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BRIDGING THE ACCOUNTABILITY GAP: NEW APPROACHES TO ADDRESSING VIOLATIONS AGAINST CHILDREN IN ARMED CONFLICT



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**BRIDGING THE ACCOUNTABILITY GAP:
NEW APPROACHES TO ADDRESSING VIOLATIONS
AGAINST CHILDREN IN ARMED CONFLICT**

Executive Summary

Across the globe, a dramatic gap exists between efforts and outcomes in realizing accountability for grave violations against children in situations of armed conflict. This report illustrates the “accountability gap” and presents practical opportunities for advancing efforts to achieve more effective accountability.

While some national and international mechanisms have made notable progress, for the most part they have not achieved effective accountability. Perpetrators are rarely held to account. Efforts to include or prioritize children in non-judicial efforts tend to be weak and sporadic. Prevention efforts do not always guarantee children a safer and more secure future. Children seldom benefit from tangible improvements to their environment and quality of life as a result of accountability initiatives. Moreover, most relevant mechanisms are not designed to focus specifically on children in situations of armed conflict.

In part this “accountability gap” is due to the lack of clear and comprehensive tools for addressing accountability. There is no common definition of accountability in the context of children and armed conflict nor are there sufficient evaluation tools. As a starting point, this report presents a working definition of accountability for violations against children in situations of armed conflict. In this context, accountability is conceived of as an action or series of actions taken to achieve outcomes in the following categories: (1) imposing legitimate consequences* for perpetrators, (2) assigning responsibility for violations committed, (3) preventing or deterring future violations and (4) reconciling and repairing traumatized societies and individuals. In most cases, the achievement of accountability will be increasingly effective as more of these actions are successfully completed. A set of indicators assists in evaluating existing accountability mechanisms.

* Legitimate consequences are those that reflect the foundations and customary practices of international human rights law, international humanitarian law, international criminal law and applicable treaty obligations with consideration of relevant domestic laws.

Using these tools, this report presents an evaluation of actions taken to achieve accountability through three “strands:” (1) national level (2) UN Security Council and (3) international level. The evaluation is based on research across seven focus situations: Afghanistan, Colombia, Democratic Republic of the Congo (DRC), Nepal, Sierra Leone, Sri Lanka and Uganda. These situations were selected using technical criteria intended to highlight a diversity of contexts and combinations of accountability approaches. In depth case studies undertaken for Colombia and DRC are also presented in this report.

STRAND ONE: NATIONAL LEVEL

Numerous accountability mechanisms operate at the national level. These include criminal prosecutions, truth seeking and reconciliation, reparations, implementation of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (OPAC), national level child protection laws or frameworks and institutional reform.

Across the seven focus situations, national level mechanisms, which rightly vary based on national context, have high potential to contribute to accountability for violations against children. However, most do not prioritize children affected by armed conflict and tend to have structural gaps and other obstacles to effective implementation including shortfalls in funding and technical capacity. For these and other reasons, it is evident that a comprehensive approach at the national level is essential. None of the mechanisms considered in this strand could achieve all of the key attributes of accountability for children and armed conflict independently.

STRAND TWO: UN SECURITY COUNCIL

Under the leadership of the UN Security Council, the UN has developed a complex web of mechanisms and systems designed to protect children and to hold to account perpetrators of violations against children in situations of armed conflict. While none of these structures

is exclusively designed as an accountability mechanism, each includes some component of accountability. These include the UN’s children and armed conflict protection structures, encompassing the Secretary-General’s “naming and shaming” list, the Monitoring and Reporting Mechanism (MRM), action plans, and the UN Security Council Working Group on Children and Armed Conflict Tool Kit. Other mechanisms include the UN Security Council’s application of sanctions and use of referrals to the International Criminal Court.

Given the extensive and targeted architecture in place at this level, the UN Security Council’s strong commitment to its children and armed conflict agenda is clear. This system is well into its operational phase and has produced many tangible products including the formal establishment of the MRM in 13 situations and the signing of action plans with 15 armed forces and groups. Yet, on the whole the results for accountability are limited. In fact, the UN Security Council has missed opportunities to use its available tools to seek accountability. In some instances, the processes only reach partial completion, hampering the overall effectiveness of the UN’s actions.

STRAND THREE: INTERNATIONAL LEVEL

The international mechanisms under evaluation are diverse and for the most part function independently of one another. These include ad hoc tribunals, special courts and mixed chamber courts, the International Criminal Court (ICC) and other international mechanisms such as actions by regional organizations, alternative jurisdictions, the UN human rights system and commissions of inquiry and other investigative panels.

Key observations drawn from this strand include a lack of specific focus on accountability for grave violations against children in situations of armed conflict by most international mechanisms. Further, international mechanisms tend to be slow-acting by nature, designed to achieve incremental change or are in relatively early stages of development in regards to children in situa-

tions of armed conflict. Still, international mechanisms appear to have significant and often untapped potential to achieve accountability for violations against children.

MULTI-STRAND INTERACTIONS

Interaction within and across the three strands and the various mechanisms often takes place in an ad hoc manner. Most of these mechanisms do not alone have the capacity to achieve effective accountability for violations against children in armed conflict. Rather, their efforts would be enhanced through a well-designed combination of mechanisms that target different attributes of accountability. Interactions between them create opportunities and challenges to the effective pursuit of accountability for violations against children.

DRC CASE STUDY

Armed conflict has engulfed the Democratic Republic of the Congo (DRC) for decades, leading it to become one of the world's deadliest and most protracted humanitarian crises. Across the three strands, important activities are underway in DRC aimed at seeking accountability for violations against children in the context of armed conflict. These include innovative use of the Rome Statue to try war crimes and crimes against humanity at the national level, trials for crimes against children in DRC at the ICC and imposition of sanctions by the UN Security Council and the European Union based on violations against children.

Despite these and other initiatives, the pursuit of accountability in DRC faces systemic problems, such as human and financial resource shortages, lack of political support and weaknesses in the judicial system. These, together with the sheer scope and depth of the violations against children in DRC, have hindered the achievement of effective accountability in most instances. Weak coordination among key actors on the issues of children and armed conflict and accountability is also a contributing factor.

COLOMBIA CASE STUDY

For over five decades, Colombian armed forces and non-state armed groups have been accused of countless grave violations against children in the context of armed conflict that is also fueled by paramilitarism and drug trafficking. The Colombian Government has established many national level structures and activities for the protection of children and accountability for violations against them in armed conflict. Among others, these include development of national legislative provisions, national institutions and national coordinating bodies for protection of children and prevention of recruitment, as well as truth-seeking and criminal prosecutions under the Justice and Peace process. Various UN agencies, NGOs and others have also initiated related activities at the national level.

Despite the appearance of progress, in reality implementation of national level activities in conflict-affected communities is often weak and rarely leads to the achievement of effective accountability. Contributing factors include poverty, lack of institutional presence and capacity, lack of priority and political will, lack of resources, insecurity, intimidation, threats and violence by those seeking to disrupt efforts at accountability. Similarly, action by the UN Security Council and other international mechanisms has been limited and reaped few concrete results.

OPTIONS FOR IMPROVING AND PRIORITIZING ACCOUNTABILITY

Many of the obstacles to realizing more effective accountability for violations against children in armed conflict are encountered in each of the three strands. Policy options for addressing these challenges and increasing effective accountability are evident in five opportunity areas:

Opportunity Area 1: Strengthen Incentives and Mitigate Effects of Political Constraints

- Create a UN Security Council thematic sanctions committee on children and armed conflict

- Enhance the MRM to include monitoring of progress on accountability for violations against children
- Automate incremental and sequential steps in accountability processes for children and armed conflict according to pre-defined and agreed benchmarks
- Develop a children and armed conflict accountability index to assist in tracking progress towards accountability.

Opportunity Area 2: National Accountability Plans and Coordination

- Develop national accountability plans for children and armed conflict, tailored to the specific context and range of available mechanisms
- Create national level accountability coordination groups for children and armed conflict.

Opportunity Area 3: Focus on Satisfaction of Children and their Communities

- Ask children what they think about accountability and use their input to assist in prioritizing accountability measures
- Hold an open hearing on accountability for children in situations of armed conflict at the UN or hosted by regional organizations.

Opportunity Area 4: Provide Technical Assistance and Other Support

- Create a children and armed conflict accountability technical support group
- Develop technical support tools and provide ongoing guidance in their use
- Link together (across countries/regions) communities working on children and armed conflict accountability issues.

Opportunity Area 5: Increase International and National Priority Attention

- Establish a children and armed conflict fact finding commission
- Create a children and armed conflict accountability focused donor group and accountability response fund
- Highlight progress towards achievement of accountability.

CONCLUSIONS

Currently, the accountability agenda for violations against children is in a surprisingly early stage of development. The research conducted for this report has revealed the fundamental lack of a rigorous approach to accountability at all levels. Despite evidence of some genuine commitment and notable achievements, there is a poor record of concrete results for children. A number of factors contribute to these shortfalls, such as a lack of resources, capacity and technical support, lack of political will and underlying tensions with related initiatives, like amnesties or efforts to negotiate peace agreements. These challenges cut across the national and international levels, including the UN Security Council.

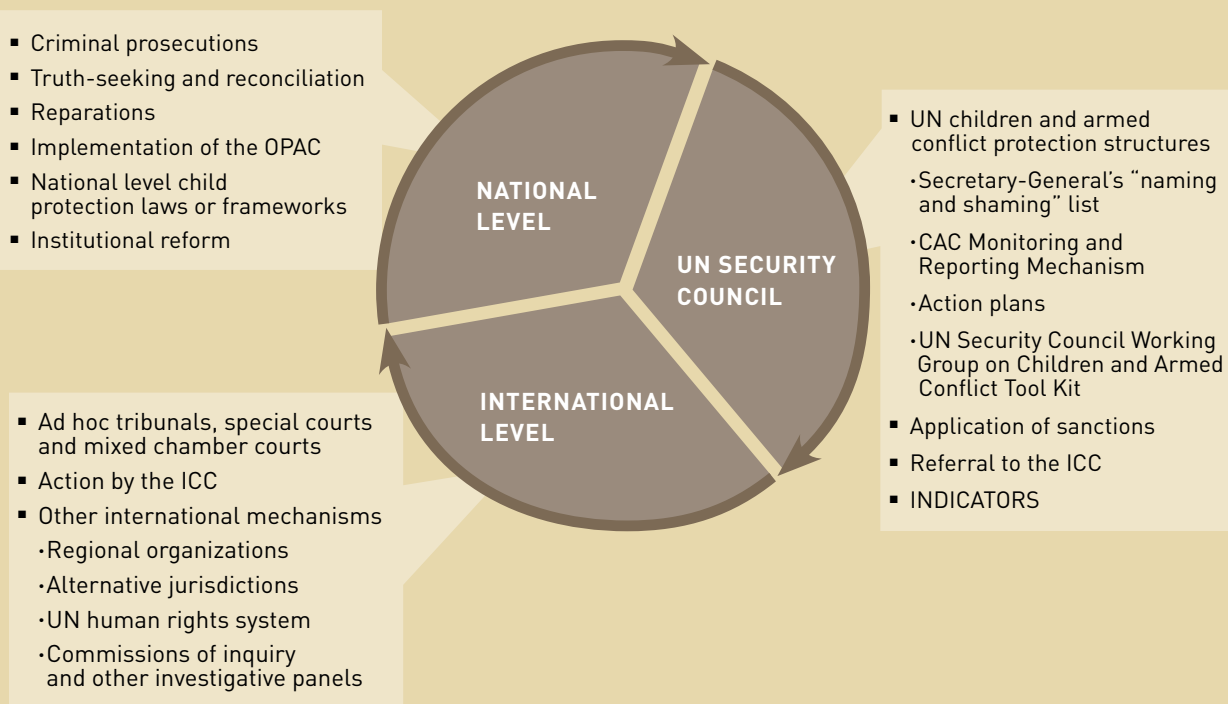
Practical opportunities exist for bridging the gap between efforts and outcomes in achieving accountability for grave violations against children in situations of armed conflict. Each strand and mechanism considered in this report has a unique comparative advantage and should continue to function in pursuit of more effective accountability. In most cases, working toward complementary actions such as increased communication, collaborative design and coordination of efforts is likely to be beneficial. International and national actors will need to increase priority attention to these issues. In many instances this can be done by building on the underlying potential of mechanisms that already exist and reflecting precedents set by work in related areas of international law, human rights and humanitarian policy. In their next steps, it is critical that all relevant actors take bold strides and new approaches to realize effective accountability for violations against children in situations of armed conflict.

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I. Introduction

Efforts to achieve accountability for grave violations of human rights in situations of armed conflict are often as complex as the concept itself. For some individuals, accountability may involve holding perpetrators responsible for their crimes, while for others it may entail seeking truth, reparations, establishing rule of law or reforming national institutions. In most cases, effective accountability consists of a combination of these and other elements and can take place at local, national or international levels. The pursuit of accountability becomes even more challenging when children are the victims and the violations occur in situations of armed conflict. In this context, accountability also involves realizing children's right to recovery and reintegration¹ and producing practical outcomes such as rebuilding of their communities and providing better homes, schools, sanitation and areas to play.²

While international and national mechanisms have made notable progress, for the most part they have

not achieved effective accountability for violations against children in situations of armed conflict. Perpetrators are rarely held to account, efforts to include or prioritize children in non-judicial efforts tend to be weak and sporadic, prevention efforts do not necessarily guarantee children a safer future and children rarely benefit from tangible improvements to their environment and quality of life as a direct result of accountability initiatives. Moreover, in their current design most accountability structures and mechanisms are fundamentally inadequate for achieving accountability for these violations.

This report sheds light on the nature of the "accountability gap" for violations committed against children in situations of armed conflict and presents realistic and feasible policy options to assist in bridging this gap. Among others, these include focusing on complementarity among mechanisms, increasing priority attention, engaging children, mitigating the effects of political constraints and providing technical and other

support. The report presents findings and policy options based on broad research that entailed a range of consultations, field visits and a survey.

OBJECTIVE

The primary objective of this report is to contribute substantively to the realization of more effective accountability for grave violations against children in situations of armed conflict. To achieve this, the report considers efforts to date, evaluates successes and challenges and proposes practical options for increasing accountability³ for violations against children.

BACKGROUND

The Accountability Gap for Violations against Children

Conflict Dynamics' previous work on strengthening accountability for violations against children in situations of armed conflict identified the existence of an "accountability gap."⁴ In many instances efforts to seek accountability for grave violations of the rights and protections of children in armed conflict have been ineffective. Moreover, in several cases accountability efforts have not matched policy investments and have not been adequately prioritized in operational responses. The UN's *Machel 10 Year Review* confirmed this accountability gap:

*Global efforts to end impunity for crimes against children in war have featured significant achievements in the last decade...Yet significant gaps remain in implementation and an alarming prevalence of serious violations of children's rights continues on the ground.*⁵

In 1996, the UN sounded alarm bells with the publication of Graça Machel's landmark study on the impact of armed conflict on children. The study called for action to improve protection for children affected by armed conflict. In subsequent years, many UN agencies and departments, national governments, regional organizations, nongovernmental organizations

(NGOs), donors and others have taken up this cause designing various mechanisms and tools to protect children and hold perpetrators accountable.⁶

Several ongoing initiatives at the international level, including those spearheaded by the UN Security Council, contribute to stronger protection, accountability and prevention of violations against children in situations of armed conflict. These include, among others, ratification of the Optional Protocol on the Involvement of Children in Armed Conflict, development of the Monitoring and Reporting Mechanism (MRM) under UN Security Council Resolution 1612, establishment of the UN Security Council Working Group on Children and Armed Conflict and the adoption of the Paris Commitments and Paris Principles to prevent the unlawful recruitment of children.⁷ Similarly, some international mechanisms that target accountability for violations committed against the broader civilian population have in some instances geared aspects of their work towards children in armed conflict. This includes the work of the International Criminal Court (ICC), special courts or tribunals, truth commissions, regional organizations and the UN human rights system.

Initiatives at the national level also contribute to accountability for violations against children in situations of armed conflict. These include criminal prosecutions, addressing violations through truth-telling and reconciliation programs, the development and implementation of child protection laws and frameworks and institutional reform.

While these achievements have certainly brought some improvements in accountability and are of special consequence for the children and communities they have directly touched, the reality is that thousands of children continue to be killed, maimed, abducted, raped, denied humanitarian assistance and recruited and used as soldiers in situations of armed conflict. Schools and hospitals continue to be attacked. Children are threatened by and subjected to displacement, disappearances, torture, death or injury by landmines

or other unexploded ordnance or are subject to other cruel violations of their security and rights.

As these violations continue, the accountability gap widens. More often than not, perpetrators of violations against children go unidentified and unpunished while potential future perpetrators are emboldened to continue recruiting, raping, abducting and otherwise violating children's rights. Children themselves are rarely afforded opportunities to seek redress for violations committed against them. They generally do not receive due reparations, do not have the opportunity to reconcile with their families and communities and do not witness adequate reform of the systems intended to protect them. Moreover, attempts at accountability for violations against children in situations of armed conflict are often plagued by financial, political, technical and other challenges.

This report focuses on the six grave violations against children in situations of armed conflict as recognized by UN Security Council Resolution 1612 and currently used by the MRM.⁸ These are: killing and maiming of children; recruitment or use of children; rape or other forms of sexual violence against children; abduction of children; denial of humanitarian access to children; and attacks on schools and hospitals. These six violations were selected due to a need to place reasonable boundaries on the scope of the report and in the interest of consistency. However, CDI recognizes the limitations of these categories and the exclusion of other pervasive and grave violations endured by children, including torture and displacement.

WORKING DEFINITION OF ACCOUNTABILITY IN THE CONTEXT OF CHILDREN AND ARMED CONFLICT

There is no commonly agreed upon definition of accountability for violations of the rights of children in situations of armed conflict, neither in public international law nor in policy or practice. Strictly for the purposes of this report, CDI has identified through

research and consultations key attributes of accountability in the context of violations against children's rights and protections in situations of armed conflict under international law. Accountability may be understood as an action or series of actions taken to achieve outcomes in one or more of these four closely related categories:⁹

▪ **Imposing legitimate consequences for perpetrators**

These actions aim to sanction or punish perpetrators through legitimate channels that reflect the foundations and customary practices of international human rights law, international humanitarian law, international criminal law and applicable treaty obligations with consideration of relevant domestic law. This often takes the form of criminal prosecution at the international, national or local level and removal of perpetrators from positions of power.

▪ **Assigning responsibility for violations committed**

These actions aim to establish an accurate historical and factual record to include the identification of those individuals/entities responsible for violations committed. They may involve conducting robust investigations, truth-telling procedures and/or opportunities for perpetrators to acknowledge their actions.

▪ **Preventing or deterring future violations**

These actions generally involve efforts to deter actual or potential violators from committing violations and de-legitimizing individuals or organizations responsible for violations. Institutionalizing human rights and child rights norms is essential to preventing or deterring future violations. Institutional reform as it relates to accountability aims to strengthen legal, judicial, constitutional, bureaucratic and security sector structures and to entrench these norms in society. This also includes improving participation with international instruments, such as relevant conventions, protocols, special procedures or others.

▪ **Reconciling and repairing traumatized societies and individuals**

This action may involve the following elements: providing a safe space for children to contribute to community and individual healing and/or recount their experiences, providing an outlet for moral condemnation and restoring dignity of the victims, providing reparations for victims and/or communities, developing strategies for long-term reintegration such as educational programs and vocational training, and/or creating memorials for victims. These types of actions often vary significantly as they are tailored to suit the needs and circumstances of specific communities.

In most cases, the achievement of accountability will be considered increasingly robust and effective as more of these actions are successfully completed. Actions may be geared towards individuals, groups, states, corporations or other entities.¹⁰ Emphasis on one category of accountability or another will vary across contexts. These actions may be punitive or non-punitive in nature. They may be initiated and carried out by international, national and/or local mechanisms, separately or in coordination with each other. These efforts may reflect a desire of the international community to prescribe consequences for those who fail to uphold relevant international law or threaten international order or they may reflect the desire of affected communities to address violations in a manner more consistent with their own cultural norms.

INDICATORS OF ACCOUNTABILITY IN THE CHILDREN AND ARMED CONFLICT CONTEXT

For this report, CDI has developed a set of indicators to evaluate challenges or levels of success with regard to attempts to achieve accountability for violations against children in situations of armed conflict. The indicators link directly to various aspects of the four principal attributes of accountability that are described in the working definition above. Further, they are designed for use in this report to bring deeper meaning to the information presented. The indicators are used in different ways throughout the report. For example, in the

context of the UN Security Council they are applied to the UN Security Council children and armed conflict “system,” and in the case studies they are applied to particular situations of armed conflict. In the context of the national level, the indicators are evaluated only in the case studies (see Chapter VI: Case Studies).

Change

Did behavior change to stop, increase or decrease violations against children?

Responsibility

Was clear responsibility assigned?

Consequences

Were legitimate consequences effectively imposed for perpetrators?

Removal

Were perpetrators removed from power?

Satisfaction

Were affected individuals, communities and/or relevant international actors satisfied with the outcomes?

Record

Was a factual historical record established?

Repair

Were efforts undertaken to repair traumatized societies/individuals?

Reform

Were efforts undertaken to carry out relevant institutional reforms?

Process End

Did the process reach the end of its logical path?

Outcomes

Were practical outcomes for children achieved?

MULTI-STRAND APPROACH

Following the publication of its 2009 study on children and armed conflict, *Strengthening Protection of Children through Accountability*, CDI identified three

groups of mechanisms, each of which plays a key role in ensuring accountability for violations against children in armed conflict. This report refers to the three groups as “accountability strands:” (1) national level (2) UN Security Council and (3) international level. Within each strand, the report evaluates a set of mechanisms that has been utilized to seek some aspect of accountability for violations of human rights and international humanitarian law, including violations against children in situations of armed conflict. This is not an exhaustive list. These mechanisms have served as research parameters for this report.

Strand One: National Level

- Criminal prosecutions
- Truth-seeking and reconciliation
- Reparations
- Implementation of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (OPAC)
- National level child protection laws or frameworks
- Institutional reform.

Strand Two: United Nations Security Council

- UN Children and Armed Conflict (CAC) protection structures
 - Secretary-General’s “naming and shaming” list
 - CAC Monitoring and Reporting Mechanism (MRM)
 - Action plans
 - UN Security Council Working Group on CAC Tool Kit
- Application of sanctions
- Referral to the International Criminal Court (ICC).

Strand Three: International Level

- Ad hoc tribunals, special courts and mixed chamber courts
- Action by the ICC
- Other international mechanisms
 - Regional organizations
 - Alternative jurisdictions
 - UN human rights system
 - Commissions of inquiry and other investigative panels.

SCOPE OF THE REPORT

This report provides an analysis of the effectiveness of accountability mechanisms across the three accountability strands as outlined above and initiates new approaches to bridging the accountability gap. It also presents policy options for practitioners and is intended to spur further research and action towards ensuring accountability for violations against children in armed conflict. CDI acknowledges certain limitations, which are primarily due to constraints in time and resources. These include the following:

- The report does not provide an analysis of the issue of child perpetrators
- The report does not comprehensively consider the role of disarmament, demobilization and reintegration (DDR) as an accountability mechanism, although DDR is referenced when relevant
- The report does not thoroughly consider accountability of international legal entities, multi-national corporations or arms dealers, among other entities, for violations against children
- The report focuses on the six grave violations identified by the MRM process at the exclusion of other significant violations
- Research of accountability programs and activities at the national level was generally restricted to projects with a nation-wide reach or impact to the exclusion of some innovative work at the community level

- The report involved nominal child participation, with a limited number of children and young adults affected by armed conflict engaged in the consultation process.

METHODOLOGY

The methodology used to undertake this report included the following components:

- Consultations with experts working on issues related to children and armed conflict and accountability for violations of human rights and international humanitarian law
- Desk research on accountability for violations against children in armed conflict, including in-depth research on seven armed conflicts (see below)
- Telephone or in-person consultations with field-based experts
- A survey consisting of approximately 40 detailed responses (see Annex A)
- Two field missions to inform separate case studies on accountability for violations against children affected by conflict in Colombia and the Democratic Republic of the Congo
- Convening of a multi-lateral Consultation Group comprising representatives from the UN, NGOs, national governments and academia.

Technical criteria (such as nature of parties to the conflict, geographical location, phase of conflict, status of action plans, presence/lack of UN mandated peacekeeping operation, among other measures) were used to identify seven diverse situations of armed conflict for focused attention in this report. This selection does not infer priority but is intended to highlight different types of contexts and varying accountability approaches.

The seven situations are:

Afghanistan	Sierra Leone
Colombia	Sri Lanka
Democratic Republic of the Congo	Uganda
Nepal	

EFFECTIVE

MEANS FOR

1- REDRESS

2- STOPPING

IMPUNITY

Que Politenos el estado garantice
Que las las Personae que cometan estos
actos Pagen.

Y trabajar mas con los ninosa y juvenes
Para Fortalecerlos ~~de~~ mentalmente.

[We expect that] the state should
at least guarantee that the people
who commit these acts should
pay. And work more with boys
and girls and youth to strengthen
them mentally.

Accountability is...
A Principle of Governance
~~which~~
by which ~~the~~ legal
Responsibility of
Perpetrators of
unlawful Acts
is determined ~~in~~
~~the~~ in ~~a~~ A fair
and Equitable Process.

II.

Strand One: National Level

INTRODUCTION

There is a growing awareness among practitioners of the importance of focusing on children in national accountability mechanisms to address past violations and to help prevent recurrence.¹¹ This section uses examples from the seven focus situations to illustrate the use of the following national accountability mechanisms in the context of children affected by armed conflict:

- Criminal prosecutions
- Truth-seeking and reconciliation
- Reparations
- Implementation of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (OPAC)
- National level child protection laws or frameworks
- Institutional reform.

National level actions in Democratic Republic of the Congo (DRC) and Colombia are presented as part of dedicated case studies on those two countries. Indicators for national level mechanisms are evaluated only in these two case studies.

Key observations drawn from this section include:

- National level mechanisms have high potential to achieve accountability for violations against children. However, most national level mechanisms do not prioritize children affected by armed conflict
- Existing mechanisms often have structural gaps and other obstacles to effective implementation
- It is essential to employ complementary approaches to seek accountability for violations against children in situations of armed conflict
- National level mechanisms rightly vary based on the national context.

EVALUATION OF STRAND ONE: NATIONAL LEVEL

Criminal prosecutions

The investigation and prosecution of crimes is an essential component of achieving accountability for violations against children in armed conflict.¹² Trials are often a key demand of victims.¹³ According to the International Center for Transitional Justice (ICTJ), prosecutions for crimes under international law “have more potential for impact when they are held domestically, within the society where the crimes occurred.”¹⁴ At the same time, states in the midst of armed conflict or emerging from conflict may lack the political will to prosecute crimes or they may lack the ability to do so as their legal systems may have limited capacity or be in a state of disorder.¹⁵

In some cases, armies, police or others that might be implicated in crimes have been known to obstruct action by courts. Amnesties granted in the context of peace processes and agreements destroy the chances of holding perpetrators accountable or assigning legitimate consequences.¹⁶ As a result of this and other factors, prosecutions for crimes committed against children in armed conflict by national judicial systems are rare. In some instances, alleged crimes against children are tried before military courts or tribunals. These courts often lack impartiality and do not meet fair trial standards.¹⁷

Of the situations under consideration in this report, Afghanistan, Democratic Republic of the Congo, Sierra Leone and Uganda have all granted some form of amnesty. As of mid-2011, a draft truth and reconciliation bill before Parliament in Nepal included an amnesty provision. On the other hand, the Sri Lankan Government has recognized the non-applicability of amnesties.¹⁸

The examples of Sierra Leone, Afghanistan and Uganda illustrate how amnesties in some situations may limit opportunities to realize effective accountability for crimes against children and other civilians. In Sierra Leone, the 1999 Lomé Peace Agreement¹⁹

granted combatants amnesty for all crimes committed prior to the signing of the Agreement, including crimes against children.²⁰ This eliminated hopes of achieving accountability through national level criminal prosecutions. The UN and others continued to document crimes against children even after the agreement was signed. However, the national judiciary only undertook two trials prosecuting 88 individuals for post-war crimes. Neither of these cases directly related to crimes against children. Moreover, children were among those detained and prosecuted in connection with the two trials.²¹

In 2010, the Government of Afghanistan announced the enactment of the 2008 National Reconciliation, General Amnesty and Stability Law, granting immunity to those involved in past and/or current hostilities if they agreed to engage with the government on reconciliation efforts.²² According to the law, individuals are allowed to file lawsuits against alleged criminals, but the State will not investigate, document or address large-scale crimes on victims’ behalf, including children.²³

As a result of this and other factors, as of mid-2011, there have been no known investigations by the Afghan National Forces or Afghan National Police for violations against children by the Taliban or other insurgent armed groups, although these groups are responsible for the vast majority of violations against children, according to the UN.²⁴ There have been a number of investigations into incidents involving killing and maiming of children by military forces, most notably an investigation led by the North Atlantic Treaty Organization (NATO) into the events surrounding an air strike in Kunduz in 2009, in which 40 children were killed.²⁵

In Uganda, several obstacles block judges from effectively prosecuting war crimes. Although the government passed an official legislative act, the International Criminal Court Act (2010), to enable the use of the Rome Statute domestically, under Uganda’s Amnesty Act (2000)²⁶ all former combatants are eligible for amnesty unless expressly exempted by the gov-

ernment. This loophole creates doubts as to whether alleged perpetrators will be held to account.²⁷

Beyond the impact of amnesties, criminal prosecutions for alleged crimes against children in situations of armed conflict at the national level are hampered by other factors. For example, according to the UN Panel of Experts on Accountability in Sri Lanka, the Sri Lankan Government has made a *de facto* decision not to hold accountable those who committed serious crimes, including crimes against children, on behalf of the State during the final stages of the civil war which ended in 2009.²⁸

In 2011, the UN Secretary-General's annual report on children and armed conflict noted that the Sri Lankan Government had not taken any action to prosecute alleged crimes against children that had taken place in the context of the armed conflict earlier in the war.²⁹ This includes the failure to open a case against Inya Barrathi, a commander in a breakaway faction of the Tamil Makkal Viduthalai Pulikal (TMVP), for alleged child recruitment despite repeated appeals by the UN to do so. In one exception, the UN Secretary-General noted the case of a TMVP cadre who was arrested in Batticaloa in April 2009 on allegations of child recruitment and use. However, the individual was released on bail after one week without being charged.³⁰

In Nepal, there also have been few prosecutions of alleged crimes against children in the context of armed conflict. In part this is due to laws that grant some degree of immunity to members of the police and military for human rights abuses committed in the course of their duties, and that block certain personnel from being tried in civilian courts.³¹ This gap is further exacerbated by a tendency noted by various international and national observers of the army, police and former Maoist forces now in government positions to block justice through inaction and denial of access to personnel.³²

These obstacles to accountability in Nepal are illustrated in the high profile case of the torture and killing of a 15-year-old girl in 2004. In this case, the civilian

judicial system charged four soldiers of the Nepal Army with the killing. However, the army and the Ministry of Defense have blocked an investigation and trial by challenging the civilian court's jurisdiction over the case. In 2008, the UN repatriated one of the accused from a peacekeeping mission in Africa in view of the serious allegations against him.³³ Since his return to the country, the Army has maintained protective custody and has refused to turn him over to the civilian court. As of mid-2011, no trial had taken place.³⁴

Truth-seeking and reconciliation

Efforts to seek the truth about grave human rights violations may include establishing commissions of inquiry including truth commissions.³⁵ Typically, the mandates of truth and reconciliation-type commissions include provisions for investigating, collecting and documenting information about human rights abuses committed during an armed conflict. They are often initiated through presidential or legislative decree and are normally designed as temporary structures that cease to exist after compiling their findings.³⁶ They may be designed with an international component, such as inclusion of international commissioners or technical support, yet are generally mandated and operated at the national level.³⁷ Even in instances of well-designed truth and reconciliation programs, implementation may be weak and fraught with financial, logistical or other challenges.

Children are a special group requiring consideration and participation in truth and reconciliation programs.³⁸ Of the situations under consideration in this report, only the Democratic Republic of the Congo and Sierra Leone have had formal truth commissions. Development of new truth and reconciliation commissions are under debate in Nepal, Uganda and DRC. Colombia's Justice and Peace process involves a truth-telling component (see Colombia case study). However, most of these processes do not have a special focus on children affected by armed conflict.

The Truth and Reconciliation Commission of Sierra Leone became operational in 2002.³⁹ It was the first

to include a specific focus on children, calling for particular attention to “the experiences of children within the armed conflict”⁴⁰ and to the rights and protections that should govern children’s involvement.⁴¹ While the guidelines established for the Truth and Reconciliation Commission set important norms for child participants, implementation was uneven across regions.⁴² Key elements included preparing children and providing psychosocial support; holding separate, closed hearings for children; and arranging for female survivors of sexual abuse to testify exclusively in the presence of female staff members.⁴³

In its final report, the Truth and Reconciliation Commission included a chapter on children.⁴⁴ In addition, it published a child-friendly version of the report with the input of over 100 children.⁴⁵ The Commission also held special thematic “children’s” hearings. The most notable was held on the Day of the African Child in 2003 in which 350 children participated.⁴⁶ In addition, the Commission supported local efforts to hold traditional cleansing ceremonies where those who admitted to crimes were symbolically washed of their wrongdoings and reaccepted into the community.⁴⁷

Many Sierra Leoneans viewed the truth-telling process as a valuable exercise but felt it focused on documentation rather than reconciliation, according to interviews and focus groups conducted by independent researchers. Further, some participants in this independent research expressed concern that the process did not go far enough in creating a supportive environment for children after the end of its mandate.⁴⁸ Also, the Government of Sierra Leone failed to implement many of the recommendations in the Commission’s final report including those addressing children, largely due to a lack of resources.⁴⁹ The majority of Sierra Leonean children did not have access to copies of the child-friendly report and some child participants expressed confusion about the possibility of receiving compensation in exchange for their cooperation.⁵⁰

In Sri Lanka, the government has established various commissions of inquiry to examine serious human rights issues over the past several decades. While some have served fact-finding purposes, the overwhelming majority have failed to lead to effective accountability for the alleged violations.⁵¹ None has produced a public report.⁵² Several committees and commissions have been set up specifically to address issues related to child recruitment and disappearances but have not produced concrete results. For example, in 2007 the Government of Sri Lanka established an interdisciplinary committee to conduct an investigation into allegations of complicity between the government security forces and the TMVP in the abduction and recruitment of children.⁵³ Despite requests by the UN Security Council and others for the committee to complete its investigation, as of mid-2011 no progress has been reported.⁵⁴

In 2010, the Government of Sri Lanka established the Lessons Learnt and Reconciliation Commission (LLRC) to address human rights abuses during the period from 2002-2009, including violations against children in the context of the armed conflict. The LLRC represents an opportunity to begin a national dialogue towards the establishment of truth about the armed conflict. Yet, it lacks independence and impartiality and fails to meet international standards.⁵⁵

In Nepal, a draft truth and reconciliation bill has been stalled in Parliament since 2007. Among other significant weaknesses, it does not contain special provisions relating to children affected by armed conflict.⁵⁶ In the meantime, some NGOs have organized reconciliation initiatives. The Himalayan Human Rights Monitors (HimRights), an NGO in Nepal, organized a series of public hearings and reconciliation workshops, including some specifically focused on children affected by armed conflict. These hearings helped to promote accountability by bringing together former child soldiers and other child victims with public officials, allowing these children to communicate their issues to policy makers. These

exercises have helped to heal child victims and educate officials.⁵⁷

Similarly, in 2010 in Afghanistan, a coalition of NGOs, the Transitional Justice Coordination Group, organized a “victim’s jirga” for more than 100 participants who met for two days to recount personal tragedies and war crimes.⁵⁸ NGOs organized this event one month prior to the government’s National Consultative Peace Jirga (NCPJ)⁵⁹ in June 2010. Although the NCPJ’s primary goal was to discuss peace and reconciliation with insurgent groups, it largely ignored accountability for human rights violations,⁶⁰ including those against children.

Truth-seeking and reconciliation can also be carried out by traditional justice mechanisms. In some instances, this approach may be more in keeping with the affected community’s sense of justice. However, these processes do not always clearly apply to the scope of war crimes nor adequately address children. In Uganda, the Agreement on Accountability and Reconciliation (2007)⁶¹ and its Annex (2008)⁶² call for the use of traditional justice. Yet, government officials, community leaders, religious leaders and others debate the suitability of these mechanisms.⁶³

For example, in northern Uganda the Acholi community has called for the use of the traditional Mato Oput process, which has primarily been used in Acholi culture to resolve cases of murder or homicide. The process involves a clan and family-centered ceremony that incorporates the acknowledgement of wrongdoing, the offering of compensation by the offender and the sharing of a symbolic drink.⁶⁴ Although Mato Oput engages children together with their families and peers, it has not been traditionally applied to cases of rape, forced marriage, slavery, forced pregnancy, torture or any other well-documented violations allegedly perpetrated against former captive “wives” within the Lord’s Resistance Army (LRA). It does not have a significant role for females, thereby limiting opportunities for girls’ participation.⁶⁵ A 2009 study focusing on community perspectives of the applicability of the Mato Oput process to war crimes found that

most Acholi participants support traditional practices but envision them being complemented by court trials and government reparations.⁶⁶

Reparations⁶⁷

Reparations seek to recognize suffering of victims of gross violations of international human rights law or international humanitarian law.⁶⁸ They strive to promote justice, empower victims and preserve their dignity. They may be retrospective by compensating victims for losses suffered or future oriented by helping to change the underlying causes of the conflict.⁶⁹ Reparations can comprise a variety of different elements, such as financial compensation; medical and psychological rehabilitation; guarantees of non-repetition; formal apologies that include acceptance of facts and responsibility; and commemoration of victims.⁷⁰ In practice, most reparations programs in the focus countries considered in this report have been limited by financial and logistical constraints.⁷¹

Children may be eligible for reparations both as individuals and as part of larger groups of civilians such as a particular ethnic or religious group. However, providing reparations to children is a relatively new development and includes a number of challenges. Child victims often lack the information, resources or access to legal counsel and courts to have their views heard and to assert their reparations claims.⁷² Further, the more severe the crime, the more difficult it is to effectively address the harm suffered by the victim. Particularly for children, it may not be possible to design a reparations program that can adequately serve an individual who has endured some of the most unimaginable horrors associated with crimes committed against them during armed conflict.⁷³ This report has not identified any reparations programs designed exclusively for children in the focus situations.

In Sierra Leone, some children have benefited from the reparations program. However, publicly available information reviewed for this report does not indicate the extent of benefits to children. The Government of

Sierra Leone and the UN established the Sierra Leone Reparations Program in 2008. Reparations had been called for in the Lomé Peace Agreement (1999) and in the final report of the Sierra Leone Truth and Reconciliation Commission. The reparations program initially received US \$3 million from the UN Peacebuilding Fund, as well as support from the International Organization for Migration (IOM) and others. According to IOM, over 33,000 victims have been registered and 20,000 of these have received a cash allowance as livelihood or education support.⁷⁴

The government's National Commission for Social Action has also started to provide other reparative measures such as educational support, health care and psychosocial support. Forty communities received financial support to hold symbolic reparation events such as burials and other forms of recognition.⁷⁵ Notwithstanding this progress, the Commission has suffered from chronic under-funding and most victims of the war have not been afforded the opportunity to participate in the program.⁷⁶

Even in situations where reparations programs are set up with specific provisions for children, they may not be effectively designed to reach those most in need. In Nepal, the government has created The Standard for the Economic Support and Reparation for the Victims of Conflict 2064 and Directives for Providing Reparations to the Family Members of Forced Disappeared Persons 2065. The national budget has included limited funding for scholarships for child victims and the repair of destroyed school buildings, among other projects. However, reparations have tended to focus on urban areas, where the populations were typically less affected by the armed conflict.

In some cases, a national government's lack of political will obstructs development of reparations programs and hinders accountability. For example, in response to discussions about reparations, the Sri Lankan Government has stated that victims of the conflict will benefit from overall development

and reconstruction of conflict affected areas, contributing to the restoration of peace. While important for post-conflict reconstruction, development programs and humanitarian assistance are not an accountability mechanism and cannot be used to substitute reparations to victims who have suffered human rights abuses and violations of international humanitarian law.⁷⁷

Implementation of the Optional Protocol (OPAC)

Signing or ratifying the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (OPAC) signals a national government's willingness to prioritize the protection of children affected by armed conflict. Furthermore, committed implementation of the OPAC inevitably leads to increased accountability for violations against children.⁷⁸ This includes, but is not limited to, halting recruitment or use of children, preventing future use or recruitment of children and producing tangible outcomes for children who have survived this violation.

The UN Committee on the Rights of the Child (CRC) monitors implementation of the OPAC by State Parties. This is facilitated through a reporting process that generally involves submission of progress reports by State Parties, dialogue between government representatives and CRC members and NGO shadow reports. The first State Party report is due two years after ratification and then subsequently every five years.

Compliance with the OPAC has the potential to increase accountability for violations against children. For example, following its ratification of the OPAC, Uganda adopted the Uganda Peoples Defense Force Act (UPDF Act) (2005),⁷⁹ which established 18 as the minimum age of recruitment into the armed forces, and established a child protection unit in each major UPDF barrack.⁸⁰ Similarly, upon ratification, Sierra Leone passed the Armed Forces Recruitment Policy (2004) and Recruitment Act (2006), which strictly prohibit voluntary and compulsory enlistment of all persons below 18 years. Sierra Leone also enacted

the Children's Policy (2006) and the Child Rights Act (2007),⁸¹ which unconditionally protect children from armed conflict and criminalize the recruitment or enlistment of any child for the purposes of engaging him/her in armed conflict within Sierra Leone.⁸²

On the other hand, some State Parties fall short of their obligation to fully comply with the OPAC, hindering accountability for violations against children. In the case of Sri Lanka, the CRC has pointed to a number of weaknesses in OPAC implementation, including a lack of information provided by the State Party on measures to prevent the recruitment and use of children in armed conflict, and raised serious concern that insufficient efforts have been made by the State Party to investigate the death of hundreds of children during the final five months of the conflict in 2009.⁸³

National level child protection laws or frameworks⁸⁴

Development and implementation of national child protection laws or frameworks is essential for achieving accountability for violations against children in situations of armed conflict.⁸⁵ Such legislation is needed to hold perpetrators accountable, impose legitimate consequences, assign responsibility and attain other elements of accountability for children. The governments of some countries under review for this report have made progress in establishing national child protection laws and frameworks that include provisions related to children in armed conflict. Yet, in most cases serious gaps persist. The following are several examples of such opportunities and challenges.

In Nepal, several legislative initiatives have attempted to improve child protection, some of which relate to crimes against children in armed conflict. The 12th Amendment of Nepal's General Civil Code 2064 BS (2007) increased possible punishment for the abduction of children to a maximum of 17 years imprisonment. Additionally, the 10-Year National Action Plan for Children (2004/5-2014/5) provides guarantees against child exploitation and child recruitment and use.⁸⁶ Yet, these

crimes are not yet punishable by law. Other gaps and challenges also exist within the legislative framework. For example, there are conflicting legislative provisions regarding the legal age of adulthood.

In May 2011, the Nepali Government announced a new National Plan of Action for the Rehabilitation and Reintegration of Children Affected by Armed Conflict that would institute a three-year rehabilitation program for child soldiers and other child victims of the armed conflict. The program is intended to provide education and vocational, health and psychosocial assistance. If effectively implemented, this initiative could be a significant step towards providing meaningful outcomes for children.⁸⁷ Additionally, Nepal's Ministry of Women, Children and Social Welfare has initiated a draft child rights protection and promotion bill, which includes among other provisions criminalization of the recruitment of children into armed forces and groups.⁸⁸

Uganda has several domestic legal instruments that address child protection, such as the Ugandan Constitution (1995),⁸⁹ the Children's Act (2003)⁹⁰ and The Penal Code Act (1950).⁹¹ For the most part these do not focus on children in armed conflict. However, in some instances they have potential to address issues of armed conflict. For example, the Penal Code Act criminalizes sexual abuse and exploitation of girls and boys under age 18, which could presumably include sexual abuse in the context of armed conflict.⁹² In addition, in at least two instances the government has adopted provisions directly relevant to children in armed conflict. The first, the UPDF Act, establishes 18 as the minimum age of recruitment into the national defense forces. The second, the International Criminal Court Act (2010),⁹³ nationalizes crimes under the Rome Statute, including crimes against children in armed conflict.⁹⁴

Legislation in Afghanistan is extremely weak with regard to protecting children affected by armed conflict and seeking accountability for crimes against

them. Afghanistan does not have a comprehensive children's legislative framework. Provisions relevant to children are located in various pieces of domestic legislation, such as the national constitution and the criminal and penal codes. Yet, most of these provisions are only loosely connected to or unrelated to accountability for violations against children in armed conflict. Moreover, many of the provisions are deficient in terms of providing effective protection for children. For example, the Juvenile Code (2005)⁹⁵ omits references to children who are victims of sexual abuse, exploitation, or forced marriage despite the occurrence of these crimes in the country, including in the context of armed conflict.⁹⁶

Institutional reform

Institutional reform entails the restructuring of national institutions so that they ensure respect for human rights, international humanitarian law and the rule of law and are accountable to their constituents.⁹⁷ The reform of state institutions can contribute to accountability and help prevent future violations by disabling or transforming the structures that made the abuses possible.⁹⁸ Institutional reform can involve reform of public institutions such as the police, military and judiciary. It can also involve disarmament, demobilization and reintegration initiatives.

Child-focused institutional reform may help build a protective environment for children and strengthen accountability for violations committed against them during armed conflict. Generally, institutional reform takes place as part of a transitional justice process after the conclusion of an armed conflict. However, child-focused reform may also take place in connection with recommendations issued by the CRC, UN Security Council Working Group on Children and Armed Conflict and others when conflicts are still ongoing. However, states enduring armed conflict or in transition often face competing demands and as a result, child-focused reform may not always be considered a high priority. This is one

factor which explains limited instances of child-focused institutional reform revealed in this report.

Following the end of the war in Sierra Leone, the government set new policies, adopted legislation, restructured public agencies and established new institutions in an effort to better protect children and prevent future violations against them. The government established the Ministry of Social Welfare, Gender and Children's Affairs, which established the National Commission for War-Affected Children, with a mandate to focus on all areas of concern to children affected by the war and to ensure that their needs are taken into consideration at all levels of national planning.⁹⁹

In a more recent example of security sector reform, Afghanistan's Ministry of Interior issued an executive order in 2010 to prevent the recruitment of children into the Afghan National Police. This reform effort prohibits children from being recruited or used within the Afghan National Police, requires any children found within the Afghan National Police to be separated within 30 days and orders investigations and disciplinary action against those found to be recruiting or using children.¹⁰⁰

A related issue is the prevalence of individuals implicated in crimes against children in armed conflict who continue to hold high-level positions within national governments and institutions. In Sri Lanka, Vinayagamoorthi Muralidharan, alias "Karuna," was sworn into parliament in 2008. As of mid-2011, he was serving as the Vice Chairman of the chief party in the Sri Lankan Government. According to the UN, Karuna is suspected of a series of grave human rights violations, including the abduction of hundreds of children to serve as child soldiers and the killing of hundreds of civilians, including children, while in his previous positions as a commander in the Liberation Tigers of Tamil Eelam (LTTE) and leader of the Tamil Makkal Viduthalai Puligal (TMVP).¹⁰¹

SUMMARY OBSERVATIONS

▪ **High potential for serving children**

National level mechanisms have high potential to ensure more effective accountability for violations against children in armed conflict. Many participants in CDI's CAC Accountability Survey (Annex A) pointed to national level mechanisms as carrying the strongest promise for positive impact, although they are not without challenges. They explained that national mechanisms' operational closeness to affected populations typically means that they are better informed of local context and are able to create a greater sense of ownership by affected communities because they are more accessible and better understood. They may also be more sustainable over the long-term. Moreover, they may lack the capacity or will to effectively achieve accountability. In addition, all of the national mechanisms mentioned in this report can be designed to include special provisions for addressing accountability for violations against children in situations of armed conflict. It is also possible to design independent mechanisms that focus exclusively on accountability for violations against children. However, this would require the appropriate technical expertise, human and financial resources and political will by the national government.

▪ **Lack of priority on children in armed conflict**

Currently, most national level accountability mechanisms are designed to address violations of human rights and international humanitarian law against broader civilian populations. In some instances, these mechanisms also contain special provisions for addressing violations against children; in a limited number of cases they address issues specifically related to children in situations of armed conflict. In the situations considered for this report, legal and institutional reforms tended to provide more focused attention on children than the other mechanisms considered here.

▪ **Structural gaps and obstacles to implementation**

All of the national mechanisms considered in this report suffer from shortcomings in design and implementation, especially in their efforts to address children affected by armed conflict. These mechanisms frequently face a range of obstacles such as lack of political will, obstruction by national governments or implicated perpetrators, lack of short-term and long-term funding and lack of technical capacity.

▪ **Comprehensive approach is essential**

None of the mechanisms considered in this strand could achieve all of the key attributes of accountability for children and armed conflict independently. It is therefore essential for the mechanisms to work in parallel or in conjunction with each other to build on mutual strengths and fill gaps in coverage for children. For example, it is likely that more of the key elements of accountability would be achieved by a strategy that pairs criminal prosecutions with a reparations program, institutional and legal reform and truth-seeking.

▪ **Variations based on national context**

In each country, the approach to devising and implementing national accountability mechanisms varies based on the unique political, financial and cultural context. A "one-size fits all" approach is not evident or necessarily desirable, according to many experts.

Es como un estudio que se realiza enfocado
de los resultados y demandas que se
plantean en contra de quienes violan los
derechos de niños y niñas en grupos armados

[Accountability is] like a study
focused on the results and the
claims raised against those who
violate the rights of boys and
girls in armed groups.

Accountability = .

- justice for children who
have been violated ~~and~~
~~to~~ in the context
of armed conflict

- perpetrators ^{are} held ^{responsible} to
~~be~~ for their violations
against children, as
a deterrent for future actions

- accountability of
humanitarian actors +
donors ~~the~~

- accountability of governments

Accountability

It connotes responsibility for actions. A system of being held responsible or being made to explain or face the consequences of one's actions - omissions or commissions.

[Accountability is] like a study of the stories of the violation of the rights of boys and girls.

Es como un estudio realizado con los cuentos de los derechos • que han sido violados a niños y niñas

III.

Strand Two: UN Security Council

INTRODUCTION

Under the leadership of the UN Security Council, the UN has developed a complex web of mechanisms and systems designed to protect children and to hold to account perpetrators of violations against them in situations of armed conflict. While none of these structures is exclusively designed as an accountability mechanism, each has some component of accountability within it. Those under review in this report include:

- UN Children and Armed Conflict protection structures
 - “Naming and shaming” list
 - CAC Monitoring and Reporting Mechanism
 - Action plans
 - UNSC Working Group on Children and Armed Conflict Tool Kit
 - Application of sanctions
 - Referral to the International Criminal Court.
- Key observations drawn from this section include:
- The UN Security Council has demonstrated strong commitment to its children and armed conflict agenda
 - The system has produced many tangible products, such as establishing the MRM in 13 situations, signing of action plans with 15 armed forces and groups, issuing letters or statements from the UN Security Council to relevant national governments or armed groups, but on the whole effective accountability has been limited
 - The UN Security Council has missed opportunities to use its available tools to seek accountability for children in situations of armed conflict
 - Partial completion of processes hampers the pursuit of accountability.

EVALUATION OF STRAND TWO: UN SECURITY COUNCIL

UN Children and Armed Conflict protection structures

Secretary-General's "naming and shaming" list: listing and delisting

The UN Secretary General's annual reports on children and armed conflict have included a "naming and shaming" list since 2002.¹⁰² From 2002 to 2009, the list named parties that recruited or used children in situations of armed conflict. Beginning with the 2010 annual report, the list has also included parties known to kill, maim or commit rape or other grave acts of sexual violence against children in situations of armed conflict. Between 2002 and mid-2011, the Secretary-General has named 120 armed forces or groups as perpetrators. This includes parties to armed conflict in all of the focus situations of this report, with the exception of Sierra Leone, where the conflict ended prior to the creation of the listing mechanism.

The UN Security Council has repeatedly expressed its intention to hold the perpetrators named by the Secretary-General accountable through the imposition of targeted sanctions or other measures.¹⁰³ However, in practice the Council has taken limited action to do so. In fact, the UN Security Council has only applied sanctions directly in connection with violations against children in situations of armed conflict in the cases of DRC and Côte D'Ivoire. Of the seven situations that the Secretary-General has consistently named in every annual report from 2002 to 2011, the UN Security Council has only imposed sanctions on perpetrators of violations against children in the case of DRC. Consultations undertaken for this report pointed to lack of political will and disagreement among Council members on the application of targeted measures as reasons for inaction. Participants in CDI's CAC Accountability Survey also cited politicization as a primary cause of inaction (see Annex A).

The Secretary-General's listing and delisting process¹⁰⁴ can also create gaps in accountability by

pushing children and young adults who should be served by this mechanism outside the UN Security Council's purview. Three examples of such groups are 1) children who are part of armed groups that are not listed in the annexes because they are not considered parties to armed conflict; 2) children who are part of armed groups that are not listed in the annexes because of lack of UN verification of violations; and 3) children who continue to be associated with armed forces or groups which have been unduly delisted.

In the cases of Nepal and Colombia, documented evidence points to the involvement of children in newly formed armed groups that are not eligible for listing because they are not considered parties to armed conflict. As a result, these groups are not subject to the list and fall outside the scope of the UN-led Monitoring and Reporting Mechanism.¹⁰⁵ In Nepal, these groups are generally believed by national and international observers to be comprised of children and young adults who were formerly associated with the Unified Communist Party of Nepal-Maoist (UCPN-M), but were not adequately served by the DDR process. In Colombia, new groups arose after the demobilization of the Autodefensas Unidas de Colombia (AUC) paramilitaries, which presumably excluded thousands of children (see Colombia case study). In both instances, the government has resisted characterizing the new groups as parties to armed conflict, despite the fact that some of these groups may reach the threshold for parties to armed conflict under international humanitarian law.

In other situations, NGOs and others have documented violations against children in the context of armed conflict by various groups, such as recruitment of child soldiers by the Naxalites in India¹⁰⁶ or by insurgents in Thailand.¹⁰⁷ However, the UN has failed to formally verify such violations due to access constraints, political restrictions or other reasons. As a result, the Secretary-General does not name these parties in the annual list and the children affected do not derive benefit from the mechanisms that such listing could put in motion.

Since 2002, the Secretary-General has delisted all parties in Côte d'Ivoire and Liberia, as well as the Ugandan Government's United People's Defense Forces (UPDF) and the Ugandan Local Defense Units (LDUs). However, faulty delisting can lead to accountability gaps for violations committed against children. For example, in Côte d'Ivoire (studied in detail by CDI in a 2009 report) the Secretary-General delisted armed groups despite severe flaws with implementation and verification of the action plans (see Action Plans below) and evidence of ongoing use of children as soldiers or in related roles.¹⁰⁸ Since these groups had been officially delisted, the affected children no longer had recourse to accountability through the UN Security Council mechanisms.

CAC Monitoring and Reporting Mechanism

The UN Security Council called for the establishment of the UN-led Monitoring and Reporting Mechanism (MRM) on violations against children in armed conflict in its Resolution 1612 (2005). The MRM is designed to collect and report data on grave violations against children and to feed this information to the UN Security Council via its Working Group on Children and Armed Conflict. Acting upon this information, the UN or others may respond at the local, national or international level to hold perpetrators accountable for their actions. As of mid-2011, the MRM has been established in 13 situations. It is formally triggered into action when the UN Secretary-General names parties that recruit or use children as soldiers, kill or maim children or commit grave sexual violations against children in the annual report on children and armed conflict.¹⁰⁹ The following sections evaluate the contributions of the MRM to effective accountability for children in armed conflict.¹¹⁰

The UN Security Council has the capacity to enforce accountability in response to information provided through the MRM. Its actions in this regard generally consist of incremental steps such as conducting demarches, writing letters, holding press conferences or other similar activities. If these steps fail to reap

results, the Council can consider imposing targeted sanctions, referring cases to the ICC or taking other accountability-oriented measures.

Accurate, timely and reliable information is the first essential component needed by the UN Security Council to take steps towards holding perpetrators to account. The case of DRC demonstrates effective use of MRM information by the UN Security Council in seeking accountability. In this instance, information on violations reported through the MRM led the Security Council Working Group on Children and Armed Conflict to communicate with the DRC sanctions committee regarding identified perpetrators. This eventually led the UN Security Council to include violations against children in armed conflict as justification for imposing sanctions on perpetrators in DRC (see DRC case study).

In the case of the Lord's Resistance Army (LRA), monitoring has been challenging due in part to the cross-border nature of the LRA's activities in recent years. As a result of this and other difficulties, the UN Security Council and others have made little progress in holding the LRA to account. In response, the UN is now adopting an innovative approach to improve monitoring and reporting of the LRA's alleged violations against children. UNICEF, on behalf of the MRM Country Task Force in Uganda, will manage a system of joint reporting from the country task forces in Central African Republic, DRC, South Sudan and Uganda.¹¹¹ In addition to assisting the efforts of the UN Security Council to hold the LRA accountable, this initiative could set an important precedent for regional monitoring and could also act as a deterrent for other armed groups seeking to avoid scrutiny through cross-border operations.

Action plans

The UN Security Council has repeatedly requested UN country teams to enter into dialogue with parties to armed conflict to develop and implement time-bound action plans to end the recruitment and use of

child soldiers, as well as killing, maiming, rape and other forms of sexual violence against children and to demobilize children associated with armed forces and groups.¹¹² According to a 2009 version of the UN's draft guidelines on the MRM, action plans are to include elements on accountability:

- Prohibition on the recruitment and use of children
- Prevention of recruitment
- Provisions for disciplinary actions or penal sanctions for those who violate the action plan.¹¹³

As of mid-2011, 15 of the 105 parties listed as violators in the annexes of the Secretary-General's reports since it first called for action plans in 2005 have signed action plans. Of the focus situations in this report, the UN has signed action plans with armed forces or groups in Afghanistan, Nepal, Sri Lanka and Uganda.

Signs of commitment by the Government of Afghanistan to implement the action plan agreed to in January 2011 illustrate the potential of these plans to contribute to accountability. Through the action plan, the government has committed to ensuring the release of children in the Afghan National Security Forces and to prosecute those who continue to recruit children. The government further agreed to allow the UN access to all relevant training centers and barracks for verification. The action plan also requires additional child protection and accountability reforms such as conducting investigations and completing prosecutions of perpetrators of sexual violence.¹¹⁴ In May 2011, the UN reported positive steps taken by the government towards implementation:

- Issuance of an executive order prohibiting recruitment or use of children by the Afghan National Police and calling for investigations and disciplinary action against those found to be in violation of this order
- Verification by the United Nations Assistance Mission in Afghanistan (UNAMA) that the executive order was clearly posted on the walls of the Afghan National Police recruitment and training center in

Kunduz City, Kunduz Province. During an unannounced visit, the UN found that trainers and new recruits were fully aware of its contents

- Establishment by the government of a steering committee on children and armed conflict to ensure implementation of the action plan.¹¹⁵

In Nepal, a long delay in completing and implementing an action plan diminished possibilities for achieving accountability for many children. The 2006 peace agreement paved the way for the release of children from armed forces and groups. However, years passed before the Government of Nepal, the Unified Communist Party of Nepal-Maoist (UCPN-M) and UN signed an action plan and officially demobilized any children.¹¹⁶ As a result of the delay, thousands of children gave up on the official process for release from the UCPN-M and spontaneously left cantonment sites to return to their homes or communities or to go to urban centers. These children left without proper support or contact with formal accountability or protection structures.¹¹⁷ Furthermore, in some cases, continuing links remain between released minors and the UCPN-M. Few measures have been taken to address these issues or hold those responsible to account.¹¹⁸

While action plans have high potential to contribute to achieving accountability for violations against children in situations of armed conflict, significant challenges remain:

- The UN's ability to complete action plans with many parties to armed conflict has been limited due to technical, logistical and political obstacles
- Implementation and verification processes have often been slow and incomplete
- The UN has completed action plans in a small number of the instances of reported cases of violations
- The text of completed action plans is not publicly available making it difficult to evaluate their contribution to accountability
- The UN Security Council does not have a protocol or a track record for taking targeted measures in the cases of armed forces or groups that fail or refuse to develop action plans

- In the cases where children have been released due to action plans, the DDR processes serving released children are often fraught with logistical, technical, financial, political or other challenges.

Many armed forces and groups have failed to sign action plans. Reasons for the failure to sign action plans vary widely. In some instances, the armed groups are not accessible by UN representatives or are not interested in releasing children or engaging in dialogue to end other violations. In other cases, action plans are under development but are stalled by a lack of political will by the relevant governments, lack of resources, lack of technical capacity or access by UN personnel. The Secretary-General has stated that in certain situations of concern, such as in Myanmar and Colombia, the government has been reluctant to allow for UN dialogue with certain armed groups, thus impeding progress on securing the release and rehabilitation of children and taking action on accountability measures.¹¹⁹

In the case of the LTTE in Sri Lanka, the proposed action plan did not meet certain minimum standards. The UN and LTTE were not able to reach agreement and ultimately failed to sign an action plan. Shortcomings of the proposed plan included failure to allow the UN Task Force unhindered access to monitor implementation, formalize principles and time-bound measures for the effective release and reintegration of children, or to establish mechanisms for accountability and the prevention of re-recruitment.¹²⁰

UN Security Council Working Group on Children and Armed Conflict Tool Kit

In 2005, the UN Security Council established its Working Group on Children and Armed Conflict, comprising all 15 members of the UN Security Council with rotating leadership. Shortly after its establishment, the Working Group agreed on a tool kit of potential actions it would take to respond to reports of violations.¹²¹ These actions were to be reflected through the Working Group's conclusions after its review of each country report submitted by the Secretary-General through

the MRM system. The tool kit identifies actions that may be taken directly by the Working Group and also those that may be recommended for action by the UN Security Council.

Tools of the UN Security Council Working Group on Children and Armed Conflict that directly address accountability include:

- Request action by the Special Representative of the UN Secretary-General to engage parties in developing action plans, enhance implementation of the MRM or assist the adoption of the OPAC
- Support transitional justice and truth-seeking mechanisms, including those to develop and implement child-sensitive procedures
- Issue demarches to advocate for accountability for violations against children in situations of armed conflict
- Call on UN members to provide support to programs ensuring the protection of children involved in accountability or truth-seeking mechanisms
- Recommend to the UN Security Council that it send letters to regional organizations drawing attention to the full range of justice and reconciliation mechanisms to be considered, while emphasizing the responsibility of states to comply with their relevant obligations to end impunity
- Recommend to the UN Security Council that it consider forwarding information to the existing sanctions committees
- Recommend to the UN Security Council that it send letters to the relevant justice mechanisms to bring information to their attention and contribute to ending impunity of violators.

Despite having a wide array of tools, the Working Group has generally under-utilized actions that have the highest potential to hold perpetrators to account. This is particularly true of referrals to sanctions committees and letters to relevant justice mechanisms with information on violations.¹²² Consultations with members of the UN Security Council and others point to lack of political will and disagreement among members on use of the tool kit as primary stumbling blocks.

In the case of Sri Lanka, the Working Group used its tool kit to put pressure on the LTTE to end its recruitment and use of children. In June 2007, the Working Group:

- Strongly condemned the continuous recruitment and use of child soldiers and all other violations and abuses committed against children by the LTTE
- Urged the leadership of the LTTE to take a number of steps to immediately end the practice of abduction, recruitment and use of children and to provide for other protections
- Recommended that the President of the UN Security Council request a follow-up report from the Secretary-General on children and armed conflict in Sri Lanka by October 31, 2007, paying particular attention to the follow-up actions of the LTTE and other parties
- Warned of its intention to consider further action if the LTTE did not demonstrate progress.¹²³

Subsequently, the UN Secretary-General reported a decrease in the number of cases of recruitment of children by the LTTE, an increase in the number of released children and steps taken by the LTTE to improve its action plan.¹²⁴ While this may demonstrate one instance of the Working Group's capacity to influence the activity of an armed group, in the end the Working Group did not follow through on its threat and the LTTE allegedly continued to recruit and use children through the final days of the conflict in 2009.¹²⁵

In other cases where the Working Group has used several tools, the impact of its actions has not been clear. For example, in its conclusions on Uganda in 2007, the Working Group recommended that the UN Security Council address a message to the LRA through a public statement.¹²⁶ The Council subsequently issued a statement strongly condemning the recruitment and use of child soldiers by the LRA and asking the LRA to respond positively to the message and take serious follow-up actions.¹²⁷ In 2008, the Working Group again requested the UN Security Council to issue a public statement to the LRA. This time the Council strongly condemned the continued recruitment and use of child soldiers and asked

the LRA to respond positively within one month of receipt.¹²⁸ As of the time of writing, the LRA has not responded to either public statement.

As of mid-2011, the Working Group has not recommended to the UN Security Council that it take action toward imposing targeted measures on the LRA. This is presumably due to the fact that there is no pre-existing sanctions committee for Uganda. Yet, the Working Group could creatively utilize its tool kit to hold the LRA accountable for the violations that it has committed against children. For example, since the LRA is currently operating in several neighboring countries including DRC, the Working Group could refer the LRA case to the DRC sanctions committee or take other innovative steps to hold the LRA accountable.

Application of sanctions

Since the late 1990s, the UN Security Council has shifted towards the use of targeted sanctions such as travel bans, financial restrictions (such as freezing assets), arms embargos or targeted trade sanctions in order to avoid or mitigate the potential negative socio-economic and humanitarian impact of sanctions on civilian populations while still affecting the designated individuals or entities. Generally, when the UN Security Council establishes a sanctions committee this entails establishment of a group of independent experts working under the direction of the committee that assists in monitoring the implementation of sanctions.

In the context of children and armed conflict, the UN Security Council has used pre-existing sanctions committees in order to impose sanctions on individuals responsible for grave violations against children. In the context of DRC and Côte d'Ivoire, the UN Security Council has used the recruitment or use of children or other grave violations against children as criteria for imposing sanctions on 14 individuals (13 for DRC and one for Côte d'Ivoire).¹²⁹

This innovation represents an important achievement by the Council in its efforts to hold perpetrators of violations against children accountable for their actions.

However, these sanctions do not necessarily have a significant impact on behavior in some cases, such as for individuals or armed forces or groups who do not frequently travel or hold assets overseas.¹³⁰

Furthermore, placing sanctions on individuals does not necessarily lead to behavior change of groups with which they are affiliated. In some cases, individuals designated as being subject to sanctions may continue to remain in positions of power. For example, in DRC as of mid-2011, the Forces Armées de la République Démocratique du Congo (FARDC) continued to include in its command structure three individuals suspected of recruitment and use of children. They are Bosco Ntaganda, Innocent Zimurinda and Beaudoin Ngaruye.¹³¹ It is worth noting that Ntaganda is under warrant for arrest by the ICC and that Zimurinda is under sanctions by the UN Security Council for grave violations against children.

Moreover, the structure for imposing sanctions for violators against children has several shortcomings. For example, the current structure requires close linkages between sanctions committees and the Security Council Working Group on Children and Armed Conflict. More often than not, this close relationship has not existed. In 2006, UNSC resolution 1698 strengthened the links between the DRC Sanctions Committee and the Security Council Working Group on Children and Armed Conflict.¹³² However, this has not been replicated in other cases.

For example, in the case of Afghanistan, the sanctions committee concerning Al Qaeda and the Taliban has not imposed sanctions specifically for charges of violations against children despite repetitive naming of the Taliban by the Secretary-General for recruitment and use of children. Recognizing the need for these linkages, in May 2011 the Working Group issued conclusions on Afghanistan recommending to the UN Security Council that it share the Secretary-General's report on children and armed conflict in Afghanistan with the sanctions committee.¹³³ In June 2011 the Working Group undertook a field trip to Afghanistan.

Another shortcoming is that this structure does not allow the UN Security Council to impose sanctions against perpetrators in situations where a sanctions committee has not already been created. This includes instances when the Secretary-General has named perpetrators repeatedly for violations against children in situations of armed conflict, such as the UCPN-M in Nepal, the Ejército de Liberación Nacional (ELN) and Fuerzas Armadas Revolucionarias de Colombia-Ejército del Pueblo (FARC-EP) in Colombia and the LRA in Uganda.

Imposition of sanctions based on violations of international humanitarian law and human rights law against civilians clearly encompasses violations against children. An example is the case of Afghanistan in which the sanctions committee imposed sanctions against the Taliban in response to continuing violations of international humanitarian and human rights law, particularly discrimination against women and girls.¹³⁴ While such action has important implications for accountability for children, it does not have the same potential impact as if the sanctions had been imposed specifically for violations committed against children. As a result, it is not likely to carry the same deterrent effect to dissuade potential future perpetrators wary of scrutiny.

Referral to the International Criminal Court

Pursuant to the Rome Statute, which established the International Criminal Court (ICC) in 1998, the Court's Prosecutor can initiate an investigation on the basis of a referral from any State Party or from the UN Security Council. The Security Council may refer a situation to the ICC based on information on grave violations committed against children that it receives through the MRM structure or based on a recommendation to take such action from its Working Group on Children and Armed Conflict. To date, the UN Security Council has referred two situations to the ICC (Darfur, Sudan in 2005 and Libya in 2011). While the Darfur referral relates directly but not exclusively to information about violations committed against children in armed conflict, technically neither of these referrals was made specifically on that basis.

In 2010, the Secretary-General submitted information to the UN Security Council via its Working Group on parties to armed conflict in Afghanistan, DRC, Nepal, Colombia, Sri Lanka, Uganda and other situations where armed forces or groups recruit and use children. In none of these cases has the UN Security Council made a referral to the ICC on the basis of evidence of recruitment or use of children by armed forces or groups. Taking this step could potentially lead to holding perpetrators to account and act as a deterrent as it draws attention to the serious consequences of violating children's rights in situations of armed conflict. The UN Special Representative of the Secretary-General for Children and Armed Conflict (SRSG-CAAC) has noted that as a result of the publicity surrounding the landmark case of Thomas Lubanga, the first person to be tried by the ICC, many non-state armed groups have started to ask questions about ICC provisions during negotiations for the release of children, understanding that this is a serious offense (see Strand Three: International Level).¹³⁵

INDICATORS

The use of indicators for this strand takes a systems approach, considering the UN Security Council mechanisms collectively in their efforts to achieve accountability for children in armed conflict.

CHANGE: Did behavior change to stop, increase or decrease violations against children?

(Remain neutral, Increase, Decrease, Stop)

REMAIN NEUTRAL. Around the globe parties to armed conflict continue to recruit and use children as soldiers and subject them to other grave violations. The 2011 Secretary General's report on children and armed conflict indicates that attacks on schools and hospitals are a growing trend.¹³⁶ Yet, accurate quantitative data on violations worldwide is not available.

The Coalition to Stop the Use of Child Soldiers has explained that where armed conflict exists, child soldiers would almost certainly be involved, mostly with non-state armed groups.¹³⁷

RESPONSIBILITY: Was responsibility assigned?

(Yes, Partially, No)

PARTIALLY. The Secretary General's annual "naming and shaming" list has assigned responsibility to most armed forces or groups that recruit or use children in violation of international obligations and more recently to parties that kill, maim or commit acts of sexual violence against children in situations of armed conflict. However, there are some important categories of perpetrators that it has consistently excluded.

CONSEQUENCES: Were legitimate consequences effectively imposed on perpetrators?

(Yes, Partially, No)

PARTIALLY. The mere fact of an armed force or group being subject to action by the UN Security Council may constitute a form of consequence. The strongest and most tangible consequences available to the Security Council are the application of targeted sanctions with specific justification for violations against children, and referral to the ICC. Both measures have been underutilized.

REMOVAL: Were perpetrators removed from power?

(Yes, Partially, No)

NO. Research for this report did not reveal cases of perpetrators being removed from positions of power in connection with actions taken by the UN Security Council or in relation to activities under mechanisms of the Security Council.

SATISFACTION: Were affected individuals, communities and/or relevant international actors satisfied with the outcomes? (Yes, Partially, No)

INSUFFICIENT INFORMATION. There is no system in place for the UN Security Council or other branches of the UN to systematically evaluate satisfaction of communities or individuals affected by armed conflict with Security Council actions. Some participants in CDI's CAC Accountability Survey expressed the opinion that the Security Council was less effective in achieving accountability than other strands.

RECORD: Was a factual historical record established? (Yes, Partially, No)

PARTIALLY. The Secretary-General publishes regular reports detailing the grave violations against children and describing the reality on the ground. This documentation can assist in maintaining a historical record during an armed conflict. However, the main purpose of these reports is not to set a historical record and therefore reports may contain gaps of information that are not critical to the purposes of the UN Security Council.

REPAIR: Were efforts undertaken to repair traumatized societies/individuals? (Yes, Partially, No)

NO. Reparation of traumatized societies and individuals is not a direct goal or component of the UN Security Council mechanisms.

REFORM: Were efforts undertaken to carry out relevant institutional reforms? (Yes, Partially, No)

PARTIALLY. In its conclusions, the UN Security Council Working Group has made recommendations to national governments for institutional reforms including for Colombia, DRC, Nepal and Sri Lanka. Updates in subsequent country reports on the status of institutional reforms indicate limited uptake of these recommendations.

PROCESS END: Did the process reach the end of its logical path? (Yes, Partially, No)

PARTIALLY. The logical end of the UN Security Council mechanisms outlined in this report is the completion of steps or actions at the Council's disposal. The clearest progress towards ending violations has come through the action plans, which in some cases have led to the release of children and changed recruitment policies. However, implementation is often flawed or delayed and verification and follow-up have been incomplete. Sanctions have only been applied specifically with justification of violations against children in two cases.¹³⁸ ICC referrals have never been made specifically in relation to information received by the UN Security Council on violations against children via its Working Group. As a result, the vast majority of cases that have fallen under the scope of the Security Council mechanisms have not reached their logical conclusion.

OUTCOMES: Were practical outcomes for children achieved? (Many, Some, None)

SOME. As a direct result of action plans, thousands of children have been released from armed forces or groups and untold numbers of children who might have been recruited or otherwise joined armed groups did not do so because of changes to the policies of armed forces or groups. In individual cases, activities by MRM task forces or others acting under the umbrella of the UN Security Council mechanisms have led to the end of military use/occupation of schools, release of abducted children or other practical outcomes for individuals or specific communities of children. However, these efforts have not fulfilled their potential for global impact and further action can still be taken.

SUMMARY OBSERVATIONS

▪ **Demonstrated commitment**

Over a decade of effort and investment of resources by the UN under the leadership of the UN Security Council has led to the development of a complex system specifically designed for protection and accountability for violations against children in armed conflict. The UN Security Council's ongoing engagement with these mechanisms continues to demonstrate its commitment. The pursuit of accountability is a central component of individual mechanisms and is a driving force behind the system as a whole. While each mechanism has its own challenges for implementation and follow up, overall work in this area is commendable, continues to offer valuable potential and merits further investment and continued support.

▪ **Tangible products but limited results**

The mechanisms in this system have produced several tangible products that can assist efforts to achieve accountability. Still, the UN Security Council's activities have not resulted in realization of accountability for most children affected by armed conflict. This is due to several factors including inconsistencies within the system, gaps in attention to certain violations or perpetrators, as well as political, financial and technical blockages that cause the system to stop short. Shortcomings may also be due to a focus on protection rather than accountability components in the early stages of development. Also, in many instances due to a lack of publicly available information, it is hard to fully assess or quantify the direct impact of actions taken under this system. Still, a preliminary

evaluation shows that while the UN Security Council and its Working Group have strong and potentially impactful tools at its disposal, they have been used inconsistently and as a result their impact on effective accountability has been limited.

▪ **Missed opportunities**

A central challenge for the UN Security Council lies in the translation of information gathered by the system into meaningful action to achieve accountability for children. While much effort has gone into the development and fine-tuning of the structures, the UN Security Council and its Working Group have underutilized the potential of the system and in some instances have missed opportunities to advance accountability for violations against children in armed conflict.

▪ **Partial completion of accountability processes**

Each mechanism in this system is designed to consist of a series of small incremental steps eventually leading to stronger action for accountability and protection of children. However, in many instances the UN Security Council does not complete all steps designed in a certain mechanism. This ultimately limits the scope of their impact. Each incremental step has a function in the larger process and needs to be implemented to achieve accountability. Therefore, follow through on all of the steps including those that are more politically or otherwise challenging is essential to realize the potential of the system and to demonstrate effectiveness and credibility.

Accountability

Those who are guilty of having committed crimes are publicly sanctioned and made to go through a process by which they admit to having committed the crime and then contribute to its redress (through reparations, reform, etc.) and take steps for prevention

[Accountability is] like those people who, in one way or another, defend the rights of boys and girls through some entity that allows the people to report crimes.

• Es como quienes de una u otra manera defienden los derechos de los niños y niñas a través de alguna identidad la cual la población puede denunciar algún delito

Those responsible for the worst ~~victa~~ crimes, and those who gave the orders for the systematic or massive crimes to be committed are held to account either by judicial mechanisms (courts) or by alternative non-judicial mechanisms that are ~~less~~ ^{not necessarily} concerned by individual punishment but attribute responsibility.

1. level of resp.
2. judicial & non-judicial
3. attribute responsibility

IV.

Strand Three: International Level

INTRODUCTION

This report considers the role of international mechanisms in achieving accountability for violations against children affected by armed conflict. The international mechanisms presented here are diverse and for the most part function independently of one another. As a result, it is not feasible to apply CDI's accountability indicators to evaluate them collectively. It could be possible to apply the indicators to individual mechanisms presented here based on further research. This section uses examples from the seven focus situations to illustrate the use of the following international accountability mechanisms in the context of children affected by armed conflict:

- Ad hoc tribunals, special courts and mixed chamber courts
- Action by the ICC
- Other international mechanisms
 - Regional organizations
 - Alternative jurisdictions

- UN human rights system
- Commissions of inquiry and other investigative panels.

Key observations drawn from this section include:

- Most international mechanisms lack a specific focus on accountability for grave violations against children in situations of armed conflict
- Achievement of effective accountability in this strand has been limited
- International mechanisms have untapped potential to achieve accountability for violations against children in situations of armed conflict.

EVALUATION OF STRAND THREE: INTERNATIONAL LEVEL

Ad hoc tribunals, special courts, and mixed chamber courts

Dating back to the Nuremberg Trials after World War II, international judicial interventions have taken various forms including international courts, hybrid courts and mixed chambers. Some recent examples include:¹³⁹

- International courts such as the International Criminal Tribunals for Rwanda and the Former Yugoslavia were both mandated by the UN Security Council in response to specific situations for a limited period of time and are located in Tanzania and the Hague
- Hybrid courts such as the Special Court for Sierra Leone are international courts with mixed international and national composition located inside the country where the crimes were committed
- Mixed chambers such as those established in Bosnia and most recently under consideration in DRC are located inside a national judicial system and consist of both national and international staff.

Each of these structures is inherently capable of addressing crimes committed against children in the context of armed conflict and in many instances they have done so. Yet, many have only taken initial steps. Possible reasons for this could include logistical challenges as well as a lack of sustained commitment to prioritizing these violations and other constraints. The mandate of the Special Court of Sierra Leone illustrates how international justice mechanisms that are set up to pursue accountability for human rights violations against all civilians can be designed to devote special attention to children.

In January 2002, the UN and the Government of Sierra Leone signed the Agreement for and Statute of the Special Court of Sierra Leone. The Special Court's jurisdiction covered the prosecution of those bearing greatest responsibility for war crimes, crimes against humanity and other violations of international humanitarian and Sierra Leonean law committed since November 30, 1996.¹⁴⁰ The Agreement set an important precedent as nearly one-third of the twenty-five provisions pertained to children. For example, the Court had the jurisdiction to prosecute for the recruitment and use of children under the age of 15 into armed forces or groups, and for sexual and other abuse of girls under the age of 14. Furthermore, the Court's jurisdiction prohibited prosecution of alleged perpetrators under the age of 15. In an innovative move, the Prosecutor later excluded any perpetrators under the age of 18 from prosecution.¹⁴¹

The Court also took other measures to promote accountability for crimes against children, such as employment of prosecutors and judges with expertise in juvenile justice matters and gender-related crimes; protective and psychosocial support through a Victims and Witnesses Unit; and employment of personnel trained in trauma. The Victims and Witnesses Unit provided support to children, though a lack of funding and logistical challenges limited witness follow-up after participation in Court procedures.¹⁴² Additionally, the Unit established a set of guidelines for child witness support. However, this was only done after the end of the Court's mandate.¹⁴³

In 2007, the Court handed down its first verdict in the cases of three members of the Armed Forces Revolutionary Council (AFRC). It found each of the defendants guilty on 11 charges, including "conscripting children under the age of 15 years and/or using them to participate actively in hostilities."¹⁴⁴ The Court sentenced the defendants to between 45 and 50 years in prison each, marking the first time that an internationally mandated criminal court found individuals guilty of recruitment and use of children. The Court also found two members of the Revolutionary United Front (RUF) and one member of the Civil Defense Forces (CDF) guilty of recruitment and use of children. The Special Court later reversed the conviction against the CDF member. The remaining five convicts are all currently serving their sentences in Rwanda.¹⁴⁵

Notwithstanding these important precedents, there were shortcomings in the Court's general proceedings which affected its ability to achieve comprehensive accountability for all victims, including children. These shortcomings included the limited number of perpetrators tried due to the mandate of the court and the amnesty granted by the Lomé Peace Agreement.

Action by the International Criminal Court

The International Criminal Court (ICC) is a permanent body created by a multilateral treaty to prosecute individuals responsible for the most serious crimes in contravention of international humanitarian and

human rights law, such as genocide, crimes against humanity and war crimes, all of which include crimes against children.¹⁴⁶ The ICC does not have jurisdiction over crimes committed before July 1, 2002, when the Rome Statute entered into force. The Court is able to initiate proceedings based on referrals from a State Party or the UN Security Council, while the Prosecutor can also proceed on his own initiative subject to judicial authorization.¹⁴⁷ The jurisdiction of the ICC allows national courts the first opportunity to investigate or prosecute these crimes and only allows it to act when a state is inactive or is otherwise deemed to be unwilling or unable to investigate or prosecute genuinely.¹⁴⁸ The Office of the Prosecutor includes experts on children and women, as well as a specialized Victims and Witnesses Unit in the Registry. The ICC Statute also provides scope for reparations to victims, which includes restitution, compensation and rehabilitation.

As of May 2011, six situations were under investigation and/or prosecution before the Court: three State Parties to the Rome Statute (Uganda, DRC and the Central African Republic) had referred situations occurring on their territories to the Court, and the UN Security Council had referred the situations in Darfur, Sudan, and Libya to the ICC.¹⁴⁹ The Court has initiated proceedings against alleged perpetrators of war crimes, crimes against humanity and genocide; the alleged crimes include conscription, enlistment and use of children under 15, as well as murder, rape and other inhuman and cruel crimes against civilians in these situations (see Annex B). In other situations, such as Colombia, the Court has demonstrated preliminary interest in a range of crimes, including those against children.¹⁵⁰ In 2009, the ICC opened a preliminary examination for possible war crimes committed by international forces, government soldiers and insurgents in Afghanistan.

The ICC issued its first warrant for arrest in 2006 on the charges of enlisting and conscripting children under the age of 15 in the case against Thomas Lubanga

of DRC. This case has been hailed internationally as a sign of the Court's promise and potential to seek accountability for crimes committed against children in situations of armed conflict. Although the Court has not yet reached a decision or sentencing (expected 2011), the potential for impact is significant.

The ICC's prosecution of the crime of child recruitment may encourage armed groups across the globe to negotiate the release of children from their ranks. In early 2010, the SRSG-CAAC stated that "[t]he Lubanga trial represents a crucial precedent in the fight against impunity and will have a decisive deterrent effect against perpetrators of such crimes."¹⁵¹ In Colombia and DRC, interviewees for this report expressed the opinion that completion of a case at the ICC on charges of crimes against children would have significant impact in establishing the promise of justice among victims and witnesses and could have a potential deterrent effect for future perpetrators.

In DRC, activity by the ICC has bolstered the work of national courts, tribunals and other mechanisms, inspiring some within the Congolese justice system to draw from provisions of the Rome Statute to supplement and clarify Congolese law, particularly regarding prosecution of cases of mass rape and sexual violence as crimes against humanity.¹⁵²

In addition, the ICC's action against Lubanga has increased awareness at the local level that recruitment and use of children by armed forces and groups is a crime. This heightened attention has led to unease among some members of armed forces and groups about the presence of children within their ranks, commonly called "The Lubanga Effect." However, the net result is not necessarily positive as interviewees for this report cited anecdotal examples of children who had been abandoned in the bush or hidden from the sight of humanitarian workers to avoid scrutiny for this crime.¹⁵³

Even with its high potential for impact, some international observers raise concerns about the Court's overall ability to break the larger cycle of impunity

due to its limited capacity.¹⁵⁴ For example, crimes in DRC against children and other civilians have been so extreme in severity and scope that the work of the ICC alone would not be sufficient to achieve accountability for all those who have suffered.

Furthermore, Lubanga's defense team and others have highlighted that achieving real accountability would rest on trying the highest-ranked individuals in the command chain and not just isolated mid-ranking officers, notwithstanding the fact that Lubanga is charged with being the founder and commander in chief of the Union des Patriotes Congolais/ Force Patriotique pour La Liberation du Congo (UPC/FPLC).

The Office of the Prosecutor has also called for complementary approaches involving the combined efforts of international and national actors to prevent the emergence of an impunity gap between leaders and lower level perpetrators.¹⁵⁵ This reiterates the need for complementary action and when appropriate, coordination among various mechanisms to deliver comprehensive accountability for children.

Other international mechanisms

Regional organizations

Some regional organizations have undertaken focused activities related to accountability for violations against children in armed conflict. With a few notable exceptions, this has not been a priority issue for many regional organizations. In addition, the general lack of monitoring and enforcement capacities in regional organizations has hindered their ability to serve as effective mechanisms for achieving accountability for violations against children in situations of armed conflict.

Of all regional organizations, the European Union has most highly prioritized the issue of children and armed conflict. In 2003, the European Union established the EU Guidelines on Children and Armed Conflict. These guidelines established an EU monitoring and reporting system to identify situations requiring action by the EU, such as political dialogue, demarches or targeted sanctions to address violations

against children. For example, in 2008 the EU imposed sanctions alongside the UN Security Council in the form of asset freezes and travel limitations on political and military leaders in DRC for recruitment or use of children, and on individuals for targeting of children or women in situations of armed conflict, including killing and maiming, sexual violence, abduction and forced displacement.¹⁵⁶ The EU renewed these sanctions in December 2010.¹⁵⁷

The Inter-American System, consisting of the Organization of American States, Inter-American Court of Human Rights and the Inter-American Commission on Human Rights, has made some specific efforts related to child rights, including children in armed conflict, especially in regard to Colombia (see Colombia case study). For example, the Inter-American System has established a special rapporteur for children's rights.

The African Union (AU) has also undertaken initiatives to promote accountability for children in situations of armed conflict. The African Charter on the Rights and Welfare of the Child (1990)¹⁵⁸ prohibits the recruitment of children for armed conflict and calls for special attention to international humanitarian law regarding children in conflict. The Solemn Declaration on Gender Equality in Africa (2004)¹⁵⁹ prohibits recruitment of children and the sexual abuse of women and girls and commits states to annual reporting on implementation. However, the AU Peace and Security Council has stated that comprehensive gains for children in situations of armed conflict have not been achieved as a result of these efforts, pointing to serious flaws within these systems including the narrow set of crimes considered as violations and a strong focus on children as soldiers to the exclusion of other violations.¹⁶⁰

Other regional organizations have made efforts to set regional child protection standards and to require members to harmonize with them. For example, the South Asian Association for Regional Cooperation (SAARC) Convention on Regional Arrangement for the Promotion of Child Welfare in South Asia is considered legally binding among members, and its Rawalpindi Resolution

commits member states to establish social support systems at the community level for children, including for child victims of war and armed conflicts.¹⁶¹ SAARC has established regional task forces in all member states to monitor and assess implementation of the Convention, yet little information is available on results. In another example, Article 16 of the Association of Southeast Asian Nations (ASEAN)'s Declaration on the Commitments for Children in ASEAN calls for the "protection of children from armed conflict, victimization or deprivation of a childhood rooted in peace and joy."¹⁶²

*Alternative jurisdictions*¹⁶³

The doctrine of universal jurisdiction refers to national courts prosecuting individuals in their custody for crimes committed abroad. It is based on the principle that certain crimes are so grave that they affect the interests of the entire international community. As it stands, universal jurisdiction may be practiced in cases of genocide, crimes against humanity, war crimes and torture. Similarly, extraterritorial jurisdiction allows a state to exercise authority beyond its normal boundaries when working in agreement with the legal authorities in an external state. However, these alternative jurisdictions have been rarely used. In one case in 2002, German policy-makers adopted a law allowing the prosecution of foreigners for crimes committed outside Germany. Under this law, German authorities arrested a Rwandan rebel leader on charges that included crimes against children in DRC (see DRC case study).

In other instances, states may be able to prosecute their own citizens in relation to alleged crimes committed against children in another territory. For example, as of mid-2011, Dutch authorities were trying a case against members of the Tamil diaspora in the Netherlands for allegedly raising funds for the LTTE in Sri Lanka and participating in international crimes, including the recruitment and use of child soldiers.

UN human rights system

The UN has a complex system of bodies and mechanisms that focus on human rights. Various components

of this system have the potential to address aspects of accountability for violations against children in situations of armed conflict. These include the Office of the High Commissioner for Human Rights, the Human Rights Council and related Universal Periodic Review, the treaty-monitoring bodies such as the Committee on the Rights of the Child and the Special Procedures, which include field visits and studies by Special Rapporteurs and others.¹⁶⁴ A full examination of the activities of all these bodies in relation to children and armed conflict is beyond the scope of this report but merits further research. As an example of the potential of these systems, the report considers how the Committee on the Rights of the Child serves as a type of accountability mechanism vis-à-vis children and armed conflict.

The Committee on the Rights of the Child (CRC) is a treaty-monitoring body comprised of independent experts. The CRC monitors State Parties' implementation of the Convention on the Rights of the Child, including its Optional Protocol on the Involvement of Children and Armed Conflict (OPAC). All State Parties must submit regular reports to the CRC detailing progress made towards implementing the Convention and the OPAC. The CRC examines each report and addresses its concerns and recommendations to the State Party in the form of concluding observations.¹⁶⁵ This process also involves a dialogue between CRC members and representatives of the government of the state under consideration.

Some observers explain that this process provides an incentive for states to implement the Convention and the OPAC more rapidly and effectively in order to report positively in follow up reports. As earlier illustrated in the cases of Sierra Leone and Uganda, ratification of the OPAC has indeed led to positive steps by State Parties to enact policies that strengthen accountability for violations against children (see above: National Level, Implementation of the Optional Protocol). Still, in the case of the OPAC it is difficult to analyze impact because the process is new and many states have only submitted one report to date (see Table 1).

Table 1. Status of reporting on the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (OPAC)

COUNTRY	RATIFICATION	DECLARATION	REPORTS DUE	REPORTS SUBMITTED	CONCLUDING OBSERVATIONS
Afghanistan	Sept. 24, 2003 (acceded)	"...active military service is limited by the age of 22 to 28. All recruitments of personnel in the Afghan National Army is voluntary and is not forced or coerced."	2005	None	None
Colombia	May 25, 2005	"...persons under 18 years of age shall not be recruited to perform military service."	2007	Sept. 24, 2008	May 25 — June 11, 2010
DRC	Nov. 11, 2001	"...undertakes to implement the principle of prohibiting the recruitment of children into the armed forces...and to take all feasible measures to ensure that persons who have not yet attained the age of 18 years are not recruited in any way into the Congolese armed forces or into any other public or private armed group throughout the territory..."	2004	July 2008	None
Nepal	Jan. 3, 2007	"(1) The minimum age for recruitment in the Nepal Army and the Armed Police Force shall be 18 years. (2) The recruitment in the Nepal Army and the Armed Police Force shall be voluntary..."	2009	None	None
Sierra Leone	May 15, 2002	"1. The minimum age for voluntary recruitment into the Armed Forces is 18 years; 2. There is no compulsory, forced or coerced recruitment into the National Armed Forces; 3. Recruitment is exclusively on a voluntary basis."	2008	March 31, 2008	Sept. 13 — Oct. 1, 2010
Sri Lanka	Sept. 8, 2000	"(a) there is no compulsory, forced or coerced recruitment into the national armed forces; (b) recruitment is solely on a voluntary basis; (c) the minimum age for voluntary recruitment into national armed forces is 18 years."	2004	June 16, 2008	Sept. 13 — Oct. 1, 2010
Uganda	May 6, 2002 (acceded)	"...the minimum age for the recruitment of persons into the armed forces is by law set at eighteen (18) years. Recruitment is entirely and squarely voluntary and is carried out with the full informed consent of the persons being recruited. There is no conscription in Uganda."	2004	Aug. 16, 2007	Sept. 16 — Oct. 3, 2010

Currently, the CRC does not have an individual complaints mechanism. Such a mechanism would complement the current State Party reporting structure and could potentially increase opportunities for the CRC to directly address specific cases of violations of children in the context of armed conflict. Five other human rights treaty bodies currently have such an individual complaints mechanism.¹⁶⁶ A Working Group of the Human Rights Council is currently exploring the possibility of establishing an individual complaints mechanism in connection to the CRC. The Working Group submitted a proposal to the Human Rights Council in June 2011. The proposal has several problem areas that would limit its effectiveness for children. These include providing states the ability upon ratification to declare non-recognition of the competence of the Committee regarding rights set forth in some or all of its instruments. Additionally, the proposal fails to include a collective communications clause.¹⁶⁷

Commissions of inquiry and other investigative panels

In some cases, the UN or other international bodies have devised ad hoc mechanisms which relate to accountability in specific situations of armed conflict or targeted instances of violations. Prominent examples include the International Commission of Inquiry on Darfur,¹⁶⁸ which shared its findings with the ICC and the Special Panels for Serious Crimes (SPSC) in East Timor.¹⁶⁹ In most cases, these mechanisms have not been designed with a specific mandate to address accountability for violations against children, but in practice they may choose to include a focus on children. While these mechanisms generally add value to accountability by assigning responsibility for grave violations, implementation of their recommendations is often weak and vulnerable to political blockages.

In June 2010, the Secretary-General appointed a panel of experts to investigate, report and advise on accountability issues relating to alleged violations of international human rights and humanitarian law during the final stages of the armed conflict in Sri Lanka.¹⁷⁰ In March 2011, the panel issued its report,

confirming credible allegations regarding violations against children by the LTTE and the Government of Sri Lanka.¹⁷¹ The Panel also recommended a number of concrete steps that would be essential to achieving accountability for these violations. The panel found that the government's approach to accountability does not meet international standards and presents a fundamental obstacle to accountability. This will undoubtedly cause challenges in implementing recommendations, including those geared specifically to address violations against children, such as establishing a reparations program with special attention to children.¹⁷²

SUMMARY OBSERVATIONS

▪ **Lack of focus on children and armed conflict**

Most of the mechanisms identified in this strand are designed to address broad human rights or justice agendas. They are not typically focused on accountability for children in situations of armed conflict. As a result, attention to violations against children tends to be ad hoc and inconsistent. In some cases, mechanisms have used innovative approaches or have been proactive in paying special attention to the accountability needs of children. Increased coherence between mechanisms within this strand, especially on the issue of children, could potentially increase their impact on accountability.

▪ **Few tangible results of accountability**

Many of the international mechanisms considered here are slow acting by nature, designed to achieve incremental change or are in relatively early stages of development in regard to children in situations of armed conflict. The net result is that only a few of these mechanisms have significantly contributed to seeking accountability for violations against children. Another challenge is that public information on the work of certain mechanisms is not consistently available in part due to lack of monitoring or enforcement systems. This makes a full evaluation of their progress in this area difficult.

- **High potential**

Despite the challenges described above, many important efforts are underway by international mechanisms that have potential to increase accountability for violations committed against children in situations of armed conflict. In fact, some mechanisms have a positive impact by their mere existence. Others have achieved some concrete outcomes for children, although often limited in scope. Most of the

mechanisms discussed here have a strong potential to contribute to accountability and would benefit from increased attention, political will, resources and time. However, even when operating at their full capacity, most of these international mechanisms would not alone have the capacity to achieve comprehensive accountability for children in armed conflict.

V.

Multi-Strand Interactions

INTRODUCTION

This report identifies several mechanisms for seeking accountability for violations against children in situations of armed conflict across three strands: (1) national level; (2) UN Security Council; and (3) international level. This section explores how these mechanisms interact with each other and uses examples to identify opportunities and challenges that arise from these interactions. As noted previously, most accountability mechanisms considered during this report do not alone have the capacity to achieve robust accountability for children in armed conflict. Rather, they would be well complemented by the work of other mechanisms that target different attributes of accountability.

Key observations drawn from this section include:

- Each strand and mechanism has unique potential and responsibility
- Interactions between strands create opportunities and challenges to the effective pursuit of accountability for violations against children

- Existing interactions between strands and mechanisms rarely relate specifically to children and armed conflict issues.

EVALUATION OF MULTI-STRAND INTERACTIONS

Individuals, communities, states and international actors all have an interest and a role in seeking accountability for grave violations committed against civilians, including children, during armed conflict. As a result, there is a proliferation of mechanisms designed wholly or in part to hold perpetrators of these violations accountable by assigning responsibility and imposing legitimate consequences and to prevent future violations.

In any particular context, several of these mechanisms usually work in parallel, addressing specific aspects of justice and accountability. As a result, the mechanisms inevitably interact with each other both within and across the three strands. For example,

national level accountability mechanisms in a given country may interact with each other. At the same time, they may interact with the UN Security Council's mechanisms or other international mechanisms.

In some cases, interactions take the form of carefully designed collaboration, while others may be ad hoc or isolated occurrences. As would be expected, these interactions bring both opportunities for increased accountability, and in some instances, create tensions due to competing interests, needs or perspectives. Still, many international and national observers consider complementary activity between strands as an important strategy for improving accountability efforts for violations against children in armed conflict, according to CDI's CAC Accountability Survey.

The following are several examples of interactions between various accountability mechanisms both within and across strands.

Examples of Multi-Strand Interactions in the Context of Children and Armed Conflict

- Following imposition of sanctions by the UN Security Council, the European Union imposed similar sanctions reinforcing its recognition of the legally binding nature of UN Security Council resolutions.¹⁷³ In the case of violations against children in armed conflict in DRC, the EU has imposed financial and travel restrictions reflecting those of the UN Security Council. These restrictions target political and military leaders recruiting or using children and individuals targeting children or women in situations of armed conflict, including killing and maiming, sexual violence, abduction and forced displacement. In this case, the EU also cited the blocking of humanitarian assistance to civilians, presumably including children, as a possible justification for imposing targeted measures.¹⁷⁴ However, measures were not imposed for this reason.
- In DRC, national courts have innovatively used the Rome Statute to try war crimes and crimes against humanity. The preamble and Article 1 of the Rome Statute lays out the principle of complementarity between the ICC and national courts.¹⁷⁵ Drawing on this provision, several judges in DRC have inter-

preted the intent of Congolese Parliament, which has signed but not yet ratified the Rome Statute, to successfully try war crimes and crimes against humanity in military courts (see DRC case study).

- As part of the process of the CRC monitoring implementation of the OPAC, State Parties are responsible for taking action on recommendations made by the CRC and reporting back on progress. Anecdotal information gathered through consultations for this report indicates that the CRC's monitoring process can press states to more quickly or effectively implement with an eye to the public reporting due every five years.
- The MRM is not designed to be a direct source of evidence for national or international criminal processes. However, a 2010 draft of the MRM Field Manual notes that country task forces can share information on grave violations with relevant human rights treaty bodies such as the CRC, or through amicus briefs to the ICC and other relevant courts and tribunals, as well as with national governments, NGOs and other actors involved in the pursuit of accountability.¹⁷⁶

Examples of Challenges Arising from Multi-Strand Interactions

The pursuit of complementarity and alignment between various strands of accountability can be difficult to maneuver and vulnerable to political, financial, cultural and other challenges.

- In Uganda, a national debate comparing the relative merits of possible accountability vis-à-vis the ICC versus traditional justice mechanisms illustrates this complexity. Some community leaders in northern Uganda have promoted peaceful, local solutions to the armed conflict, including traditional reconciliation mechanisms and the Ugandan Amnesty Act. As a result, some traditional and religious leaders and civil society groups initially opposed the ICC indictments of the LRA leaders citing fear that the ICC's involvement would make a peace deal with the LRA impossible, the Court's lack of legitimacy at the local level and the belief by some Ugandans that the ICC intervention favored the government.¹⁷⁷ At the same time, other international and local actors

raised concerns that traditional mechanisms would not suitably address wide-scale war crimes and would not lead to effective outcomes for girls and women.¹⁷⁸

- Some tensions also arose in Sierra Leone between the UN-mandated Special Court and the Truth and Reconciliation Commission (TRC). The TRC and Special Court operated in Sierra Leone simultaneously, sometimes creating confusion among citizens about the relationship between the two, particularly with regard to information sharing. As a result, some parents refused to allow their children to participate in TRC processes for fear that they would then be prosecuted by the Special Court. This issue was due in large part to the limited outreach and funds available for effective communication on the purpose and intent of the two bodies.¹⁷⁹
- In the case of the UN Security Council and the ICC, the possibility of interaction in relation to children and armed conflict has not been utilized. The UN Security Council is authorized to refer situations for investigation to the ICC, including referrals based on information about alleged crimes against children that the UN Security Council receives through the MRM or based on a recommendation from its Working Group on Children and Armed Conflict. However, at the time of writing the UN Security Council had not referred any situations to the ICC specifically related to violations against children in situations of armed conflict.

SUMMARY OBSERVATIONS

- **Each strand and mechanism has unique potential and responsibility**

Each of the mechanisms discussed in this report plays a unique role and provides distinct opportunities for achieving elements of accountability for violations against children in armed conflict. The potential value-added of each mechanism varies from context to context. Action by one mechanism or one strand does not take the onus of responsibility off the others.

- **Interactions between strands create opportunities and challenges**

For the most part, accountability mechanisms for violations against children in armed conflict do not operate in isolation. Therefore, the overall achievement of accountability in any particular context generally depends on the combined efforts of more than one mechanism and/or strand. In many instances it would be beneficial if these mechanisms were designed to complement one other, building on comparative advantages and strengths. As this is not the norm, interactions sometimes create tensions that cause delays or inhibit accountability for violations against children in the context of armed conflict.

- **Interactions rarely relate specifically to children and armed conflict issues**

Research for this report revealed that in many instances interactions between accountability mechanisms do not relate specifically to violations against children in situations of armed conflict. Rather, interactions often occur in the context of broader efforts to seek accountability for wide-scale human rights violations. This can be partially attributed to the fact that only the UN Security Council strand and few of the national mechanisms are dedicated exclusively to children and armed conflict. Enhanced collaboration and cooperation to prioritize children during interactions among accountability mechanisms is essential.

VI. Case Studies

A. DEMOCRATIC REPUBLIC OF THE CONGO

INTRODUCTION

Armed conflict has engulfed the Democratic Republic of the Congo (DRC) for decades, leading it to become one of the world's deadliest and most protracted humanitarian crises. Despite a formal end to hostilities in 2003, violence and insecurity remain. Ongoing violence in 2010 displaced nearly two million people¹⁸⁰ and many armed groups are active throughout the country. Motivations for fighting include ethnic rivalries and control of land and natural resources. While violations have fluctuated in scale and geographic scope, all parties to armed conflict in DRC are implicated in violations against children.

The following is a case study on the situation of accountability for violations against children in the context of armed conflict in DRC. CDI conducted an extensive literature review, and carried out a field visit to DRC in February 2011. During the visit, CDI consult-

ed with government officials, UN agencies and NGO representatives. Policy options related to DRC appear in a text box in the policy options section of this report.

Key observations drawn from this case study include:

- Mechanisms in all three strands have initiated important activities aimed at seeking accountability for violations against children in the context of armed conflict in DRC
- Systemic problems and resource shortages challenge the effective pursuit of accountability for violations against children in the context of armed conflict
- Coordination among key actors on the issues of children and armed conflict and accountability is weak.

STRAND ONE: NATIONAL LEVEL

Criminal prosecutions

Prosecution of individual offenders has been the focus of most judicial efforts to realize effective accountability in DRC. In 2010, 28 members of security forces were arrested for sexual abuses against children. In addition,

two Forces Armées de la République Démocratique du Congo (FARDC) members and one Mai-Mai member were convicted for killing and maiming children.¹⁸¹ Often perpetrators that are prosecuted and convicted for crimes against children have their sentences overturned in appeal procedures or do not serve their sentences due to the weak penitentiary system.¹⁸² In one case, Jean-Pierre Biyoyo was made a colonel in the FARDC despite being convicted by a military court in March 2006 for the abduction and illegal detention of children for the purposes of recruitment.¹⁸³

Several judges have successfully tried war crimes and crimes against humanity in military courts, interpreting the intent of Congolese Parliament, which has signed but not yet ratified the Rome Statute.¹⁸⁴ In April 2006, seven of 12 soldiers on trial for raping at least 119 women and girls in 2003 in Nsongo Mboyo, Equateur, were found guilty of crimes against humanity.¹⁸⁵ In March 2011, a mobile court (*audience foraine*)¹⁸⁶ convicted four FARDC soldiers for crimes against humanity for their part in the rape and sexual abuse of over fifty girls and women in Fizi, South Kivu.¹⁸⁷ Mobile courts have focused particularly on the prosecution of cases of sexual violence. Given the recent increased attention and redirection of funding toward addressing sexual violence, many actors reported that there is more focus on prosecuting cases of sexual violence than other violations against children.

Truth-seeking and reconciliation

A national truth commission, which ran from 2003 to 2007, has been broadly deemed a failure by the Congolese and international communities. It did not include provisions for addressing children, failed to establish the truth about crimes and failed to engage victims in its design and execution. The commission also lacked a realistic mandate, adequate resources and victim and witness protection. Still, a majority of victims reportedly have a strong desire for a new truth commission.¹⁸⁸ In 2011, OHCHR published a mapping report documenting the most serious violations of human rights and international humanitarian law com-

mitted in DRC between March 1993 and June 2003.¹⁸⁹ The report aimed to honor the memory of victims and to take a step towards coming to terms with the atrocities.¹⁹⁰

Reparations

There is no comprehensive national reparations program in DRC. Some reparations are granted as part of sentencing in individual prosecutions, primarily for incidents of sexual violence.¹⁹¹ Research for this report did not identify any recent cases of individual children who received reparations for violations committed against them. Consultations for this report indicated that victims are often interested in receiving material compensation from perpetrators and that a material loss for perpetrators may serve as greater punishment for them than loss of freedom, particularly when the successful arrest and long-term detention of perpetrators is not guaranteed.

Implementation of the Optional Protocol (OPAC)

DRC ratified the Optional Protocol to the CRC on the Involvement of Children in Armed Conflict in November 2001. The DRC Government submitted its initial report on implementation of the OPAC in 2009 (CRC/C/OPAC/COD/1). The Committee is scheduled to review the report in 2011.¹⁹²

National level child protection laws or frameworks

Over the past several years, DRC has strengthened its legislative and policy framework to protect children. The 2006 Constitution prohibits the abuse of children, and obligates the government to prosecute perpetrators.¹⁹³ The 2009 Child Protection Act (Congolese law number 09/001), adopted in January 2009, includes provisions for the general protection and well-being of children.¹⁹⁴ Other laws and policies prohibit sexual violence and outline ways to improve accountability for survivors, including children.¹⁹⁵ However, to date this national legislation has not been effectively implemented. Twelve out of the fourteen decrees within the 2009 Child Protection Act have not yet been adopted into law to become fully applicable.¹⁹⁶

Other relevant mechanisms

According to some actors, increased attention to addressing sexual violence in DRC has resulted in decreased support for other child protection programs, particularly reintegration programs.¹⁹⁷ Without adequate support, many children formerly associated with armed groups and forces have been re-recruited. Local organizations reported that increased support for reintegration programming could help in the pursuit of accountability by increasing access to children and supporting those willing to testify against their recruiters.¹⁹⁸

STRAND TWO: UN SECURITY COUNCIL

Secretary-General's "naming and shaming" list

The Secretary-General has named the Government of DRC and non-state armed groups in DRC for recruitment and use of children in all annual reports on children and armed conflict to the UN Security Council since 2002. The Security Council has imposed sanctions on 13 individuals associated with the groups listed by the Secretary-General with justifications including violations against children in the context of armed conflict. The Secretary-General has named the following parties in DRC in every annual report on children and armed conflict:

- Forces Armées Congolaises / Forces Armées de la République Démocratique du Congo
- Forces Démocratiques de Libération du Rwanda (FDLR)
- Front de Nationalistes et intégrationnistes (FNI)
- Mai Mai.

CAC Monitoring and Reporting Mechanism

The MRM has provided the Secretary-General, the Security Council and its Working Group with critical information about persistent perpetrators of grave child rights violations and provided justification for targeted action against perpetrators. Over the past several years, the MRM Country Task Force in DRC has improved its access to and management of information

related to child rights violations, though experts noted that follow-up and access to verified information on sexual violence still remains a challenge.¹⁹⁹

Action plans

As of mid-2011, no parties to armed conflict in DRC had signed action plans with the UN. Many actors in Kinshasa believe an action plan with the government would be instrumental in holding it to account and improving efforts to deter violations against children by the FARDC. In 2009, (then) MONUC submitted a draft action plan to the government, yet as of mid-2011 it still has not received an official response.²⁰⁰

UN Security Council Working Group on Children and Armed Conflict Tool Kit

Over the past several years, the Working Group has repeatedly drawn attention to violations against children by armed forces and groups in an effort to encourage the UN Security Council to take action against those implicated.²⁰¹ The Chair of the Working Group has regularly issued letters to the Government of DRC, neighboring governments, the Secretary-General, UN Security Council, MONUC, UN agencies and donor governments, calling on them to bring an end to impunity for grave violations against children committed by armed forces and groups in DRC.²⁰²

Application of UN Security Council sanctions

In December 2010, the UN Security Council imposed targeted measures on 13 individuals with justifications that included violations against children. This process began with Resolution 1698 (2006) which strengthened the links between the DRC Sanctions Committee²⁰³ and the Working Group on Children and Armed conflict in part leading the Sanctions Committee to justify targeted measures on recruitment or use of children.²⁰⁴ Yet, in practice these sanctions have not had a significant impact on the behavior of targeted individuals. For example FARDC Lt. Colonel Zimurinda was added to the UN sanctions list for violations against children in December 2010 but was promoted to full colonel less than one month later.²⁰⁵

STRAND THREE: INTERNATIONAL LEVEL

Ad hoc tribunals, special courts and mixed chamber courts

Legal experts, human rights activists and DRC's Ministry of Justice and Human Rights have been working to develop a model for a "mixed chamber" to hold to account high-level military and government authorities implicated in grave human rights violations. As currently outlined in a draft bill, this national structure would have the mandate to prosecute perpetrators of war crimes, crimes against humanity and acts of genocide committed in DRC. A mixed chamber would take the pressure off of the national civilian and military justice systems which are currently unable to prosecute the highest-level offenders.²⁰⁶ The draft bill also includes special provisions for children under age 18 to provide testimony.²⁰⁷ The draft bill is due before Parliament in 2011.

Action by the ICC

At the time of writing, the ICC had four cases underway related to DRC;²⁰⁸ four of the five defendants in these cases face charges for the recruitment and use of children in hostilities. Thomas Lubanga²⁰⁹ was the first person indicted by the ICC and his high-profile trial focuses exclusively on conscription and enlistment of children.²¹⁰ Several actors noted that the trial has increased awareness among the FARDC and armed groups about the illegality of child recruitment and has helped bolster local efforts to prevent recruitment.²¹¹ Though the ICC has made notable progress, interviewees for this report expressed concern that the ICC was at risk of losing credibility if it did not reach sentences on the DRC cases soon. The ICC has been hampered by procedural delays, stays of the proceedings and defense accusations of abuse of process, but has since rested and a decision is expected in 2011. Bosco Ntaganda, indicted by the ICC for crimes against children and others, remains at large and is serving as a general in the FARDC.²¹² Several sources reported that the government was

reticent to act on the warrant for fear that arresting Ntaganda would further destabilize the region.²¹³ Other DRC cases include that of Germain Katanga and Mathieu Ngudjolo Chui, respective alleged leaders of the Forces de Resistance Patriotiques en Ituri (FRPI) and FNI armed groups, also accused of using child soldiers, and the case against Callixte Mbarushimana, alleged executive secretary of the FDLR armed group (see Annex B).²¹⁴

Regional organizations

In 2010, the European Union imposed restrictive measures, including asset freezes and travel bans, against individuals and entities identified by the UN DRC Sanctions Committee, including political and military leaders for recruitment of children and other grave violations.²¹⁵

Alternative jurisdictions

Individual state signatories to the Rome Statute have also begun taking concerted action against leaders of armed groups. In November 2009, German Federal Police arrested the president of FDLR and his deputy—Ignace Murwanashyaka and Straton Musoni—in Germany on 26 charges of war crimes and 39 charges of crimes against humanity, including use and recruitment of child soldiers. Their trial follows the adoption of a law that allows the prosecution of foreigners for crimes committed outside Germany.²¹⁶ While the case shows international resolve to seek justice, experts note that the impact of these arrests on the morale of combatants and their military leaders has been more limited than expected.²¹⁷

Congolese civil society groups and others have initiated efforts to hold private sector companies to account for alleged complicity in violations against children and other civilians. In November 2010, a group representing Congolese victims and their families filed a class action lawsuit in Canada against Anvil Mining Limited. The group alleges that Anvil Mining provided logistical assistance to the DRC military in 2004, which subsequently led to the massacre of over 70 civilians, including

children.²¹⁸ Though in its nascent stage, this case could set an important precedent for holding the private sector to account for its alleged role in violations committed against children in situations of armed conflict.

Other

As one instance of a state taking unilateral action towards accountability with international implications, the United States passed the Child Soldiers Prevention Act of 2008, which allowed it to withhold military assistance from governments identified as recruiting or using child soldiers.²¹⁹ However, in 2010 the U.S. Government cited national interest in issuing a waiver for four countries, including DRC. The waiver allowed all military assistance to continue despite documentation of recruitment and use of child soldiers by the FARDC. The U.S. Government also granted waivers to Chad, Sudan and Yemen.²²⁰

INDICATORS

CHANGE: Did behavior change to stop, increase or decrease violations against children?

(Remain neutral, Increase, Decrease, Stop)

REMAIN NEUTRAL. Recruitment of children by armed groups is ongoing in North and South Kivu, particularly in schools and villages in Masisi and Walikale Territories. Human Rights Watch reported an increase in forced recruitment, including more than 260 children, in the Kivus between September and December 2010.²²¹

RESPONSIBILITY: Was responsibility assigned?

(Yes, Partially, No)

PARTIALLY. There is no comprehensive initiative to assign responsibility at the national or international level. Criminal prosecutions at the national level and by the ICC and the UN's "naming and shaming" list have achieved some progress.

CONSEQUENCES: Were legitimate consequences effectively imposed for perpetrators?

(Yes, Partially, No)

PARTIALLY. In a few cases, military courts have found perpetrators of sexual violence guilty of war crimes and crimes against humanity; these cases included acts of violence against children. However, perpetrators have not generally been tried for other violations. The EU and UN Security Council have imposed sanctions on some individuals and groups for violations against children.

REMOVAL: Were perpetrators removed from power?

(Yes, Partially, No)

PARTIALLY. Many perpetrators continue to commit grave violations. In some instances, indicted criminals continue to serve in leadership positions of armed forces or groups. In a limited number of instances, such as those individuals on trial before the ICC, some perpetrators have been removed from power.

SATISFACTION: Were affected individuals, communities and/or relevant international actors satisfied with the outcomes? (Yes, Partially, No)

INSUFFICIENT DATA. No comprehensive data is available to assess the satisfaction level of child victims of armed conflict in DRC. However, the limited concrete outcomes for children and continued violations against children make it likely that satisfaction levels are low.

RECORD: Was a factual historical record established? (Yes, Partially, No)

PARTIALLY. OHCHR's mapping exercise contributed by documenting hundreds of violations.²²² Beyond this, no nationwide initiatives are underway to establish an historical record. The 2003 truth commission was broadly deemed a failure.

REPAIR: Were efforts undertaken to repair traumatized societies/individuals? (Yes, Partially, No)

PARTIALLY. Child protection actors have established psychosocial support services as well as reintegration support for children formerly associated with armed groups and forces. These programs have faced funding shortages and are unable to support all eligible children.

REFORM: Were efforts undertaken to carry out relevant institutional reforms? (Yes, Partially, No)

INSUFFICIENT DATA. Many government and political institutions have been created and reformed during the transitional period since the early 2000s. However, limited information is available on which reforms may have impacted accountability efforts for violations against children.

PROCESS END: Did the process reach the end of its logical path? (Yes, Partially, No)

PARTIALLY. Mechanisms across the three strands have initiated efforts to seek accountability for violations against children in DRC. Some of these processes are ongoing in nature. The others have not yet reached conclusion.

OUTCOMES: Were practical outcomes for children achieved? (Many, Some, None)

SOME. In a few instances individual children have received positive outcomes in seeking accountability for violations committed against them. However, long-term initiatives to establish robust and sustainable solutions for child survivors and their communities are rare.

SUMMARY OBSERVATIONS

▪ Some progress and innovative steps

Mechanisms in all three strands have initiated important activities aimed at seeking accountability for violations against children in DRC and continue to demonstrate commitment to these efforts. At the national level, some innovative programs are underway such as the use of the Rome Statute by several judges to try crimes of sexual violence in military courts and the use of mobile courts. The UN Security Council took the rare step of imposing sanctions on perpetrators of violations against children in DRC, and the MRM has been actively working for several years to improve accountability and protection for children. The ICC initiated its first case for alleged crimes against children in DRC and continues to prosecute individuals for crimes against children.

▪ Systemic problems and resource shortages challenge accountability

Serious financial and human resources, judicial reform and political support are needed to bring perpetrators of crimes against children to justice in DRC. This process is likely going to take many years.²²³ Corruption hampers accountability for children as political leaders allegedly exert considerable influence over judicial actors or others charged with seeking accountability. This limits the independence of the judicial system.²²⁴ Military courts have innovatively tried some important cases of war crimes against children. Yet, the trials are slow and ineffective in many instances. Moreover, trials for crimes against children would be more appropriately tried in the civilian judicial system. While recent donor support has helped, it is not sustainable in the long-term. Many hopes are pinned on the prosecutions underway by the ICC but trials have been hampered by procedural delays and other challenges.

▪ **Coordination on accountability for children is weak**

Coordination among key actors on the issues of children and armed conflict and accountability is weak. Many coordination bodies exist in DRC under the structure of the UN Cluster System. However, this structure does not centralize or prioritize responsibility for matters related to accountability for violations against children in the context of armed conflict. As a result, efforts are scattered among several different actors and agencies leading to gaps in achieving comprehensive or effective accountability for violations committed against children.

B. COLOMBIA

INTRODUCTION

For over five decades, Colombian armed forces and non-state armed groups have been accused of countless grave violations against children. These include killing, maiming, abduction, sexual violence, recruitment and use of children, denial of humanitarian access and attacks on schools. Colombia's armed conflict is rooted in structural problems such as the inequitable distribution of wealth, social exclusion and discrimination.²²⁵ Paramilitarism and drug trafficking have also fueled the conflict. Due in large part to the ongoing violence, Colombia has the second largest displaced population in the world.

The following case study illustrates the situation of accountability for violations against children in the context of armed conflict in Colombia. CDI conducted an extensive literature review and carried out a field visit to Colombia in March 2011. During the visit, CDI consulted with government officials, UN agencies, NGO representatives and young people affected by armed conflict. This case study focuses on accountability mechanisms most relevant to children and armed conflict in the Colombian context. Policy options related to Colombia appear in a text box in the policy options section of this report.

Key observations drawn from this section include:

- The government has established many national level structures and activities for children in armed conflict
- Implementation of protection and accountability measures are weak and outcomes are limited
- International action on accountability for children in armed conflict has reaped limited results.

STRAND ONE: NATIONAL LEVEL

Criminal prosecutions

Few trials related to the armed conflict reach the sentencing stage in Colombian courts. The UN Special Rapporteur on Extrajudicial Killings has confirmed the commonly cited rate of 98 percent impunity in the country.²²⁶ With regard to crimes against children in armed conflict, the judicial system has focused primarily on illegal recruitment and use of children.²²⁷ Interviewees explained that many cases stall during the investigation phase, in part due to threats and killings of victims, witnesses, prosecutors and judges. Insecurity, violence and lack of awareness prevent some child victims from initially pressing charges.²²⁸ According to Colombia's State Party Report to the CRC on the OPAC, most investigations for recruitment and use of children failed to proceed beyond preliminary stages. As of May 2008, there were only a total of two convictions for this crime.²²⁹

Truth-seeking and reconciliation

The Colombian Government's National Commission for Reparation and Reconciliation (CNRR), created by the Justice and Peace Law (2005),²³⁰ is tasked with addressing historical memory, truth-telling and reparations. To date, progress in truth-telling has been achieved primarily through the judicial proceedings of the Justice and Peace process.²³¹ Individuals participating in the Justice and Peace process must give a deposition (*versión libre*) in which they are to recount their crimes in exchange for judicial benefits. As of November 2010, participants had confessed to 1,239

crimes of child recruitment.²³² However, as of February 2011 there were only two sentences delivered in the Justice and Peace process.²³³

In one instance, the sentenced perpetrator, El Iguano, has not been charged specifically for recruitment of children, although he is implicated in this crime. Because his deposition is not yet considered complete, the possibility still remains that he may be charged for this crime in the future. Some interviewees explained that the low number of convictions is due to a multitude of issues including problems in the selection of candidates for the process, failure to establish an effective prosecutorial strategy, poor investigations, insecurity, lack of clarity in the legal framework and cases sent back on appeal. On the other hand, some critics call the program a type of state-condoned impunity scheme for paramilitarism. Finally, while the law is designed to include witness and victim participation, in practice high levels of threats and intimidation have been a deterrent. At the end of 2010, 3,916 children were registered as victims of crimes.²³⁴

Reparations

To date, the primary reparations program in Colombia for victims of government-designated illegal armed groups has granted “administrative reparations” under Decree 1290 of 2008.²³⁵ This program is essentially an extension of the State’s humanitarian assistance program that has been distributing payments since 1997. The “reparations” consist of a one-time compensation payment or indemnity and do not include recognition by the State of its alleged responsibility for human rights violations or failure to protect the rights of its citizens. This is inconsistent with international standards for reparations.²³⁶ The program identifies children who have been recruited by armed groups and victims of landmines as priority groups of beneficiaries.²³⁷ The State has provided a variety of other benefits to some children demobilized from illegal armed groups, such as room and board, health services, educational opportunities, technical training and psychosocial support. However, many eligible children have not received

reparations or adequate assistance. Further, some interviewees explain that this assistance actually represents the State’s humanitarian responsibility to its citizens and does not qualify as reparations consistent with international standards.

At the time of writing, Colombia’s Congress had recently passed a new victims law to establish a variety of new programs, including a reparations program. The details of this new program are uncertain. It remains unclear if these reparations will better reflect international standards or will include a special program for child victims of the armed conflict.

Implementation of the Optional Protocol (OPAC)

The Government of Colombia has ratified the Optional Protocol to the CRC on the Involvement of Children in Armed Conflict and has adopted national legislation prohibiting use and recruitment of children.²³⁹ The government has a strict policy prohibiting recruitment or use of children under age 18 by illegal armed groups and State armed forces. The definition of the crime includes direct and indirect participation of children, including for intelligence purposes. Yet, the UN and others continue to document the use of children as informants by military personnel and forced recruitment and use by illegal armed groups.²⁴⁰

National level child protection laws or frameworks

There is no comprehensive legal framework establishing protections for children in situations of armed conflict in Colombia. However, a number of legislative provisions address certain issues pertaining to children and armed conflict. In some instances legal provisions do not meet international standards, such as provisions for the judicial treatment of demobilized children.^{241,242} The National Council for Economic and Social Policy (Consejo Nacional de Política Económica y Social, CONPES) compiled a 180-page document in 2010 that outlines public policy priorities for children to advise budgetary spending.²⁴³ However, attention to children in the context of armed conflict is scattered throughout the document creating loopholes and inconsistencies.

Institutional reform

Colombia has 12 government institutions with a role in protecting child rights, including for children in armed conflict. In 2007, the Government established the Inter-Sector Commission for the Prevention of Recruitment and the Use of Children and Youth by Armed Groups as a coordinating body. In 2010, the CONPES published the document described previously that aims to coordinate government strategies on prevention of recruitment of children.²⁴⁴ While these advances demonstrate the government's commitment, some interviewees explained that the proliferation of institutions, agencies and commissions relating to children creates confusion and better coordination is still needed.

Other relevant mechanisms

Several interviewees identified prevention programming as a realistic and potentially effective approach to accountability for violations against children in the current context in Colombia. Examples of such programs include an early warning system²⁴⁵ and community-based human rights ombudsmen. However, interviewees also explained that implementation of prevention programs is often weak and identified the need for improved security, resources and coordination to strengthen programs at the community level.

STRAND TWO: UN SECURITY COUNCIL

Secretary-General's "naming and shaming" list

The Secretary-General has named non-state armed groups in Colombia for recruitment and use of children in all annual reports on children and armed conflict to the UN Security Council since 2003. In response, the Council has taken few actions to hold these perpetrators accountable. The parties named include:²⁴⁶

- Autodefensas Unidas de Colombia (AUC)²⁴⁷ (2003, 2005, 2006)
- Ejército de Liberación Nacional (ELN) (2003-2011)

- Fuerzas Armadas Revolucionarias de Colombia-Ejército del Pueblo (FARC-EP) (2003-2011).

CAC Monitoring and Reporting Mechanism

In 2008, the government accepted the establishment of the MRM in Colombia. The MRM has submitted one report covering the 2008 calendar year to the UN Security Council Working Group via the Secretary-General. It stressed the priority of combating impunity for violations against children²⁴⁸ and also called for strengthening the existing reparations mechanism and improving security of witnesses.²⁴⁹ As of mid-2011, the second MRM report faced delays, in part due to staff turnover and other structural issues within the country task force.

Action plans

The Colombian Government prohibits the UN from engagement with illegal armed groups to develop time-bound action plans to end their recruitment and use of children despite its obligation to do so. This prohibition is based on the Government's designation of the FARC-EP and ELN as terrorist organizations. This is inconsistent with the UN Security Council's repeated request for the UN to engage parties to develop action plans and negatively affects the ability to achieve accountability for violations against children.²⁵⁰ The UN Security Council has also specifically encouraged member states to devise ways to facilitate the development and implementation of time-bound action plans.²⁵¹

UN Security Council Working Group on Children and Armed Conflict Tool Kit

Following its considerations of the first MRM report on Colombia, the Chair of the Working Group issued a public statement to armed groups named by the Secretary-General, as well as letters to the Government of Colombia, the Secretary-General and donors. Among other things, these communications emphasized the importance of action plans and the need to strengthen prevention programming, efforts to combat impunity, reparations and reconciliation programs and protection of witnesses.²⁵² It is difficult

to assess the impact, if any, of these actions. In 2011, the Government of Colombia joined the UN Security Council and the Working Group on Children and Armed Conflict for a period of two years. Consultations for this report showed mixed expectations about this development.

STRAND THREE: INTERNATIONAL LEVEL

Action by the International Criminal Court

Colombia ratified the Rome Statute in 2002.²⁵³ In 2005, the ICC Office of the Prosecutor requested information on the State's response to alleged crimes in the context of armed conflict in Colombia. The Prosecutor undertook his first official visit to Colombia in 2007. Although it remains unclear whether the ICC will take further action in Colombia, the Court's interest has commanded attention among alleged perpetrators.²⁵⁴ One theory suggests that paramilitary commanders sent thousands of children out of their ranks on the days prior to the start of the demobilization under the Justice and Peace process in an attempt to conceal evidence of their recruitment and use of children and avoid ICC scrutiny. As a result, it is likely that thousands of children were excluded from the demobilization process.²⁵⁵

Regional organizations

The Organization of American States, Inter-American Court of Human Rights and the Inter-American Commission on Human Rights (the Inter-American System) have been active on Colombia, including some efforts related to children in armed conflict.

- The Organization of American States established a Mission to Support the Peace Process in Colombia (MAPP/OEA), which includes provision of special attention to and support for vulnerable groups, including children
- The Inter-American Court of Human Rights has tried cases that contribute to truth regarding the atrocities of paramilitarism and the role played by the State.²⁵⁶ Collective cases of human rights violations appearing before the court have included child victims. In several instances, the Court has

addressed cases involving crimes against children in the context of socio-political violence and armed conflict, such as killing and forced disappearances

- The Inter-American Commission of Human Rights (IACHR) has published some reports and statements about violations against children in Colombia.²⁵⁷

Alternative jurisdictions

In 2008, Colombia extradited to the United States 14 of Colombia's most notorious paramilitary leaders in connection with drug trafficking charges. However, these paramilitary leaders were implicated in Colombia for wide-scale atrocities in the context of armed conflict, including crimes against children. The extradition effectively removed them from the Justice and Peace process, hampering chances of accountability for crimes committed in Colombia. In 2010, a U.S. judge sealed the cases of several of the extradited paramilitaries, blocking any chance of accountability in Colombia. Some critics point to the extraditions as a sign that the government is not serious about seeking accountability for paramilitary crimes.²⁵⁸

UN human rights system

In its 2010 concluding observations on the OPAC, the Committee on the Rights of the Child welcomed some positive steps and noted several concerns with respect to accountability for violations against children affected by armed conflict. These included insufficient measures to investigate and sanction those responsible for extra-judicial killings of civilians, including children by armed forces.²⁵⁹ The Office of the UN High Commissioner for Human Rights in Colombia maintains an innovative database project, recording recommendations made by international organizations to improve protection and seek accountability for human rights violations in Colombia. OHCHR then supports efforts towards implementation.²⁶⁰ In addition, many UN special rapporteurs and other UN mechanisms have made statements drawing attention to violations against children in armed conflict in Colombia.

INDICATORS

CHANGE: Did behavior change to stop, increase or decrease violations against children?

(Remain neutral, Increase, Decrease, Stop)

REMAIN NEUTRAL. Widespread and systematic recruitment and use of children by armed groups is ongoing. In 2010, the country task force on monitoring and reporting received information on child recruitment from 19 of the 32 departments in Colombia. There are also continued reports of killings and sexual violence against children.²⁶¹

PROCESS END: Did the process reach the end of its logical path? (Yes, Partially, No)

PARTIALLY. Mechanisms across the three strands have initiated efforts to seek accountability for violations against children in Colombia. Some of these processes are ongoing in nature. The others have not yet reached conclusion.

CONSEQUENCES: Were legitimate consequences effectively imposed for perpetrators?

(Yes, Partially, No)

PARTIALLY. Civilian courts had only sentenced perpetrators that recruit or use children in two cases as of May 2008. The Inter-American Court of Human Rights has issued several judgments on massacres that included children. The vast majority of perpetrators have not faced consequences by national, regional or international entities.

RESPONSIBILITY: Was responsibility assigned?

(Yes, Partially, No)

PARTIALLY. There is no comprehensive initiative to assign responsibility at the national or international level. Some progress has been achieved through the Justice and Peace process and the work of the Inter-American System. The Secretary-General's list has also contributed to identification of perpetrators.

REMOVAL: Were perpetrators removed from power?

(Yes, Partially, No)

PARTIALLY. Some paramilitary perpetrators were removed from power through the Justice and Peace process. The vast majority of perpetrators in armed groups or within the armed forces remain in positions of power.

SATISFACTION: Were affected individuals, communities and/or relevant international actors satisfied with the outcomes? (Yes, Partially, No)

NO/INSUFFICIENT DATA. No comprehensive data is available to assess the satisfaction level of child victims of armed conflict. However, a focus group held with young people affected by armed conflict showed that children's perspective tends to be of impunity and failure of justice. They generally experience the government programs as weak and insufficient.

RECORD: Was a factual historical record established? (Yes, Partially, No)

PARTIALLY. The depositions through the Justice and Peace process have contributed to establishing a historical record regarding paramilitary crimes. However, the irregularities of this process have called into question the accuracy of the truth that is being told. Also, the extradition to the US of a number of the top paramilitary leaders poses an obstacle to setting the historical record with regard to paramilitary crimes. Moreover, this process generally does not address the record associated with alleged crimes of illegal armed groups. It does not address alleged crimes of State forces.

REPAIR: Were efforts undertaken to repair traumatized societies/individuals? (Yes, Partially, No)

PARTIALLY. State agencies exist to address issues of repair. Some government agencies and NGOs are developing and/or carrying out small-scale reconciliation projects. Some reparations and other benefits have been distributed to children.

REFORM: Were efforts undertaken to carry out relevant institutional reforms? (Yes, Partially, No)

PARTIALLY. Many government agencies have been established or reformed to address issues related to the protection of children in the context of armed conflict. There are many areas where additional reform is still required.

OUTCOMES: Were practical outcomes for children achieved? (Many, Some, None)

SOME. State structures exist for providing support to demobilized children. Some children have received reparations and other benefits. Some children have successfully participated in the Justice and Peace process in various roles, including victims, witnesses and demobilized paramilitaries. Yet, overall most children affected by armed conflict have not experienced significant outcomes or accountability for violations committed against them.

SUMMARY OBSERVATIONS

▪ Many national level structures and activities

Colombia has established a broad range of structures and activities to address human rights, including issues related to children and armed conflict. The State has a strong track record in the ratification of international human rights instruments. The Colombian Constitutional Court extensively references international human rights standards in its decisions. The State has extended an open invitation to all thematic special procedures of the UN Human Rights Council many of which have raised issues relating to violations against children in the context of armed conflict.²⁶² Unlike many other states embroiled in armed conflict, Colombia has initiated activity in each of the key national level activity areas considered in this report. In

some instances, these initiatives have led to results for children, including modest progress on assigning responsibility, setting an historical record and developing prevention programs.

▪ Implementation is weak and outcomes are limited

Despite some progress, accountability has not been achieved for the vast majority of children affected by the armed conflict in Colombia. The appearance of progress due to the proliferation of human rights policies and structures in Bogotá does not reflect the reality for children in conflict-affected communities outside the capital. Interviewees explained that coherent implementation of programs and policy is weak, especially at the community level. Contributing factors include poverty, lack of institutional presence and capacity, lack of priority commitment and political will, lack of resources, insecurity, intimidation, threats and violence by those seeking to disrupt efforts at accountability.

▪ International action has reaped limited results

The UN Security Council and other international and regional accountability mechanisms have initiated activities at varying levels of intensity in relation to children and armed conflict in Colombia. Yet, few of these initiatives have led to concrete results for children or consequences for perpetrators of violations against them. Possible reasons identified during consultations for this report include Colombia's strong presence and lobby in multi-lateral venues and a general lack of focus and priority on children and armed conflict by international mechanisms. Some interviewees suggested that there may be a shift in attitude and policy which could spark an increase in activity and focus by international actors due to the change of Colombian government in August 2010.

VII.

Policy Options

INTRODUCTION

The policy options presented here provide a range of ideas for consideration by those individuals or organizations actively engaged in seeking accountability for violations against children in situations of armed conflict. The options relate to actions that decision-makers could take to address some of the obstacles and gaps identified in this report.

Many of the obstacles to realizing effective accountability for violations against children in situations of armed conflict are common across the three strands. They include low priority attention, insufficient resources, low technical capacity, lack of political will, insufficient information, limited role for children and communities and a lack of access.²⁶³

The options presented below build on precedents set by work in related areas of international law, human rights and humanitarian policy. Also, they are intended to complement implementation of existing or already

agreed upon arrangements for accountability. For example, in relation to the issue of sanctions, they would complement the UN Secretary-General's recommended steps for strengthening the work of existing sanctions committees in relation to children and armed conflict issues. These include "designating child protection criteria in the renewal or establishment of mandates of relevant sanctions committees; requesting specific child protection expertise in its expert groups; and including systematic information on violations against children in its reports, recommendations and referral of recommendations of its Working Group on children and armed conflict to relevant sanctions committees; and, when appropriate, seeking the expert advice of my Special Representative."²⁶⁴

Further, these policy options represent a portion of those developed in the course of evaluating research conducted for this report. They are intended to catalyze thinking and action in the opportunity areas identified. These policy options target actors at the

national and international levels, including national governments, the UN Security Council and other UN agencies and bodies, international, national and local NGOs, regional organizations, non-state armed groups, children and communities affected by armed conflict, academics and others.

The options are presented within key opportunity areas where improvement is most urgently needed and the potential for impact is the greatest. As more actors take up these options individually, or in collaboration with one another, the result will be more effective and more comprehensive accountability for violations committed against children in situations of armed conflict.

OPPORTUNITY AREA 1: STRENGTHEN INCENTIVES AND MITIGATE EFFECTS OF POLITICAL CONSTRAINTS

Create a UN Security Council thematic sanctions committee

The UN Security Council could work to establish a thematic sanctions committee on children and armed conflict that would have the authority to designate individuals and entities as subject to targeted sanctions in contexts where a sanctions committee is not already in existence. The children and armed conflict sanctions committee could work with a standing, thematic monitoring group or panel of experts that would be responsible for monitoring entities, individuals, corporations or others responsible for or complicit in committing violations against children in situations of armed conflict. This arrangement could draw on the monitoring and reporting emanating from the MRM. This committee could also have capacity to designate transnational entities that operate regionally or globally as being subject to sanctions.²⁶⁵

Enhance the MRM to include monitoring of progress on accountability

Each MRM country task force could add monitoring of the progress on accountability for violations against children in armed conflict to its activities. The find-

ings could be included as specific sections on accountability in the regular MRM reports, including the Secretary-General's country specific reports, as well as the Secretary-General's annual thematic reports on children and armed conflict.²⁶⁶

Automate accountability processes for children and armed conflict

Automating sequential and incremental steps within accountability processes based on benchmarks would ensure that accountability mechanisms are able to complete their logical path while minimizing vulnerability to political blockages. For example, in regard to persistent perpetrators named by the Secretary-General for violations against children in situations of armed conflict, the UN Security Council could set benchmarks as follows:

Benchmark 1: Armed forces or groups named by the Secretary-General must take immediate, tangible and verifiable actions to halt violations within one year

► Automated Response Action 1: If armed forces or groups do not meet the benchmark within one year, the Secretary-General names specific individuals who are implicated

Benchmark 2: Named individuals, armed forces or groups must take action to halt violations within one year of being listed

► Automated Response Action 2: If individuals, armed forces or groups do not meet benchmarks after one year of being listed, then the UN Security Council would automatically impose targeted sanctions.

Develop a children and armed conflict accountability index

A children and armed conflict accountability index could capture an assessment of the effectiveness of various mechanisms that work towards accountability for violations against children in situations of armed conflict and could be published on a regular basis (e.g. annually). The index could be designed to assess international and national mechanisms using a set of

rigorous indicators that could be applied to particular conflict situation(s), armed force(s) or group(s), corporation(s)²⁶⁷ or individual(s). The UN, an NGO or a multi-lateral group could manage the index.²⁶⁸

OPPORTUNITY AREA 2: NATIONAL ACCOUNTABILITY PLANS AND COORDINATION

Develop accountability plans for children and armed conflict

Context-specific accountability plans would set out a series of actions to be taken by particular armed forces or groups that have been known to commit violations against children to ensure accountability within their membership for such violations. Development of accountability plans by armed forces or groups could be linked to their development of action plans for ending violations against children or could be developed as an independent process. Accountability plans could be negotiated with a designated UN representative, similar to the process for developing action plans. Unlike action plans, accountability plans could include an element of direct consultation with affected communities and would be published upon completion for public record. The accountability plans could include a range of elements, such as description of activities, time-bound benchmarks, consequences, role of victims and their communities in accountability processes and monitoring and verification.

Create national level accountability coordination groups for children and armed conflict

Establishing a coordination group or identifying a forum within an existing coordination structure would streamline roles and responsibilities and increase collaboration and clarity among all relevant actors working on accountability in a particular context. This would include efforts of national and international mechanisms. The coordination group could meet regularly at the national level and incorporate both national and international actors. It could sit at either the national or international level.

OPPORTUNITY AREA 3: FOCUS ON SATISFACTION OF CHILDREN AND THEIR COMMUNITIES

Ask children what they think about accountability

This would entail developing and carrying out a survey in all situations of armed conflict to assess the perceptions of children affected by armed conflict and their communities on how accountability has or has not been achieved in regard to violations committed against them. This could also include their aspirations for future accountability. The UN, NGOs, an academic institution or a multi-lateral team could conduct this survey.²⁶⁹

Hold an open hearing on accountability for children in situations of armed conflict

The UN General Assembly or UN Security Council could hold an open hearing on accountability for children in situations of armed conflict that would provide a venue for children affected by armed conflict and representatives of their communities to engage in dialogue with representatives of their governments, UN officials and others. This would provide a forum when one may not exist within the particular context. As a starting point, the hearing could include all contexts where the MRM is currently operational. Regional organizations, NGOs or other relevant bodies could also consider hosting open hearings on this topic.

OPPORTUNITY AREA 4: PROVIDE TECHNICAL ASSISTANCE AND OTHER SUPPORT

Create a children and armed conflict accountability technical support group

A children and armed conflict accountability technical support group would provide a repository of expertise that would strengthen capacity and provide guidance to various national and international mechanisms on elements needed to achieve effective accountability for violations against children in situations of armed conflict. This group could also be responsible for the

creation of new technical guidance and tools (see following option). The technical support group could comprise international and national experts who would offer support to the design and implementation of accountability activities and mechanisms. This could be an independent organization or sponsored and housed by the UN or NGOs. This would most likely sit at the international level and could include establishing a national chapter in a particular context.

Develop technical support tools and provide ongoing guidance

International and national accountability mechanisms require tools and guidance to strengthen efforts related to children in armed conflict. Individual agencies or units with precise expertise or the proposed technical support group could provide these. The following is an initial list of tools and guidance that would be helpful:

- Assistance for developing, maintaining and utilizing a national database that collates all relevant recommendations on accountability for violations against children in armed conflict from various entities in a particular context
- Guidance on design of accountability mechanisms that address children and armed conflict issues, such as truth and reconciliation commissions, reparations programs and institutional reform where it does not already exist²⁷⁰
- Legal guidance for national courts on using international instruments such as the Rome Statute when provisions in domestic legislation are weak or absent
- Legal support to third party states on use of universal jurisdiction, extraterritorial jurisdiction and use of other alternative jurisdictions for seeking accountability for crimes against children in armed conflict
- Guidance for strengthening the role and activities of specific regional organizations vis-à-vis accountability for violations against children in situations of armed conflict
- Support for developing a customized national plan of action on accountability for violations against children in a particular context that would set out

activities to be taken by international and national mechanisms. This could relate to the coordination group described previously

- Guidance for addressing violations against children in peace agreements as they may relate to amnesty provisions or other judicial concessions
- Create a reference guide of relevant treaty-based and customary international law for protection of children and armed conflict
- Create and implement international standards on child victim and witness protection for mechanisms seeking accountability and justice for violations against children in situations of armed conflict
- Provide trained personnel, such as judges or prosecutors with experience in trying such cases to work with national judicial systems that would benefit from support.

Link together communities of practitioners working on children and armed conflict accountability issues

Bring together individuals and entities working on children and armed conflict accountability issues to share knowledge, build capacities and harness lessons learned and innovative ideas across different national or regional contexts. These practitioner communities would include all those individuals and organizations working on achieving accountability for violations against children in situations of armed conflict including NGOs, government ministries, national courts, the UN, academics and others at the national, regional and international levels. Communication among members could be facilitated electronically as well as through regional or international meetings to share experiences and foster cooperation and collaboration when appropriate.

OPPORTUNITY AREA 5: INCREASE INTERNATIONAL AND NATIONAL PRIORITY ATTENTION

Establish a children and armed conflict fact-finding commission²⁷¹

An international fact-finding commission for alleged violations against children in situations of armed

conflict would have standing capacity to investigate alleged violations on an ad hoc and emergency basis. This group would have long-term institutional memory and capacity and would be activated in instances where other mechanisms are not working but fact-finding is needed. It could share findings with a range of actors such as criminal courts, the UN Security Council, sanctions committees, regional organizations and others. Independent experts could serve as “on-call” commissioners to carry out missions.

Create a children and armed conflict accountability donor group and fund

Donors could create a donor group to set priorities and identify opportunities for immediate and sustained funding initiatives that seek to achieve accountability for violations against children in situations of armed conflict.²⁷² Based on guidance from the donor group, members would independently support various initiatives. Another option is to create a children and armed conflict accountability fund that would pool resources to fund major initiatives. This should augment but not replace funding of smaller scale projects. UN, NGO and government programs could be eligible for support from individual donors and/or a pooled fund. This donor group could also explore better leveraging of pre-existing funds for related purposes such as the UN Peacebuilding Fund or others.

Highlight progress towards achievement of accountability

In the annual UN reports on children and armed conflict, the Secretary-General could include a special section highlighting steps taken by armed forces and groups towards the achievement of accountability. This would focus attention on efforts by parties to armed conflict to hold their members accountable for violations committed against children and would increase the transparency of the delisting process.

POLICY OPTIONS: DEMOCRATIC REPUBLIC OF THE CONGO

Identify a forum for coordination of accountability efforts for violations against children

With a view to increasing coordination on efforts to achieve accountability for violations against children in the context of armed conflict, identifying a national forum for coordinating accountability efforts would streamline roles and responsibilities and increase collaboration and clarity among all relevant actors. Given the number of working groups already functioning in DRC, it may be possible to identify an appropriate forum to work specifically on accountability for violations against children in armed conflict as part of a pre-existing group that already works on related issues. Alternatively, a broader coordination effort on accountability may identify a subgroup to focus on children and armed conflict. Increased coordination would bring together efforts by actors working on accountability for sexual violence with those working on other grave violations against children. Increased coordination would include national government agencies, MONUSCO child protection section, UNICEF, international and local NGOs and others.

Strengthen judicial action

- Support the initiative to establish a mixed chamber in the DRC justice system, incorporating critical recommendations from legal experts and civil society groups
- Accelerate adoption of remaining decrees of the national child protection law
- Improve protection for witnesses and victims of crimes, including children, and provide appropriate technical support and other resources to judiciary and security actors to fulfill this responsibility.

Focus on satisfaction of children and non-punitive accountability efforts

- Organize community-level public hearings and reconciliation workshops for children affected

by armed conflict. This will allow child victims to engage in dialogue with and educate public officials and members of the community about violations committed against them

- Establish a national reparations program for children consistent with international standards in which the State would acknowledge violations committed against children and compensate them appropriately for losses suffered. This would also include appropriate, long-term rehabilitation efforts
- Establish a new truth-telling process with specific provisions for addressing violations against children, and including children's participation as victims and witnesses in accordance with international standards.

Increase resources

Increased and sustainable resources, both human and financial, are needed to strengthen judicial and non-judicial accountability efforts. This could include capacity strengthening for judicial actors, including civilian and military prosecutors, expansion of the innovative mobile courts initiative and the development of a mixed chamber. This could also support non-judicial efforts such as appropriate reparation, truth-telling and reconciliation programs for children.

Strengthen use of alternative jurisdictions

Third party countries that house private sector enterprises with significant operations and assets in DRC could adopt relevant legislation allowing investigation and prosecution for alleged support or complicity in crimes against children in the context of armed conflict.²⁷³

Complete action plans

The UN Security Council Working Group on Children and Armed Conflict could set a timeline for the Government of DRC to constructively respond to the UN's proposed action plan regarding FARDC's policies on recruitment and use of children and other violations and accountability. The Working Group could have a recommendation for sanctions as an automated response to missed benchmarks.

POLICY OPTIONS: COLOMBIA

Strengthen capacity and presence at local level

Agencies that work on accountability for violations against children in the context of armed conflict at the local level could deepen institutional capacity and presence. This would require increased security, resources and political support from the national authorities, international organizations, donors and others. Professional groups working at the local level such as prosecutors, lawyers, judges, law enforcement officers, social workers, teachers and local officials in some instances could benefit from technical assistance.

Strengthen judicial action

- Cases of crimes against children in armed conflict could be properly reviewed and transferred as relevant from military to civilian courts.²⁷⁴
- The civilian judicial system and the agencies responsible for the Justice and Peace process could develop and carefully observe guidelines for protection of victims, witnesses and officials participating in investigations and trials.

Develop a national accountability plan

Relevant national agencies and international organizations operating in Colombia could jointly develop a national accountability plan for violations against children in armed conflict. This plan would specify roles and responsibilities of different agencies and therefore would increase priority action on accountability for violations against children in the context of armed conflict. This would also include better coordination of data management across agencies in relation to children in armed conflict. In addition to addressing recruitment and use of children, this plan could focus on other grave violations committed against Colombian children in the context of armed conflict, including sexual violence and forced displacement.

Clarify and strengthen legislation

The national government could develop a comprehensive legal framework for protection of children in armed conflict and accountability for violations against them. This could take place as an independent initiative or as a first step towards development of a national accountability plan. The government could also adopt a policy for the protection of human rights defenders to guarantee their ability to work towards protection of children in armed conflict and accountability for violations against them.

Strengthen international action

- UN human rights mechanisms could coordinate their approach and actions on Colombia, increasing coherent messaging and support for national implementation
- Relevant UN agencies, NGOs, or a new children and armed conflict technical support group could provide needed technical support to national mechanisms
- Relevant UN agencies, NGOs, regional organizations, independent experts or others could conduct needed fact-finding missions on alleged crimes against children in the context of armed conflict
- The ICC and the Inter-American Court could continue and deepen efforts to investigate and bring to trial those who commit crimes against children in armed conflict in Colombia
- The MRM Task Force could address structural challenges and work with relevant UN headquarters offices to ensure timely presentation of reports on children and armed conflict in Colombia. This could include a representative from the country task force directly supporting the drafting and editing process at headquarters
- The Security Council Working Group could increase the use of its tool kit, such as setting a clear benchmark for the Government of Colombia to take steps to facilitate dialogue with parties to armed conflict for development of action plans; inviting external experts to present to the Working Group on the issue of accountability and provide concrete proposals for action; and exploring possible avenues for imposing sanctions on persistent perpetrators in Colombia and making a proposal to the UN Security Council within a set time frame.

VIII.

Conclusions

A STARK ACCOUNTABILITY GAP

On balance, efforts to achieve accountability for violations against children in situations of armed conflict have fallen far short of the goal. The research conducted for this report reveals the fundamental lack of a rigorous approach to accountability, at different levels. This has led to a very poor record of concrete results for children. Evidence from the research demonstrates some genuine commitment and notable achievements such as signing of action plans to change recruitment policies of armed forces and groups, prosecuting some alleged perpetrators of crimes against children and establishing national laws and frameworks to protect children affected by armed conflict. Yet, the vast majority of victims and their communities do not experience effective accountability, such as seeing responsibility assigned and consequences imposed on perpetrators or benefiting from reconciliation, reparation and prevention initiatives.

A clear, comprehensive structure for addressing accountability for violations against children in situations of armed conflict does not exist. Policy-makers and practitioners working on this issue have not developed a common definition of accountability nor tools to evaluate the effectiveness of related mechanisms and processes. Children and their communities are not regularly engaged to share their perceptions and perspectives on design of accountability mechanisms. In those instances when specific systems or programs do exist, they tend to be removed from the victims and their communities and are insufficient in providing meaningful redress. Finally, well-designed interaction and coordination across national and international strands and between mechanisms is generally weak or non-existent.

A number of factors contribute to this poor record of existing approaches. These include a lack of resources, capacity and technical support, particularly for national level mechanisms. Other reasons are more

complex, such as lack of political will and underlying tensions with related initiatives, like amnesties or efforts to negotiate peace agreements. These challenges cut across the national and international levels, including the UN Security Council.

NEXT STEPS FOR REALIZING EFFECTIVE ACCOUNTABILITY

Each strand and mechanism considered in this report has a unique comparative advantage and should continue to function in pursuit of more effective accountability for violations against children in situations of armed conflict. In most cases, working toward complementary actions such as increased communication, collaborative design and coordination of efforts is likely to be beneficial. Notwithstanding the value added of each strand, there is a strong need to focus on the development of national level accountability mechanisms. National mechanisms, though facing their own challenges, are closer to the affected children and their communities and are more likely to better reflect their needs for accountability and be sustainable in the long-term.

To overcome these and other hurdles, international and national actors will need to increase priority attention to accountability for grave violations against children in situations of armed conflict. This report offers a starting point by illustrating the nature of the accountability gap, presenting a working definition of accountability in the context of children and armed conflict, demonstrating how indicators may be used to evaluate the effectiveness of existing mechanisms and presenting policy options for ways forward. Further action is needed in a number of key areas:

- Strengthening incentives for armed forces and groups to stop committing grave violations against children in situations of armed conflict and mitigating political constraints that allow them to operate with impunity
- Increasing coordination and planning for efforts to achieve accountability among the various national and international mechanisms that operate within each conflict situation

- Developing approaches to engage children and their communities in the pursuit of accountability and assess satisfaction levels
- Providing high quality technical assistance and other forms of support to overcome existing obstacles
- Increasing international and national priority attention for fact-finding, financing and monitoring progress towards achievement of accountability.

Realistic and feasible options exist in each of these areas. Many of these build on the underlying potential of mechanisms that already exist and on precedents set by work in related areas of international law, human rights and humanitarian policy. Currently, the accountability agenda for violations against children in armed conflict is in a surprisingly early stage of development. It is therefore critical to consolidate efforts and to take bold strides within each of these opportunity areas.

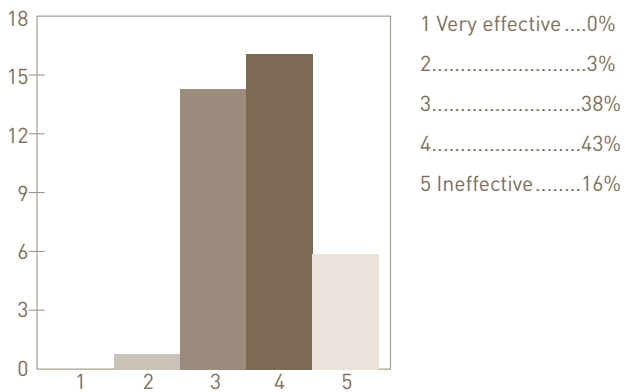
AREAS FOR FURTHER EXPLORATION

- Development of evaluation tools for assessing the effectiveness of systems, strands and individual mechanisms and their success levels in specific conflict situations
- Exploration of the feasibility of developing a regional and/or international judicial entity that would specifically address crimes against children in situations of armed conflict
- Assessment of approaches taken in other contexts beyond the seven examined in this report to achieve accountability for violations against children in situations of armed conflict (such as Sudan, Somalia, Iraq, Israel/OPT and others)
- Research and evaluation of mechanisms within the UN human rights system beyond the Committee on the Rights of the Child have addressed accountability for violations against children in situations of armed conflict
- Research opportunities and challenges associated with the intersection of amnesties, peace agreements and accountability for violations against children in situations of armed conflict.

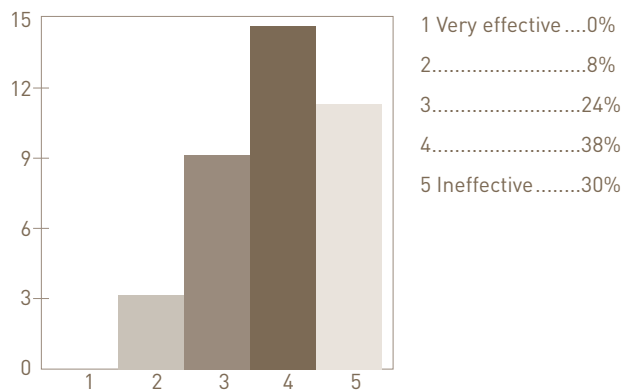
Annex A: Findings of the CDI Children and Armed Conflict Accountability Survey

SECTION I – EFFECTIVENESS OF EXISTING ACCOUNTABILITY MECHANISMS

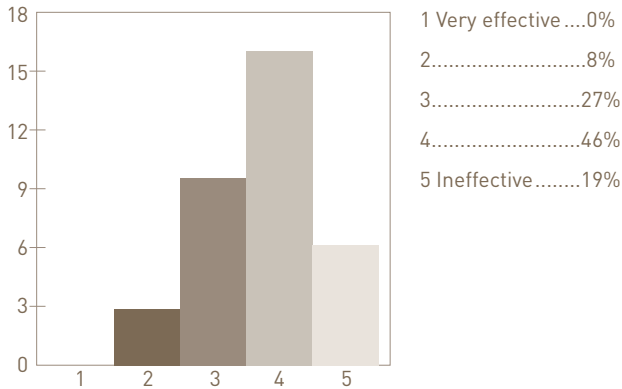
1. How effective do you believe the UN Security Council has been in holding to account violators of children’s rights in situations of armed conflict?



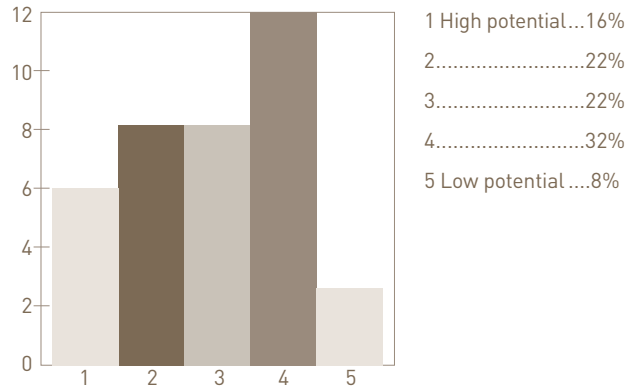
2. How effective do you believe the International Criminal Court has been in holding to account violators of children’s rights in situations of armed conflict?



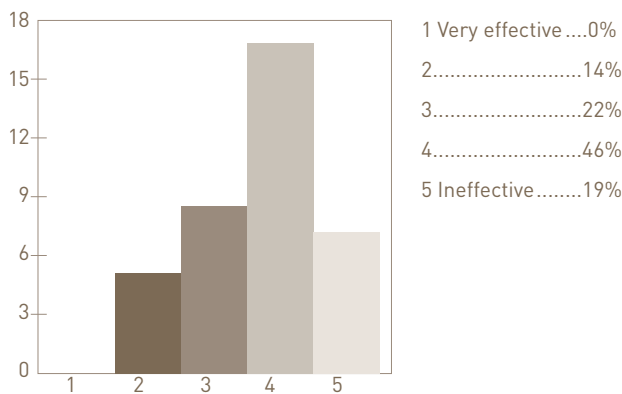
3. How effective do you believe other international mechanisms (such as special courts, international tribunals, commissions of inquiry or others) have been in holding to account violators of children's rights in situations of armed conflict?



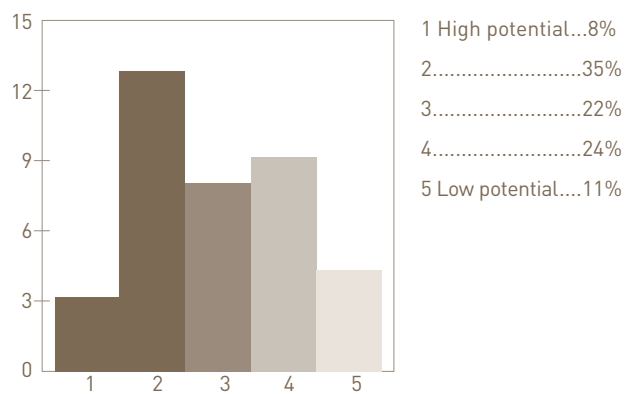
5. How would you rate the potential of national mechanisms to hold to account violators of children's rights in situations of armed conflict?



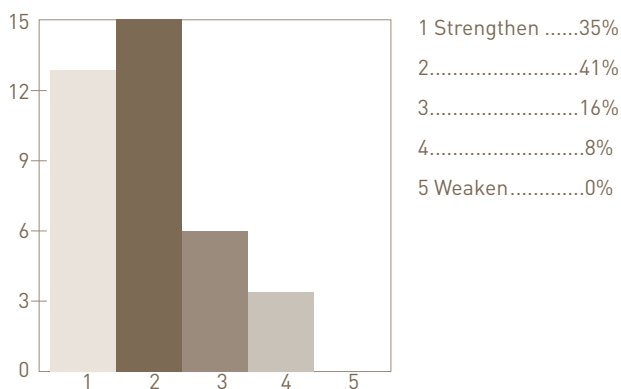
4. How effective do you believe national level mechanisms (such as criminal prosecutions, reparations, truth-telling, reconciliation programs etc.) have been, in general, in holding to account violators of children's rights in situations of armed conflict?



6. How would you rate the potential of international mechanisms (such as the International Criminal Court, special courts, international tribunals, commissions of inquiry or others) to hold to account violators of children's rights in situations of armed conflict?



7. Do you believe that coordination between national and international mechanisms would strengthen or weaken effectiveness of efforts to seek accountability for violations against children in situations of armed conflict?



Some key points of interest from the written responses:

- Majority of responses said national mechanisms have the greatest potential
- UN, government and donor participants ALL said national mechanisms have greatest potential
- NGO participants split between international/UNSC or national mechanisms having greatest potential
- Many participants said political will is the biggest limitation and also the greatest potential of the international and UNSC mechanisms
- Many participants said international and UNSC mechanisms are not well understood, appreciated, or accessible to local communities
- Among the most frequently cited possible indicators of accountability were:
 - Assistance provided and impact on the well-being of victims
 - Deterrence of future violations
 - Identification and punishment of perpetrators
 - Victim and family involvement and satisfaction with accountability processes and outcomes

- The presence of retroactive analyses
- Roughly 10% of participants responded that there were no absolute success stories of accountability
- Specific examples of success stories include:
 - The Special Court of Sierra Leone
 - Various examples from the DRC context
- Roughly 50% of examples of success cited were from national level contexts, the other 50% were split between UNSC and other international mechanisms
- The most commonly cited blockages were impunity, lack of political will and lack of pressure (by and from various groups)
- Additional blockages:
 - Weak legal frameworks
 - Instability from ongoing or recent conflict
 - A lack of awareness among children, families and communities about available mechanisms
- Many respondents said a multi-strand approach and complementary activity among strands would be most effective for alleviating blockages
- The most frequently cited proposals for overcoming blockages were:
 - Interaction with armed forces and groups for the purposes of training and education about CAC
 - Alliance-building to ensure adherence to international principles
- NGO respondents emphasized advocacy, awareness-raising, political engagement, reform and taking examples from local models
- Participants emphasized national, regional, and/or local level mechanisms over other international or Security Council efforts for alleviating blockages.

Annex B:

Relevant cases before the International Criminal Court

The following is a list of trial and pre-trial cases before the ICC for war crimes or crimes against humanity, including crimes against children in relation to situations under review by this report.*

Name: Thomas Lubanga Dyilo, DRC

Armed Group: Alleged founder of the Union des Patriotes Congolais (UPC) and its armed wing, the Forces Patriotiques pour la Libération du Congo (FPLC)

Charges: War crimes, enlisting and conscripting children under the age of 15 years

Status: Trial ongoing, accused being held in The Hague

Name: Germain Katanga and Mathieu Ngudjolo Chui, DRC

Armed Group: (respectively) Alleged commander of the Force de Résistance Patriotique en Ituri (FRPI), and former leader of the Front des Nationalistes et Intégrationnistes (FNI)

Charges: War crimes and crimes against humanity, including use of children under age 15, as well as murder, rape, sexual slavery and other crimes against civilians, including children

Status: Trial ongoing; accused being held in The Hague

Name: Jean-Pierre Bemba Gombo, Congolese national on charges for crimes committed in the Central African Republic

Armed Group: Alleged President and Commander-in-Chief of the Mouvement pour la libération du Congo (MLC),

Charges: War crimes and crimes against humanity, such as murder and rape of civilians, including children

Status: Trial ongoing, arrested by Belgian authorities and transferred to The Hague

Name: Bosco Ntaganda, DRC

Armed Group: Alleged military chief of staff of the Congres National pour la Defense du Peuple (CNDP), alleged senior military leader within the Union des Patriotes Congolais (UPC), alleged commander of the Mouvement Révolutionnaire du Congo (MRC)

Charges: War crimes, conscription, enlistment and use of children under age 15

Status: Pre-trial, accused remains at large though his whereabouts are known as he continues to serve as a General in the Forces Armées de la République Démocratique du Congo, (FARDC).

Name: Callixte Mbarushimana, DRC

Armed Group: Alleged executive secretary of the Forces Démocratiques de Libération du Rwanda (FDLR)

Charges: War crimes and crimes against humanity such as murder, rape and other inhuman treatment of civilians, including children

Status: Pre-trial, arrested by French authorities and transferred to The Hague

Name: Joseph Kony, Vincent Otti, Okot Odhiambo and Dominic Ongwen, Uganda

Armed Group: Top five members of the Lord's Resistance Army (LRA)

Charges: War crimes, including enlistment of children, murder, rape, sexual slavery and other inhuman and cruel crimes against civilians, including children

Status: Pre-trial, all of the accused remain at large.

*For further information on these cases, visit www.icc-cpi.int

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- Ensure that members of their armed forces under the age of 18 do not take a direct part in hostilities
- Ban compulsory recruitment below the age of 18
- Raise the minimum age for voluntary recruitment into the armed forces from 15 years
- Take legal measures to prohibit independent armed groups from recruiting and using children under the age of 18
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⁹⁹ Government of Sierra Leone, "National Commission for War-Affected Children," http://www.afdevinfo.com/htmlreports/org/org_25053.html. [Accessed May 6, 2011].

¹⁰⁰ While the issuance of the order is positive, there are still reports of children being recruited into the Afghan National Police, especially in rural areas. See: United Nations, *Report of the Secretary-General on Children and Armed Conflict*, UN document ref. S/2011/250.

¹⁰¹ UN Security Council, *Report of the Secretary-General on Children and Armed Conflict in Sri Lanka*, UN document ref. S/2009/325 (New York, 2009).

¹⁰² The list is comprised of two annexes. Annex I consists of situations formally on the Security Council's agenda and Annex II of situations not on the Security Council's agenda.

¹⁰³ UN Security Council, *Statement by the President of the Security Council*, UN doc ref. S/PRST/2006/48 (New York, 2006); UN Security Council, *Statement by the President of the Security Council*, UN doc ref. S/PRST/2010/1 (New York, 2010); UN Security Council, *Security Council resolution 1612 (2005)*, UN doc ref. S/RES/1612 (New York, 2005); UN Security Council, *Security Council resolution 1882 (2009)*, UN document ref. S/RES/1882 (New York, 2009).

¹⁰⁴ For a detailed description of the listing and de-listing criteria see: United Nations, *Report of the Secretary-General on Children and Armed Conflict*, UN document ref. S/2010/181.

- ¹⁰⁵ There may be some possibility for the Secretary-General to report to the Security Council on these cases as “other situations of concern” or through the horizontal note.
- ¹⁰⁶ Human Rights Watch, *Dangerous Duty: Children and the Chhattisgarh Conflict* (New York, 2008); United Nations, *Report of the Secretary-General on Children and Armed Conflict*, UN document ref. S/2011/250, para. 165.
- ¹⁰⁷ Human Rights Watch, *“Targets of Both Sides” Violence against Students, Teachers, and Schools in Thailand’s Southern Border Provinces* (New York, 2010); United Nations, *Report of the Secretary-General on Children and Armed Conflict*, UN document ref. S/2011/250, para. 182.
- ¹⁰⁸ For more information on Côte d’Ivoire’s delisting see: Conflict Dynamics International, *Strengthening Protection of Children Through Accountability: The role of the UN Security Council in holding to account persistent violators of children’s rights and protections in situations of armed conflict*, page 14.
- ¹⁰⁹ It is likely that the trigger will again be expanded in 2011 to include attacks on schools and hospitals.
- ¹¹⁰ For more information on implementation of the MRM see work on this subject by Watchlist on Children and Armed Conflict, Save the Children, Columbia University and others as well as: United Nations, *Report of the Secretary-General on Children and Armed Conflict*, UN document ref. S/2010/181.
- ¹¹¹ United Nations, *Report of the Secretary-General on Children and Armed Conflict*, UN document ref. S/2011/250, para. 207.
- ¹¹² UN Security Council, *Security Council resolution 1539* (2004), UN doc ref. S/RES/1539 (New York, 2004); UN Security Council, *Security Council resolution 1612* (2005), UN doc ref. S/RES/1612; UN Security Council, *Security Council resolution 1882* (2009), UN document ref. S/RES/1882.
- ¹¹³ United Nations, *Draft Guidelines for the Implementation of the MRM on Grave Child Rights Violations in Situations of Armed Conflict* (New York, working draft as of 2009).
- ¹¹⁴ UN Office of the Special Representative of the Secretary General on Children and Armed Conflict, “Statement of the SRSG at the Signing Ceremony of the Action Plan with the Government of Afghanistan,” <http://www.un.org/children/conflict/english/30-jan-2011-signing-ceremony-in-afghanistan.html>. [Accessed May 31, 2011].
- ¹¹⁵ United Nations, *Report of the Secretary-General on Children and Armed Conflict*, UN document ref. S/2011/250.
- ¹¹⁶ United Nations, *Report of the Secretary-General on Children and Armed Conflict*, UN document ref. S/2010/181; United Nations, *Report of the Secretary-General on Children and Armed Conflict*, UN document ref. S/2009/158 (New York, 2009).
- ¹¹⁷ Watchlist on Children and Armed Conflict, *Children affected by Armed Conflict in Nepal: Recommendations to the Security Council Working Group* (New York, 2010), page 3-4.
- ¹¹⁸ United Nations, *Report of the Secretary-General on Children and Armed Conflict*, UN document ref. S/2011/250, para. 19.
- ¹¹⁹ United Nations, *Report of the Secretary-General on Children and Armed Conflict*, UN document ref. S/2009/158, para. 147.
- ¹²⁰ UN Security Council, *Conclusions on Children and Armed Conflict in Sri Lanka*, UN document ref. S/AC.51/2008/11 (New York, 2008).
- ¹²¹ UN Security Council, *Letter dated 8 September 2006 from the Permanent Representative of France to the United Nations addressed to the President of the Security Council*, UN document ref. S/2006/724 (New York, 2006).
- ¹²² Watchlist on Children and Armed Conflict, *UN Security Council Resolution 1612 and Beyond: Strengthening Protection for Children in Armed Conflict* (New York, 2009); Conflict Dynamics International, *Strengthening Protection of Children Through Accountability: The role of the UN Security Council in holding to account persistent violators of children’s rights and protections in situations of armed conflict*.
- ¹²³ UN Security Council, *Conclusions on Children and Armed Conflict in Sri Lanka*, UN document ref. S/AC.51/2007/9 (New York, 2007).
- ¹²⁴ UN Security Council, *Conclusions on Children and Armed Conflict in Sri Lanka*, UN document ref. S/AC.51/2008/11, para. 5g.
- ¹²⁵ United Nations, *Report of the Secretary-General’s Panel of Experts on Accountability in Sri Lanka*, para. 98.
- ¹²⁶ UN Security Council, *Conclusions on Children and Armed Conflict in Uganda*, UN document ref. S/AC.51/2007/12 (New York, 2007).
- ¹²⁷ United Nations, *Message to the head of the Lord’s Resistance Army delegation to the Juba peace talks through a public statement by the Chairman of the Working Group to be transmitted by the Special Envoy for the areas affected by the Lord’s Resistance Army*, UN document ref. S/AC.51/2007/13 (New York, 2007).
- ¹²⁸ Security Council Report, *Cross-Cutting Report on Children and Armed Conflict* (New York, 2010).
- ¹²⁹ In February 2006, the Security Council imposed a travel ban and asset freeze on Martin Koukakou Fofie, commander of the armed group in Côte d’Ivoire, New Forces, for recruitment and use of child soldiers and other violations. See: UN Security Council Committee established pursuant to resolution 1572 (2004) concerning Côte d’Ivoire, List of Individuals Subject to Paragraphs 9 and 11 of Resolution 1572 (2004) and Paragraph 4 of Resolution 1643 (2005),” 2011, <http://www.un.org/sc/committees/1572/listtable.html>.
- ¹³⁰ “Do UN sanctions matter for the Congo?” *The Christian Science Monitor*, December 8, 2010. <http://www.csmonitor.com/World/Africa/Africa-Monitor/2010/1208/Do-UN-sanctions-matter-for-the-Congo>. [Accessed May 31, 2011].
- ¹³¹ United Nations, *Report of the Secretary-General on Children and Armed Conflict*, UN document ref. S/2011/250, para. 88.
- ¹³² UN Security Council, *Security Council resolution 1698* (2006), UN document ref. S/RES/1698 (New York, 2006).

¹³³ UN Security Council, *Conclusions on Children and Armed Conflict in Afghanistan*, UN document ref. S/AC.51/2011/13 (New York, 2011).

¹³⁴ UN Security Council, *Security Council resolution 1267* (1999), UN document ref. S/RES/1267 (New York, 1999).

¹³⁵ UN Office of the Special Representative of the Secretary General on Children and Armed Conflict, "The Rome Statute, The Voices of Victims," (June 2, 2010) <http://www.un.org/children/conflict/english/02-jun-2010-rome-statute-of-the-icc-conference.html>. [Accessed June 15, 2011].

¹³⁶ United Nations, *Report of the Secretary-General on Children and Armed Conflict*, UN document ref. S/2011/250, para. 211.

¹³⁷ Coalition to Stop the Use of Child Soldiers, *Child Soldiers Global Report* (London, 2008).

¹³⁸ In other cases, sanctions have been applied for violations of international humanitarian and human rights law, which include violations against children, such as in connection with alleged crimes in the context of armed conflict against civilians in Darfur, Sudan, including children.

¹³⁹ For further examples and information see: UN Rule of Law, "Tribunals & Other Mechanisms," http://www.unrol.org/article.aspx?article_id=18. [Accessed May 31, 2011].

¹⁴⁰ United Nations, Agreement Between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone (Freetown, 2002), <http://www.unhcr.org/refworld/docid/3fbdda8e4.html>. [Accessed June 1, 2011].

¹⁴¹ International Crisis Group, *The Special Court for Sierra Leone: Promises and Pitfalls of a "New Model"* (Freetown/Brussels, 2003).

¹⁴² Human Rights Watch, *Justice in Motion: The Trial Phase of the Special Court of Sierra Leone* (New York, 2005).

¹⁴³ Kyrá Sanin and Anna Stirnemann, *Child Witness at the Special Court of Sierra Leone* (Berkeley, 2006).

¹⁴⁴ The Special Court for Sierra Leone, "Prosecutor v. Brima, Kamara, Kanu, Case No. SCSL-04-16-T, Trial Chamber Judgement," 2007, <http://www.sc-sl.org/CASES/ProsecutorvsBrimaKamaraandKanuAFRCCase/TrialChamberJudgment/tabid/173/Default.aspx>. [Accessed June 15, 2011].

¹⁴⁵ "Sierra Leone: eight men found guilty of war crimes transferred to Rwanda," *UN News Service*, October 31, 2009. <http://www.un.org/apps/news/story.asp?NewsID=32800&Cr=sierra+leone&Cr1>. [Accessed 3 June 2011].

¹⁴⁶ For more information on the elements constituting these crimes, see: The International Criminal Court, *Elements of Crimes* (The Hague, 2011).

¹⁴⁷ A State not party to the Statute can also lodge a declaration accepting the exercise of jurisdiction by the Court on an ad hoc basis, pursuant to Article 12(3) of the Statute, as in the case of Côte

d'Ivoire. The opening of an investigation will then require a referral by a State Party or *proprio motu* action by the Prosecutor under Article 15, since a formal referral cannot be made by a non-party State as such.

¹⁴⁸ A country may be determined to be "unwilling" if it is clearly shielding someone from responsibility for ICC crimes. A country may be "unable" when its legal system has collapsed.

¹⁴⁹ The International Criminal Court, "Situations and cases," <http://www.icc-cpi.int/Menu/ICC/Situations+and+Cases/>. [Accessed June 10, 2011].

¹⁵⁰ For more information see: International Center for Transitional Justice, *Contested Transitions: Dilemmas of Transitional Justice in Colombia and Comparative Experience* (Bogotá, 2010), page 161.

¹⁵¹ The International Criminal Court, *The Importance of Justice in Securing Peace*, Ref. No. RC/ST/PJ/INF.3 (Kampala, 2010).

¹⁵² UN Office of the High Commissioner for Human Rights, *Democratic Republic of the Congo, 1993-2003, Report of the Mapping Exercise documenting the most serious violations of human rights and international humanitarian law committed within the territory of the Democratic Republic of Congo between March 1993 and June 2003* (Geneva, 2010), page 30; International Center for Transitional Justice, *Democratic Republic of Congo: Impact of the Rome Statute and the International Criminal Court* (New York, 2010), <http://ictj.org/sites/default/files/ICTJ-DRC-Impact-ICC-2010-English.pdf> [Accessed June 15, 2011], page 3.

¹⁵³ CDI consultations held as part of this study, London and DRC, February 2011.

¹⁵⁴ International Center for Transitional Justice, *Democratic Republic of Congo: Impact of the Rome Statute and the International Criminal Court*, page 1.

¹⁵⁵ The International Criminal Court, *Paper on some policy issues before the Office of the Prosecutor* (The Hague, 2003).

¹⁵⁶ The Council of the European Union, *Council Decision of 27 April 2009 implementing common position 2008/369/CFSP concerning restrictive measures against the Democratic Republic of the Congo*, 2009; The Council of the European Union, *Council Decision of 20 December 2010 concerning restrictive measures against the Democratic Republic of Congo and repealing Common Position 2008/369/CFSP*, 2010/788/CFSP, 2010.

¹⁵⁷ The Council of the European Union, *Council Decision of 20 December 2010 concerning restrictive measures against the Democratic Republic of Congo and repealing Common Position 2008/369/CFSP*, 2010/788/CFSP.

¹⁵⁸ African Union, *African Charter on the Rights and Welfare of the Child*, OAU document ref. CAB/LEG/24.9/49 (1990).

¹⁵⁹ African Union, *Solemn Declaration on Gender Equality in Africa*, (Addis Ababa, 2004).

¹⁶⁰ African Union Peace and Security Council, *Briefing Note: Mitigating Vulnerabilities of Women and Children in Armed Conflicts*

[Addis Ababa, 2010], <http://africaunion-psc.org/Documents/PSC2010/223rd/Report/ReportWomenchildrenEng.pdf> [Accessed June 15, 2011], page 6.

¹⁶¹ South Asian Association for Regional Cooperation, *Convention on Regional Arrangement for the Promotion of Child Welfare in South Asia*, (Kathmandu, 2002); South Asian Association for Regional Cooperation, Third SAARC Ministerial Conference on Children of South Asia, *Rawalpindi Resolution* (Rawalpindi, 1996).

¹⁶² Association of Southeast Asian Nations, *Declaration on the Commitments for Children in ASEAN* (Singapore, 2001).

¹⁶³ For more information on the legal foundation of universal jurisdiction and states' obligations to investigate alleged war crimes under customary international humanitarian law see ICRC Rules 157 and 158 in: International Committee of the Red Cross, *International Review of the Red Cross, Customary International Law, Study on customary international humanitarian law, Annex I List of Customary Rules of International Humanitarian Law, Volume 87, Number 857*.

¹⁶⁴ UN Office of the High Commissioner for Human Rights, "Structure of the United Nations Human Rights Bodies and Mechanisms," <http://www2.ohchr.org/english/structure.htm>. [Accessed May 31, 2011].

¹⁶⁵ Office of the United Nations High Commissioner for Human Rights, *Monitoring Children's Rights*, <http://www2.ohchr.org/english/bodies/crc/>. [Accessed May 31, 2011].

¹⁶⁶ The five other human rights treaty bodies that currently use such individual complaints mechanisms are: CERD, CCPR, CAT, CEDAW and CRPD.

¹⁶⁷ Child Rights Information Network, "Complaints Mechanism: Chair's proposal largely accepted," 2011, <http://www.crin.org/resources/infoDetail.asp?ID=24181>. [Accessed May 11, 2011].

¹⁶⁸ For more information see: United Nations, *Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General: Pursuant to Security Council Resolution 1564 of 18 September 2004* (New York, 2005).

¹⁶⁹ For more information see: *War Crimes Studies Center*, <http://socrates.berkeley.edu/~warcrime/ET.htm> [Accessed May 31, 2011].

¹⁷⁰ This panel of experts mandated by the Secretary-General is distinct from UN Security Council-established Panels of Experts or Monitoring Groups that work respectively to sanctions and are hence legal subsidiaries of the UN Security Council.

¹⁷¹ These included among many others forced recruitment of children and shelling of hospitals by the LTTE and denial of humanitarian assistance and other crimes against civilians including children by the Government of Sri Lanka, according to: United Nations, *Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka*, page iii-iv.

¹⁷² *Ibid.*, page 119-120.

¹⁷³ The Council of the European Union, *Council Decision of 20 December 2010 concerning restrictive measures against the*

Democratic Republic of Congo and repealing Common Position 2008/369/CFSP, 2010/788/CFSP.

¹⁷⁴ *Ibid.*

¹⁷⁵ See: The Preamble and Article 1 relating to adoption of the Rome Statute and Article 17 regulating resolution of complementarity challenges: *Rome Statute of the International Criminal Court*, UN document ref. A/CONF. 183/9 (Rome, 1998).

¹⁷⁶ United Nations, *Draft Field Manual for the Implementation of the MRM on Grave Child Rights Violations in Situations of Armed Conflict* (New York, draft 2010).

¹⁷⁷ International Center for Transitional Justice, *Uganda: Impact of the Rome Statute and the International Criminal Court* (New York, 2010).

¹⁷⁸ For a discussion on peace and justice see: The International Criminal Court, "Stocktaking of International Criminal Justice," <http://www.icc-cpi.int/Menus/ASP/ReviewConference/Stocktaking/>. [Accessed June 15, 2011].

¹⁷⁹ International Center for Transitional Justice, *The Sierra Leone Truth and Reconciliation Commission: Reviewing the First Year*.

¹⁸⁰ Human Rights Watch, *World Report 2011: Democratic Republic of Congo* (New York, 2011).

¹⁸¹ United Nations, *Report of the Secretary-General on Children and Armed Conflict*, UN document ref. S/2011/250, para. 88.

¹⁸² UN Security Council, *Report of the Secretary-General on Children and Armed Conflict in the Democratic Republic of Congo*, UN document ref. S/2010/369 (New York, 2010), para. 64.

¹⁸³ *Ibid.*, para. 28.

¹⁸⁴ Since 2003, a law to ratify the Rome Statute has been pending in DRC's Parliament. Until it is ratified, Congolese military courts retain jurisdiction to try war crimes, crimes against humanity and acts of genocide. The Military Penal Code lacks any specificity with respect to the elements of what constitutes a war crime and the definition of a war crime rests only on a judicial interpretation of whether conduct was "justified by the laws and customs of war." See: Rome Statute of the International Criminal Court, UN document ref. A/CONF. 183/9; Government of the Democratic Republic of Congo, *Loi N° 24/2002 du 18 novembre 2002 portant code pénal militaire* (Kinshasa, 2003); Human Rights Watch, *A "Mixed Chamber" for Congo?* (New York, 2009); Human Rights Watch, *Soldiers Who Rape, Commanders Who Condone: Sexual Violence and Military Reform in the Democratic Republic of the Congo* (New York, 2009).

¹⁸⁵ Though this verdict and sentence were groundbreaking, these seven soldiers, along with 19 others, later escaped from military prison in October 2006.

¹⁸⁶ The mobile court has jurisdiction over military, as well as civilian, justice systems. Under this program, Congolese judges, prosecutors and defense lawyers travel to some of the worst crime sites, typically locations that have never before had access to justice. Cases are heard over a period of weeks or months, before the

court moves to its next location. See: Open Society Justice Initiative, "Mobile Gender Justice Court," http://www.soros.org/initiatives/justice/focus/international_justice/projects/gender-justice-court. [Accessed on May 24, 2011].

¹⁸⁷ "DR Congo colonel Kibibi Mutware jailed for mass rape," BBC News, February 21, 2011. <http://www.bbc.co.uk/news/world-africa-12523847>. [Accessed May 31, 2011]; Kelly Askin, "Fizi mobile court: rape verdicts," *Radio Netherlands Worldwide*, March 2, 2011, <http://www.rnw.nl/africa/article/fizi-mobile-court-rape-verdicts>. [Accessed June 15, 2011].

¹⁸⁸ UN Office of the High Commissioner for Human Rights, *Democratic Republic of the Congo, 1993-2003, Report of the Mapping Exercise documenting the most serious violations of human rights and international humanitarian law committed within the territory of the Democratic Republic of Congo between March 1993 and June 2003*.

¹⁸⁹ Ibid.

¹⁹⁰ UN Office of the High Commissioner for Human Rights, "Statement by the High Commissioner for Human Rights Navi Pillay," 2010, http://www.ohchr.org/Documents/Countries/ZR/HC_Statement_on_Release_EN.pdf. [Accessed June 15, 2011].

¹⁹¹ In its 2005 ruling on the case of *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, the International Court of Justice (ICJ) ruled that Uganda had breached several of its obligations under international law during the first Congo war and was obliged to pay reparations. While a specific monetary value was not ascribed, the DRC Government has proposed between US \$6 and \$15 billion in damages at various stages in negotiations between the two countries. However, several analysts noted that reparations are unlikely to be paid and will prove little more than a bargaining chip used by the countries in the context of their relationship. See: Chatham House, *Armed Activities on the Territory of the Congo: The ICJ Judgment in the Context of the Current Peace Process in the Great Lakes Region* (London, 2006); Henry Wasswa, "Will Uganda Pay Up for Congo Occupation?," *Institute for War and Peace Reporting*, July 31, 2007, <http://iwpr.net/report-news/will-uganda-pay-congo-occupation>.

¹⁹² UN Office of the High Commissioner for Human Rights, "Committee on the Rights of the Child - Sessions," <http://www2.ohchr.org/english/bodies/crc/sessions.htm> [Accessed June 15, 2011]; Government of the Democratic Republic of Congo, *Rapport initial sur la mise en œuvre du protocole facultatif à la convention relative aux droits de l'enfant concernant l'implication d'enfants dans les conflits armés* (Kinshasa, 2008).

¹⁹³ Government of the Democratic Republic of Congo, *Constitution de la République Démocratique du Congo* (Kinshasa, 2006), <http://www.leganet.cd/Legislation/JO/2006/JO.18.02.2006.pdf>.

¹⁹⁴ Government of the Democratic Republic of Congo, *Loi n° 09/001 du 10 janvier 2009 portant protection de l'enfant*. (Kinshasa, 2009), <http://www.leganet.cd/Legislation/JO/2009/JO.12.01.2009.pdf> [Accessed June 15, 2011].

¹⁹⁵ The government's policy of "zero tolerance" for abuses committed by FARDC (July 2009) and the following provisions have all helped to strengthen the normative and policy framework related to sexual violence in DRC: Government of the Democratic Republic of Congo, *Loi n° 06/018 du 20 juillet 2006 modifiant et complétant le Décret du 30 janvier 1940 portant Code Pénal Congolais*, GLIN ID 182501 (Kinshasa, 2006); Government of the Democratic Republic of Congo, *Loi n° 06/019 modifiant et complétant le Décret du 06 aout 1959 portant Code de Procédure Pénale*, GLIN ID 182510 (Kinshasa, 2006); United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO), *Comprehensive Strategy on Combatting Sexual Violence in the Democratic Republic of Congo* (Kinshasa, 2009), <http://stoprape-now.org/uploads/features/ComprehensiveStrategyExecSumm.pdf> [Accessed June 15, 2011]; Government of the Democratic Republic of Congo, *Stratégie Nationale de Lutte contre les Violences Basées sur le Genre en RDC* (Kinshasa, 2009).

¹⁹⁶ UN Security Council, *Report of the Secretary-General on Children and Armed Conflict in the Democratic Republic of Congo*, UN document ref. S/2010/369.

¹⁹⁷ CDI consultations held as part of this study, DR Congo, February 2011.

¹⁹⁸ CDI consultations held as part of this study, DR Congo, February 2011.

¹⁹⁹ CDI consultations held as part of this study, DR Congo, February 2011.

²⁰⁰ United Nations, *Report of the Secretary-General on Children and Armed Conflict*, UN document ref. S/2010/181; and CDI consultations held as part of this study, DR Congo, February 2011.

²⁰¹ United Nations, *Report of the Secretary-General on Children and Armed Conflict*, UN document ref. S/2009/158, para. 150.

²⁰² See for example: UN Security Council, *Letter dated 8 September 2006 from the Permanent Representative of France to the United Nations addressed to the President of the Security Council*, UN document ref. S/2006/724; UN Security Council, *Conclusions on Children and Armed Conflict in the Democratic Republic of the Congo*, UN document ref. S/AC.51/2009/3 (New York, 2009).

²⁰³ This Sanctions Committee was established in March 2004 pursuant to resolution 1533 (2004) and is supported by a UN Group of Experts charged with monitoring the implementation of sanctions, with focus on North and South Kivu and Ituri.

²⁰⁴ UN Security Council, *Security Council resolution 1698* (2006), UN document ref. S/RES/1698, para. 13.

²⁰⁵ Jason Stearns, "2011: Election Year in the Congo," Congo Siasa, 2011, <http://congosiasa.blogspot.com/search?q=promotions> [Accessed June 15]; CDI consultations held as part of this study, London and DR Congo, February 2011.

²⁰⁶ Human Rights Watch, *A "Mixed Chamber" for Congo?*

²⁰⁷ Government of the Democratic Republic of Congo, *L'avant-projet de loi sur la création et de l'organisation des chambres spéciales*

[Kinshasa], <https://salsa.democracyinaction.org/o/1552/images/Avant-Projet-chambres-specialisees-2.pdf>. [Accessed May 11, 2011].

²⁰⁸ The ICC is only able to try war crimes that occurred on or after July 1, 2002.

²⁰⁹ Thomas Lubanga is the alleged founder of the Union des Patriotes Congolais (UPC) and its armed wing, the Forces Patriotiques pour la Libération du Congo (FPLC).

²¹⁰ Human Rights Watch, "The International Criminal Court Trial of Thomas Lubanga," <http://www.hrw.org/en/news/2009/01/22/international-criminal-court-trial-thomas-lubanga>. [Accessed June 1, 2011].

²¹¹ CDI consultations held as part of this study, London and DRC, February 2011.

²¹² International Center for Transitional Justice, "Thomas Lubanga and the ICC," *Situation Brief: The Trial of Thomas Lubanga*, 2009, <http://ictj.org/sites/default/files/ICTJ-DRC-Lubanga-Trial-2009-English.pdf>. [Accessed June 1, 2011].

²¹³ CDI consultations held as part of this study, DR Congo, February 2011; Human Rights Watch, "DR Congo: Rogue Leaders, Rebels Forcibly Recruit Youth," December 20, 2010, <http://www.hrw.org/en/news/2010/12/20/dr-congo-rogue-leaders-rebels-forcibly-recruit-youth>. [Accessed June 1, 2011].

²¹⁴ The International Criminal Court, "All cases," <http://www.icc-cpi.int/Menus/ICC/Situations+and+Cases/Cases/>. [Accessed June 15, 2011].

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²¹⁷ UN Security Council, *Final Report of the Group of Experts on the DRC*, UN document ref. S/2010/596 (New York, 2010).

²¹⁸ Global Witness, "Congolese victims file class action against Canadian mining company," <http://www.globalwitness.org/library/congolese-victims-file-class-action-against-canadian-mining-company>. [Accessed June 1, 2011].

²¹⁹ Government of the United States of America, *The Child Soldier Prevention Act of 2008* (Washington D.C., 2008).

²²⁰ Government of the United States of America, *Presidential Memorandum—Child Soldiers Prevention Act* (Washington D.C., 2010).

²²¹ Human Rights Watch, "DR Congo: Rogue Leaders, Rebels Forcibly Recruit Youth."

²²² UN Office of the High Commissioner for Human Rights, "What is the 'DRC Mapping Exercise?' – Objectives, methodology and time frame," http://www.ohchr.org/Documents/Countries/ZR/FS-1_Mapping_exercise_FINAL.pdf. [Accessed June 1, 2011]

²²³ Human Rights Watch, *A "Mixed Chamber" for Congo?*, page 2.

²²⁴ UN Security Council, *Report of the Secretary-General on Children and Armed Conflict in the Democratic Republic of Congo*, UN document ref. S/2008/693 (New York, 2008).

²²⁵ Coalition Against the Involvement of Children and Youth in the Armed Conflict in Colombia (COALICO) and Colombian Commission of Jurists, *Alternate Report to the Colombian State's Report on the Fulfillment of the Optional Protocol on the Involvement of Children in Armed Conflict* (Bogotá, 2009), page 15 (English).

²²⁶ This refers to executions presumably committed by state security forces. See: Naciones Unidas en Colombia, "Colombia: Persiste Impunidad en Ejecuciones Extrajudiciales, Afirma Relator Especial" (Geneva, 2010), <http://www.nacionesunidas.org.co/index.shtml?apc=ii--1--&x=61893>. [Accessed May 31, 2011].

²²⁷ Consultations held for this study suggest that there has been increased action in recent months regarding investigations of sexual violence.

²²⁸ CDI consultations held as part of this study, Bogotá, March 2011.

²²⁹ UN Committee on the Rights of the Child, *Consideration of reports submitted by States parties under article 8, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, Initial reports of States parties due in 2007: Colombia*, UN document ref. CRC/C/OPAC/COL/1 (Geneva, 2008).

²³⁰ Government of Colombia, Justice and Peace Law, Ley 975 de 2005 (Bogotá, 2005), <http://www.cja.org/article.php?id=861> [Accessed June 15, 2011].

²³¹ While paramilitaries are the majority of candidates in the Justice and Peace demobilization process, they are not the only participants. Some FARC and ELN members have also demobilized individually.

²³² Fiscalía General de la Nación, *Informe de Gestión Agosto 2009-Noviembre 2010* (Bogotá, 2010), <http://www.camaradediputados.gov.do/masterlex/MLX/docs/2F/139/13A.pdf>, page 85-88 [Accessed June 15, 2011].

²³³ Unidad Nacional de Fiscalías para Justicia y Paz, "Gestión Unidad Nacional de Fiscalías para La Justicia y La Paz de Febrero 2011," 2011, <http://www.fiscalia.gov.co/justiciapaz/Index.htm> [Accessed June 15, 2011].

²³⁴ Fiscalía General de la Nación, *Informe de Gestión Agosto 2009-Noviembre 2010*, page 85-88.

²³⁵ Government of Colombia, Decreto Número 1290 (Bogotá, 2008), http://www.redepaz.org.co/IMG/pdf/Decreto_1290_del_22_de_Abril_2008.pdf [Accessed June 15, 2011].

²³⁶ UN General Assembly, *Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, UN document ref. A/RES/60/147.

²³⁷ Individuals recruited by illegal armed groups, but demobilized as adults are not eligible for child victim status.

²³⁸ UN Committee on the Rights of the Child, *Consideration of reports submitted by States parties under article 8 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Concluding Observations: Colombia*, UN document ref. CRC/C/OPAC/COL/CO/1 (New York, 2010).

²³⁹ Government of Colombia, Código de la infancia y la adolescencia No. 1098, Título I, Capítulo II, Artículo 20(7), Título II, Capítulo I, Artículo 41(30) (Bogotá, 2006), http://www.secretariassenado.gov.co/senado/basedoc/ley/2006/ley_1098_2006.html [Accessed June 15, 2011].

²⁴⁰ United Nations, *Report of the Secretary-General on Children and Armed Conflict*, UN document ref. S/2011/250, para. 156.

²⁴¹ Contrary to international standards, children who are demobilized from illegal armed groups are eligible for criminal investigations against them.

²⁴² COALICO and Colombian Commission of Jurists, *Alternate Report to the Colombian State's Report on the Fulfillment of the Optional Protocol on the Involvement of Children in Armed Conflict*, page 63-68 (English).

²⁴³ Consejo Nacional de Política Económica y Social (CONPES), *Política de prevención del reclutamiento y utilización de niños, niñas adolescentes por parte de los grupos armados organizados al margen de la ley y de los grupos delictivos organizados* (Bogotá, 2010), <http://www.dnp.gov.co/PortalWeb/LinkClick.aspx?fileticket=QKkqSy93Dm A=&tabid=1063> [Accessed June 15, 2011].

²⁴⁴ United Nations, *Report of the Secretary-General on Children and Armed Conflict*, UN document ref. S/2011/250, para. 152.

²⁴⁵ The Office of the Human Rights Ombudsman has developed an early warning system, which monitors imminent risks of human rights violations, including against children. See: UN Security Council, *Report of the Secretary-General on Children and Armed Conflict in Colombia*, UN document ref. S/2009/434 (New York, 2009), para. 57.

²⁴⁶ The Secretary-General has also reported in the text of reports on recruitment of children by armed groups such as Autodefensas Campesinas Nueva Generación, Águilas Negras or Ejército Revolucionario Popular Antiterrorista de Colombia, which emerged after the demobilization under the Justice and Peace process. See: *Ibid*, para. 22.

²⁴⁷ In 2003 and 2005, the Secretary-General named 11 paramilitary sub-divisions under the AUC structure. In 2006 and 2008, he named two different paramilitary groups under the AUC structure.

²⁴⁸ In addition to the six grave violations, the Colombia MRM also monitors torture, forced displacement, disappearances and other violations against children.

²⁴⁹ UN Security Council, *Report of the Secretary-General on Children and Armed Conflict in Colombia*, UN document ref. S/2009/434.

²⁵⁰ See: UN Security Council, *Security Council resolution 1539* (2004), UN document ref. S/RES/1539; UN Security Council, *Security Council resolution 1612* (2005), UN document ref. S/RES/1612; UN Security Council, *Security Council resolution 1882* (2009), UN document ref. S/RES/1882.

²⁵¹ UN Security Council, *Security Council resolution 1882* (2009), UN document ref. S/RES/1882, para. 6.

²⁵² UN Security Council, *Conclusions on Children and Armed Conflict in Colombia*, UN document ref. S/AC.51/2010/3 (New York, 2010).

²⁵³ Upon ratification, Colombia made a declaration that it did not accept the jurisdiction of the Court with respect to alleged war crimes committed by Colombian nationals or on Colombian territory for seven years. This lapsed in 2009. See: Rome Statute of the International Criminal Court, Colombia, "Reservation/Declaration text," <http://www.icrc.org/ihl.nsf/NORM/909EEAAE157FBD43412566E100542BDE?OpenDocument>.

²⁵⁴ International Center for Transitional Justice, *Contested Transitions: Dilemmas of Transitional Justice in Colombia and Comparative Experience*, page 162.

²⁵⁵ COALICO and Colombian Commission of Jurists, *Alternate Report to the Colombian State's Report on the Fulfillment of the Optional Protocol on the Involvement of Children in Armed Conflict*, page 80-81 (English).

²⁵⁶ International Center for Transitional Justice, *Contested Transitions: Dilemmas of Transitional Justice in Colombia and Comparative Experience*, page 161.

²⁵⁷ For example, in February 2011 the IACHR issued a press release condemning the death of a 14-year-old indigenous boy due to explosions of antipersonnel landmines that had allegedly been planted by illegal armed groups, according to: Inter American Commission on Human Rights, "IACHR Laments Landmine Death of Indigenous Child in Colombia," *Organization of American States* (Washington, D.C., February 10, 2011), <http://www.cidh.oas.org/Comunicados/English/2011/8-11eng.htm>. [Accessed May 31, 2011].

²⁵⁸ Kirsten Begg, "Rights Experts Criticize Sealing of Para Cases," *Colombia Reports*, 2010, <http://colombiareports.com/colombia-news/news/11835-paras.html>. [Accessed May 17, 2011].

²⁵⁹ UN Committee on the Rights of the Child, *Consideration of reports submitted by States parties under article 8 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Concluding Observations: Colombia*, UN document ref. CRC/C/OPAC/COL/CO/1 (New York, 2010).

²⁶⁰ Naciones Unidas Derechos Humanos, *Recomendaciones de órganos internacionales de derechos humanos al Estado colombiano 2000-2008* (Bogotá, 2010).

²⁶¹ United Nations, *Report of the Secretary-General on Children and Armed Conflict*, UN document ref. S/2011/250, para. 153-160.

²⁶² UN Committee on the Rights of the Child, *Consideration of reports submitted by States parties under article 8 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Concluding Observations: Colombia*, UN document ref. CRC/C/OPAC/COL/CO/1 (New York, 2010).

²⁶³ This refers both to children's lack of access to accountability mechanisms and lack of access to perpetrators by the accountability mechanisms.

²⁶⁴ United Nations, *Report of the Secretary-General on Children and Armed Conflict*, UN document ref. S/2011/250, para. 217.

²⁶⁵ The UN Security Council's Counter Terrorism Committee (CTC) established under UN Security Council resolution 1373 sets a precedent for establishment of a thematic committee.

²⁶⁶ Recent reports of the Secretary-General on children and armed conflict include some information on accountability. However, these are generally snapshots and do not represent a comprehensive evaluation of accountability in any context.

²⁶⁷ As one starting point, the accountability index could assess private military and security companies (PMSCs), which can have complex and integral roles in armed conflicts.

²⁶⁸ For examples of similar initiatives refer to Transparency International's Corruption Perceptions Index (available at http://www.transparency.org/policy_research/surveys_indices/cpi/2010); Genocide Intervention Network's Darfur Scores (available at <http://darfurscores.org/darfur>); and The Mo Ibrahim Foundation's Ibrahim Index of African Governance (available at <http://www.moibrahimfoundation.org/en/section/the-ibrahim-index>) [All Accessed May 31, 2011].

²⁶⁹ Some precedents for this type of survey are Transparency International's Corruption Perceptions Index; the Feinstein

International Center's report *Humanitarian Agenda 2015: Principles, Power, and Perceptions*; and the *2010 Humanitarian Accountability Report Survey on Perceptions of Humanitarian Accountability*.

²⁷⁰ This could build on and complement International efforts led by UNICEF regarding children in truth commissions and transitional justice. See: UNICEF, *Children and Transitional Justice: Truth-telling, accountability and reconciliation*; UNICEF Innocenti Research Centre, *Children and Truth Commissions*.

²⁷¹ There is a precedent for investigative commissions on an ad hoc basis such as in the cases of Darfur, Lebanon or East Timor.

²⁷² The UN Central Emergency Response Fund (CERF) sets a precedent for this.

²⁷³ In 2010, the Canadian House of Commons defeated legislation that would have created a mechanism for individuals to complain about actions of Canadian companies overseas. Though ultimately unsuccessful, this type of initiative may help victims and their families seek redress for violations in the future. See: Global Witness, "Congolese victims file class action against Canadian mining company."

In addition, according to the Dodd-Frank Act 2010 beginning in January 2012, US companies will be required to report on "conflict metals" used in products and to report on the due diligence plans established to trace the origin of metals originate from DRC. See: Jill Radloff, "Examples of Conflict Mineral Disclosure," *Dodd-Frank*, February 2011, <http://dodd-frank.com/examples-of-conflict-minerals-disclosure/>. [Accessed February 23, 2011].

²⁷⁴ UN Human Rights Council, *Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia*, UN document ref. A/HRC/16/22 (Geneva, 2011).

About Conflict Dynamics

Conflict Dynamics International is an independent, not-for-profit organization which works to prevent and resolve violent conflict and to alleviate human suffering resulting from conflicts and other crises around the world.

Conflict Dynamics works to fulfill its mission through conflict resolution, mediation activities and humanitarian policy development across three program areas: (I) Peacebuilding in Transition States, (II) New Frontiers in Humanitarian Policy and (III) Pressure Points for Conflict Resolution. Conflict Dynamics has a proven track record in developing innovative yet practical approaches to improve the policy and practice of humanitarian action, including in the areas of: humanitarian access; humanitarian negotiations with non-State armed groups; humanitarian-military relations and assessing the humanitarian implications of sanctions. Conflict Dynamics also works to support ongoing political processes through research and consensus building on political accommodation in post-conflict societies.

Conflict Dynamics stands apart from other organizations engaged in humanitarian policy and conflict resolution through its use of innovative, proactive and outcome-oriented approaches to identify specific points at which substantive and process-related inputs can have the highest impact. Conflict Dynamics seeks to achieve results that are high quality, timely and effective, working closely with parties to armed conflict, national governments, the United Nations system, non-governmental organizations and academic institutions.

Development of policy options and new approaches to strengthen protection of children affected by armed conflict has been a core element of Conflict Dynamics' work since its establishment. This report builds on Conflict Dynamics International's 2009 study, *Strengthening Protection of Children through Accountability*.

