 18 in the national security forces and includes sanctions against the violation of children's rights. This provision was absent in Nepal's action plan because it was concluded with an armed group which could not be held responsible for enhanced provisions in national legislation. Today, however, Nepal's 1992 Children's Act still does not have a legal provision that criminalizes child recruitment, though due to persistent advocacy by civil society organizations, a recent draft amendment does include such a provision.

Of the fourteen currently listed country situations, many do not adequately criminalize child recruitment and use. Colombia and DRC have legislation in place that criminalizes the recruitment and use of under 18-year-olds. Preliminary research shows²⁹ that such criminal prohibitions do not exist in Central African Republic, Chad, Somalia and Yemen. Partial legislation is in place in the Philippines, where recruitment and use of anyone under the age of 18 is criminalized for non-State armed actors, but recruitment of 15-year olds is legal for State forces. In Sudan and Uganda recruitment and use of children as soldiers is prohibited, but it is unclear if the age limit is set at 15 or 18 years old. Sudan only criminalizes recruitment and use by State forces.

The starting point for prevention of future violations is to prohibit in law all recruitment, compulsory or voluntary, of anyone under the age of 18, and to ensure criminal sanctions for those who violate such prohibitions. While it can be argued that domestic legal reform extends beyond the scope of an action plan, particularly when concluded with a non-State armed actor, it must be part of the UN's on-going interaction with concerned governments in their efforts to prevent future recruitment.

recommendations

To the MRM Technical Reference Group:

- Conduct research into how the CTFMR members and the 1612-mechanism can contribute to national justice reform in support of child protection, and related processes.

(iii) Post action plans: addressing impunity

In all cases, respondents cited the ending of impunity as a critical factor in preventing future violations against children and securing legitimate consequences for perpetrators of violations. While it can be argued that this effort extends beyond the lifetime of an action plan, the ending of impunity must continue to receive the attention and resources it needs.

“ No high ranking official has been sentenced for his offenses. ”³⁰

In July 2012, the German Chair of the Working Group on Children and Armed Conflict invited civil society members to address the UN Security Council on the topic: “How to put pressure on persistent perpetrators?” A participant from Nepal argued that, while the action plan did bring about an end to the violation of recruitment and use of child soldiers in his country, it did not translate into legal accountability for the crime perpetrated. In Nepal, once the action plan was deemed completed, the responsibility to address accountability, and in particular impunity, became the sole responsibility of government – which included the former UCPN-M, a perpetrator of violations. Until this day, not a single perpetrator of child recruitment and use has been prosecuted in Nepal. “To us”, the participant testified, “this feels as if there is no real accountability for perpetrators.”³¹

Action plans contain certain measures to address impunity, including activities related to discipline and legal enforcement. The Chad action plan reportedly stipulates that the Government of Chad must investigate allegations of recruitment and use of children and to prosecute and/or take necessary disciplinary action. The action plan with the Convention of Patriots for Justice and Peace (CPJP) in Central African Republic reportedly urges the armed group to take appropriate disciplinary action against those who are responsible for aiding the recruitment of children, whereas the Government of Myanmar reportedly committed itself to take action against the recruitment of children under prevailing domestic law.

However, the scope of these stipulations, and how they can be implemented within the time-frame of the action plan, is not clear. Neither is it clear how compliance with these stipulations can be assured.

Finally, respondents felt that increased linkages with the ICC can play a role in creating the conditions to address impunity at the country-level. In DRC, for example, the March 2012 ICC judgment of Thomas Lubanga is believed to have led to increasing references by the government regarding the need to end impunity.

Addressing impunity is a critical existing gap in the current fight to end grave violations against children in conflict situations. Whether this issue falls within or outside of the scope of the action plan, it should be a concern of the UN – and remain its concern even when the action plan is deemed complete.

recommendations

To Member States / Donor Community:

- Support efforts to strengthen national accountability mechanisms, including the development of legislation criminalizing violations against children and building investigative and prosecutorial capacities.

To the Working Group:

- 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; invite the Prosecutor or Deputy Prosecutor to brief the Working Group; encourage the exchange of information between the Prosecutor and the Special Representative of the Secretary-General for Children and Armed Conflict; and transmit conclusions of the Working Group to the ICC Prosecutor.

Annex I: overview of country situations

Chad

After four decades of internal and international conflict following independence, armed conflict between rebel opposition groups and the government escalated in Chad in 2005. In particular, armed groups proliferated along the Chad-Sudan-Central African Republic (CAR) border zone, and committed serious crimes against civilians in Chad.³² In 2007, UN Security Council Resolution 1778 mandated the establishment “of a multidimensional presence intended to help create the security conditions conducive to a voluntary, secure and sustainable return of refugees and displaced persons.”³³ The United Nations Mission in the Central African Republic and Chad (MINURCAT) established a presence in Chad in May 2008 and closed its offices in December 2010, at which time substantive programs were transferred to the government, NGOs or the United Nations Country Team.

The MRM was established in Chad in late 2007, but was not activated until May 2008, after the arrival of MINURCAT. It was co-chaired by MINURCAT (Deputy Special Representative of the Secretary General) and UNICEF (Representative) until the drawdown of MINURCAT, at which point co-chairmanship transferred to the Resident Coordinator. The Chadian parties listed in the Secretary-General’s report are: (i) Armée nationale tchadienne, including newly integrated elements and (ii) Justice and Equality Movement (JEM). Both parties are listed for recruitment and use of children, and as persistent perpetrators.

An action plan to end child recruitment was signed with the Chadian government in June 2011. Progress towards action plan signature was attributed to significant pressure and consistent advocacy by the UN and key diplomatic supporters, combined with an end to hostilities and a desire on the part of the government to comply with international standards. However, progress on action plan implementation has been slow, owing largely to limited resources and capacity in-country on the part of government, UN and civil society, as well as a lack of demonstrated commitment by the government to take progressive action to protect children from violations.

There have been no new incident reports related to JEM. It is unclear if JEM is still active in Chad. In Sudan, JEM signed a memorandum of understanding regarding the protection of children in Darfur with the UN in 2010. In September 2012, JEM signed its own action plan / operational mechanism to prevent and end recruitment and use of child soldiers and published it on its website. The plan envisages full implementation by March 30, 2013. The UN did not co-sign, and thus does not endorse, this document.

Democratic Republic of the Congo (DRC)

The MRM was established in DRC in 2005, following decades of internal and international conflict. The MRM is co-chaired by United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) and UNICEF; they engage closely together on pre-action plan advocacy.

The parties in DRC listed in the Secretary-General’s report are (i) Forces Armées de la République Démocratique du Congo (FARDC), including integrated elements from various armed groups, such as the Congrès National pour la Défense du Peuple (CNDP), formerly led by Laurent Nkunda, as well as elements currently led by Bosco Ntaganda; (ii) Forces Démocratiques de Libération du Rwanda (FDLR); (iii) Front de Résistance Patriotique en Ituri/Front Populaire pour la Justice au Congo (FRPI/FPJC); (iv) Lord’s Resistance Army (LRA); and (v) Mai-Mai groups in North and South Kivu, including the Patriotes Résistants Congolais (PARECO). All five are listed for recruitment and use, as well as rape and other forms of sexual violence against children. In addition, the FDLR is listed for attacks on schools and/or hospitals.

Limited or no success has been made on engaging non-State armed groups in DRC on adoption of an action plan, although *ad hoc* engagement with Mai-Mai groups has brought about the release of children to the UN.

Action plan negotiations with the government only started in earnest in 2012; six years after the Congolese armed forces were first listed. On March 23, 2009, the DRC government signed a peace agreement with the CNDP, after which its combatants integrated into the FARDC.

Some CNDP members, such as Bosco Ntaganda, acceded to commanding positions within the DRC army. During this process, the UN was able to identify and release many children from the newly integrated FARDC units. However, it wasn't until the conviction of Thomas Lubanga by the ICC and the M23 mutiny led by former CNDP elements in 2012 that the action plan could be taken forward with the newly elected DRC government. Before that, the presence of known perpetrators from the CNDP within the FARDC may have undercut the political will of the government to take action plan development forward. The action plan is currently unfunded.

Nepal

The MRM was implemented in Nepal in 2005, by which time Nepal had endured a decade long conflict between the Nepalese government and Maoist forces. The MRM was co-chaired by UNICEF and the Office of the High Commissioner for Human Rights (OHCHR), with the involvement of the United Nations Mission in Nepal (UNMIN) during the mission's tenure in Nepal.

The CPN-M (later the UCPN-M) was listed in the Secretary-General's report for recruitment and use of children. While the Comprehensive Peace Agreement was signed in Nepal in 2006, the action plan to end violations was not signed until 2009, and not fully implemented until 2012. The delay in the release of the 2,973 verified minors from Maoist army cantonments was largely attributed to the linkages with the peace process. The issue of their release was seen to have become a political bargaining tool during peace process negotiations. Once the action plan implementation plan was agreed upon, however, successful implementation was attributed to sustained investment in advocacy and resources by key UN agencies (which engaged closely and consistently together) and diplomatic supporters.

In 2010, the responsibility for action plan implementation was transferred from the CTFMR to the UN Monitoring Team (UNMT), established due to a condition by the UCPN-M – then the government – that national NGOs not be involved in action plan monitoring. The narrowly focused activities of the UNMT, and the criteria established for action plan compliance monitoring, were largely

welcomed and thought to have contributed to a streamlined and effective process to end violations.

While Nepal has been delisted and grave violations have ceased, there is significant concern regarding the lack of progress towards ending impunity in Nepal.

Philippines

The MRM was established in the Philippines in 2007. The MRM is co-chaired by UNICEF and the RC, and, since 2012, has dual operational structures at the capital and regional (Mindanao) level. Three ANSAs are listed in the Philippines for recruitment and use of children: (i) Abu Sayyaf Group (ASG); (ii) Moro Islamic Liberation Front (MILF); and (iii) New People's Army (NPA).

Little or no success has been made in engaging the ASG on action plan adoption, or ending violations more generally. The UN has argued that the absence of a political wing and the security risks involved impede them from engaging with the ASG. Among other issues, areas where the ASG is active continue to be highly restricted to United Nations travel.

The UN has been able to hold an on-going dialogue with the NPA. A first meeting between the UN and members from the National Democratic Front Party (NDFP, the political front of the NPA) took place in 2011. On June 29, 2012, the NDFP issued a Declaration and Program of Action on "The Rights, Protection and Welfare of Children."³⁴ In this Declaration, the NDFP reaffirms the minimum age of 18 for NPA combatants. However, the NDFP criticizes the Optional Protocol on the Involvement of Children in Armed Conflict for its distinct standards for State parties and armed groups. It therefore denies that the Protocol imposes obligations on the NPA. In addition, the NDFP refutes the Paris Principles on the basis of its definition of children associated with armed forces, which includes children in support roles. The UN finds that the NDFP's program of action falls short of international standards and cannot be used for the purposes of delisting.

An action plan was signed with the MILF in August 2009, but little has been achieved towards its implementation to date. In January 2010, MILF issued a supplemental general order reiterating its policy on non-recruitment of

children. Initially planned for a period of up to 12 months, it was extended to 24 months but nevertheless expired in July 2011. Like the NPA, respondents have questioned the definition of children associated with armed forces as set forth by the action plan, and doubt its applicability to the context where children belong to the same community as the armed group and a variety of interactions occur.

Further inhibiting factors to action plan implementation have been the withdrawal of MILF from peace talks and an increase in armed activity between the MILF and breakaway elements. While direct communication between the United Nations and MILF has resumed, the future of the action plan and its potential for extension and implementation are unclear.

Afghanistan

Afghanistan is on the agenda of the UN Security Council. There is a political mission present, the United Nations Mission in Afghanistan (UNAMA), although it currently does not have a child protection section. A sanctions regime has been established pursuant to Security Council Resolution 1988 (2011), although children and armed conflict concerns are not included as criteria. The situation in Afghanistan has been placed under the ICC's jurisdiction. In March 2009, UNAMA responded to the request of the Security Council to establish a Child Protection Unit, which was initially staffed by one Child Protection Advisor. The new position led to notable impacts in integrating child protection into UNAMA's activities. For example, UNAMA's 2009 civilian casualties report for the first time published disaggregated data on children killed in war-related incidents; earlier reports had simply referred to the "vulnerabilities of women and children." In addition, UNICEF recruited five field-level consultants focused on the MRM who were deployed in regional offices (east, southeast, south, north and west). Perhaps as an outcome of the increased scrutiny, the Afghan National Police were first listed for recruitment and use in 2010. The Afghan Government responded swiftly, and signed an action plan with the United Nations in January 2011 on the recruitment and use of children, including a voluntary annex on sexual violence.

While the Afghan government worked constructively with the United Nations towards compliance, UNAMA proposed in its budget for 2013 to abolish two international positions from its three-member Child Protection Unit and to redeploy the remaining national staff member to the Human Rights Unit, thus merging the Child Protection Unit into the Human Rights Unit.³⁵ In the same budget proposal, UNAMA proposed a further 11 percent reduction of the Human Rights Unit. Opponents of this restructuring questioned UNAMA's resulting ability to support action plan implementation with the Afghan National Security Forces (ANSF).³⁶

There is no action plan with Taliban forces. Security restrictions and lack of formal contacts are often mentioned as inhibiting factors. The Taliban have recently opened a political office in Qatar for negotiations with the Afghan High Peace Council, which may offer opportunities for negotiations.

South Sudan

In South Sudan, the Sudan People's Liberation Army (SPLA) first signed an action plan on the recruitment and use of children in 2009, but the elections (2010), referendum and independence (2011), and the South Kordofan conflict all interfered with its ability to implement it. The UN itself was also consumed by its transition from the United Nations Mission in Sudan (UNMIS) to the United Nations Mission in South Sudan (UNMISS). However, the independence of South Sudan brought about an important change for the SPLA, as it assumed the duties and responsibilities of a national army. This shift reportedly guided further discussions with and within the SPLA and promoted the interest to develop and sign a "revised" action plan. In December 2011, a three-day meeting took place, bringing together government, UN and non-governmental actors. During this encounter, the action plan's requirements were discussed, as well as the SPLA's ability to implement them. The combination of these elements reportedly ensured that the "revised" action plan (2012) is perceived to be a "home grown" product that responds to international standards on child protection, yet is also sensitive to local realities.

Endnotes

- ¹ United Nations Security Council, "Children and Armed Conflict: Report of the Secretary-General," UN Doc (A/66/782-S/2012/261) April 26, 2012, para 221.
- ² Id, at para 222.
- ³ Id, at para 238.
- ⁴ Id, at para 239.
- ⁵ General Assembly Statement, SRS-CAAC Leila Zerrougui, October 17, 2012.
- ⁶ United Nations Security Council, "Children and Armed Conflict: Report of the Secretary-General." UN Doc (A/63/785-S/2009/158) 26 March 2009, para 139-141.
- ⁷ Additional parties have been delisted without the adoption and implementation of an action plan, typically in situations in which the party was dismantled or became a political group.
- ⁸ UCPN-M in Nepal, and the Inya Bharathi faction in Sri Lanka, both delisted in 2012.
- ⁹ Qualitative interviews were conducted in-person in New York and in the Philippines, and remotely with respondents in Chad, DRC, Nepal, South Sudan, Afghanistan and other locations. Respondents included staff members currently or formerly involved with action plan signature or implementation in a specific country situation. To encourage a fruitful and open dialogue, it was agreed with respondents in advance that the data collected would be non-attributable. Thus, neither the names nor the institutional affiliation of each respondent will be shared. The interview notes are on file with Watchlist on Children and Armed Conflict.
- ¹⁰ In addition to drawing on the lessons from these six countries, the paper draws on lessons and insights from the global perspective, and from qualitative discussion with global experts.
- ¹¹ Child Soldiers Prevention Act of 2008, <http://www.state.gov/documents/organization/135981.pdf>
- ¹² An interviewee speaking about Chad and the action plan process.
- ¹³ A/67/346/Add.4 para's 94, 65 – 66.
- ¹⁴ General Assembly, Fifth Committee, A/RES/67/246, paras 21-22.
- ¹⁵ Bo Victor Nylund and Ida Margarita Hyllested, *Protecting Children Affected by Armed Conflict: Accountability for Monitoring, Reporting and Response*, Journal of Human Rights 71, 91 (2010).
- ¹⁶ A respondent speaking about Nepal and the global action plan process.
- ¹⁷ "Security Council Engagement on the Protection of Children in Armed Conflict: Progress achieved and the Way Forward." Report prepared by Ambassador Jean-Marc de la Sablière, former Permanent Representative of France to the United Nations. June 2012.
- ¹⁸ Considering the SPLA as an ANSA as it was when it concluded the action plan.
- ¹⁹ "Their Words: the Directory of Armed Non-State Actor Humanitarian Commitments." This resource is a collection of humanitarian commitments made by armed non-State actors (ANSAs), see <http://theirwords.org/>
- ²⁰ Agreement on Disarmament, Demobilization and Reintegration, Annex to the Agreement on a Permanent Ceasefire signed in Juba, 2008, notably Article 2.6 on the recruitment and use of children and Article 2.11, as well as 2.12 on LRA/M's commitment to ensure the release of women and children. See also Article 2.14 and 2.15, the special rights of women and article 2.16 on the special needs of protected persons.
- ²¹ Layeha for the Mujahedeen - 2010 Version, Internal Rules and Regulations for the Islamic Emirate of Afghanistan/Taliban (IEA), see Section 12: "Youngsters (whose beards are not visible because of their age) are not allowed to be kept by Mujahedin in residential or military centers."
- ²² See <http://www.sudanjem.com/2012/09/action-plan-operational-mechanism-to-prevent-and-end-recruitment-and-use-of-child-soldiers/>
- ²³ Informal Briefing By Geneva Call, Towards The 2012 Open Debate On Children And Armed Conflict, Improving Compliance By Armed Groups, Recommendations Towards The 2012 Open Debate On Children And Armed Conflict (CAAC)
- ²⁴ Again excluding the SPLA.
- ²⁵ This definition of accountability is supplied by Conflict Dynamics International. A detailed explanation of the elements and actions associated with the definition are contained in Julia Freedson/ Conflict Dynamics International, "Bridging the Accountability Gap: New approaches to addressing violations against children in armed conflict" (June 2011), 3-4.
- ²⁶ July 9, 2012, Arria-formula testimony before the UN Security Council.
- ²⁷ An interview respondent speaking about the Nepal case.
- ²⁸ An interview respondent speaking about the DRC case.
- ²⁹ *Louder than Words. An Agenda for Action to end State use of Child Soldiers*. Child Soldiers International, 2012, See appendix 2: Data Summary.
- ³⁰ An interview respondent speaking about the DRC case.
- ³¹ July 9, 2012, Arria-formula testimony before the UN Security Council.
- ³² Human Rights Watch, "They Came Here to Kill Us": Militia Attacks and Ethnic Targeting of Civilians in Eastern Chad," Volume 19, no. 1(A) (January 2007), p. 12.
- ³³ United Nations Security Council Resolution 1778 (2007), UN Doc S/RES/1778 (2007), para. 1
- ³⁴ The NDFP Declaration and Program of Action for Filipino Children, Luis G. Jalandoni June 29, 2012, See http://www.ndfp.net/publications/books/Book_7_sequel.pdf
- ³⁵ A/67/346/Add.4 para's 94, 65 – 66.
- ³⁶ General Assembly, Fifth Committee, A/RES/67/246, paras 21-22.

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