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2021 年 5 月 20 日比利时常驻联合国代表给秘书长的信

谨此提交由非政府组织“儿童与武装冲突问题观察清单”和福特汉姆大学国际人道主义事务研究所于 2021 年 1 月 28 和 29 日联合举办的儿童与武装冲突工作会议的报告(见附件)。^{*}

请将本信及其附件作为大会议程项目 68 项下文件和安全理事会文件分发为荷。

常驻代表

大使

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^{*} 仅以来件所用语文分发。



2021 年 5 月 20 日比利时常驻联合国代表给秘书长的信的附件

**Annual policy workshop on priorities for the United Nations
children and armed conflict agenda 2021
28 and 29 January 2021**

I. Introduction

1. The nongovernmental organization (NGO) Watchlist on Children and Armed Conflict (“Watchlist”) and the Institute of International Humanitarian Affairs (IIHA) at Fordham University convened a workshop on January 28 and 29, 2021, which was held virtually due to the COVID-19 pandemic. The workshop brought together representatives of United Nations Member States, including members of the Security Council, staff from the Executive Office of the Secretary-General (EOSG), the Office of the Special Representative of the Secretary-General for Children and Armed Conflict (OSRSG-CAAC), UNICEF, the Department of Peace Operations (DPO), the Office for the Coordination of Humanitarian Affairs (OCHA), the Office of the High Commissioner for Human Rights (OHCHR), the Office of the UN High Commissioner for Refugees (UNHCR), the International Committee of the Red Cross (ICRC), academics, and NGOs to discuss priorities for the UN’s Children and Armed Conflict (CAAC) agenda in 2021. This is the seventh such policy workshop organized by Watchlist since 2013, carried out to discuss the implementation of the UN’s CAAC agenda, clearly identify priorities, and develop targeted recommendations for the coming year.

2. The Special Representative of the Secretary-General for Children and Armed Conflict (SRSG-CAAC) opened the workshop with reflections on the work of her office, as well as progress and challenges to the effective implementation of the CAAC agenda, with an emphasis on the profound impact of the COVID-19 pandemic. The global pandemic, and measures taken to contain it, have increased children’s vulnerability to violence and psychosocial distress, and have placed additional burdens on caregivers and constraints on child protection actors. Despite the additional barriers presented by COVID-19, the SRSG-CAAC stressed that the UN’s work to protect children, including monitoring and reporting on grave violations, has continued, and concrete progress was achieved in 2020 in Afghanistan, Central African Republic (CAR), Mali, Myanmar, and South Sudan.

3. The workshop consisted of three closed working sessions. The first session focused on the Security Council Working Group on Children and Armed Conflict (SCWG-CAAC), featuring reflections by the Permanent Representative of Belgium to the UN and the Permanent Representative of Norway to the UN. The second session focused on the implications of efforts to counter terrorism and violent extremism for the CAAC agenda and included presentations by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, a legal adviser to the Special Rapporteur’s mandate, and the ICRC. The final session examined the need to safeguard child protection capacity in UN missions, featuring presentations by UN DPO; former child protection staff in a UN mission; and the OSRSG-CAAC.

4. This report summarizes the discussions in these sessions and provides recommendations for Security Council action on violations and abuses against children in situations of armed conflict in 2021 and going forward.

II. The Security Council Working Group on Children and Armed Conflict

5. The first session of the workshop featured reflections by the Permanent Representative of Belgium to the UN, in his capacity as the outgoing Chair of the SCWG-CAAC, and the Permanent Representative of Norway to the UN, in her capacity as the incoming Working Group Chair. The session examined the vital role of the SCWG-CAAC in ensuring progress for the protection of children in armed conflict, lessons learned and best practices from Belgium's term as Working Group Chair, Norway's priorities for the Chairmanship, and opportunities to strengthen the SCWG-CAAC activities in the coming year.

6. Five key lessons emerged from reflecting on Belgium's tenure as Working Group Chair. First, the impact of the work in New York should translate to the field. This includes follow up and engagement on Working Group conclusions to urge implementation of recommendations by affected governments and local stakeholders, both virtually and through the resumption of SCWG-CAAC field visits, when such travel becomes possible once again. Second, Working Group members should focus on mainstreaming and championing child protection across the Security Council agenda. Concretely, Council members should ensure dedicated child protection capacity in special political missions and in peacekeeping operations, advocate for child protection briefers and targeted language in Council outcome documents, and use program-of-work meetings to identify relevant topics for the CAAC mandate. Third, upholding the CAAC mandate requires transparency and engagement with all relevant actors, including civil society, UNICEF, DPO, the UN Department of Political and Peacebuilding Affairs (DPPA), and the OSRSG-CAAC. Fourth, holding perpetrators accountable for grave violations committed against children should be at the heart of the CAAC agenda. In that regard, the Secretary-General's annual list of perpetrators is an important tool, as is the International Criminal Court (ICC). Fifth, progress can be made in integrating international standards into the work of the SCWG-CAAC, including the Safe Schools Declaration, the Vancouver Principles on Peacekeeping and the Prevention of the Recruitment and Use of Child Soldiers ("Vancouver Principles"), and the Paris Commitments and Principles on Children Associated with Armed Forces or Groups ("Paris Principles").

7. Participants discussed opportunities to further advance the CAAC agenda in 2021 against a backdrop of increasing disregard for international humanitarian law (IHL) and international human rights law (IHRL), as well as challenges related to COVID-19. As incoming Working Group Chair, Norway indicated an ambition to maintain the current pace of adopting conclusions, while ensuring that these conclusions are relevant and fit for purpose. Sustaining a close relationship to actors in the field, including UN Country Teams and Country Taskforces on Monitoring and Reporting (CTFMRs), as well as coordination with the OSRSG-CAAC, UNICEF, DPO, and other actors to follow up on adopted conclusions, remain crucial in this regard. In addition, child protection should not just be considered by the SCWG-CAAC, but rather must be treated as an integral part of the Security Council's work and addressed in all relevant geographic settings in the Council, in mandate renewals, sanctions committees, and in other Council actions. International law serves as the basis of this work, and special priority will be given in the coming years to combatting sexual violence in conflict and to preserving the civilian character of schools, in line with the Safe Schools Declaration. Finally, child protection should remain an integral part of UN peacekeeping operations, with dedicated child protection advisers and strengthened national child protection counterparts.

8. Participants further discussed (a) Belgium's work to advance the CAAC agenda during its Chairmanship, including accelerating the pace of adopting conclusions,

working with the OSRSG-CAAC to shorten reporting cycles to facilitate negotiation and adoption of conclusions, strengthening relationships with field actors, and promoting transparency and engagement with civil society; (b) the role of the Security Council and the SCWG-CAAC in defending the integrity of the CAAC agenda, including the Secretary-General's annual list of perpetrators; (c) the need for coordinated dissemination and follow up on SCWG-CAAC conclusions at the country level, including through engagement with local embassies and civil society; (d) the responsibility of all UN Member States, not only Security Council members, to advance the rights and protection of children and opportunities to mobilize non-Council Member States through Groups of Friends; and (e) the increasing relevance for the CAAC agenda of ensuring respect for IHL and humanitarian access, promoting mental health and psychosocial support for children, and mitigating the impacts of the COVID-19 pandemic on children.

III. Countering Terrorism and Violent Extremism: Implications for the CAAC Agenda

9. The second session of the workshop concentrated on the impacts of counterterrorism policies on the protection of children's rights in armed conflict and the implications these have on the implementation of international law through a CAAC lens. The session featured presentations by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, a legal advisor to the Special Rapporteur's mandate, and the ICRC. Presentations highlighted recent trends to treat contemporary conflicts involving groups designated as terrorist as "exceptional" threats, as justification for the circumvention of existing commitments under IHL and IHRL, including those related to children. These trends have long-lasting, negative implications for the protection of children's rights in armed conflict, including by threatening to erode international law and normative frameworks for child protection.

10. Panelists expressed serious concerns about the harmful effects of the wholesale application of counterterrorism law and practice, apparently displacing well-established humanitarian and human rights legal and customary law norms, including the principle and obligations of the best interests of the child. In these complex conflict settings, human rights and humanitarian law provide the overarching international legal frameworks under which counterterrorism rules and standards apply. However, the interaction between IHL and counterterrorism law is leading to a harmful conflation of the two, a lack of understanding of the obligations of IHL, and a weakening of human rights protections in fragile, conflict, and post-conflict settings. In counterterrorism settings, commitments to and understanding of children's rights fade away, leading to a troubling "unchildling" phenomenon in which certain children are deemed "terrorists," and terms such as "associated with," and "accompanied by," serve to erase the rights they are entitled to as children by the state. Security Council resolutions on counterterrorism threaten to overlook decades of progress on children's rights, and Member States must remain vigilant to ensure that treaty and customary law are respected and applied.

11. Panelists further discussed the extensive and negative consequences for the provision of impartial humanitarian assistance in conflict and fragile settings resulting from the application of broadly based domestic and international regulation on terrorism. Linking the provision of humanitarian assistance and protection as a form of support for terrorism, or to persons designated as "terrorist," results in lowering the fundamental human rights and humanitarian protections for the weakest and most vulnerable, and has had measurable effects on the protection of children's rights. Consistent application of humanitarian exemptions is critical, and the Security Council should acknowledge

the protection of children to make the case for these exemptions, bringing CAAC frameworks directly into counterterrorism conversations.

12. Participants also examined the specific vulnerabilities of children detained in conflict zones for their own or their family members' alleged association with designated terrorist groups, particularly those children held in camps in northeast Syria. The urgent return and repatriation of foreign fighters and their families, including children, from conflict zones is the only international law compliant response to the increasingly complex and precarious situation faced by those detained in inhumane conditions in overcrowded camps and prisons in northeast Syria. Such a response is also in states' long-term security interests. States have a positive duty to take steps to protect vulnerable children located outside of their territory where they are at risk serious human rights violations or abuses and where their actions or omissions can positively impact on these children's rights. Children should be treated primarily as victims in the course of counterterrorism responses, and the best interest of the child must always be a primary consideration. States should always place the child at the center of considerations and ensure their rights, even when the child is considered a potential security risk.

13. The following key challenges in relation to the treatment of children in counterterrorism contexts were identified. First, children are discriminated against and stigmatized on the basis of their perceived or actual affiliation with designated terrorist groups. States' responses that lead to a lowering of children's human rights protections because of their parents' or families' associations with designated terrorist groups violate the key principle and obligation of non-discrimination. States must recognize the complexity of association, including vulnerability to coercion, and should undertake individualized assessments and responses that are gender-sensitive. Children suffer from multiple IHL and IHRL violations as a result of detention in these camps, from indefinite detention without any process or review, to the inhumane conditions in the camps, including lack of access to basic rights and protection. Detention must be used as a last resort and for the shortest time possible. Biometric data of minors collected for identification purposes should not be used or retained for surveillance or inclusion of children on watchlists. States should prioritize family reunification where possible and must take all appropriate measures to promote the physical and psychological recovery and social reintegration of child victims of armed conflict, ensuring they do not face stigma or reprisals.

14. Finally, panelists discussed the linkages between IHL and counterterrorism and their impacts on the CAAC agenda. In armed conflict, IHL must govern the treatment of individuals who engage in acts of terrorism and their families. The use of counterterrorism measures to justify the treatment of these individuals as "exceptional" cases to whom pre-existing international law does not apply is deeply concerning. States are failing to apply the established legal frameworks for the treatment of children associated with armed groups (sometimes referred to as "child soldiers") in contexts involving terrorism. The Security Council has, in some cases, established parallel standards when addressing children in counterterrorism resolutions (i.e., operative paragraph 4 of Resolution 2178) in contrast to the separate standards applied to children under the CAAC agenda. Children, including those who fall under definitions of "foreign terrorist fighters," remain children, entitled to special protection under IHL and IHRL, including the Geneva Conventions and their protocols, the Convention on the Rights of the Child (CRC) and its Optional Protocol on the involvement of children in armed conflicts (OPAC), and Security Council Resolution 2427.

15. Participants discussed (a) best practices and lessons learned for the treatment of children associated with non-state armed groups not designated as terrorist and the concept that armed conflicts involving designated terrorist groups are not exceptional

when it comes to the experiences of children; (b) the crucial importance of age-appropriate and gender-sensitive reintegration support, including psychosocial, mental health, education, and legal services, and the lack of access to such services for detained children; (c) the criminalization of non-criminal acts under terrorism law, such as cooking and cleaning for groups designated as terrorist, as well as expansion into the pre-criminal and post-criminal space; (d) the politicization of designation of an armed group as “terrorist” and its impact on child protection; (e) the responsibility of CAAC experts to engage in these discussions and ensure their counterterrorism counterparts are fully aware of the relevant child protection standards and legal obligations; (f) handover protocols as a tool to reduce or prevent the detention of children; and (g) the need for political will to carry out these responsibilities in counterterrorism spaces.

IV. Safeguarding Child Protection in UN Missions

16. This final workshop session featured presentations by UN DPO, former child protection staff from a UN mission, and the OSRSG-CAAC. Participants discussed the importance of dedicated child protection capacity, the specialized roles played by child protection teams in UN missions, ongoing challenges to fully deliver on CAAC mandates, including budgetary and staff constraints, and the role that Member States can play in safeguarding and bolstering such capacity.

17. Child protection staff in UN missions carry out specialized tasks, including (a) monitoring, verifying, and reporting on grave violations against children; (b) advising on child protection provisions in mediation and peace processes; (c) coordination and supporting the head of mission, as co-chair of the CTFMR; (d) engagement with parties to conflict to develop, sign, and implement action plans to end and prevent grave violations; (e) monitoring implementation of action plans; (f) mainstreaming CAAC throughout the mission; (g) producing reports for the UN Human Rights Council and specific-mission reports of the Secretary-General; (h) supporting the reintegration of children impacted by armed conflict; and (i) advocacy for children in mission settings. Child protection advisers and their staff face various obstacles to carrying out these functions, including limited financial and human resources, insecurity, and access challenges. In counterterrorism contexts, child protection staff may also face political opposition to their engagement with armed groups designated as terrorist for the purposes of ending and preventing violations.

18. Despite their critical role in UN field missions, child protection posts remain significantly under resourced, comprising less than 0.15 percent of all civilian positions in UN missions, and are often among the first to be cut in the course of budget negotiations. Moreover, there is limited backstopping capacity at headquarters level to support child protection advisers (CPAs) in the field. Member States can reaffirm their support for CAAC and ensure the necessary resources are allocated to child protection in peacekeeping and special political missions by pushing for strong language on child protection in Security Council resolutions, country-specific conclusions of the SCWG-CAAC, and reports of the Special Committee on Peacekeeping Operations (C34). The engagement of Member States’ geographic and thematic experts in budgetary discussions at the Fifth Committee of the General Assembly can also be helpful for reaffirming support for CAAC on the ground.

19. Participants agreed on the importance of ensuring adequate resourcing for child protection in UN missions, including the need for sustained support in the context of mission transitions and drawdowns, in order to promote the protection of children in armed conflict. Participants discussed ways that key stakeholders can further support, including through improved coordination among Member States who support the CAAC agenda, building alliances across regional groups and broadening support for

child protection, and strengthening joint advocacy efforts among key UN offices and agencies and civil society.

V. Closing Remarks

20. The workshop closed with a keynote address from the chair of Watchlist's Advisory Board of international NGOs, reflecting on progress made to protect children in situations of armed conflict and remaining challenges. Over the past 20 years since Watchlist's founding in 2001, the Security Council has passed a series of thematic resolutions on CAAC, strengthening the normative framework for protecting children in armed conflict situations. Since its entry into force in 2002, OPAC has been ratified by some 170 governments around the world. And the CAAC architecture has grown and strengthened, with enhanced documentation of violations through the Monitoring and Reporting Mechanism (MRM), systematic follow-up of concerns by the SCWG-CAAC, the signing of over 30 action plans to end and prevent violations, and other advances.

21. Despite these positive steps, Watchlist's Advisory Board chair reminded participants of the new and remaining challenges and the importance of continuing collective efforts to protect children in armed conflict. She noted that the CAAC agenda and architecture remain unique in the UN system, linking powerful accountability mechanisms to concrete avenues for change, and that laws and norms must be implemented to be effective, reaffirming Watchlist's commitment to translating New York-based policy initiatives into real progress for children on the ground.

VI. Recommendations

22. Throughout the workshop discussions, the following recommendations were proposed to strengthen the implementation of the CAAC agenda and the UN's response to grave violations against children in situations of armed conflict:

(a) The SCWG-CAAC should more systematically follow up on conclusions, including through engagement with impacted governments and local stakeholders to push for full implementation of its recommendations. Field visits should be resumed when such travel once again becomes possible.

(b) Members of the SCWG-CAAC should focus on mainstreaming and championing child protection throughout the work of the Security Council. This includes: ensuring dedicated child protection capacity in special political missions and peacekeeping operation mandates; advocating for child protection briefers and targeted language on CAAC in Council meetings and outcome documents; and identifying relevant topics in the Council's program-of-work where a CAAC lens could be applied.

(c) The SCWG-CAAC should make efforts to further integrate international standards, including the Safe Schools Declaration, the Vancouver Principles, and the Paris Principles, into its conclusions, press statements, and other tools. The SCWG-CAAC should also seek to maintain a close relationship with UN Country Teams and draw on the full range of tools in its toolkit to ensure conclusions remain effective and relevant.

(d) Child protection should be treated as an integral part of the Security Council's work and should be addressed in all relevant geographic settings, mandate renewals, sanctions committees, and other decisions. Timely engagement with UN Country Teams is crucial in this regard.

(e) Member States and UN counterterrorism actors should prioritize well-established humanitarian and human rights legal and customary law norms as the overarching frameworks under which counterterrorism policies apply.

(f) The UN Security Council should consistently apply humanitarian exemptions in the context of counterterrorism measures to ensure that efforts to combat terrorism and violent extremism do not undermine the provision of principled humanitarian protection and assistance to the most vulnerable.

(g) Member States should defend human rights treaties and customary law from being undermined by counterterrorism practice, and should be vigilant to prevent Security Council resolutions on counterterrorism from weakening essential protections for children.

(h) Children should be treated primarily as victims, including in counterterrorism responses, and their best interests must be a primary consideration. Such responses should respect the principle and obligation of non-discrimination and recognize the complexity of association with armed groups designated as terrorist. States should carry out individual assessments that take into account gender-specific vulnerabilities and experiences.

(i) Detention of children must be used only as a last resort and for the shortest time possible.

(j) Biometric data collected for the purpose of identification of minors should not be used or retained for surveillance or inclusion of children on watchlists.

(k) States should urgently repatriate foreign fighters and their families, including children, prioritizing family reunification, where possible, and taking all appropriate measures to promote the physical and psychological recovery and social reintegration of child victims of armed conflict, ensuring children do not face stigma or reprisals.

(l) Member States should seek to break silos within their permanent missions. In particular, CAAC experts and others overseeing protection files should work closely with their counterparts leading on counterterrorism and the security sector to disseminate information on the relevant child protection standards and legal obligations.

(m) Member States should ensure the necessary resources are allocated to child protection in peacekeeping and special political missions, including in the context of transitions and drawdowns. This includes engagement by CAAC experts with their counterparts in the Fifth Committee of the General Assembly, as well as the incorporation of targeted language on child protection in Security Council resolutions, country-specific conclusions of the SCWG-CAAC, and reports of the C34.

(n) Where possible, Member States should seek to engage their geographic and thematic experts in budgetary discussions at the Fifth Committee of the General Assembly in order to ensure missions' budgets are fit to purpose and that the necessary resources are allocated to child protection.

(o) In the context of UN budgetary discussions, Member States who support the CAAC agenda should seek to improve coordination amongst one another, build alliances across regional groups, and broaden support for child protection in mission settings.