



## **Violations against Children in Armed Conflict:**

### **Concerns about Proposed Changes to the Secretary-General's List**

*June 1, 2017*

Human Rights Watch welcomes the Secretary-General's support for the children and armed conflict agenda. One of the agenda's most important tools is his annual report to the Security Council on children and armed conflict, and its annexes, listing parties to armed conflict that are responsible for grave violations against children. The annual listing of those responsible for grave violations against children is unique in the UN system and can create powerful incentives for parties to take action to end their violations. At least 26 listed governments and non-state actors have signed UN action plans, and several parties have been de-listed after their successful implementation.

Human Rights Watch supports the secretary-general's aim to increase engagement with parties that are listed in the annexes or may be under consideration for listing. However, we are concerned that some changes under consideration with regard to the list may result in negative consequences for the children and armed conflict agenda, without real benefits.

We understand that changes being considered include the following:

- Creating a consultation phase of 3 to 6 months to engage with states in advance of possible listing;
- Allowing these states to make specific commitments or undertake measures to avoid listing;
- Communicating formally to states that are already listed the actions they need to take to be de-listed;
- Separating the list to distinguish between states and non-state actors;
- "Freezing" the list with regard to new listings for 2017 to allow time to carry out the above measures.

High-level engagement with parties that are listed or may be listed can have a positive impact. For example, communicating formally to listed parties the actions they need to take to be de-listed may spur parties to effectively implement their action plans. However, we are concerned that other changes under consideration could have detrimental impacts.

Human Rights Watch's concerns include:

- The proposed consultation process leaves the secretary-general open to undue additional pressure, as states and their allies may press him to accept promises of reform to avoid listing, regardless of whether such promises are genuine or are carried out.;

- It is unclear what criteria would be used to avoid listing and how commitments would be monitored, which could create perceptions that the process is arbitrary or favors powerful states;
- The proposal would create a duplicative and potentially unfair process, establishing one set of standards to allow new parties to avoid listing, while maintaining another existing standard (i.e. implementation of existing action plans) for de-listing of parties already on the list;
- A pre-listing consultation phase focused only on states will give states an opportunity to avoid listing, while non-state actors have no such opportunity. Non-state actors already face additional obstacles to de-listing, since in some cases, member states deny the UN access to these parties to negotiate action plans. An unbalanced consultation process will only increase their perception that the process is weighted against them and make them less willing to participate.
- Allowing states the option to avoid listing despite documented violations undermines the purpose of the secretary general's annual list: a fact-based determination of parties responsible for grave violations based on UN-verified cases documented during the previous calendar year; and
- "Freezing" the list for 2017 undermines the list's credibility, and gives the impression that the action is primarily to avoid further controversy over possible listing of the Saudi Arabia-led coalition.

The proposed process also seems premised on the assumption that parties have been listed without adequate advance notice, calling into question previous listings. The listing is a very public and well-established procedure that has been carried out annually since 2002. Parties, particularly states, that commit grave violations against children should be well-aware that such violations could result in their being listed. Parties are often identified in the body of the report for violations before they are included in the annexes, effectively putting them "on notice." The Special Representative of the Secretary-General on Children and Armed Conflict has had a long-standing practice of sharing an advance copy of the report with member states mentioned in the report in advance of publication.

Many of the changes being considered are simply not consistent with the spirit of Article 99 of the Charter nor with Security Council resolution [1379](#) (2001) and subsequent resolutions that called on the secretary-general to attach to his report a list of parties that commit grave violations against children in violation of the international obligations applicable to them.

As the secretary-general seeks to engage more substantively with parties that commit violations against children and to encourage full compliance with international law, Human Rights Watch urges him to:

- Issue the 2017 report with an updated annex to reflect all parties responsible for patterns of grave violations against children in 2016, without exceptions;
- Strengthen engagement with violators that have already been listed, as well as those subject to new listing, urging them to take immediate action to comply with international law, and to fully implement their stated commitments;
- Avoid creating a new process that would allow violators to avoid listing;
- Publicly express his commitment to maintaining a list based on facts on the ground, rather than parties' promises, and reiterate that the only route to de-listing is by implementing a concrete, timebound UN action plan.