Sous la direction de Mohamed Abdelsalam BABIKER, Maxence DAUBLAIN et Alexis VAHLAS

ENFANTS-SOLDATS ET DROITS DES ENFANTS EN SITUATION DE CONFLIT ET POST-CONFLIT

Réalités et enjeux

Préface de François ZIMERAY

L'Harmattan
availability – these three categories of weapons have now all largely disappeared as viable options for military commanders. Prevention, on these terms, is indeed possible. Components of conflict such as these, that had once seen such widespread use, can indeed be successfully outlawed. So now is the time for us to learn from that, and make a renewed effort to prevent the use of child soldiers, on behalf of all children everywhere.

ARMED NON-STATE ACTORS AND CHILD PROTECTION

Adrian Goodlife*

1. Introduction

The majority of present day armed conflicts occur between armed non-State actors (ANSAs)¹ and States as well as between ANSAs². ANSAs come in varying shapes and forms, exercising equally varying control over territory and the local population. In times of conflict, the civilian population, including children, have borne the brunt of attacks by parties to the conflict, including attacks by ANSAs. This article addresses ANSAs and their complex relationship with children and how ANSA’s are determining factors in ensuring (or not) children’s well-being in

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¹ *Africa Programme Officer of the NGO Geneva Call. This article stems from a presentation given at the conference “Effectiveness of the Protection of Children’s Rights in Conflict and Post-Conflict Environments” held in Khartoum on 20 and 21 November 2012. The author would like to thank the Embassy of France in Sudan for the invitation to this conference. The author would also like to thank the following colleagues at Geneva Call for their invaluable insight and comments: Myriam Marciallo-Lopez, Jonathan Somer, Carole Frampion de Tscharner and Pascal Bongard. The views expressed in this paper represent those of the author and not necessarily those of Geneva Call.

² There is no universally agreed definition of ‘armed non-State actor’ (ANS). For the purpose of this article, the author uses this term to refer to organized armed entities that are primarily motivated by political goals, operate outside effective State control, and lack legal capacity to become party to relevant international treaties. This includes armed groups, de facto governing authorities, national liberation movements, and non- or partially internationally recognized States.

³ In 2010, according to the Stockholm International Peace Research Institute (SIPRI), all major armed conflicts waged worldwide were intrastate. Over the decade 2001-2010, only two of the twenty-nine major armed conflicts recorded by SIPRI were interstate. See SIPRI. SIPRI Yearbook 2011: Armanent Disarmament and International Security. Oxford University Press, Oxford, 2011.
times of conflict. Recruitment and use of children by armed forces and/or armed groups has been common. Children are also particularly vulnerable to the effects of armed conflict. International mechanisms trying to halt and sanction child recruitment and attacks on children do exist. However, these mechanisms and their underlying legal and policy frameworks mainly focus on States. Considering the role played by ANSAs both in violence against children and protection of children during conflict, it is important to develop a better comprehension of ANSAs and their relationship to children in particular. Efforts have already been made to better understand their views regarding child protection, and work with them towards a greater compliance with international norms. Evidence has shown that some ANSAs are keen on developing internal mechanisms within their movements in order to ensure child protection. Better understanding and engagement with ANSAs on this issue can enhance their knowledge and ownership of existing norms, which can contribute to capacitating them in order to comply with their obligations. More importantly, any efforts made by ANSAs to properly address child protection can also be used to make them more accountable.

2. Inconsistencies in International Child Protection Norms

In contemporary international humanitarian norms, there exist varying standards defining a minimum age for recruitment.

1 Geneva Call, In Their Words: Perspectives of Armed Non-State Actors on the Protection of Children from the Effects of Armed Conflict, Geneva Call, 2010. The Karen National Progressive Party/ Karen Army (KNPP/KA) and the New Mon State Party/Mon National Liberation Army (NMSP/MNLA) in Burma/Myanmar, who both signed the Deed of Commitment, have developed an internal implementation plan to reflect their obligations under the Deed of Commitment. The Communist Party of the Philippines-New People’s Army-National Democratic Front of the Philippines (CPP-NPA-NDFP) and the Moro Islamic Liberation Front-Bangsamoro Integrated Auxiliary Force (MILF-BIAF) have both developed such internal mechanisms. For a detailed analysis please see IBON Foundation, Uncounted Love: Children, Women and Conflict in the Philippines, 2006, Chapter 4.

participation in hostilities and whether the armed actor is a State or an ANSA. International Humanitarian Law (IHL) included in the Additional Protocols to the Geneva Conventions as well as customary IHL give indications on providing children the aid and care they require and place the minimum recruitment age for combatants at 15. However, the Optional Protocol to the Convention on the Rights of the Child on Involvement of Children in Armed Conflicts (OPAC) rose the age of direct participation in hostilities from 15 to 18. Furthermore, OPAC avoided the usual IHL terminology “parties to the conflict”, and made the distinction between States and ANSAs. Under the OPAC, States parties can voluntarily recruit children at 16 but can only use them in hostilities as of 18 years of age. ANSAs however are given a more stringent standard whereby they are prohibited not only from using but also recruiting children under 18. The scope of prohibition of OPAC is wider for ANSAs referring to “use in hostilities”, while more precisely referring to “direct participation in hostilities” for States. Finally, by using different terminology - “shall” for States and “should” for ANSAs - the OPAC also differentiates importance of responsibility and, most commentators agree, does not have direct legal obligations on ANSAs but, instead, obliges States to enforce these standards.

The OPAC does indicate certain double standards, contrary to the IHL principle of equality of belligerents, which could make it difficult to apply to ANSAs since these standards are not necessarily applied to the States against which they are fighting. These different international norms on child recruitment indeed can induce confusion at best or even downright hostility at worst and make engagement with ANSAs more problematic.

1 Different needs are given, notably access to education, food and health care. See Additional Protocol II of the Geneva Conventions of 12 August 1949 article 4(3), as well as Customary IHL provisions with reference to children. http://www.icrc.org/customary-ihl/eng/docs/1_Lcrt chapter 19 rule135
Adding to this issue, ANSAs cannot be party to international treaties, even though they still remain bound by IHL. In general they remain outside the realm of international treaty drafting and ratification process which offers scarce opportunity for the groups to express willingness to abide by these norms and ultimately incentive to respect them.

3. The Monitoring and Reporting Mechanism (MRM)

Even though international child protection norms remain problematic, the issue of protecting children from the effects of armed conflict remains high on the UN Security Council's agenda. An initial report on the impact of armed conflict on children submitted to the General Assembly by the UN Secretary General in 1996 and subsequent Security Council Resolutions paved the way to developing a more comprehensive agenda on protecting children from the effects of armed conflict. A sanctioning mechanism was also gradually developed by the Security Council. In 2005 the UN Security Council Resolution 1612 developed an engagement process for parties listed as violators of child protection standards, including steps the parties must undertake in order to be delisted. A monitoring and reporting mechanism (MRM) was developed which reported on six grave violations against children in armed conflict. These include recruitment and use of child soldiers, sexual violence against children, killing and maiming, attacks on schools and hospitals, abductions and denial of humanitarian access. The MRM system was developed to provide accurate and timely information on grave violations against children in conflict. Based on the data collected through this mechanism, parties to the conflict could be listed. Use and recruitment, attacks on school and hospitals, sexual violence and killing/maiming are the only four violations that can trigger the listing. In order for a party to be delisted, a time-bound Action Plan must be signed with the UN and all its criteria for delisting must be fulfilled.

This new mechanism was efficient insofar that it clearly and publicly named violators and pressured them into compliance – namely States. However, evidence does not seem to be as convincing when it comes to ANSAs. And due to the State-centric nature of the UN – some ANSAs have on occasion voiced certain criticism that the UN was not acting in a neutral manner. In addition, due to the political dynamics of the UN, certain States, and the ANSAs they are fighting, do not appear on the UN listing, even if these parties have been accused of important violations. Certain elements of the MRM structure can undermine the effectiveness of the engagement process with ANSAs. For example, Resolution 1612 clearly states that the concerned State must participate and cooperate to the monitoring process. Reality has shown that certain States have obstructed the humanitarian community from engaging the listed ANSAs regarding the MRM criteria. In addition, it is

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2 UN Security Council Resolution 1379 (2001) created a listing of parties that used and recruited children – better known as a "list of shame". Subsequent violations – sexual violence against children, killing and maiming, attacks on schools and hospitals - were added as criteria for listing.

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1 For example the National Democratic Front of the Philippines (NDFP) has stated, referring to the listing of its affiliated organisations, the New People's Army that... the UN is not a forum for national liberation movements to get a fair and objective hearing... [http://www.philippinerevolution.net/statements/latter-to-ms-coomaraswamy](http://www.philippinerevolution.net/statements/latter-to-ms-coomaraswamy). This view has also been raised elsewhere. “The UN is no longer necessarily seen as an appropriate body to coordinate or lead engagements with ANSAs. Many humanitarian actors feel that it has become politicised and can no longer serve as an ‘honest broker’. Ashley Jackson, “Talking to the Other Side: Humanitarian Engagement with Armed Non-State Actors”, HPG Policy Brief 47 (London: ODI 2012), p. 3.
2 Security Council Resolution 1612 article 2b “underlines further that this mechanism must operate with the participation and in cooperation with national government” (our italics).
3 Governments sometimes oppose (contact with non-State armed groups). It is regrettable that, in at least two cases, the United Nations' inability to conclude Action Plans that were possible prevented the expected separation of children from armed forces or groups.” Ambassador Jean-Marc de La Sablière, Security Council Engagement on the Protection of Children in
imperative that the listed party enters into an Action Plan with the UN in order to be delisted. Such a precondition can incite certain States to deny UN dialogue with ANSAs on its territory and consequently ensure that they remain on the MRM “list of shame”. Another criticism voiced over the MRM process is the difficulty for traditional child protection organisations such as UNICEF to take on monitoring activities which could threaten their assistance operations. Indeed, developing monitoring activities that could be detrimental to an ANSA could undermine child assistance programmes with ANSAs due to the sensitivities of the monitoring and their exposure to UN, and possibly International Criminal Court (ICC), scrutiny and sanctions. This leads to another criticism voiced about the MRM system in that it was developed essentially as a sanctioning mechanism in presumption of violations and dialogue is to take place once the violation has been notified with no preventive engagement in order to avoid future violations.

Since the onset of the MRM system, progress has been most noteworthy with national armed forces but has been more limited on engaging ANSAs, by far the majority of listed parties, and getting them to comply with international norms. The numbers are telling: of the 52 listed perpetrators in the 2012 Secretary General’s report on Children and Armed Conflict, 42 are ANSAs. Moreover, 32 parties, of which 26 are ANSAs, have been on the list for 5 years or more. Indeed, the fact that so many ANSAs have been on the list for such an amount of time underscores the limited effects the MRM system has on getting violators to enter into Action Plans in order to be delisted. In terms of Action Plan results, 19 listed parties have signed Action Plans, of which 12 of these are ANSAs. Only 3 ANSAs, who however were all at the time of signing in cessation of armed conflict against the government forces, have been delisted.

There could be several reasons for the limited success on delisting ANSAs. However, some reasons are inherent to the UN as a state-centric body which make it highly improbable that the same engagement approach on child protection could be done with ANSAs as with States. Firstly, ANSAs could be aware of their international listing and do not deem it important to address. Secondly they might not be sufficiently aware of the MRM system to take the necessary measures to enter into an Action Plan. Finally, they could be aware of their status as perpetrators but have been unable or unwilling to engage in a dialogue with the UN in order to be delisted.

These different reasons point to the limits of the UN MRM as a violation and sanction mechanism with regards to ANSAs. Indeed, violations must be adequately checked and countered forcefully, which the present mechanism does through the “naming and shaming” process and subsequent sanctioning in case of persistence in the violations. But more can be done at the preventive level with ANSAs. Better understanding the

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1 Office of the Special Representative of the Secretary-General for Children and Armed Conflict, http://childrenandarmedconflict.un.org/our-work/action-plans/

2 Ambassador de La Sablière highlights in his report the difficulty of engaging dialogue with ANSAs. Dialogue between Governments and representatives of the UN “was conducted in an open and constructive manner” and “dialogue with Governments is an in-depth, inclusive dialogue”. While referring to dialogue with ANSAs, “There is one point, however, on which dialogue remains sometimes problematic: that of contact with non-State armed groups. Governments sometimes oppose it...” See Ambassador Jean-Marc de La Sablière, Security Council Engagement, p. 18-19.

3 Office of the Special Representative of the Secretary-General for Children and Armed Conflict. Two persons in Côte d’Ivoire and 14 individuals in the Democratic Republic of the Congo have been sanctioned for grave violations committed against children. These include UN Security Council imposed asset freezes and travel bans. http://childrenandarmedconflict.un.org/our-work/persistent-violators-and-sanctions/.
ANSAs, their challenges – many of them bona fide – of compliance and their policies regarding children is important as well as informing them of their responsibilities under IHL and IHRL. More efforts should also be made in order to urge ANSAs to develop their own internal mechanisms ensuring child protection. In effect, the UN Secretary General stresses the importance of engaging “as early as possible” with ANSAs on compliance with international norms to protect civilians as well as the importance in understanding the “factors that affect the level of compliance by a given group with international norms”¹.

4. Views and Practices of ANSAs Regarding Children:

Realities facing ANSAs are complex and may differ substantially from States. ANSAs come in varying shapes, sizes, have varying motivations and control over their constituents. This can range from de facto military and governing authorities exercising control over territories and even being recognised by certain States. This is the case of Abkhazia and the Polisario Front in Western Sahara. On the opposite edge of the spectrum, there exist bands of armed combatants with no clear command structure, relatively mobile but exerting limited control over a precise area. Many ANSAs are situated in between these two poles. Reminding ANSAs of their responsibilities under IHL is important but equally important is to understand their existing policies, practices that have an impact on the protection of children. The identification of gaps and good practices in the views, structure and actions of ANSAs in relation to child protection are a necessary step to preventing harm against children and strengthen ANSAs’ capacities to protect them.

ANSAs have clearly used and recruited children in hostilities and many continue doing so¹. However the reality of ANSAs regarding children is more nuanced and some ANSAs claim to act as protectors of the civilian populations, including children. Many ANSAs live with their communities, families and children and alternatives are scarce or more dangerous for the protection of civilians and children. They provide shelter, protection from opposing forces and even evacuate them to safer areas. In many cases the ANSAs take on these child protection roles because other alternatives are absent, notably in areas international child protection agencies are unable to access. ANSAs have also claimed that keeping children with them - albeit not the optimal solution – is the safest option in light of the present conflict. ANSAs have taken on children that have been separated from their families during attacks and try as best they can to take care of them. Some claim to have contacted international child protection actors but none were able to take in the children². They also, at times, are reluctant to hand them over to the government authorities they are fighting against due to the perceived risk that the children will be ill-treated, imprisoned and/or denied rights, particularly in ethnic conflicts. ANSAs have also pledged they provide services, including health and education to children living in their areas. Indeed, some ANSA members act as teachers, while schools are sometimes built in safe areas. Even these are not always safe – some ANSAs claim that they had to displace the school on several occasions from attacks of opposing forces³. Children are also involved in auxiliary, non-military, roles within the ANSA who deem this permissible and distinguish this from direct participation in hostilities. For example, some children also act as cooks within the communities where the ANSAs live, as well as older children are trained in self-protection and victim

¹ United Nations Secretary-General, Report of the Secretary-General on the Protection of Civilians in Armed Conflict, UN Doc. (S/2012/376), 22 May 2012. p. 11.

² Geneva Call, In Their Words, p. 18.

³ Geneva Call, In Their Words, p. 7. See also Sandesh Sivakumar, The Law of International Armed Conflict, Oxford University Press, p. 316.
assistance. Regarding recruitment of children and their use in hostilities, some ANSAs are aware of international humanitarian norms and do ban compulsory recruitment from children under 18 years. There are also cultural issues that come into play notably on the under-18 year standard defining childhood. In some cultures the passage from childhood to adulthood can occur earlier.1

Some ANSAs have shown willingness in working with international humanitarian agencies in light of improving child protection and providing assistance, but this has been at times difficult. Humanitarian access can be complicated due to the lack of security, or lack of permission from the concerned State. Some ANSAs have even contacted the UN on several occasions but alleged to not have been answered.2 Research has also shown that some ANSAs have recognised the advantages in abiding by international norms, including child protection, and have expressed willingness to take measures that comply with child protection norms.3 Abiding with international norms may increase their legitimacy in the eyes of their constituencies and the international community. Conversely, the ANSAs might find that the reputational damage caused by using child soldiers outweighs the gains. The growing importance of the ICC, with high-profile cases against ANSA leaders that recruited children under the age of 15, could have such an impact. However the ICC age-limit of 15 years can also have the opposite effect, indicating to the ANSAs that they can recruit children at 16 and not be worried by ICC prosecution. Militarily, ANSAs might find that using child soldiers costs more to the movement than they will gain from having children in their ranks. Finally the fact that humanitarian assistance is available for child protection, education, health and even demobilisation could entice some groups to give up existing children or accept international child protection standards1.

5. Helping ANSAs take “ownership” of child protection norms

Constructive engagement with some ANSAs on child protection is possible and has been identified as a positive step in getting ANSAs to comply with humanitarian norms. The engagement process can assist the ANSAs to take ownership of child protection measures, through dialogue and guidance, whereby the ANSA implements concrete and deliberate policies and actions that take into consideration international norms. Ownership can more importantly lead to ANSAs taking responsibility and better compliance.

6. The Geneva Call Deed of Commitment and assisting ANSAs develop their ownership capacity

Different mechanisms exist that favour the development of ownership of humanitarian norms by ANSAs. One ownership mechanism is the Deed of Commitment, by which the ANSA, through dialogue with the Swiss-based humanitarian organisation Geneva Call, subscribes to abiding with specific humanitarian norms through a formal agreement. To date Geneva Call has developed three such instruments: the Deed of Commitment Banning Anti-personnel Mines, the Deed of Commitment for the Protection of Children from the Effects of Armed Conflict and the Deed of Commitment Prohibiting

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1 Islamic law uses the term al-buhayh, defined as puberty, when a child becomes fully accountable for their deeds and hence becomes an adult.
2 Geneva Call, In Their Words, p. 7.
Sexual Violence in Armed Conflict and Gender Discrimination

In addition to adhering to the specific humanitarian norms addressed, the signatory ANSA also agrees to cooperate in monitoring and reporting — including accepting external oversight.

The Deed of Commitment protecting children in armed conflict was released in 2010 and, to date, 7 ANSAs have signed. The Deed was developed in consultations with ANSAs, child protection specialists and legal experts, in a view to have a more comprehensive approach to the problem of protection of children in armed conflict, giving greater emphasis to ANSAs’ responsibilities and constraints. Following meetings with ANSAs and a survey on the issue, the Deed of Commitment protecting children in armed conflict was developed in order to promote compliance with humanitarian norms related to child protection by ANSAs. The Deed of Commitment not only addresses use and recruitment but also broader child protection issues, including the provision of basic aid and care. Indeed ANSAs are also confronted, in the areas under their control, with issues of basic rights of children, such as education, food and health-care. The scope of the Deed of Commitment was determined with a clear ban on recruitment and use of children in hostilities under 18 years of age as well as demobilising all children unlawfully used or recruited by ANSA armed forces. The Deed also goes further than international obligations incumbent on ANSAs by prohibiting forced association in any way. The overarching message made clear to the ANSAs that sign the Geneva Call Deed of Commitment is that the best interest of the child should be the guiding principle in all actions and decisions by the ANSAs that could have an impact on children’s safety and well-being.

Once the ANSA has signed the Deed of Commitment, monitoring implementation is a crucial aspect in promoting ownership. Monitoring can be a combination of three different methods. The first process of self-monitoring is done by the ANSA who submits compliance reports as well as other relevant information, such as codes of conduct and internal regulations, regarding its child protection standards. This process offers insight on the measures and policies developed by the ANSA and is an initial indicator of the seriousness of the ANSA in promoting internal adherence to the norms. The second method, third-party monitoring, serves to cross check the allegations and reports of the ANSA. Third-party monitoring relies on human rights groups and other actors. In the event of serious allegations of non-compliance, the final monitoring process consists of an external verification mission that the ANSA is compelled to allow, or else be in non-compliance of the Deed of Commitment. The monitoring process has several outcomes. It can serve to capacitate the ANSA by having them take additional enforcement measures, issuing orders and developing internal regulations, to ensure proper compliance. It also allows to maintain better oversight on the ANSA and offer advice where needed. Finally, the

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1 For more information on Geneva Call and the signatories to the Deeds of Commitment see www.genevaccall.org.

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1 International legal standards are limited to the prohibition of use and recruitment either voluntary or not, as well as the prohibition of the worst forms of child labour including forced and compulsory recruitment of children for use in armed conflict. For example Geneva Conventions, Additional Protocol II, Article 4.3 Optional Protocol to the Convention on the Rights of the Child, Article 4 and International Labour Organisation, Convention 182, Article 3a.
monitoring process will also better identify the challenges and other needs that the ANSA faces. These practices and ownership processes and mechanisms can also be shared and promoted among other ANSAs. The monitoring process is however not perfect. For example, identifying a child’s age, as well as assessing whether an associated child is considered participating in hostilities are two sizeable examples of existing challenges to the monitoring process.

7. Codes of Conduct and Internal Sanction Mechanisms

ANSAs can also be engaged to better comply with humanitarian norms through their internal codes of conduct. Research shows that numerous and diverse codes of conducts of ANSAs already exist. The development and drafting of the code of conduct should be done by the ANSA, with possible external technical assistance, while taking into consideration local realities and be as relevant as possible to the ANSA.

Moreover the code must be enforced and disseminated widely amongst the fighters by senior and influential military leadership and loses effectiveness if the leadership and influential officials do not adhere to it and sufficiently promote it. Without a fair and functioning sanctioning mechanism, it is also unlikely that the norms promoted by the code will be properly respected by the combatants.

Codes of conduct, even flawed, also serve as a point of reference in order to measure and properly monitor compliance by the ASNA. This benchmark can also serve as an entry-point for external monitoring and accountability. In light of allegations of violations, the ANSA can be clearly denounced not only according to humanitarian norms violations but also regarding violations to their own codes of conduct. Codes of conduct that include elements that could be contrary to IHL can be addressed constructively, through dialogue, in order to rectify them to reflect international humanitarian norms, while acknowledging cultural and societal issues. This mechanism could assist ANSAs to better control their combatants, with clear guide-lines and a sanctioning mechanism proportional to the violations and respecting international standards. Ultimately this contributes to better capacitating ANSAs to the respect of international humanitarian norms.

8. Training in Humanitarian Norms

Another fundamental aspect in developing ownership and compliance with international standards resides in properly disseminating the ANSA’s code of conduct and international norms to the rank and file through training. Many ANSAs say that they have integrated elements of IHL into the combatants’ military training curriculum. Trainings vary immensely in type and in quality but are important factors that can favour compliance with international humanitarian norms. Encouraging ANSAs to keep developing and enhancing existing training mechanisms as well as working with them in

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\[\text{Olivier Bangerter, "Internal Control: Codes of Conduct within Insurgent Armed Groups", Small Arms Survey, 2012, p. 53-58, Geneva Call has also developed an on-line directory of ANSA humanitarian commitments, encompassing more than 400 codes of conducts, internal regulations, agreements and other relevant documents related to IHL and human rights issues. The database is available at www.thenews.org.}
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\[\text{Geneva Academy of International Humanitarian Law and Human Rights, "Armed Non-State Actors and International Norms: Towards a better protection of civilians in armed conflict", Geneva, 2010, p. 2. The report urges to "develop and adopt a code of conduct that reflects the local context while respecting international standards."}
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developing new ones, if they do not exist or are deemed insufficient, is important. Some child protection humanitarian organisations have already developed comprehensive trainings for national military structures. Trainings of ANSAs are less institutionalised but certain international organisations have undertaken activities in this regard. Specific training material has been developed with the aim of providing ANSAs with key knowledge and practical tools to integrate humanitarian norms within their organization, such as developing internal codes of conduct in line with international standards. Properly disseminated by qualified personnel, these trainings, available in several languages, develop or strengthen ANSAs’ capacities to abide by humanitarian norms. In respect of child protection, the trainings can include examples and situations that ANSAs faced and where they can come to develop appropriate monitoring, verification and rectify faulty acts made by combatants. The modules are based on international humanitarian norms but also aim at being sensitive to the realities faced by ANSAs – for example trying to better identify the perception and status of children within the ANSA societies as well as how the ANSA perceives the civilian population and children in particular. Eventually these trainings should be mainstreamed within the ANSA, military training curricula. These trainings can finally feed into better ownership insofar that the ANSA is better aware of international norms, and violations.

9. Conclusion

ANSAs and their relationship to children and child protection is complex. Existing international norms and engagement efforts towards getting ANSAs to comply with international child protection standards have had a certain effect. Present international mechanisms, including the MRM system, which are predominantly based on shaming, have been limited in their impact for various reasons. The political dynamics of the UN as well as the particularities faced by ANSAs have limited the effectiveness of the MRM approach. A more preventive engagement of ANSAs, through constructive dialogue, can initially lead to better understanding of ANSAs’ realities and subsequently help ensure they develop and enforce their own internal child protection mechanisms.

It is not naïve to believe that ANSAs, through developing internal codes of conducts, and monitoring mechanisms, as well as signing Deeds of Commitment, will increase their accountability. Compounded with adequate dissemination of norms, monitoring and capacity-building, the ownership process can be very efficient in enhancing ANSA compliance and reducing violations. However, even after taking such measures and going to such lengths at developing a code of conduct, there could still be violations. It would be of no surprise that some ANSAs will not be receptive to engagement or act in good faith – like some States – and continue violating IHL and use children in hostilities. These measures of ownership will at least give the ANSA the opportunity and means to acquire the knowledge to tighten the controlling measures – but more importantly these measures can create a baseline and reference point for monitoring alleged violations. Equally, this ownership method can act as a compliment to the more stringent sanctioning mechanism developed by the UN with the “naming and shaming” list. These engagement approaches, each presenting different comparative advantages, can be very efficient if applied in a coordinated manner. The proper engagement of ANSAs from all angles will ultimately help ensure better child protection in conflict.

2 The International Committee of the Red Cross (ICRC) conducts IHL dissemination to all parties to the conflict, including ANSAs.
3 Geneva Call has developed training modules on specific humanitarian norms specifically tailored to ANSAs. Training modules include Law of Armed Conflict and the international humanitarian norms surrounding the three Deeds of Commitment.
Cet ouvrage rassemble les interventions des participants au symposium international de Khartoum sur le thème de « l'effectivité de la protection des droits des enfants dans des environnements culturels spécifiques ». Co-organisé par l'Institut Français de Khartoum (Fonds d'Alembert du Ministère français des Affaires Étrangères), l'Université de Khartoum (Faculté de Droit) et l'Université de Strasbourg (Institut d'Études Politiques), cet événement avait pour but de réunir pour la première fois entrepreneurs politiques, du droit, de l'armée, du social (acteurs issus des communautés locales), du thérapeutique (psychologie spécialisée en stress post-traumatique), de l'humanitaire et du développement (agences des Nations Unies, organisations non gouvernementales). Mais la question est la même pour tous : le droit des enfants dans les conflits armés et en contexte de sortie de crise tel qu'il existe aujourd'hui est-il clair, pertinent et applicable pour répondre effectivement à cette exigence de protection ?

Dirigé par Mohamed Abdelsalam BABIKER, Maxence DAUBLANE et Alexis VAHLAS.
Contributions en français et en anglais (non traduit) de Mohamed Ominra Abdalrahim ABDELHAM, Abdelsalam BABIKER, Stephen BLIGHT, Bernard BOETON, Richard CLARKE, Maxence DAUBLANE, Sophie DE CONINCK, Jean-Marc DE LA SABLIERE, Patrice EFFEBL, Hilja GERBEST, Adrian GOODLIFE, Khadija Mahjoub JAFFAR, Nina LOSEKAMM, Juwence F. RAMASY, Yasir SALEEM, Jean-Paul THONIER, Ray Virgilio TORRES, Alexis VAHLAS, Armelle VESSIER.

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