

# **The Sri Lankan Civil Society Working Group on Child Recruitment**

## **UNDERAGE RECRUITMENT IN SRI LANKA**

### ***THE CONTEXT***

The forced recruitment of children and the use of child combatants have been long associated with Sri Lanka's violent ethnic conflict. Despite repeated commitments by the two main armed groups involved in the forcible abduction and recruitment of children, the Liberation Tigers of Tamil Eelam (LTTE) and the Tamileela Makkal Viduthalai Pulikal (TMVP), they continue this practice and have failed to release the children they have recruited. The Government of Sri Lanka has failed to address the issue of complicity of its armed forces and continues to foster a culture of impunity.

Underage recruitment by the LTTE, as of 31<sup>st</sup> December 2007, stand at 6248 cases reported to UNICEF. Despite repeated pledges to stop forced recruitment and release children recruited, the LTTE continues to enforce a quota system - one recruit per family - in the Wanni and Mannar with utter disregard to the pleas of parents, communities and international opinion. The LTTE which continued and even increased recruitment of children during the height of the peace process has made repeated pledges that it would cease this practice, including in the Action Plan in 2003.

453 cases of underage recruitment by the TMVP, as of 31<sup>st</sup> December 2007, have been reported to UNICEF – many perpetrated in complicity with the armed forces<sup>1</sup>. The government has not yet carried out a genuine and independent investigation into reports of child recruitment by the TMVP in areas fully under its control

### **Cases of Underage Recruitment Reported by UNICEF as**

<b>Perpetrator</b>	<b>Number of Cases of Underage Recruitment of 31<sup>st</sup> December 2007<sup>2</sup></b>	<b>Cases recruited and re-recruited in December 2007 alone – as reported to the UNICEF</b>
LTTE	6248	0
TMVP	453	15

### ***GOVERNMENT INACTION AND COMPLICITY***

Civilians live in a climate of fear, suppression and without the capacity to voice out their grievances. Parents, risking threats, intimidation and harassment have made complaints to the Police, the National Child Protection Authority as well as to the Supreme Court regarding the abduction of their children, but to no avail.

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<sup>1</sup> The Report of the Secretary-General on Children and Armed Conflict in Sri Lanka (21 December 2007) states that between 1 November 2006 to 31 August 2007, 207 children were recruited by the TMVP – including 45 re-recruited. The LTTE, according to the report, have recruited 262 children – including 32 re-recruited within the same period.

<sup>2</sup> Statistics provided by UNICEF.

The Government continues to call for credible evidence – despite repeated instances of evidence being presented to various sections of government – including the President, the NCPA, the Ministry of Human Rights, the Human Rights Commission and the Police. For example, in June, 2006, 48 youth were abducted from government-controlled areas in Batticaloa District. These abductions occurred in close proximity to camps of the security forces. 25 of the youth were children under the age of 18; many of the others were the main wage earners of their families. The parents of abducted children have made several complaints to police stations in the district. At least 33 complaints have been lodged at two police stations (Eravur and Valachchenai). Moreover, a petition from the families with exact details of the persons abducted, incident and police reports was given to the following officials or institutions: Special Representative of the UN Secretary General for Children and Armed Conflict (July 2006); Minister for Human Rights and Disaster Management, Sri Lanka (July 2006), Chief Justice of Sri Lanka (July 2006), Human Rights Commission of SL (July 2006), Inspector General of Police, SL (July 2006), Amnesty International/UK (July 2006), Presidential Commission of Inquiry into Incidents of Abductions. Inaction by the government is clear: to date, nothing has come of these complaints and petitions.

Additional evidence of government complicity in the TMVP's forced recruitment drive can be gleaned from the location of Karuna camps where abducted children are held. There are a number of training camps that were established in government-controlled areas and in visibly close proximity to military outposts, army checkpoints and camps. These included training bases in Theevuchenai, Muttukal in the Welikanda area and Kadiraveli – which is under complete government control. Despite persistent denial of any involvement with the TMVP, its cadres have been seen patrolling with soldiers and walking in and out of army camps. Similarly, the main entry and exit points out of the Batticaloa District to the Polonnaruwa District is clearly under government control and are filled with checkpoints and outposts – it is impossible that large number of children and youth have been transported through these various points without the knowledge of government forces. Evidence also presents itself in the form of parents who have not only accessed protection agencies requesting intervention on behalf of their abducted children, but have also visited the camps in the Welikanda area – often being guided/directed to the various training camps by the army.

### ***THE GOVERNMENT'S RESPONSE***

Despite the strength of the evidence – including numerous international and national media and human rights watchdogs (including HRW and AI) and UN Representatives highlighting the problem, the security forces continue to deny any collusion between them and the TMVP.

Alan Rock's – the United Nations Special Representative on Children and Armed Conflict statement was met with vehement denial. The government promised to launch a series of investigations and since then have established a number of committees to address this problem – yet so far, it is clear that the response was merely intended to placate growing international concern rather than to bring the perpetrators to justice.

The Human Rights Commission (HRC), the country's main human rights body, despite complaints, has failed to visit the camps named in the HRW report where children and youth are being held and/or given arms training.

Meanwhile, the National Child Protection Authority (NCPA) erroneously maintains that they are ‘not mandated’ to launch investigations into child recruitment cases without ‘official complaints’. Previously, they had maintained that they simply ‘did not know about it’. NCPA’s responses to such serious allegations achieve nothing in understanding its role as a national body created to protect children. The issue of government’s complicity in the TMVP’s child recruitment practices have reached the highest levels of the UN and international community yet the NCPA – a member of the 1612 working group in Sri Lanka (who reports and feeds information to the 1612 taskforce on children and armed conflict in New York) – claims to not even be aware of camps holding children – despite having been given evidence to support the allegations. This is indicative of the lack of government will to investigate.

In 2006, in order to placate growing international concern – in light of the Alan Rock statement, both the army and the police pledged to investigate cases of abductions – yet no results or reports have been made to date. The One-Man Mahanama Tilakaratne Commission also promised to investigate allegation of abductions and disappearances. To date, no results of the investigations have been made public – even though parents, witnesses have been questioned. A number of parents were not even informed that such an investigation was taking place. Furthermore, to appease apprehension regarding forced recruitment, Human Rights Minister Mahinda Samarasinghe appointed another committee to inquire into Allegations of Abduction and Recruitment of Children for Use in Armed Conflict. Committee members include representatives of the three armed forces – government bodies that are accused of the very crimes they are investigating. This committee, appointed to show the government’s commitment made to the Security Council Working Group on Children and Armed Conflict also contains the very agencies who have been accused of neglecting their duties – i.e. the NCPA and the Police.

**Various Protection Mechanisms in Place to Address The Protection of Children and Progress Made So Far in Addressing Underage Recruitment.**

Protection Mechanism	Progress Made
<p><b>The Ministry of Human Rights and Disaster Management</b></p>	<p><b>No progress made: Whilst the government’s adoption of a zero tolerance policy on child recruitment is welcomed, we see no evidence on the ground that this is the case.</b></p> <p>Minister Mahinda Samarasinghe continues to deny that abduction in government-controlled areas by the TMVP is taking place with claims of ‘no credible evidence’ – despite a series of petitions, complaints, testimony and claims by international human rights watch dogs to the contrary.</p> <p>On 13<sup>th</sup> January 2007 Minister Samarasinghe stated that his own Ministry and the Foreign Ministry have agreed to probe the allegations made by Allan Rock on the 13<sup>th</sup> of November 2006 and also to launch investigations by the police, the army and existing protection mechanisms. Various ad hoc committees were also set up to address this issue – yet to date, child recruitment continues, and no one has been held accountable.</p>
<p><b>The Human Rights</b></p>	<p><b>No Progress Made: Despite several parents</b></p>

<p><b>Commission</b></p>	<p><b>approaching the Commission in Batticaloa.</b></p> <p>The HRC lacks the capacity to follow up on complaints and conduct thorough investigations.</p> <p>No effort has been made by the Commission to visit any camps identified in the various reports suspected of holding children.</p> <p>Furthermore, the downgrading of the main human-rights monitoring mechanism in Sri Lanka (in December 2007) highlights the need for an independent international monitoring mechanism.</p>
<p><b>National Child Protection Authority</b></p>	<p><b>No Progress Made: child recruitment continues and recruited children are yet to be released.</b></p> <p>Jagath Wellawatte, NCPA’s Chairman maintains that the NCPA is ‘not mandated’ to launch investigations into child recruitment cases without ‘official complaints’. This statement is completely contradictory to its mandate – Clause 33 of the National Child Protection Authority Act, No. 50 of 1998 maintains that:</p> <p>‘The authority may, where it has reason to believe that there is child abuse on any premises.... authorize an officer of the Authority to enter and search such premises’.</p> <p>The NCPA also claims that they lack the capacity to carry out these investigations as they are short of staff and have only one police unit to assist them. No where does it say that the NCPA is limited to a designated number of police units or staff and are allowed to utilise the resources of the national police system in order to carry out their investigations. It clearly smacks of a lack of political will.</p>
<p><b>Police</b></p>	<p><b>No Progress Made: Investigations still Pending.</b></p> <p>Mahinda Samarasinghe claimed that the Police will immediately investigate reported cases of abductions – no results or reports have been made available to date – bringing into question whether investigations even took place. There are also complaints that police refused to entertain complaints of abductions.</p>
<p><b>Army</b></p>	<p><b>No Progress Made: Promised investigations yet to be conducted and the results revealed.</b></p> <p>Another face-saving mechanism of the government – no results of investigations have been made public.</p>
<p><b>Mahanama Tilakaratne Commission on Abductions, Attacks on</b></p>	<p><b>No Progress Made: The One-Man Commission has yet to conduct thorough, timely investigations on child recruitment.</b></p>

<p><b>Civilians and Killings</b></p>	<p>The petition made by the families in July 2006 was presented to the Commission in October 2006.</p> <p>Since appearing in front of the Commission, families have faced intimidation at the local level by armed groups working with the government as well as the military. The report of intimidation has been given to the Human Rights Commission (HRC Complaint #5982/06).</p> <p>There are now increasing allegations that state-led investigations (on abductions and disappearances) are conducted to suppress rather than to follow the complaints made by the families.</p> <p>The procedure was a sham. No official announcement was made that the Commission was visiting the Batticaloa District, the duration of the Commission's presence in Batticaloa (less than three days) was too short to achieve any substantial findings, and the parents and groups working with affected parents of the child abductees were unable to freely access the Commissioner. The public is yet to see any reports issued by either one of these mechanisms and no current status of complaints made to the Commission has been provided.</p>
<p><b>Committee to Inquire into Allegations of Abductions and Child Recruitment</b></p>	<p><b>No Progress Made: It is clear the Committee was set up to placate growing international concern without any genuine political will.</b></p> <p>Set up in August 2007, a committee designed specifically to address child recruitment has not made any progress and was convened only as an eyewash just before the Human Rights Council sittings.</p>

### ***CHILD ESCAPEES AND SURRENDEES***

The atrocities do not stop there. Child escapees and surrendeers (Children who escaped from those who forcibly recruited them and those who surrendered to the security forces and to the Police in the wake of the military offensive in the East) continue to be at risk and are treated like hardened criminals.

Sri Lanka does not have a legally sanctioned rehabilitation programme and the surrendeers are put in prison with adult prisoners. Their freedom of movement, to see their families is either denied or restricted and they are subject to appalling living conditions with no proper rehabilitation programmes, education or livelihood training. Plans have been made to develop a rehabilitation institute in 'Ambepussa' – a predominantly Sinhala area where the children's security and protection will be another cause for concern – a clear contravention of the Paris Principles. Approximately 140 children are incarcerated in the Jaffna Prison and 45 in the Kandy Remand Prison.

A number of high-profile UN Representatives have visited Sri Lanka in the last year but have made little impact on the increasing human rights violations on the ground and the increasing culture of impunity. 'Sovereignty' has trumped the need for a field presence of the OCHR and 'protection' work is not a priority next to military imperatives. The

termination of the CFA cancels out any hope for curbing the number of human rights violations in the country. Monitoring recruitment by both the LTTE and paramilitary groups will prove impossible and disappearances, harassment, abductions and killing will go unabated. The families of the abducted continue their vigil and efforts to locate the abducted children. They face huge challenges including intimidation by armed actors that makes their search all the more difficult. Immediate steps need to be taken to ensure that the forcible abduction and use of children as combatants needs to be brought to an immediate end.

## **THE CIVIL SOCIETY WORKING GROUP ON CHILD RECRUITMENT**

## ***RECOMMENDATIONS AND ACTIONS***

**For the Government of Sri Lanka:**

### **Take immediate actions to end practise of child recruitment and the use of child soldiers by the TMVP in Sri Lanka:**

- Release all children abducted and trained by the TMVP and now found in different TMVP political offices and training camps of the group.
- Provide Police with clear instructions to investigate complaints on child abductions by TMVP.
- Send National Child Protection Officers (accompanied by international agency representatives) and Police to visit such identified sites on an unannounced basis and report.
- Give the Police Commission a mandate to investigate the non-cooperation by the Police on cases of child abductions by the TMVP.
- Support the Human Rights Commission (HRC) to follow-up on complaints made on child abductions by the TMVP.
- Reform laws that does not distinguish between children and adult combatants or suspects, including PTA, Emergency Regulations etc
- Enforce article 12 of the Constitution and ensure equal protection to families with children of minority groups.
- Accede to the Rome Statute of the International Criminal Court that would facilitate prosecuting of the under-age recruitment as a war crime.

### **Bring a stop to the culture of impunity and ensure justice to the victims by:**

- Commencing unbiased investigations on cases of child conscriptions/abductions and to ensure offenders including those complicit (be it security personnel, non-state actors, armed groups, civilians) are brought to justice.
- Commencing investigations into act of complicity or omission by all key state agencies responsible for child protection including:
  - Ensuring explanations are sought and relevant officers held accountable at the National Child Protection Authority (NCPA), which is the state agency with the mandate on protecting children, but had failed to take any effective steps in the cases of child conscription in Government Controlled areas to date,
  - Ensuring that the Police Commission investigates and reports on progress and 'inaction' (and in some instances non acceptance of complaints) of the different Officers-in-charge of Police Stations in areas where the abductions occurred,
  - Ensuring that the Defence authorities conduct independent investigations into how abducted children from different parts of the Island were transported to and kept and provided arms training in camps in government-controlled areas, some of which are adjacent to the military brigade complex in the Welikanda division.
- Releasing the report and findings of the Police and Army investigations that were conducted on abductions and collusion of the security forces following Alan Rock's statements in and around December 2006 and January 2007

- Providing the current status of the child conscription complaints made to the One-man Presidential Commission chaired by Mahanama Tilakaratne, the various Police Stations and the Human Rights Commission and ensure that they are prioritised.
- Taking full responsibility for the safety and security of the complainants and family and ensure that adequate protection, free of harassment and intimidation, is provided for them.
- Make a formal request to the Commissioner General of Elections not to register the TMVP as a political party until they are struck off the UN Security Council 1612 list.
- Complying with its obligations under International Human Rights Law and IHL including reporting procedures – in particular relating to child soldiers and forced conscription – and to ensure that all necessary measures are taken to protect all children from forced recruitment and abductions.

**Take pro-active actions to prevent child conscription and child abuse:**

- Request the national protection agencies, in partnership with UNICEF, including the NCPA, Police and HRC to make *unannounced* and *regular* visits to the TMVP offices and identified training camps in the Government controlled areas where abducted children have been seen with arms.
- Ensure that the national protection agencies are fully supported by providing the required physical and financial resources and independence to pursue their mandate.
- Provide free and unhindered access to all parts of the country, most importantly to the areas recently captured in East, for national and international protection agencies.
- Instruct and follow up with Military and STF to issue ‘receipt’ as required to the family when arresting, detaining children for security inquiries

**To support and strengthen the reintegration and rehabilitation of children:**

- Announce an amnesty and ensure safety and protection of children who escape from LTTE and from the TMVP as well as those who surrender in line with the Paris principles and internationally accepted norms of dealing with children in combat.
- Articulate and disseminate a clear policy on rehabilitation of children distinct from that of adult combatants. Such a programme should be closely monitored and clearly mandated.
- Ensure specific attention to the girl child in the reintegration process who are forced to adopt early marriages etc as protection and reintegration strategies
- Ensure that separate and distinct programs are available for children who have been with the armed groups for short period (at times one-two months) and other children who have been for longer time
- Provide the necessary support to the families of children
- Increase training and education opportunities and facilities in the Eastern Districts to place the children who are released, rescued or surrender.

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