



# General Assembly

Distr.: General  
3 September 2010

Original: English

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## Human Rights Council

### Fifteenth session

Agenda item 3

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

## **Annual report of the Special Representative of the Secretary- General for Children and Armed conflict, Radhika Coomaraswamy\* \*\***

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\* Late submission.

\*\* The annexes to the present document are reproduced as received, in the language of submission only.

## Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction.....	1–7	3
II. Working with the United Nations human rights mechanisms.....	8–15	4
III. The Optional Protocol on the involvement of children in armed conflict – a call for its universal ratification.....	16–24	6
IV. A major step forward: Security Council resolution 1882 (2009) – moving towards targeted measures .....	25–28	8
V. Progress made in addressing grave violations against children in armed conflict ..	29–30	9
VI. Vulnerabilities and risks faced by children who are internally displaced during armed conflict – addressing their rights.....	31–43	9
VII. Field visits by the Special Representative of the Secretary-General for Children and Armed Conflict – bringing high-level visibility to the situation and rights of children affected by armed conflict.....	44–62	12
VIII. Conclusion and recommendations.....	63–75	15
<b>Annexes</b>		
I. List of parties that recruit or use children, kill or maim children and/or commit rape and other forms of sexual violence against children in situations of armed conflict on the agenda of the Security Council, bearing in mind other violations and abuses committed against children .....		18
II. List of parties that recruit or use children, kill or maim children and/or commit rape and other forms of sexual violence against children in situations of armed conflict not on the agenda of the Security Council, bearing in mind other violations and abuses committed against children .....		20

## I. Introduction

1. The present report, covering the period May 2009 to May 2010, is submitted pursuant to General Assembly resolution 51/77 and other subsequent resolutions of the Assembly on the rights of the child, including its most recent resolution 64/146, in which the Assembly requested the Special Representative on Children and Armed Conflict to continue to submit a report to the Human Rights Council on the activities undertaken in discharging her mandate, including information on her field visits and on the progress achieved, and challenges remaining on the children and armed conflict agenda.

2. Over the past 60 years, the nations of the world have developed a truly impressive body of international humanitarian and human rights instruments. This is a year of milestones for international instruments that provide for the protection of children in situations of armed conflicts – it is the twentieth anniversary of the adoption of the Convention on the Rights of the Child; the sixtieth anniversary of the Geneva Conventions; and last year, we celebrated the sixtieth anniversary of the adoption of the Universal Declaration of Human Rights. This year, on the 25th of May 2010, we also marked the passing of a decade since the adoption of the Optional Protocols to the Convention on the Rights of the Child. The two protocols, on the sale of children, child prostitution and child pornography (OPSC) and on the involvement of children in armed conflict (OPAC) respectively, now benefit from a wide moral consensus among the international community, with 132 countries having ratified OPAC and 135 countries OPSC. However, the aspirations of these protocols are still being flouted with impunity, blighting the future of children, both in peace and in war.

3. Children affected by armed conflict is an issue which is of prime importance, both as a threat to international peace and security and also as a human rights concern, which never ceases to shock and horrify. Their suffering bears many faces in the midst of armed conflict and its aftermath. Appalling numbers of children are being killed and maimed, while many more are left orphans. Thousands are raped, sexually abused and left profoundly traumatized. Children are compelled to bear arms as child soldiers, act as spies, suicide bombers, human shields, or become sexual slaves by armed forces or groups. They are disproportionately affected by displacement and forced to flee their homes to ensure their survival. They are deprived of education, health care and access to justice mechanisms.

4. The international community must be seen to be responding, as a matter of priority, to mitigate the impact of conflict on children, to ensure the enforcement of international norms and standards and to end the impunity of violating parties. The Human Rights Council should consider it a primary duty to guarantee the protection of civilians, including children, during armed conflict, and the vindication of human rights. As the main United Nations body monitoring and protecting fundamental rights and freedoms, the Council should continue to make the protection, rights and well-being of children affected by armed conflict a central concern throughout its work.

5. The Special Representative welcomes the adoption by the Human Rights Council of its resolution 13/20 on the rights of the child and the fight against sexual violence against children, and its condemnation in the strongest terms of rape and other forms of sexual violence committed against children in armed conflict. The Special Representative also appreciates the call by the Human Rights Council in resolution 13/20, echoing Security Council resolutions 1612 (2005) and 1882 (2009), to all parties to armed conflict who perpetrate these violations to undertake commitments, as well as to prepare and implement concrete and effective time-bound action plans, to end such abuses. The Special Representative wishes to express appreciation to the Uruguayan and Spanish delegations for their active role in this process.

6. The Special Representative welcomes the decision of the Human Rights Council to begin preparation of a draft optional protocol to the Convention on the Rights of the Child to provide a communications procedure. Given that the Convention has achieved almost universal ratification yet remains the only treaty without a communications procedure, this decision is a momentous one to further strengthen and secure the rights of children equally in all settings and circumstances. Where national systems fail to address and redress child rights violations, and all domestic remedies have been exhausted, child victims of violations should be given the opportunity to seek assistance at the international level. The Special Representative looks forward to participating in the forthcoming negotiations.

7. The Special Representative also wishes to extend her appreciation for the invitation to attend the annual meeting of special rapporteurs, representatives, independent experts and chairpersons of working groups of June 2010, and hopes to maintain a close relationship with the special procedures.

## **II. Working with the United Nations human rights mechanisms**

8. The field presences of the Office of the United Nations High Commissioner for Human Rights (OHCHR) and its deployment of human rights monitors to peacekeeping operations and country missions is an important contribution to the monitoring and reporting of violations against children. The Office of the Special Representative also appreciates the continued efforts by OHCHR to encourage the mainstreaming of child rights issues related to armed conflict into the work of human rights mechanisms, including the universal periodic review (UPR) of the Human Rights Council, the treaty bodies and special procedures.

9. The Special Representative regards as very important, the process of reporting to the Committee on the Rights of the Child on the implementation of the Optional Protocol on the involvement of children in armed conflict. During the period under review, her Office provided information relevant to children and armed conflict, including key recommendations by the Secretary-General and the Security Council Working Group on Children and Armed Conflict, ahead of country reviews for Burundi, Colombia, Israel, Sri Lanka and the Sudan. The Committee's concluding observations reflected the concerns that the Office of the Special Representative had raised in its submissions. The Office intends to continue to support the work of the Committee and, in this regard, encourages State parties to the Convention to take measures to implement the recommendations of the Committee and to submit timely reports under the Optional Protocol to the Committee. In the same vein, the concluding observations of the Committee, as they pertain to the issue of children and armed conflict, will constitute a basis for continued advocacy by the Office.

10. Further, the Office has submitted inputs for the UPR on Iraq, and intends to submit relevant information on Myanmar, Nepal, Somalia and Sudan for consideration by the Working Group on the Universal Periodic Review during their upcoming sessions. As the end of the first UPR cycle is approaching, the Special Representative is very pleased that the process in general has been positive as far as children in armed conflict is concerned, and that the vast majority of recommendations relating to this issue were accepted by the States under review. She is further encouraged by the fact that:

(a) The reviews of all those States also covered in the Secretary-General's report on Children and Armed Conflict (S/2010/181) further to Security Council resolutions 1612 (2005) and 1882 (2009),<sup>1</sup> gave rise to recommendations relating to children affected by

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<sup>1</sup> Afghanistan, Burundi, Central African Republic, Chad, Colombia, Israel, Philippines and Sri Lanka.

armed conflict. Most of these recommendations included, inter alia, the recruitment and use of children and their release from armed groups and armed forces, the disarmament, demobilization and reintegration of children, training on child protection for State security forces, the enactment of appropriate legislative and policy measures to address and prevent abuses against children, as well as to criminalize the recruitment of children, action to combat sexual violence against children, and protection of children in refugee camps and sites of internally displaced persons (IDPs);

(b) Recommendations to parties to conflict that recruit and use children included a call to prepare an action plan to cease recruitment and to establish transparent procedures for the verification and release of children, emphasized the need for parties to meet commitments made to the Special Representative during her country visits, and urged timely cooperation with the monitoring and reporting mechanism pursuant to Security Council resolution 1612 (2005);

(c) Recommendations to ratify the Optional Protocol on the involvement of children in armed conflict were made to 19<sup>2</sup> out of the 29 States that had not yet done so at the time of their review and that, as a result, Mauritius ratified the Optional Protocol.

11. The Special Representative urges States to systematically include in their recommendations, as appropriate, specific references to information from the monitoring and reporting mechanism on grave violations against children, established in accordance with Security Council resolution 1612 (2005), as well as conclusions adopted by the Security Council Working Group on Children and Armed Conflict.

12. The Special Representative reiterates the recommendation made in her last report that concluding observations made by the Committee on the Rights of the Child on reports submitted by State parties under article 8 of the Optional Protocol to the Convention should also be taken into consideration by the Working Group on the UPR when reviewing a State submission under the UPR process.

13. In addition, the Special Representative encourages States to pay particular attention to the implementation of relevant recommendations of the Working Group on the UPR, with the assistance of the international community, wherever it is needed.

14. The Special Representative is encouraged by the practice of some special rapporteurs and independent experts of highlighting concerns about children and armed conflict in their reports, and by their proactive advocacy for the protection of children's rights. The Special Representative is particularly pleased to note that specific attention was paid to the plight of children, including their recruitment and use, and other grave violations against them, by the independent expert on the situation of human rights in Somalia and the Special Rapporteur on the situation of human rights in Myanmar in their reports (A/HRC/12/44, A/HRC/13/65 and A/HRC/13/48) to the twelfth and thirteenth sessions of the Human Rights Council. Additionally, the Special Representative collaborated with other United Nations experts to prepare the second joint report on the situation in the Democratic Republic of the Congo, pursuant to Human Rights Council resolution 10/33.<sup>3</sup> The Special Representative urges all special procedures mandate holders to continue to take into account during their missions the challenges faced by children, as well as in their reports and recommendations, insofar as they are relevant to their respective mandates, and to bring those concerns to her attention.

<sup>2</sup> Bahamas, Brunei Darussalam, Cameroon, Central African Republic, Côte d'Ivoire, Democratic Republic of the Congo, Equatorial Guinea, Ethiopia, Grenada, Guinea, Guyana, Indonesia, Kiribati, Malaysia, Mauritius, Netherlands, Nigeria, Saudi Arabia and United Arab Emirates.

<sup>3</sup> A/HRC/13/63.

15. Further, when considering or adopting resolutions on country-specific situations or thematic issues, the Human Rights Council is encouraged to include therein recommendations on or references to protection of children affected by armed conflict. The following resolutions of the Council during the period under review included such references: resolution 13/25 on the situation of human rights in Myanmar; resolution 13/22 on the situation of human rights in the Democratic Republic of the Congo and the strengthening of technical cooperation and consultative services; and resolution 12/26 on assistance to Somalia in the field of human rights.

### **III. The Optional Protocol on the involvement of children in armed conflict – a call for its universal ratification**

16. The adoption of the Optional Protocol 10 years ago, establishing the age of 18 as the minimum age for participation in hostilities and compulsory recruitment, was a major victory for children affected by armed conflict. The Special Representative would like to recall five elements of the Optional Protocol which are especially significant:

- (a) States are to take "all feasible measures" to ensure that members of their armed forces who have not attained the age of 18 do not take a "direct part" in hostilities;
- (b) States are to ensure that persons who have not attained the age of 18 are not compulsorily recruited into their armed forces;
- (c) Insurgent armed groups are prohibited, "under any circumstances", from recruiting persons under the age of 18, or using them in hostilities;
- (d) The new standards apply to both international conflicts and civil wars;
- (e) State parties are called upon to cooperate, through technical cooperation and financial assistance, in the prevention of child recruitment and the use of child soldiers, and in the rehabilitation and social reintegration of former child soldiers.

17. However, the provision on voluntary enlistment into national armed forces still falls short of the straight-18 position that the Special Representative has been advocating, even if specific safeguards, such as the provision of reliable proof of age and the informed consent of both child and parents, are in place. The Special Representative therefore urges States, to establish 18 as the minimum age for voluntary recruitment into the armed forces when depositing their binding declaration (under article 3) upon ratification of the Optional Protocol. States that have ratified but not adopted the straight-18 policy are requested to reconsider their declaration, in order to raise the minimum age for recruitment into the armed forces to 18.

18. To date, a total of 36 countries have neither signed, ratified nor acceded to the Optional Protocol, while 24 countries have signed the Optional Protocol but not yet ratified it. It should be our common goal to strive towards achieving universal ratification of this instrument in order to give it the broadest possible legitimacy and force. This will certainly be a decisive contribution to the universal realization of children's rights.

19. Signing and ratifying the Optional Protocol entails real responsibilities undertaken by State parties to fulfil their obligations under international law, including undertaking legislative efforts to develop or reform national legislation to prevent, prohibit and criminalize the recruitment and use of children. This places a clear resource obligation on States, as ratification and the implementation processes are expensive undertakings, including having to meet reporting requirements. For some of these countries, dedicated government budgets and human resources are insufficient and technical capacity limited. In this instance, the Special Representative encourages leadership by one or more countries

that have already ratified the Optional Protocol to provide guidance and other forms of assistance, both technical and financial, to those which are willing to ratify.

20. The international community is also urged to continue to mobilize its energies towards:

- (a) Advocating unequivocally for the age of 18 as the minimum age for recruitment and participation in hostilities;
- (b) Exerting international pressure on parties that continue to recruit and use children;
- (c) Monitoring and compelling adherence by parties to conflict to commitments made to protect children, and holding them accountable for failure to comply with international standards;
- (d) Addressing the political, social and economic factors that facilitate the recruitment and use of children;
- (e) Responding to the rehabilitation and reintegration needs of former child soldiers.

21. In discussions with governments and through public advocacy, the Special Representative is mobilizing support for the signing and ratification of the Optional Protocol on the involvement of children in armed conflict. Along with her partners in this endeavour, she has also launched a two-year campaign called “Zero Under Eighteen” to achieve universal ratification by 2012.

22. For the Office of the Special Representative, “Zero Under Eighteen” will include bilateral discussions between the Special Representative and those Member States who have yet to sign or ratify the Optional Protocol – one such opportunity will be during the treaty signing ceremony which will take place during the General Assembly debate in September 2010. Further, the Office of the Special Representative will provide technical assistance, along with our partners, to help facilitate the process. The Office has also created an online, social networking version of the campaign to promote awareness, as well as to provide information and support.<sup>4</sup>

23. “Zero Under Eighteen” is an open campaign and there is a role for every Member State. For those who have already signed up, the Special Representative requests that they become regional champions or sponsors for the campaign. Champions will advocate universal ratification, include links to the campaign on their websites, and assist in bringing the Special Representative to multilateral and regional meetings to discuss the Optional Protocol, the importance of ratification and the support that is available. Champions can also contribute by funding events that will highlight the importance of the campaign and recognize those Member States who have recently ratified.

24. Sponsors of “Zero Under Eighteen” are those Member States who could assist by creating or contributing to a fund for Member States who would like to sign but are unable to meet the costs of the initial and subsequent reporting requirements.

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<sup>4</sup> Available at <http://www.facebook.com/zerounder18>.

#### **IV. A major step forward: Security Council resolution 1882 (2009) – moving towards targeted measures**

25. On 4 August 2009, the Security Council adopted resolution 1882 on children and armed conflict. Resolution 1882 was a major step forward in ensuring the protection of children affected by armed conflict by expanding the triggers for the listing of parties on the annexes of the Secretary-General's report, to include those who kill and maim children as well as commit rape and other forms of sexual violence against children. The resolution also calls for parties to conflict to engage with the United Nations to develop time-bound action plans to cease, desist and prevent the perpetration of these violations. The resolution was seminal in other ways too: in particular, the Security Council reaffirmed its intention to take action against persistent perpetrators, including by enhancing communications between the Working Group on Children and Armed Conflict and the sanctions committees.

26. The statement made by the President of the Security Council in June 2010 (S/PRST/2010/10) advanced the intentions of the Council further in expressing its readiness to adopt targeted and graduated measures against the most recalcitrant and persistent of violators of children's rights. This demonstrates the commitment by the Security Council to fully and firmly embrace the responsibility to protect children.

27. To this end, the Special Representative would like to bring to the attention of the Human Rights Council the parties which were included in the annexes to the latest report of the Secretary-General on children and armed conflict (S/2010/181, annexes I and II) for the recruitment and use of children, killing and maiming of children and rape and sexual violence against children, in contravention of applicable international law. The Secretary-General's report also spotlights sixteen persistent violators, who have been explicitly named and listed by the Secretary-General for five years or more. These parties are:

- Abu Sayyaf Group (ASG)
- Ejército de Liberación Nacional (ELN)
- Forces armées de la République démocratique du Congo (FARDC), including fast-track integrated units of the Congrès national pour la défense du peuple (CNDP), formerly led by Laurent Nkunda and Bosco Ntaganda
- Forces démocratiques de libération du Rwanda (FDLR)
- Front nationaliste et intégrationnaliste (FNI)
- Fuerzas Armadas Revolucionarias de Colombia-Ejército del Pueblo (FARC-EP)
- Karenni Army (KA)
- Karen National Liberation Army (KNLA)
- Lord's Resistance Army (LRA)
- Mai-Mai groups in North and South Kivu, including Patriotes résistants congolais (PARECO)
- Moro Islamic Liberation Front (MILF)
- New People's Army (NPA)
- Pro-Government militias in Darfur
- Sudan People's Liberation Army (SPLA)
- Tatmadaw Kyi



- Transitional Federal Government of Somalia (TFG).

28. The near total impunity for grave crimes perpetrated against children remains disturbing and poses a serious challenge for the protection of children. Despite several initiatives and commitments by some governments to address impunity using national accountability mechanisms in 2009, including by initiating investigations, arrests and trials against members of armed forces or armed groups, with some resulting in convictions, impunity continues to prevail. Factors which undermine the fight against impunity include the lack of political will, weak legal and judicial infrastructures, as well as the absence of resources and expertise to conduct investigations and prosecutions. In some cases, there is deliberate obstruction of the course of justice and a failure to focus on command responsibility. The Special Representative emphasizes that unless all parties to conflict adhere to their commitments, comply with their international obligations and are held accountable for non-compliance, the plight of children in situations of armed conflict risks deterioration.

## **V. Progress made in addressing grave violations against children in armed conflict**

29. Since the previous report of the Special Representative to the Human Rights Council,<sup>5</sup> the commitments made by the Moro Islamic Liberation Front (MILF) in the Philippines, the Unified Communist Party of Nepal-Maoist (UCPN-M) and the Government of Nepal, as well as the Forces nationales de liberation (FNL) in Burundi, which were reflected in that report, have been translated into tangible actions by these parties in 2009 and 2010. Action plans to end the recruitment and use of children and to secure their release were signed between the United Nations and the MILF, the Sudan People's Liberation Army (SPLA), the Government of Nepal, and the UCPN-M on 30 July, 20 November and 16 December 2009, respectively. Additionally, in June 2010, the Sudan Liberation Army/Free Will, a signatory to the Darfur Peace Agreement, established an action plan and issued an order to all commanders and members of the armed group to stop recruitment and re-recruitment of children in their ranks. Since July 2009 to date, the SLA/Free Will has released 173 children; while the Maoist party in Nepal released almost three thousand minors in an extraordinary process in February this year.

30. In Burundi, pivotal success was achieved with the complete cessation of recruitment, the release of all children associated with the FNL and their reunification with their families. This group was removed from the annexes of the Secretary-General's report as a result. In the course of 2009, thousands of children were also released by parties in the Central African Republic, Chad, Colombia, the Democratic Republic of the Congo, Myanmar, Sri Lanka and the Sudan.

## **VI. Vulnerabilities and risks faced by children who are internally displaced during armed conflict – addressing their rights**

31. Most people fleeing armed conflict do so within the borders of their own countries. They are unable or reluctant to leave their homelands and increasingly find countries of asylum less willing to accept them. Of the estimated 27.1 million people around the world today who have been forced to flee their homes due to armed conflict, and who remain within their countries as IDPs, at least half, and likely more, are children.

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<sup>5</sup> A/HRC/12/49.

32. Children are disproportionately affected by internal displacement not only in terms of the numbers of those affected, but also in the risks that they face. It is important to recall the challenges faced by internally displaced children, as articulated by Graça Machel, in her 1996 landmark report to the General Assembly on the impact of armed conflict on children (A/51/306): “During flight from the dangers of conflict, families and children continue to be exposed to multiple physical dangers. They are threatened by sudden attacks, shelling, snipers and landmines, and must often walk for days with only limited quantities of water and food. Under such circumstances, children become acutely undernourished and prone to illness, and they are the first to die. Girls in flight are even more vulnerable than usual to sexual abuse. Children forced to flee on their own to ensure their survival are also at heightened risk. Many abandon home to avoid forced recruitment, only to find that being in flight still places them at risk of recruitment, especially if they have no documentation and travel without their families.”

33. Displacement is an especially destabilizing and traumatic experience for children as it exposes them to risks at a time in their lives when they most need protection and stability. Moreover, the difficult conditions that IDPs endure typically persist for years, even decades, without a solution. Worldwide, the average duration of displacement situations today is nearly 20 years, meaning that many children grow up only ever experiencing life as an IDP.

34. On several of her missions in recent years, the Special Representative has witnessed the deeply distressing and precarious conditions of IDPs, the vast majority of whom are children and women. For instance, in November 2009, the Special Representative visited Sudan where she met with communities who were internally displaced. Many children have been displaced for years, with some of them having been born during displacement, while others were newly displaced in 2009 because of continuing armed violence. In these camps, the concerns include tensions caused by the presence of armed groups and the increase in incidents of gender-based violence. Due to lack of security, livelihoods and basic services, few internally displaced families manage to return to their place of origin. Further, during her last visit to Uganda in May – June 2010, the Special Representative spoke with victims of armed conflict and displacement in Gulu, northern Uganda, where many women and children were forced to flee in search of safety and livelihoods. Upon return to their villages, they faced multiple challenges, such as the absence of clean water, health care and education. Schools struggled with a lack of teachers, classrooms and teaching materials. Another major concern was the protection of children and young women against sexual and gender-based violence, caused by a frequent lack of rule of law in IDP return areas.

35. The Special Representative therefore, continues to raise the key protection concerns for children displaced as a result of conflict, and to advocate for the rights and guarantees that should be accorded to every internally displaced child. These rights and guarantees were outlined in her reports to the General Assembly and Human Rights Council last year. Since then, the Office of the Special Representative has embarked, in consultation with the Representative of the Secretary-General on the human rights of internally displaced persons, the Office of the United Nations High Commissioner for Refugees (UNHCR), UNICEF, and non-governmental organization (NGO) partners, on producing a working paper drawing attention to the particular vulnerabilities and risks faced by children who are internally displaced in armed conflict, as well as to the responsibilities of governments and all other authorities to provide internally displaced children with the protection that they require, and to which they have a right. The objective of the working paper is to guide and support advocacy efforts, especially in relation to governments, as they bear primary responsibility for protecting, assisting and securing the rights of internally displaced children.

36. The rights of internally displaced children are expressly guaranteed and firmly entrenched in international humanitarian law and human rights law – the Geneva Conventions and their Additional Protocols, the International Covenant on Civil and Political Rights and the International Covenant on Economic Social and Cultural Rights, the Convention on the Rights of the Child and its Optional Protocol on the involvement of children in armed conflict. These instruments obligate State and non-State actors alike to protect children from the harmful effects of armed conflict, to prevent arbitrary displacement, to protect and assist persons who are displaced, and to facilitate durable solutions to displacement, paying special attention to the particular vulnerabilities and risks faced by internally displaced children.

37. Regional legal instruments also affirm the main rights and guarantees provided for in international law and often elaborate upon them, including with express reference to internally displaced children. Most notably, the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), adopted in October 2009, includes specific provisions reaffirming the right of IDPs to personal documentation, education, protection against recruitment and use in hostilities, kidnapping, abduction, sexual slavery and trafficking, and protection that addresses the special needs of separated and unaccompanied minors, as well as of mothers with young children. The African Charter on the Rights and Welfare of the Child emphasizes the responsibility of States to ensure that IDP children “receive appropriate protection and humanitarian assistance” and pays special attention to the importance of reuniting families separated by displacement. The Council of Europe has adopted a number of recommendations concerning internal displacement, including as regards the right of internally displaced children to education.

38. The Guiding Principles on Internal Displacement also pay specific attention to the situation of internally displaced children. Although not a binding document, the Principles are based on and reflect existing standards of international law, which are binding. The authoritative nature of the Principles is further reinforced by their broad international acceptance; they have been recognized by States as “an important international framework for the protection of internally displaced persons,” as well as a “tool” and “standard” to guide governments, international organizations and all other relevant actors in situations of internal displacement.

39. The Guiding Principles assert that children, especially unaccompanied minors, as well as expectant mothers and mothers with young children, are “entitled to protection and assistance required by their condition and to treatment which takes into account their special needs” (Principle 4.2). The Principles also affirm the right of families to remain together and to be rapidly reunified (Principles 7 and 17); protection of children from sale into marriage, exploitation and forced labour (Principle 11); protection of children from recruitment or from taking part in hostilities (Principle 13); the right to documentation in their own names, including birth certificates (Principle 20); and the right to education, including the equal participation of girls (Principle 23).

40. States and all parties to conflict have obligations under international humanitarian and international human rights law to protect internally displaced children in all phases of displacement. The most fundamental of their rights is the right to life, dignity and physical, mental and moral integrity. Displacement almost inevitably entails severe threats to the right to life. Therefore, the physical safety of the affected population, particularly women and children, in zones of armed conflict should be the highest priority. Protected safe spaces for displaced children should be guaranteed - both for those seeking to escape imminent harm, as well as for those who have reached a place of safety such as an IDP camp but who continue to face security threats, or are at risk of further displacement. Children should also have access to the fullest extent and with the least possible delay to

the humanitarian assistance they require, including food, potable water, shelter, health care and psychosocial services.

41. The recruitment of children by the armed forces or armed groups and internal displacement are closely linked. Evidence suggests that refugee and IDP camps are often prime recruiting grounds for child soldiers, owing to the convenient concentration of vulnerable children. The lack of security around some camps increases the likelihood of child recruitment. Internally displaced children are also at increased risk of suffering from rape and other forms of sexual violence in the camps, or during flight, as they are preyed upon by soldiers, armed groups, traffickers, border guards and other opportunists. Governments are obligated to not only criminalize such acts but to hold those who perpetrate these violations accountable. Safe locations for camps and settlements in order to prevent incursions of armed groups and protect internally displaced children from sexual violence should be prioritized. And finally, measures to alleviate the social and economic factors that cause displacement in the first place, and that subsequently render children more vulnerable to recruitment, such as trafficking, forced labour and sexual and gender-based violence, should be given serious consideration.

42. In situations of internal displacement, the freedom of movement of the affected population, including their right to move freely in and out of camps and settlements should be respected. For children, it entails the right to move freely with their family. Few threats to a child's well-being equal that of being separated from his or her family during conflict, and for these children all possible action should be taken to prevent separation from their families and to ensure rapid reunification in the case of separation. To this end, displaced children, in particular separated and unaccompanied minors, should have their own identity documentation in order to enjoy their full legal rights and to have access to basic social services, such as health care and education.

43. Ultimately, displacement should be a temporary condition and a durable solution should be secured where all those who were internally displaced no longer have any specific protection and assistance needs linked to their displacement and can enjoy their human rights without discrimination. States have a responsibility to create the conditions for a durable solution to displacement, either through voluntary return, integration or resettlement. The best interests of a child – determined through participatory, age-appropriate and gender-competent assessments – should always be the primary consideration when seeking a durable solution.

## **VII. Field visits by the Special Representative of the Secretary-General for Children and Armed Conflict – bringing high-level visibility to the situation and rights of children affected by armed conflict**

44. During the period under review, the Special Representative carried out field missions to Sudan (November 2009), Nepal (December 2009), Afghanistan (February 2010) and Uganda (May-June 2010) in the context of Security Council resolutions 1612 (2005) and 1882 (2009) on children and armed conflict. This was her second trip to the Sudan, Afghanistan and Uganda. Special Envoy Patrick Cammaert visited Sri Lanka on behalf of the Special Representative in December 2009. The primary objectives of these visits are to assess first-hand the situation of children, facilitate the implementation of child protection commitments and foster more effective coordination among key stakeholders, following up the recommendations of the Secretary-General and the key provisions of Security Council resolutions 1612 and 1882. During these missions, the Special Representative systematically engaged with a wide range of actors, particularly the political

and military leadership, government officials, United Nations heads of missions and country teams, NGOs and civil society, children and their families, religious leaders, and the diplomatic community.

45. Some of the major commitments received from governments and other parties to conflict during these missions are highlighted below. The critical challenge is to ensure the timely follow-up and adherence to commitments that have been made, in order to bring about concrete results for the protection of children on the ground. It is therefore important for the Human Rights Council and the broader international and human rights community to utilize their collective capacity to monitor these undertakings to ensure that parties to conflict honour their commitments.

## **Sudan**

46. In follow-up to her previous visit in January 2007 and the recommendations of the Secretary General's report on children and armed conflict in Sudan,<sup>6</sup> the Special Representative undertook a mission to engage in a constructive dialogue with national authorities from North and South Sudan, as well as non-State parties to the conflict.

47. As a result, the Sudan People's Liberation Army (SPLA) signed an action plan in Juba on 20 November 2009 to end the use of children as soldiers. Non-State armed groups, such as the Sudan Liberation Army (SLA)/Abu Ghasim, SLA/Free Will and Justice and Equality Movement/Peace Wing committed to releasing children and to developing action plans in collaboration with the United Nations. SLA/Minni Minnawi agreed to grant unimpeded and immediate access to areas under their control for verification of compliance with the provisions of an action plan they signed in 2007.

48. The Special Representative commended the Government of National Unity for the progress made in the last two years to strengthen protection for children. Family and child protection units have been established in Darfur, Khartoum and other states in Northern Sudan. Demobilization, disarmament and reintegration (DDR) commissions work closely with the United Nations to facilitate the release and integration of former child combatants.

49. At the community level, religious leaders in Darfur agreed to begin a campaign and deliver public messages in their mosques calling for an end to child recruitment. In West Darfur, the Special Representative spoke with youth, sheikhs, sheikhas and *umdas* (traditional leaders) who brought to her attention the issue of insecurity and the fertile ground for recruitment within IDP camps.

50. Commanders of the Ugandan armed forces present in Western Equatoria expressed willingness to develop protocols to assist children rescued during military operations.

## **Sri Lanka**

51. On behalf of the Special Representative, Special Envoy Cammaert visited Sri Lanka between 6 and 11 December 2009. The Special Envoy was particularly concerned about the confinement of displaced children in closed camps and the reintegration of children formerly associated with armed groups. He also expressed concern about cases of recruitment and re-recruitment of children by Iniya Barathi (who was part of the Tamil Makkal Viduthalai Puligal (TMVP) breakaway faction, under Karuna's leadership) in the Eastern province.

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<sup>6</sup> S/2009/84.

52. The Sri Lankan Government agreed to increase freedom of movement for the internally displaced population and reaffirmed its zero tolerance policy with regard to child soldiering. With regard to children recruited by the TMVP, the Special Envoy received the assurance of Chief Minister Santhirakanthan (a.k.a. Pillayan) as well as Minister Muralidharan (a.k.a. Karuna) that they will expedite the remaining cases, in accordance with the action plan signed between the Government of Sri Lanka and the United Nations in December 2008 to halt child recruitment.

53. In light of the Special Envoy's concern that hundreds of children are still missing or separated from their parents and should be reunited as soon as possible, the Sri Lankan Government established a family tracing and reunification unit in Vavuniya in December 2009. With regard to former child soldiers, by May 2010 most of the children had returned home to their families.

## **Nepal**

54. The Special Representative visited Nepal from 14 to 17 December 2009 to ensure progress in the discharge of 2,973 Maoist army personnel verified as minors during the United Nations-led verification process, completed in December 2007. The children should all have been released immediately after the completion of this verification process, but they remained in temporary camps after the 2006 peace agreement that ended the conflict.

55. During her visit, the Special Representative witnessed the signing of an action plan on the release of child soldiers between the Government of Nepal, UCPN-M and the United Nations presence in Nepal. The action plan continues to be monitored by a United Nations-led team to ensure that those discharged return to a civilian environment and are not exposed to recruitment by criminal gangs or political youth movements.

56. The signing of the action plan eventually resulted in the release of all 1,843 child combatants and the remaining 1,130 children received discharge notifications.

## **Afghanistan**

57. Following the specific commitments made during her previous visit in July 2008, the Special Representative travelled to Afghanistan to assess the current situation of children with regard to recruitment, detention, attacks on schools and humanitarian access. President Karzai made a personal commitment that these issues would be given high priority on the agenda of the peace discussions.

58. The Special Representative welcomed the implementation of an inter-ministerial steering committee to work with United Nations agencies in monitoring and responding to grave violations against children, and the appointment of focal points in the army and police to investigate incidents of under-age recruitment in the Afghan national security forces.

59. The Minister of Justice agreed to consider legislation to criminalize the recruitment and use of children. The Afghan national authorities further demonstrated political will by committing to provide unlimited access to all detention facilities for United Nations child protection actors, including those administered by the National Directorate for Security (NDS).

60. Former NATO Commander Stanley McChrystal reassured the Special Representative that the International Security Assistance Force (ISAF) would cooperate with the United Nations to develop protocols on how to deal with children associated with armed groups during military operations, and implement measures to ensure greater

protection of children. The Special Representative pointed out that 131 children had been killed by aerial bombardment during 2009.

## **Uganda**

61. During her visit to Uganda from 28 May to 6 June 2010, the Special Representative raised the need to develop standard operating procedures for the release and repatriation of children associated with the Lord's Resistance Army (LRA) with Aronda Nyakairima, head of Uganda's national army (UPDF). During joint military offensives in the north of the Democratic Republic of the Congo, the UPDF has come into contact with children who are either in the front line, associated with LRA, or being held captive.

62. The Special Representative also attended the first Review Conference on the Rome Statute of the International Criminal Court in Kampala. She gave a keynote address stressing the impact of the Rome Statute on victims and affected communities.

## **VIII. Conclusion and recommendations**

63. The Special Representative welcomes and appreciates the strengthened collaboration between her Office and the United Nations human rights system, and reiterates her continued support, including sharing regular information and advocating the protection of children affected by armed conflict. The Special Representative emphasizes that unless all parties to conflict adhere to their commitments, comply with their international obligations and are held accountable for non-compliance, the plight of children in situations of armed conflict risks deterioration. To this end, the Special Representative offers the following recommendations.

### **Optional Protocol on the involvement of children in armed conflict**

64. State parties to the Convention on the Rights of the Child are encouraged to strengthen national and international measures for the prevention of recruitment of children into the armed forces or armed groups and their use in hostilities. In particular, those measures include signing and ratifying the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict and enacting legislation that explicitly prohibits and criminalizes the recruitment of children into armed forces or groups and their use in hostilities; exercising extraterritorial jurisdiction in order to strengthen the international protection of children against recruitment; taking measures to implement the recommendations of the Committee on the Rights of the Child; and submitting timely reports to the Committee under the Optional Protocol.

65. States are encouraged, to establish 18 as the minimum age for voluntary recruitment into armed forces when depositing their binding declaration (under article 3) upon ratification of the Optional Protocol. States which have ratified but not adopted the straight-18 policy are urged to reconsider their declarations in order to raise the minimum age to 18.

66. In light of the fact that ratification and the implementation processes of the Optional Protocol place a clear resource burden on some States which are willing to ratify the instrument, leadership by one or more countries which have already ratified is encouraged, to provide both financial and technical assistance.

67. The international community is urged to continue to mobilize its energies towards: advocating unequivocally for 18 as the minimum age for recruitment and participation in hostilities; exerting international pressure on parties that continue to recruit and use children; monitoring and compelling adherence by parties to conflict to commitments made to protect children, and holding them accountable for failure to comply with international standards; addressing the political, social and economic factors that facilitate the recruitment and use of children; and responding to the rehabilitation and reintegration needs of former child soldiers.

### **Universal periodic review**

68. During the universal periodic review process, States are urged to systematically include in their recommendations to the State under review, specific references to any information from the monitoring and reporting mechanism on grave violations against children established in accordance with Security Council resolution 1612 (2005), as well as conclusions adopted by the Security Council Working Group on Children and Armed Conflict, as appropriate.

69. Concluding observations made by the Committee on the Rights of the Child on reports submitted by State parties under the Optional Protocol to the Convention should also be taken into consideration by the Working Group on the UPR when reviewing a State submission under the UPR process.

70. As the end of the first UPR cycle is approaching, States should begin paying particular attention to the implementation of relevant recommendations by the Working Group on the UPR, with the assistance of the international community, wherever it is needed.

### **Special procedures**

71. All special procedures mandate holders are urged to continue to take into account during their missions the challenges faced by children, as well as in their reports and recommendations, insofar as they are relevant to their respective mandates, and to bring those concerns to the attention of the Special Representative.

### **Human Rights Council**

72. The Human Rights Council is encouraged, when considering or adopting resolutions on country-specific situations or thematic issues, to include therein recommendations on, or references to, protection of children affected by armed conflict.

73. Member States which bear a central and immediate political, legal and moral responsibility, should comply with international law for the protection of children within their territories. They should take strong and urgent action to bring to justice individuals responsible for the recruitment and use of children in the armed forces or armed groups, and their use in hostilities, in violation of applicable international law. They should also take action against other grave violations against children through national justice systems, including undertaking appropriate reforms of national legislation for the protection of children, in order to bring laws into line with international obligations, as well as strengthening child-protection capacity and training for the military, the police, and law enforcement and judiciary officials within national security sector reform efforts.



74. Member States should continue to insist that parties listed in the annexes to the Secretary-General's report for the recruitment and use of children, killing and maiming of children, and/or rape and other sexual violence against children, in contravention of applicable international law, prepare and implement concrete time-bound action plans to halt those violations and abuses, and to take measures against any parties that fail to comply.

75. Lastly, States, which bear the primary duty and responsibility for addressing internal displacement should abide by their obligations under international law and adhere to the Guiding Principles on Internal Displacement. States should: safeguard populations on their territory from arbitrary displacement; protect and assist those who have been displaced; and support and facilitate voluntary, safe and dignified solutions to displacement, particularly those of their most vulnerable citizens – their children.

## Annex I

**List of parties<sup>7</sup> that recruit or use children, kill or maim children and/or commit rape and other forms of sexual violence against children in situations of armed conflict on the agenda of the Security Council, bearing in mind other violations and abuses committed against children**

Parties in Afghanistan	<ol style="list-style-type: none"> <li>1. Afghan National Police<sup>a</sup></li> <li>2. Haqqani network<sup>a</sup></li> <li>3. Hezb-i-Islami<sup>a</sup></li> <li>4. Jamat Sunat al-Dawa Salafia<sup>a</sup></li> <li>5. Taliban forces<sup>a</sup></li> <li>6. Tora Bora Front<sup>a</sup></li> </ol>
Parties in the Central African Republic	<ol style="list-style-type: none"> <li>1. Armée populaire pour la restauration de la République et de la démocratie (APRD)<sup>a</sup></li> <li>2. Convention des patriotes pour la justice et la paix (CPJP)<sup>a</sup></li> <li>3. Union des forces démocratiques pour le rassemblement (UFDR)<sup>a</sup></li> <li>4. Forces démocratiques populaires de Centrafrique (FDPC)<sup>a</sup></li> <li>5. Lord's Resistance Army (LRA)<sup>ab</sup></li> <li>6. Mouvement des libérateurs centrafricains pour la justice (MLCJ)<sup>a</sup></li> <li>7. Self-defence militias supported by the Government of the Central African Republic<sup>a</sup></li> </ol>
Parties in Chad	<ol style="list-style-type: none"> <li>1. Armée nationale tchadienne<sup>a</sup></li> <li>2. Justice and Equality Movement (Sudanese armed groups backed by the Government of Chad)<sup>a</sup></li> </ol>
Parties in the Democratic Republic of the Congo	<ol style="list-style-type: none"> <li>1. Forces armées de la République démocratique du Congo (FARDC), including fast-track integrated units of the Congrès national pour la défense du peuple (CNDP), formerly led by Laurent Nkunda and currently led by Bosco Ntaganda<sup>ab</sup></li> <li>2. Forces démocratiques de libération du Rwanda (FDLR)<sup>ab</sup></li> <li>3. Forces de résistance patriotique en Ituri (FRPI)<sup>ab</sup></li> <li>4. Front nationaliste et intégrationnaliste (FNI)<sup>ab</sup></li> <li>5. Lord's Resistance Army (LRA)<sup>ab</sup></li> <li>6. Mai-Mai groups in North and South Kivu, including Patriotes résistants congolais (PARECO)<sup>ab</sup></li> </ol>
Parties in Iraq	Al-Qaida in Iraq <sup>a</sup>

<sup>7</sup> Parties to conflict listed in annex I to the report of the Secretary-General on children and armed conflict, S/2010/181.

<sup>a</sup> Parties that recruit and use children.

<sup>b</sup> Parties that commit rape and other forms of sexual violence against children.

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Parties in Myanmar	<ol style="list-style-type: none"> <li>1. Democratic Karen Buddhist Army (DKBA)<sup>a</sup></li> <li>2. Karen National Union-Karen National Liberation Army Peace Council<sup>a</sup></li> <li>3. Kachin Independence Army (KIA)<sup>a</sup></li> <li>4. Karen National Liberation Army (KNLA)</li> <li>5. Karenni Army (KA)</li> <li>6. Karenni National People's Liberation Front (KNPLF)<sup>a</sup></li> <li>7. Myanmar National Democratic Alliance Army<sup>a</sup></li> <li>8. Shan State Army-South (SSA-S)<sup>a</sup></li> <li>9. Tatmadaw Kyi<sup>a</sup></li> <li>10. United Wa State Army (UWSA)<sup>a</sup></li> </ol>
Parties in Nepal	Unified Communist Party of Nepal-Maoist (UCPN-M) <sup>a</sup>
Parties in Somalia	<ol style="list-style-type: none"> <li>1. Al-Shabaab<sup>ac</sup></li> <li>2. Hizbul Islam<sup>a</sup></li> <li>3. Transitional Federal Government (TFG)<sup>ac</sup></li> </ol>
Parties in Southern Sudan	<ol style="list-style-type: none"> <li>1. Sudan People's Liberation Army (SPLA)<sup>a</sup></li> <li>2. Lord's Resistance Army (LRA)<sup>abc</sup></li> </ol>
Parties in Darfur	<ol style="list-style-type: none"> <li>1. Chadian opposition groups<sup>a</sup></li> <li>2. Police forces, including the Central Reserve Police and Border Intelligence Forces<sup>a</sup></li> <li>3. Pro-Government militias<sup>a</sup></li> <li>4. Sudan Armed Forces (SAF)<sup>a</sup></li> <li>5. Parties signatories to the Darfur Peace Agreement: <ol style="list-style-type: none"> <li>(a) Justice and Equality Movement (Peace Wing)<sup>a</sup></li> <li>(b) Movement of Popular Force for Rights and Democracy<sup>a</sup></li> <li>(c) Sudan Liberation Army (SLA)/Abu Gasim/Mother Wing<sup>a</sup></li> <li>(d) Sudan Liberation Army (SLA)/Free Will<sup>a</sup></li> <li>(e) Sudan Liberation Army (SLA)/Minni Minnawi<sup>a</sup></li> <li>(f) Sudan Liberation Army (SLA)/Peace Wing<sup>a</sup></li> </ol> </li> <li>6. Parties not signatories to the Darfur Peace Agreement: <ol style="list-style-type: none"> <li>(a) Justice and Equality Movement (JEM)<sup>a</sup></li> <li>(b) Sudan Liberation Army (SLA)/Abdul Wahid<sup>a</sup></li> <li>(c) Sudan Liberation Army (SLA)/Unity<sup>a</sup></li> </ol> </li> </ol>

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<sup>c</sup> Parties that kill and maim children.

## Annex II

**List of parties<sup>8</sup> that recruit or use children, kill or maim children and/or commit rape and other forms of sexual violence against children in situations of armed conflict not on the agenda of the Security Council, bearing in mind other violations and abuses committed against children**

Parties in Colombia	<ol style="list-style-type: none"><li>1. Ejército de Liberación Nacional (ELN)<sup>a</sup></li><li>2. Fuerzas Armadas Revolucionarias de Colombia-Ejército del Pueblo (FARC-EP)<sup>a</sup></li></ol>
Parties in the Philippines	<ol style="list-style-type: none"><li>1. Abu Sayyaf Group (ASG)<sup>a</sup></li><li>2. Moro Islamic Liberation Front (MILF)<sup>a</sup></li><li>3. New People's Army (NPA)<sup>a</sup></li></ol>
Parties in Sri Lanka	Tamil Makkal Viduthalai Pulikal (TMVP) (former element of Karuna faction, Iniya Barrathi) <sup>a</sup>
Parties in Uganda	Lord's Resistance Army (LRA)

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<sup>8</sup> Parties to conflict listed in annex II to the report of the Secretary-General on children and armed conflict, S/2010/181.