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

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

Summary

In the present report, the Special Representative of the Secretary-General for Children and Armed Conflict presents her activities undertaken in discharging her mandate, including information on her field visits and on the progress achieved with regard to the signing of action plans, in addition to challenges remaining on the children and armed conflict agenda. The report covers the period from May 2011 to May 2012.

The Special Representative acknowledges the progress made since the previous reporting period with regard to accountability for perpetrators of attacks on schools and hospitals through the adoption by the Security Council of resolution 1998 (2011), and with regard to a system of deterrence for perpetrators of violations against children through the first judgement of the International Criminal Court on the war crime of recruitment and use of children. She also acknowledges the progress made with regard to the ratification of the Optional Protocol on the involvement of children in armed conflict and the signing of action plans to release children from armed groups.

This progress notwithstanding, the Special Representative is concerned about the continued impunity of violating parties and delays in the development of action plans for the release of children in some countries. She also discusses other child protection issues, such as the restoration of children's rights through reparations and protective measures to prevent children's association with armed forces and groups. Moreover, the Special Representative highlights the growing trend of killing and maiming children through the use of explosive weapons in populated areas.

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

Lastly, the Special Representative outlines a series of recommendations addressed to States parties to the Convention on the Rights of the Child, States that are under review of the Human Rights Council universal periodic review mechanism, the Human Rights Council and Member States to further the protection of children's rights.

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I. Introduction

1. The present report, covering the period from May 2011 to May 2012, is submitted pursuant to General Assembly resolution 51/77 and other subsequent resolutions of the Assembly on the rights of the child, including its most recent resolution 66/141, in which the Assembly requested the Special Representative for Children and Armed Conflict to continue to submit a report to the Human Rights Council on the activities undertaken in the fulfilment of her mandate, including information on her field visits and on the progress achieved and the challenges remaining on the children and armed conflict agenda.

2. Armed conflict not only leads to violations of children's human rights, but also deprives them of their basic socioeconomic rights. Conflict-affected countries and fragile States continue to lag behind in education and child mortality indicators, and the realization of other Millennium Development Goals. Children are disproportionately affected by this situation. Of the primary-school-age children in the world who are not enrolled in school, as many as two thirds live in such countries. In these contexts, children often voluntarily join armed forces and groups for lack of other options. Furthermore, thousands of children continue to be killed, maimed, abducted, subjected to sexual violence, denied humanitarian access and deprived of health care in many countries. Children were also subjected to arbitrary arrests, detention, torture and ill-treatment, and used as suicide bombers and human shields in several countries during the reporting period.

3. The need to address impunity and bring to justice those most responsible for violations of children's rights in situations of armed conflict continues to be a central concern of the Office of the Special Representative. Since the Special Representative's previous report (A/HRC/18/38), significant progress has been made in efforts to end impunity for perpetrators of grave violations against children, as illustrated by the first judgement of the International Criminal Court on the war crime of recruitment and use of children. Progress has also continued with regard to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, which has been ratified by 147 countries. Impunity remains widespread, however, and holding persistent perpetrators to account must be an utmost priority for the international community. The Human Rights Council is also a leading partner in ensuring that States apply the international norms and standards that protect children's rights.

4. The Special Representative welcomes the adoption by the Human Rights Council of its resolution 18/12 on human rights in the administration of justice, in particular juvenile justice. She especially appreciates the call on States to develop and implement a comprehensive juvenile justice policy with a view to promoting the use of alternative measures, such as diversion and restorative justice. She wishes to stress the need to ensure that, if children associated with armed forces and groups are arrested, detained or imprisoned, they should be separated from adults, to the greatest extent feasible. She also stresses the importance of including rehabilitation and reintegration strategies for child perpetrators in juvenile justice policies with a view to their assuming a constructive role in society. Lastly, she wishes to highlight the importance of tackling the specific issue of juvenile justice for children affected by armed conflict, in particular those children formerly or allegedly associated with armed groups.

5. The Special Representative also appreciates the adoption of resolution 19/37 on the rights of the child, in which the Council condemned in the strongest terms all violations committed against children in armed conflict and urged all parties to end such violations and to seek to end impunity for perpetrators. She welcomes the call upon States to endorse the Paris Commitments to protect children from recruitment or use by armed forces or

armed groups, to take special measures to protect children in contact with the law, and to take all feasible measures to ensure the release and reintegration of children used in armed conflicts and to implement effective measures for their rehabilitation and reintegration into society.

6. The Special Representative also appreciates the adoption of resolutions 19/9, on birth registration and the right of everyone to recognition everywhere as a person before the law, and 17/18, on the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, under which individuals or groups of individuals, including children themselves, who claim to be victims of violations under the Convention and its two optional protocols will be able to submit communications to the Committee for examination.

II. Working with United Nations human rights mechanisms

7. The Office of the Special Representative continues to work in close collaboration with the Office of the United Nations High Commissioner for Human Rights (OHCHR) with a view to mainstreaming child rights issues relating to armed conflict in the work of human rights mechanisms, including the universal periodic review of the Human Rights Council, the treaty bodies and the special procedures. Furthermore, recommendations pertaining to the issue of children and armed conflict by United Nations human rights mechanisms continue to be important advocacy tools in the work of the Special Representative.

8. The field presence of OHCHR and its deployment of human rights officers to peacekeeping operations and political missions, such as in Colombia and Nepal, also continue to make an important contribution to the monitoring and reporting of grave violations against children during armed conflict.

9. The Special Representative attaches great importance to the process for reporting to the Committee on the Rights of the Child on the implementation of the Optional Protocol on the involvement of children in armed conflict. During the period under review, the Office of the Special Representative provided information relevant to the issue of children and armed conflict to the Committee, in particular ahead of the Committee's country reviews for the Democratic Republic of the Congo, Myanmar and Thailand. The Office is pleased that its concerns were reflected in the Committee's concluding observations and will continue to use the relevant observations of the Committee for its advocacy purposes. The Office encourages States parties to the Convention to implement the recommendations of the Committee as a matter of priority and to submit timely reports under the Optional Protocol to the Committee.

10. The Office of the Special Representative has also submitted input to the universal periodic review on Pakistan and Sri Lanka, and intends to submit information on the Central African Republic, Colombia and Mali for consideration by the Working Group on the Universal Periodic Review during its upcoming sessions.

11. The Special Representative reiterates the recommendation made in her previous report (A/HRC/18/38), in which she encouraged the Working Group on the Universal Periodic Review to systematically take into account the concluding observations made by the Committee on the Rights of the Child when reviewing a State submission. The Special Representative urges States parties to accord priority to the implementation of relevant recommendations of the Working Group, with the assistance of the international community as needed.

12. The Special Representative reiterates her call to all special procedures mandate holders, during their missions and in their reports and recommendations, to take into account the challenges faced by children insofar as they are relevant to their respective mandates, and to bring those concerns to her attention.

13. When considering or adopting resolutions on country-specific situations or thematic issues, the Human Rights Council is encouraged to include recommendations on or references to the protection of children affected by armed conflict. Several Council resolutions during the period under review included such references, including resolutions S-17-1 and S-18-1, on the Syrian Arab Republic, in which the Council strongly condemned the extensive violations of children's rights.

III. Progress and challenges in addressing grave violations against children in armed conflict

14. Since the previous report of the Special Representative, progress has been made towards the protection of children in armed conflict. On 12 July 2011, the Security Council adopted resolution 1998 (2011), in which it requested the Secretary-General to include in the annexes to his reports on children and armed conflict perpetrators of recurrent attacks on schools and/or hospitals and recurrent attacks or threats of attacks against protected personnel in relation to such facilities. The Security Council also called for such perpetrators to prepare, without delay, time-bound action plans to halt those violations and abuses. It also reiterated its determination to ensure respect for its resolutions on children and armed conflict, including by enhancing communications between the Working Group on Children and Armed Conflict and the sanctions committees.

15. In the same month, following a briefing by the Special Representative on the situation of conflict-affected children in Somalia, the Security Council Committee pursuant to resolutions 751 (1992) and 1907 (2009) concerning Somalia and Eritrea expanded its sanctions designation criteria to include grave violations against children, including recruitment and use, killing and maiming, sexual violence, abductions, attacks on schools and hospitals and forced displacement in Somalia. This brings to four the number of sanctions committees that have designation criteria pertaining to grave violations against children (Côte d'Ivoire, the Democratic Republic of the Congo, Somalia and the Sudan).

16. Since the previous report of the Special Representative, the child protection commitments made by the Governments of Afghanistan, the Central African Republic, Chad, Somalia and South Sudan have been translated into specific actions by these parties. New action plans to cease the recruitment and use of children and to secure their release were signed by the United Nations and the Chadian National Army on 15 June 2011, the Central African Armée populaire pour la restauration de la démocratie (APRD) on 22 October 2011, the Central African Convention des patriotes pour la justice et la paix (CPJP) on 20 November 2011 and the Sudan's People's Liberation Army on 13 March 2012, respectively.

17. In Nepal, the Unified Communist Party of Nepal-Maoist took the measures required for full compliance with its action plan by suspending payments, ceasing the provision of housing and encouraging disqualified minors to register for reintegration programmes. In Sri Lanka, the Government investigated the whereabouts of the remaining children allegedly associated with the faction led by Iniya Bharati, thus entering into compliance with its commitments under its action plan. In November 2011, during the visit of the Special Representative to Somalia, the Transitional Federal Government reconfirmed its commitment to negotiating an action plan to release girls and boys within the ranks of the Government forces and allied militias and began working with the United Nations towards

that goal. In Myanmar, negotiations with the Government towards the signing of an action plan to end the recruitment and use of children in the armed forces, including the integrated border guard forces, are in their final phase, and the prompt signing of an action plan is expected.

18. There has also been progress in the protection of children abducted across borders by the Lord's Resistance Army (LRA), with the establishment by the Uganda People's Defence Force in May 2011 of standard operating procedures for the reception and handover of children and women separated from LRA in the Central African Republic, the Democratic Republic of the Congo and the Sudan, which stipulate that all children separated from LRA in the custody of the Uganda People's Defence Force must be handed over to child protection actors within seven days.

19. The progress made notwithstanding, significant challenges in addressing grave violations against children remain. Impunity for grave crimes perpetrated against children remains a serious challenge. The Special Representative notes with great concern the growing list of persistent perpetrators of grave violations against children, with 32 parties to conflict having been listed by the Secretary-General for at least five years. More must be done to enforce compliance with international obligations and to address factors that undermine efforts to combat impunity, such as the lack of political will, weak legal and judicial infrastructures, and the insufficient allocation or absence of resources and expertise to conduct investigations and prosecutions.

20. Obstacles to dialogue for the development of action plans between the United Nations and non-State armed groups continue to persist. These include lack of access to armed groups and of political will, fragmentation within armed groups or the inability to identify perpetrators and hold groups accountable for violations committed. Countries affected by these constraints include Afghanistan, Colombia, the Democratic Republic of the Congo, the Philippines, the Syrian Arab Republic and Yemen.

21. The lack of economic opportunities and insufficient long-term funding continue to hamper the reintegration of children formerly associated with armed forces and groups. This is the case in the Central African Republic, Chad and the Philippines, for example, where many children remain associated with armed actors through their communities. In many countries, continuing fighting and insecurity make children vulnerable to rerecruitment and limit the access of actors delivering reintegration support.

22. An additional challenge lies in ensuring that timely and reliable information on grave violations against children is available in emerging crises. During the reporting period, such challenges arose in Libya, Mali and the Syrian Arab Republic. The Special Representative would welcome a dialogue with all United Nations partners on how to better address the situation of children in rapidly evolving conflicts. She also stresses the need for the early deployment of specific child protection capacity.

IV. First judgement of the International Criminal Court on the war crime of recruitment and use of children

23. On 14 March 2012, the International Criminal Court delivered its verdict in the case *The Prosecutor v. Thomas Lubanga Dyilo*, convicting Thomas Lubanga of the crimes of conscripting and enlisting children under the age of 15 years into the Forces patriotiques pour la libération du Congo and using them to participate actively in hostilities. The Court's first judgement on the issue of child recruitment constitutes important international jurisprudence for future cases. In 2008, the Special Representative testified as an expert witness before the Court and submitted an amicus curiae brief providing clarification on the

terms “conscripting and enlisting children” and “using them to participate actively in hostilities”. Both interpretations adopted by the Court allow for greater protection for all children associated with armed forces or armed groups.

24. Trial Chamber I accepted the approach taken by the Pre-Trial Chamber and suggested by the Special Representative, according to which both conscription and enlistment are forms of recruitment, in that they refer to the incorporation of a boy or a girl under the age of 15 years into an armed group, whether coercively or voluntarily. The Special Representative argued in her brief to the Court that the distinction between voluntary enlistment and forced recruitment was a distinction without meaning, as even the most voluntary of acts could be a desperate attempt to survive by children with a limited number of options. In such circumstances, any consent given by a child could not be regarded as truly voluntary in the full sense of the word. Whether the child enlisted or was conscripted, the line between voluntary and involuntary recruitment was legally irrelevant and practically superficial in the context of children’s association with armed forces or armed groups in times of conflict.

25. The Chamber also decided to apply a broad interpretation of the term “participate actively in hostilities” to ensure justice and protection for all children associated with armed forces or armed groups. The Court held that the term included a wide range of individuals, from those on the front line (who participated directly) to the boys and girls who were involved in multiple roles that supported the combatants. The Court further refined that interpretation, using a case-by-case determination and adopting a double test: whether support was given and whether the support provided to the combatants exposed the child to real danger as a potential target. The Chamber made a clear distinction between the term “direct participation in hostilities”, which determines combatant status under international humanitarian law, and the term “actively participating in hostilities”, which is the criteria applicable to the use of children in hostilities, holding that the latter was to be interpreted broadly, and without conferring combatant status on those children.

V. Reparations for children and the restoration of children’s rights

26. Where children are concerned, justice includes far more than punishing a perpetrator. Equally important are measures to restore children’s rights and an element of reparation to address the loss of their childhood, family, education and livelihood. For various reasons, only a small proportion of children who have suffered harm during armed conflict are likely to participate as victims or witnesses in trials before a national or international court. Access to justice for children in conflict and post-conflict situations should therefore take place through both judicial and non-judicial processes. For many children in these situations, non-judicial mechanisms such as reparations can provide more immediate accountability, foster community reconciliation and allow children to move on with their lives. There are, however, significant challenges to the implementation of non-judicial mechanisms, such as the lack of financial and human resources, the victims’ expectations and the need for long-term political support.

27. Reparations are intended to acknowledge the suffering of victims and harm inflicted upon them, and to provide compensation, restitution and redress for violations, with the aim of returning victims to their previous condition to the maximum extent possible. The principles underlying reparations can be found in the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (2005), which were adopted by the General Assembly in resolution 60/147. According to the Basic Principles and Guidelines, States must, as required under international law, ensure that their domestic

law is consistent with their international legal obligations by making available adequate, effective, prompt and appropriate remedies to victims, including reparations, defining them as restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition. Reparations can take various forms and may be individual, collective and/or community-based. The effectiveness of any form of reparations is limited when the objective is only to return victims to the situation that existed before the violations, without addressing underlying gender inequalities and pre-existing discriminatory practices.

28. The conviction of Thomas Lubanga by the International Criminal Court not only set an important international precedent in terms of the war crime of recruiting and using children, but may also constitute a significant contribution to the development and definition of the right to reparations in international human rights law and customary international humanitarian law. Article 75 (1) of the Rome Statute requires the Court to establish principles relating to reparations to, or in respect of, victims of war crimes and crimes against humanity, including restitution, compensation and rehabilitation. The Court's upcoming decision on reparations in the *Lubanga* case could strengthen the existing recognition of the right to reparations, as described in regional and international human rights law, including article 39 of the Convention on the Rights of the Child.

29. The International Criminal Court is the first international tribunal to include reparations to victims of war crimes in its mandate. It established the Trust Fund for Victims, which is tasked to provide general assistance in the form of physical rehabilitation, material support and psychosocial counselling to victims of international crimes in countries where the Court has jurisdiction, and to implement Court-ordered reparation awards. The Trust Fund has introduced an innovative approach to reparations in two ways: it is not linked to any specific case before the Court and supports victims both individually and collectively; and it is financed through basket funding from States and voluntary donations, which means that reparations are not limited to the financial means of the convicted person. Following the judgement in the *Lubanga* case, the Court and the Trust Fund will deal with legal and practical questions on the implementation of the reparations mandate, which may have implications for the larger child protection community.

30. Previous experience with reparations for children, either administrative or court-ordered, has been limited. Past and present initiatives provide useful lessons learned and a sense of the challenges ahead. The Extraordinary Chambers in the Courts of Cambodia, for example, was the first ad hoc and hybrid court mandated to order reparations to victims, albeit only of a collective and symbolic nature. The Special Court for Sierra Leone had no mandate to award reparations. Instead, the Government established an administrative reparations programme on the basis of the Truth and Reconciliation Commission. Resource limitations, however, have put a significant strain on the implementation of this reparations process. In Colombia, in the framework of the Justice and Peace Act, the Supreme Court ordered reparations to child victims of forced recruitment in the case against Freddy Rendón Herrera, alias "*El Alemán*", who was accused of unlawful recruitment. The Court considered the needs and experience of each victim, in particular girls, to be different, and decided to focus on individual rehabilitation measures rather than collective material reparations.

31. The experiences of a significantly larger number of victims, and the loss and harm resulting from a wider range of violations, can be acknowledged and repaired through reparations programmes. Any decision on reparations should avoid an overly narrow definition of victims and their eligibility and not limit the violations allowing for reparations. It is important to include those victims who have not participated in court proceedings, maintaining an open list of applicants and conducting a series of registration periods. In deciding who is eligible for reparations, however, the limited human and financial resources must be taken into account. Priority should therefore be accorded to the

immediate and direct victims of the crime and their families, including the victims of forced recruitment and the victims and families of the crimes committed by the armed group. Moreover, an assessment of the current needs of the victims is crucial as several years may have passed since the events took place.

32. Any reparations process should consist of a combination of reparative measures, including individual, collective and community-based initiatives. The range of reparations spans from material (such as cash payments, access to education and health care, and skills training) to symbolic (such as public acknowledgements and memorials). For various reasons, lump-sum payments may not be the ideal form of reparations. Violations of children's rights most often lead to lost opportunities, such as loss of schooling, family and livelihood. Accordingly, other reparation benefits, such as education programmes, physical rehabilitation, skills training and the provision of psychosocial support may be more restorative alternatives. In addition, community-based reparations, with a focus on reconciliation, may help to reduce tensions within and across communities. In this context, a project-based approach, involving communities in livelihood and infrastructure initiatives, may be a useful option, but should avoid overlap with regular development programmes.

33. Reparations programmes should bear in mind that victims who were children at the time of the commission of the violation may face stigmatization or marginalization as former child soldiers or forced wives, leading to the social exclusion of, in particular, girl child soldiers. Community members may also resent former child soldiers, who they feel are being rewarded for having taken part in hostilities, thus reinforcing existing divisions. The child perpetrator dilemma tends to be confusing for both the child and those who may have been their victims. Reparations, however, could also assist in signalling that past modes of operation will no longer be tolerated and could contribute to dismantling the relationship between former commanders and their victims. A public statement by community leaders on the legal findings of responsibility, followed by an intensive awareness-raising campaign on the judgement and a declaration to the effect that child victims of recruitment should not be held legally or morally responsible for their actions as combatants during the conflict, would be the best guarantee of non-repetition.

VI. Prevention of child recruitment

34. Children become associated with armed forces and groups for various reasons. In some situations, they are forcibly recruited or abducted by armed elements, or coerced and intimidated into joining them. Recruitment of children also takes place in the context of poverty, discrimination, revenge and loyalty to an ethnic, religious or tribal group. Often, insecurity and displacement propel children, especially those who have become separated from their families, to voluntarily join an armed group for protection and survival.

35. Given the complex set of factors influencing child recruitment, prevention strategies, to be successful, require a holistic approach and should be conducted by a variety of actors at the local, national and international levels. From a broad perspective, three prevention strategies can be identified: effective legal prevention mechanisms at the national level, strengthening community protection mechanisms at the local level, and providing children with alternatives.

Development, dissemination and enforcement of the law

36. The criminalization of under-age recruitment and the domestication of international norms and standards against the recruitment and use of children are crucial measures for the prevention of under-age recruitment. It is crucial that States enact legislation to explicitly criminalize under-age recruitment and use of children by armed forces and groups in their penal codes. Effective criminalization can be hindered by amnesties and de facto

immunities granted to members of armed forces suspected of serious human rights abuses and/or armed groups that will become part of a national army in the framework of a peace process. In developing legal provisions, care must be taken to ensure that amnesties are not applicable to individuals who recruit children.

37. Measures to foster the dissemination of the law are also critical for prevention. These may include the creation of child protection units in the military, which have played an important role in some countries. Educational training programmes to inform armed forces and groups of the legal protection for children during armed conflict are equally important in increasing awareness of and compliance with international norms.

38. At the national level, effective investigations and prosecutions are potentially powerful prevention tools but continue to be weak. The failure to investigate grave violations against children or to sanction those responsible is often linked to broader accountability issues. Short of systematic prosecution, a system for deterrence should be built through the prosecution of the most persistent violators. Furthermore, practical measures can be implemented by Governments to prevent under-age recruitment, such as free birth registration or alternative mechanisms for age verification, in addition to conscription policies and mandatory vetting procedures to monitor child recruitment by national armies.

Strengthening family and community protection mechanisms

39. Establishing and strengthening community protection mechanisms and raising the awareness of families, communities and their leaders of the issue are other critical factors for prevention. Child protection and recruitment prevention policies are unlikely to work in contexts in which the community promotes the association of children with armed groups. Children are also most vulnerable to recruitment when family and community protection systems are weakened. In some contexts, children join armed groups because they are encouraged to do so by their families and/or communities. Domestic violence has also been found to be a central factor in the recruitment of children. Abusive families propel children on to the streets, where they are more vulnerable to recruitment, or directly into the ranks of an armed group. In Colombia, for example, the decision of children, mainly girls, to run away and join an armed group has been found to be closely linked to domestic exploitation and physical and sexual abuse.

40. Communities can prevent the voluntary or forced association of children with armed forces and groups in several ways. Community-based child protection systems can warn of the threat of recruitment or rerecruitment. Where armed groups depend on the moral or material support of local people, community structures may be able to put pressure on local commanders to release children and provide support for their protection. Community figures such as elders and traditional leaders can also reach non-State parties to promote child protection commitments and prevent recruitment. In Afghanistan, for example, elders have in some cases reached agreements with local commanders to impede the recruitment of children. Community-based child protection systems can also help to reduce the overall vulnerability of children and provide special protection to children living and working in the streets, orphans and separated children, who are at particular risk of recruitment.

41. Partnering with and building the capacity of local child protection systems requires a situation analysis of each country in order to identify the strengths of and gaps in child protection systems at both the national and community levels. Community-based child protection mechanisms have been found to be a highly diverse and adaptable approach to child protection in different contexts. In some situations, child protection mechanisms have sprung out of women's associations and been engaged in collecting information on violations of children's rights and in protecting children at particular risk of recruitment.

Other community-led protection networks spring up spontaneously or are fostered by non-governmental organizations working with the community.

42. Initiatives to raise community awareness about the rights of children and the long-term implications of children's association with armed groups and to promote attitudinal change or encourage the intervention of community and religious leaders to halt child recruitment should be conducted in close collaboration with parents, community and religious leaders, teachers and children themselves. Dialogue to foster community ownership is crucial, as are consultations that aim at identifying and building on existing positive practices.

43. A common challenge is the creation of linkages between local, community-based protection structures, on the one hand, and elements of the formal child protection system and Government services, on the other. Often, the existence of strong legal and policy frameworks notwithstanding, Government-led services are not filtering down to the communities. In extremely fragile contexts, the weakness of the State and its lack of control over all areas may be a factor accounting for gaps in Government services at the community level. In other contexts, it is a sign of insufficient priority and resources being accorded to the commitments made in the national framework. In the absence of formal mechanisms, community-led mechanisms often step in. These may include groups formed specifically for the purpose, such as child protection committees or community care coalitions, or they may simply consist of existing structures, such as women's groups, faith-based organizations and other community associations that take on a role in protecting children. To be effective, these mechanisms need adequate funding, capacity and knowledge to deal with child protection issues.

Empowering children through education, skills and livelihood opportunities

44. In many contexts, joining armed forces or groups is a deliberate choice for children who otherwise lack opportunities and a sense of purpose in life. It is unlikely that children will want to leave an armed group or refrain from rejoining unless the reasons why they originally volunteered have been addressed.

45. Ensuring children's access to education is itself a powerful means of protecting them from becoming involved with armed forces or groups in conflict-affected countries or fragile situations. If children attend school, they are busy and less likely to join armed forces or groups because they have other alternatives. In contrast, a lack of access to education leads many young people to see military training as their only opportunity to learn. In situations of armed conflict, when the protective function of schools is most required, schools often become targets for attacks. The use of schools for military purposes equally reduces the likelihood of children attending school, and thus may increase the likelihood of voluntary association of children with armed groups. All stakeholders must therefore ensure that schools are protected. Measures that field-based practitioners in conflict settings have used to prevent schools from being attacked include physical protection, community involvement in protection of schools, alternative delivery of education, negotiations with stakeholders to make schools conflict-free zones, restrictions on the military and political use of schools, and advocacy initiatives.

46. Evidence from armed conflicts suggests that there is a strong association between recruitment into armed forces or groups, on the one hand, and poverty and social disadvantage, on the other. Poverty, often combined with social exclusion, has been found to stir the frustration of young people and create incentives to join armed groups. In many post-conflict societies, young people have little choice but to remain unemployed or accept short-term and exploitative work. Accordingly, providing children and young people with alternatives through high-quality education, both formal and non-formal, and national programmes for job creation and income generation for young people should be top

priorities in national prevention strategies. Food security and livelihood measures, tailored to the specific economic context, together with cultural and psychosocial support activities, can also contribute to preventing the recruitment and the rerecruitment of children.

VII. Explosive weapons: an emerging concern

47. An emerging concern is the use of explosive weapons by Governments and non-State actors, especially in populated areas, which has a devastating impact on civilians, including children. A particular cause for concern has been the use of heavy explosive weapons that can have wide-area effects, such as multiple-launch rockets, high-explosive artillery and mortars, car bombs and other improvised explosive devices.

48. Explosive weapons touch on four of the six grave violations against children and armed conflict, including killing or maiming. They are also used for direct and physical attacks on schools and hospitals, where they may result in forced closure or compromised functioning. Children recruited and used as suicide bombers and victim bombers both carry explosive weapons. In some country situations, children are denied humanitarian access because of the presence of explosive remnants of war. Recent developments in countries such as Afghanistan, Iraq, Libya, Somalia, the Sudan and the Syrian Arab Republic, where thousands of children have been killed and maimed, have confirmed the gravity of the issue.

49. Recognition of the distinct and specific problems associated with explosive weapons is growing. Acknowledgment that the use of explosive weapons in populated areas causes severe harm to civilians and is a serious concern for the protection of children in armed conflict has to be further strengthened, however. Systematic data collection and analysis of the human cost of these weapons is critical to this end. In addition, the humanitarian principles of distinction, proportionality and precaution must always guide the use of explosive weapons in compliance with international humanitarian and human rights law. When dealing with country-specific situations where parties to conflict are listed by the Secretary-General for patterns of killing and maiming children, and attacks on schools and hospitals, action plans to end these violations should tackle the issue of explosive weapons.

VIII. Field visits by the Special Representative

50. During the period under review, the Special Representative carried out field missions to Chad (June 2011), the Central African Republic and Somalia (November 2011) and South Sudan (March 2012). The purpose of these visits was to take stock of the situation of children in these countries, to witness the signing of action plans, to secure and facilitate the implementation of child protection commitments on the ground, to foster more effective coordination among the principal stakeholders and to follow up on the recommendations of the Secretary-General and the main provisions of Security Council resolutions 1612 (2005), 1882 (2009) and 1998 (2011).

51. The main commitments made by Governments and other parties to the conflict during these missions are highlighted below. It is crucial for the protection of children that the Human Rights Council and the broader international and human rights community continue to collectively monitor follow-up actions and encourage parties to honour their commitments.

A. Chad

52. The Special Representative visited Chad from 13 to 16 June 2011 to witness the signing of the action plan between the Government and the United Nations for the release

of children associated with the Chadian army and associated security forces. She met the President and other Government officials, together with representatives of the United Nations country team, the diplomatic community, international and national non-governmental organizations and civil society. She also travelled to the east of the country, where she visited a Sudanese refugee camp and met local authorities and traditional leaders.

53. The Special Representative stressed the need to support educational infrastructure and economic reintegration as critical measures in preventing rerecruitment. She obtained a commitment from the Government to take the steps necessary to develop a national legislative framework for the protection of children.

B. Central African Republic

54. The Special Representative travelled to the Central African Republic from 15 to 23 November 2011 to take stock of the challenges facing children affected by armed conflict in the country.

55. The Special Representative met the Prime Minister and other Government officials, the leaders of armed groups (APRD, Union des forces démocratiques pour le rassemblement and CPJP) and representatives of the Ugandan People's Defence Force, the diplomatic community, non-governmental organizations and the United Nations country team. She travelled to the LRA-affected region to meet LRA victims, local authorities and the Ugandan People's Defence Force to discuss the implementation of standard operating procedures for the handover of children in its custody. She also travelled to the north of the country, where she witnessed the signing of an action plan between the United Nations and CPJP to end the recruitment of children in its ranks.

C. Somalia

56. The Special Representative travelled to Somalia from 23 to 25 November 2011 to discuss the development of an action plan with the Government and challenges facing the country task force on monitoring and reporting in relation to grave violations against children.

57. In Mogadishu, the Special Representative met the President and Prime Minister of Somalia, representatives of the Transitional Federal Government's forces and the Force Commander of the African Union Mission in Somalia to discuss the development of an action plan to end the recruitment of children. She then met representatives of the diplomatic community and United Nations country team members to assess progress made in establishing a monitoring and reporting mechanism for Somalia.

D. South Sudan

58. During her visit to South Sudan from 12 to 16 March 2012, the Special Representative witnessed the signing of a renewed action plan by the Sudan People's Liberation Army to end the recruitment and use of children in its ranks.

59. The Special Representative met the President and high-level representatives of the Government, urging them to sign and ratify the Convention on the Rights of the Child and its Optional Protocol on the involvement of children in armed conflict. She also voiced her concern to the Governor of Malakal, Upper Nile State, which adjoins the Sudan, regarding the recruitment of children by the Sudan People's Liberation Army in its regional barracks.

60. The Special Representative travelled to the town of Renk to assess in person the situation of children returning from the Sudan living in camps and host communities. Although her trip to Jonglei was cancelled, the Special Representative met United Nations and civil society partners and raised concerns about the abduction of children in the area.

IX. Towards universal ratification of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

61. The Special Representative continues to mobilize support for the signing and ratification of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. During the reporting period, she held bilateral meetings with Member States that had not ratified the treaty. The Office also continued to conduct media outreach to promote broader awareness, information and support.

62. The Special Representative wishes to reiterate her urgent call upon States to establish 18 years as the minimum age for voluntary recruitment into the armed forces when depositing their binding declaration (under article 3) upon ratification of the Optional Protocol.

63. Since the launch of the global campaign on ratification, “Zero Under 18” in May 2010, important progress has been achieved. Between May 2011 and May 2012, the Optional Protocol was signed by Saint Lucia and ratified by San Marino. In addition, five Member States (Côte d’Ivoire, Grenada, Malaysia, the Niger and Saudi Arabia) acceded to the Optional Protocol, bringing the total number of States parties to 147. A total of 23 Member States have signed but not ratified the Optional Protocol.

64. Given the resource implications and reporting requirements that ratification and implementation entail, the Special Representative would like to encourage leadership by one or more countries that have already ratified the Optional Protocol to provide guidance and other forms of assistance to those countries willing to ratify.

X. Conclusions and recommendations

65. **The Special Representative welcomes the strengthened collaboration between her Office and the United Nations human rights system, and reiterates her continued support, including through regular information-sharing and advocacy for the protection of children affected by armed conflict. The Special Representative reiterates that, unless all parties to conflict adhere to their commitments, comply with their international obligations and are held accountable for non-compliance, there will be no improvement in the situation of children in armed conflict. To this end, the Special Representative makes the recommendations below.**

A. Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

66. **The Special Representative urges States parties to the Convention on the Rights of the Child to strengthen national and international measures for the prevention of recruitment of children into the armed forces or armed groups and their use in hostilities, in particular by signing and ratifying the Optional Protocol to the Convention on the involvement of children in armed conflict and enacting**

legislation to explicitly prohibit and criminalize the recruitment of children into armed forces or groups and their use in hostilities.

67. States parties should also establish mechanisms to identify children who have been or may have been recruited or used in hostilities, and provide such children with the necessary assistance, including psychological and psychological rehabilitation and social integration, and prohibit the export of arms to countries where children are being recruited or used in hostilities.

68. States parties to the Convention and to the Optional Protocol are further urged to implement the recommendations of the Committee on the Rights of the Child as a matter of priority and to submit timely reports to the Committee under the Optional Protocol. To this end, States parties are encouraged to establish effective interministerial coordination mechanisms with a view to ensuring comprehensive measures to prevent and protect children from offences under the Optional Protocol.

69. States are encouraged to establish 18 years as the minimum age for voluntary recruitment into armed forces when depositing their binding declaration upon ratification of the Optional Protocol. Those States that have ratified but not adopted what is known as the “straight-18 position”¹ are urged to reconsider their declarations and to raise the minimum age to 18 years.

70. Since ratification and the implementation processes of the Optional Protocol place a clear burden on the resources of those States willing to ratify the instrument, leadership by one or more countries that have already ratified is encouraged, to provide guidance and other forms of assistance.

71. The Special Representative urges the international community to continue to advocate 18 years as the minimum age for recruitment and participation in hostilities; to exert international pressure on parties that continue to recruit and use children; to monitor and compel adherence by parties to conflict to commitments made to protect children, and to hold them accountable for failure to comply with international standards; to address the political, social and economic factors facilitating the recruitment and use of children; and to respond to the rehabilitation and reintegration needs of former child soldiers.

B. Universal periodic review

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

73. The concluding observations of the Committee on the Rights of the Child on reports submitted by States parties under the Optional Protocol to the Convention should also be taken into consideration by the Working Group on the Universal Periodic Review when reviewing a State submission under the review process.

¹ See A/HRC/15/58, para. 17.

74. States should further begin to accord priority to the implementation of relevant recommendations by the Working Group on the Universal Periodic Review with the assistance of the international community, wherever it is needed.

C. Human Rights Council

75. The Human Rights Council is encouraged, when considering or adopting resolutions on country-specific situations or thematic issues, to include therein recommendations on, or references to, the protection of children affected by armed conflict. It is also encouraged to act as a complementary follow-up mechanism to assess the implementation of the observations and recommendations of the Committee on the Rights of the Child, particularly with regard to the parties to conflict in all situations of concern addressed in the annual report of the Secretary-General (A/66/782-S/2012/261).

76. Member States bear a central and immediate political, legal and moral responsibility for the protection of children and should comply with international law for the protection of children within their territories. The Rome Statute defined the recruitment and use of children in armed forces or armed groups as a war crime. Member States should enact the appropriate legislation to criminalize these violations and hold adult recruiters to account, including military commanders and political leaders, for both the crime of child recruitment and for the crimes that they forced children to commit. They should also take action against other grave violations against children through their national justice systems, including by bringing their laws into line with international obligations and by according priority to child protection capacity and training for the military, the police and law enforcement and judiciary officials in the context of national security sector reform efforts.

77. Member States should continue to insist that parties listed in the annexes to the report of the Secretary-General on the recruitment and use of children, killing and maiming of children, and/or rape and other sexual violence against children, in addition to attacks against schools and hospitals (see annexes I and II to the present report), in contravention of applicable international law, prepare and implement specific time-bound action plans to halt those violations and abuses, and take punitive measures against any parties that fail to comply.

78. Lastly, the Special Representative urges all special procedures mandate holders, during their missions and in their reports and recommendations, to take into account the challenges faced by children insofar as they are relevant to their respective mandates, and to bring those concerns to her attention.

D. Accountability of perpetrators

79. International and national courts should continue to investigate, prosecute and sentence perpetrators of the crime of recruitment and use of children. Courts are encouraged to use and build on the jurisprudence arising from the judgement handed down by the International Criminal Court in the *Lubanga* case and to be guided by the Court's legal interpretations of the terms "conscription and enlistment of children" and "using them to participate actively in hostilities".

E. Reparations

80. Member States should put in place administrative reparation programmes to address the needs of children affected by conflict, and should also include reparations in the mandates of international, hybrid and national courts.

81. The relevant courts should include reparations to children affected by conflict in their judgements and sentencing hearings, providing victims with assistance in the form of physical rehabilitation, education, livelihood skills and psychosocial support.

82. Reparation programmes should be designed to meet the particular needs of children and to encourage reconciliation within communities. Governments and donors play a central role in providing sustainable resources to make such initiatives a success.

F. Prevention of child recruitment

83. Member States should enact the appropriate legislation to criminalize the recruitment of children and investigate cases of recruitment and prosecute adult recruiters in a timely and systematic manner.

84. Member States should accord priority to funding the strengthening of community-based child protection mechanisms as a critical measure in preventing child recruitment and linking community-based protection systems to formal child protection systems. Children and young people should be provided with alternatives through high-quality education, both formal and non-formal, and national programmes for job creation and income generation for young people should be the main priorities in national prevention strategies.

Annex I

[English/French only]

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

Parties in Afghanistan

1. Afghan National Police, including Afghan Local Police.^a This party has concluded an action plan with the United Nations in line with Security Council resolutions 1539 (2004) and 1612 (2005).
2. Haqqani network^{a,b}
3. Hezb-e-Islami of Gulbuddin Hekmatyar^{a,b}
4. Taliban forces, including the Tora Bora Front, the Jamat Sunat al-Dawa Salafia and the Latif Mansur Network^{a,b,d}

Parties in the Central African region (Central African Republic, Democratic Republic of the Congo, South Sudan and Uganda)

Lord's Resistance Army (LRA)^{a,b,c}

Parties in the Central African Republic

1. Armée populaire pour la restauration de la république et la démocratie (APRD).^a This party has concluded an action plan with the United Nations in line with Security Council resolutions 1539 (2004) and 1612 (2005).
2. Convention des patriotes pour la justice et la paix (CPJP).^a This party has concluded an action plan with the United Nations in line with Security Council resolutions 1539 (2004) and 1612 (2005).
3. Front démocratique du peuple centrafricain (FDPC)^a
4. Lord's Resistance Army (LRA)^{a,b,c}
5. Mouvement des libérateurs centrafricain pour la justice (MLCJ)^a
6. Self-defence militias supported by the Government of the Central African Republic^a

* The parties which are underlined have been in the annexes for at least five years and are therefore considered persistent perpetrators.

^a Parties that recruit and use children.

^b Parties that kill and maim children.

^c Parties that commit rape and other forms of sexual violence against children.

^d Parties that engage in attacks on schools and/or hospitals.

7. Union des forces démocratiques pour le rassemblement (UFDR).^a This party has concluded an action plan with the United Nations in line with Security Council resolutions 1539 (2004) and 1612 (2005).

Parties in Chad

1. Armée nationale tchadienne, including newly integrated elements.^a This party has concluded an action plan with the United Nations in line with Security Council resolutions 1539 (2004) and 1612 (2005).
2. Justice and Equality Movement (JEM)^a

Parties in the Democratic Republic of the Congo

1. Forces armées de la République Démocratique du Congo (FARDC), including integrated elements from various armed groups, including the Congrès national pour la défense du peuple (CNDP), formerly led by Laurent Nkunda as well as elements currently led by Bosco Ntaganda^{a,c}
2. Forces démocratiques de libération du Rwanda (FDLR)^{a,c,d}
3. Front de résistance patriotique en Ituri/Front populaire pour la justice au Congo (FRPI/FPJC)^{a,c}
4. Lord's Resistance Army (LRA)^{a,c}
5. Mai-Mai groups in North and South Kivu, including the Patriotes résistants congolais (PARECO)^{a,c}

Parties in Iraq

1. Al-Qaida in Iraq^{a,b,d}
2. Islamic State of Iraq (ISI)^{b,d}

Parties in Myanmar

1. Democratic Karen Buddhist Army (DKBA)^a
2. Kachin Independence Army (KIA)^a
3. Karen National Union/Karen National Liberation Army (KNU/KNLA).^a This party has sought to conclude an action plan with the United Nations in line with Security Council resolutions 1539 (2004) and 1612 (2005), but the United Nations has been prevented from doing so by the Government of Myanmar.
4. Karenni National Progressive Party/Karenni Army (KNPP/KA).^a This party has sought to conclude an action plan with the United Nations in line with Security Council resolutions 1539 (2004) and 1612 (2005), but the United Nations has been prevented from doing so by the Government of Myanmar.
5. Shan State Army South (SSA-S)^a
6. Tatmadaw Kyi, including integrated border guard forces^a
7. United Wa State Army (UWSA)^a

Parties in Somalia

1. Al-Shabaab^{a,b}
2. Transitional Federal Government^{a,b}

Parties in South Sudan

1. Lord's Resistance Army (LRA)^{a,b,c}
2. Sudan People's Liberation Army (SPLA).^a This party has concluded an action plan with the United Nations in line with Security Council resolutions 1539 (2004) and 1612 (2005).

Parties in the Sudan

1. Justice and Equality Movement (JEM)^a
2. Justice and Equality Movement/Peace Wing (JEM/Peace Wing)^a
3. Popular Defense Forces (PDF)^a
4. Pro-Government militias^a
5. Sudanese Armed Forces (SAF)^a
6. Sudan Liberation Army (SLA)/Abdul Wahid^a
7. Sudan Liberation Army (SLA)/Free Will^a
8. Sudan Liberation Army (SLA)/Historical Leadership^a
9. Sudan Liberation Army (SLA)/Minni Minawi^a
10. Sudan Liberation Army (SLA)/Mother Wing (Abu Gasim)^a
11. Sudan Liberation Army (SLA)/Peace Wing^a
12. Sudan Liberation Army (SLA)/Unity^a
13. Sudan People's Liberation Movement North (SPLM-N)^a
14. Sudan police forces, including the Border Intelligence Forces (BIF) and the Central Reserve Police (CRP)^a

Parties in the Syrian Arab Republic

Syrian Government forces, including the Syrian Armed Forces, the intelligence forces and the Shabbiha militia^{b,d}

Annex II

[English/Spanish only]

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

Parties in Colombia

1. Ejército de Liberación Nacional (ELN)^a
2. Fuerzas Armadas Revolucionarias de Colombia — Ejército del Pueblo (FARC-EP)^a

Parties in the Philippines

1. Abu Sayyaf Group (ASG)^a
2. Moro Islamic Liberation Front (MILF).^a This party has concluded an action plan with the United Nations in line with Security Council resolutions 1539 (2004) and 1612 (2005).
3. New People's Army (NPA)^a

Parties in Yemen

1. Al-Houthi rebels^a
 2. Breakaway First Armoured Division (FAD)^a
 3. Pro-Government tribal militia^a
 4. Yemeni armed forces^a
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* The parties which are underlined have been in the annexes for at least five years and are therefore considered persistent perpetrators.

^a Parties that recruit and use children.