



STATEMENT BY MR.VK. NAMBIAR, PERMANENT REPRESENTATIVE, ON
CHILDREN AND ARMED CONFLICT AT THE SECURITY COUNCIL ON
JANUARY 20, 2004

Mr. President,

You have been sedulous Mr President in pursuing this month an agenda of important though sombre thematic issues for the consideration of the Council. This open meeting of the Security Council on children and armed conflict is one such issue. For those who believe the poet who said that "Heaven lies about us in our infancy", the "shades of the prison house" that "begin to close upon the growing Boy" would appear to have a context not quite apposite to the theme of today's debate. But they most certainly describe the plight of many children in different parts of the world caught up in the vicious grip of conflicts they hardly understand but find themselves hopelessly enmeshed in.

Children have become increasingly involved, both as targets of violence and as combatants. During the last few years, more than 500,000 children, recruited in 87 countries, with around 300,000 actively participating in combat, have been involved in conflict in some form or other. Aged generally between 15 and 18 years old, some as young as seven, child soldiers are often in support services. The rise in intrastate conflict, compounded by conditions such as internal displacement or refugee situations, has caused the phenomenon of the child-soldier. It is often impossible to make a distinction between a forced and a voluntary child soldier. Whereas some children join armed groups for food, survival or to avenge atrocities in their communities, other are physically abducted for war by armed groups. Enticed by promises of food, shelter and security, and sometimes plied with drugs, child soldiers are at times led to commit atrocities against other armed groups and civilian populations, sometimes even their own communities.

The use of children in armed conflict has been aggravated by the proliferation of small arms and light weapons worldwide. These weapons are inexpensive, durable, small, lightweight, easy to maintain and small enough for them to handle. Illegal arms trafficking and poor monitoring of the legal trade make it easy for them to access such weapons. It cannot be denied that in many conflict situations, the most vulnerable members of the population, particularly women and children, are targetted with impunity. While no leniency should be shown on crimes perpetrated on innocent children, we need to see in perspective the fact that many children responsible

for reprehensible crimes have often been manipulated by unscrupulous adults to take part in armed conflicts.

This purpose of a thematic debate on such a subject is evidently to raise questions, probe issues and understand dilemmas affecting policies in general terms. It also affords us an opportunity to look at the implementation of Council resolution 1460 of January 30, 2003 and offer comments on the report of the Secretary-General under this item.

The Special Representative of the Secretary General for Children and Armed Conflict, Mr. Olara Otunnu, deserves our commendation for his statement and comprehensive report. We note his recommendations on the road ahead, including the challenge of launching the campaign for an 'era of application'. The report demonstrates that significant progress has been made in the mandate of incorporating the impact of armed conflict on children in the international peace and security agenda.

Before commenting on the specifics in the report of the Secretary-General, a few general points made in the past by the Indian delegation may need reiteration.

The first relates to salience. How useful is it to have 'thematic debates' in the Security Council on subjects such as the present one? It is true that a large number of children are victims of armed conflicts. But it is also a fact that malaria and AIDS kills more children than conflicts do, but we do not deal separately in the Council with children and malaria or children and AIDS or request reports from the Secretary-general on them. An unconscionable number of children have died as a result of sanctions but we do not recall the Council holding a debate on the effects of sanctions on children or seeking a report from the Secretary-General on this subject either. A sense of balance and perspective should be retained in order to make sure that too narrow a focus does not blot out the larger picture of what the SG has designated the "soft" challenges to international peace and security.

The second point relates to applicability. There are recommendations relating to the Convention on the rights of the child and its optional protocol and international humanitarian law. No role is envisaged in any of these Conventions or other legal instruments for the Security Council in promoting their implementation. While only States are parties to Conventions, non-state actors are not bound by them. More important, most armed groups obey no laws, national or international. In some cases of internal conflict non-state actors or rival political groupings may make offers of adhering to such instruments precisely to gain legitimacy or a political *locus standi*. Who is to decide whether they are entitled to this or not?

Mr. President,

The report of the Secretary-General refers to the comprehensive body of instruments, norms and commitments that provide a basis for enforcement of the protection and rights of children exposed to armed conflict. While adhering states stand automatically committed and accountable to such norms, the accountability of non-state actors has not been adequately considered or documented. Many of these are infused

by religious or political ideology, economic interests or plain outmoded or feudalistic social beliefs and known for their gross, massive and systematic violations of the rights of children. We would urge the Special Representative to pay greater attention to this aspect for this, in our view, is the root cause of many of the problems in this area.

We would, similarly, sound a note of caution on the recommendation to establishing a dialogue and engaging in negotiations with parties to armed conflict, particularly when such parties are non-State actors. Non-State actors are not bound by any legal obligations or commitments as they have not assumed any such. By initiating a dialogue and engaging in negotiations, we should not encourage a process that would confer on them any legitimacy that they should not have.

The report does catalogue the deployment of child protection advisers in many peace-keeping operations. It is not clear, however, whether any assessment has been made of the work done by them in the area of child protection and the involvement of children in armed conflict. A purposive audit of the efforts undertaken so far in the area is missing in the report. It could have been more useful if the recommendations had built on the lessons learnt after providing a critical assessment of the work accomplished in this area. This would have added to the efficacy of the recommended measures.

Mr. President,

In the sub-section on monitoring and reporting, there is a conclusion that a body of standards constitutes the basis for monitoring. The list consists of a number of instruments that do not command universal acceptance or adherence. How does the Special Representative expect to deal with monitoring the situation of a member state that is not Party to the Optional Protocol, or the Statute of the International Criminal Court or the ILO Convention no. 182? The member state in question, while otherwise committed to the norms and commitments concerning the promotion and protection of the rights of children, would be right in maintaining that it would not be bound by any instrument to which it is not a Party. The Special Representative must recognise that neither he, nor anyone else for that matter, can seek to impose on the member states the standards derived from these non-universal instruments.

We would like to voice one more concern about the agenda for monitoring and reporting. There is well-established machinery for dealing with alleged violations of human rights by the government of a state which is Party to a specific human rights instrument. The procedures in this respect are well-known and time-honoured. The likely interface between this procedure and the monitoring-reporting mechanism that would come into existence as a result of the Special Representative's recommendations is not at all clear to us. Moreover, the treaty bodies have their own system of dealing with non-compliance by parties of their treaty-obligations. There is the ever-present danger of duplication and overlap.

With respect to information-gathering and data collection, the report seeks to set much store by information collected from NGOs. But, it is not clear which NGOs would be depended on, how they would be chosen, how their credentials would be vetted and

the type of the test of reliability that would be applied to the information and data provided by the NGOs.

In the area of monitoring and verification, the report recommends that increasing use be made of the field presence of the UN. This raises some pertinent questions. Do the country teams, particularly UNICEF, have the necessary expertise to perform this function? Would this be within their mandates? Will the UNICEF have the necessary expertise at the field-level wherever they are called upon to perform such functions?

One final point relates to the attempts to expand on the areas of consideration of the Security Council to include, for example, effective monitoring of "the most egregious violations" as contained in paragraph 81 of the Report. While one cannot but recognise the motives behind the strenuous efforts to cover the entire gamut of violations that could impact directly or indirectly on children, it must be said that there are other UN bodies such as the Commission for Human rights that are mandated to undertake these tasks. By taking a continuously expansionist role for itself, the Security Council would, not only overlap its functioning with those of other mandated UN bodies, but be committing its valuable time and resource allocation to functions best handled elsewhere.

Mr. President,

The concerns raised here are not with a view belittling the importance of the problem or the urgency of the need for dealing with it. Any breakdown of peace and security and the conflicts that ensue have a tragic impact on children. All member States have a duty to soften the impact of armed conflict on children, because they are innocent, vulnerable and should not be made to suffer. However, we feel that we ought to make decisions and act in ways that would lead to effective results. We should also bear in mind the need for obtaining the most efficient and optimal results as resources that are dedicated to any of these mandates is finite and inelastic, especially in an era of 'zero-nominal growth' in most of UN's budget-lines. We should strive for increasing efficiency, cost-effectiveness and impact while dealing with this important question of protecting children from the impact of armed conflict.

Thanking you, Madam President.

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