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Report of the Secretary-General on children and armed conflict in Sri Lanka

Summary

The present report has been prepared pursuant to Security Council resolution 1612 (2005) and is submitted to the Council and its Working Group as the third report of the Secretary-General on children and armed conflict in Sri Lanka. It covers the period from 15 September 2007 to 31 January 2009 and provides an update to the follow-up to the conclusions of the Working Group on Children and Armed Conflict of 13 June 2007 (S/AC.51/2007/9) and of 21 October 2008 (S/AC.51/2008/11). Recent developments and information relating to grave violations against children in Sri Lanka, covering the period from 1 February to 15 June 2009, will be presented in an informal note to be submitted to the Working Group.

The report provides information on the compliance of parties to the conflict with Security Council resolutions 1539 (2004) and 1612 (2005), and describes incidents and trends of grave violations of children's rights by State and non-State actors. In particular, the report emphasizes that despite some very limited progress and the release of children by the Liberation Tigers of Tamil Eelam (LTTE) and a modicum of efforts on the part of the Tamil Makkal Viduthalai Pulikal (TMVP), trends of child recruitment continue to be a source of major concern in Sri Lanka. The killing and maiming of children also remains worrisome, especially in the context of the fighting and attacks which have a direct impact on the civilian population in affected areas of Sri Lanka. Finally, the provision of humanitarian assistance to affected children in the conflict zones is increasingly difficult.

The report highlights that limited progress has been registered with regard to dialogue with armed groups for action plans to stop the recruitment and use of children. Though LTTE continued to fail to achieve the necessary requirements of a bona fide action plan throughout, TMVP has prepared an action plan in conjunction with the United Nations country team and the Government of Sri Lanka. However, concrete steps towards the complete release of children and their effective reintegration remain to be fully taken. In addition, allegations of other armed groups engaging in recruitment, most especially in internally displaced persons camps in the north of the country, need to be more aggressively monitored and appropriate action taken to halt all abuses.



The report commends the continuing efforts and engagement of the Government of Sri Lanka, and recognizes the tremendous challenges for the protection of children in armed conflict. It concludes with a series of recommendations to be addressed by all parties to the conflict.

I. Introduction

1. The present report, prepared at the request of the Security Council Working Group on Children and Armed Conflict, and in accordance with Council resolution 1612 (2005), covers the period from 15 September 2007 to 31 January 2009. It provides information on compliance and progress in ending the recruitment and use of children by armed groups, and other grave violations and abuses being committed against children by parties to the conflict. It also provides an update on the follow-up to the recommendations and conclusions made by the Working Group in its reports of 13 June 2007 (S/AC.51/2007/9) and 21 October 2008 (S/AC.51/2008/11). Recent developments and information relating to grave violations against children in Sri Lanka, covering the period from 1 February to 15 June 2009, will be presented in an informal note to be submitted to the Working Group.

2. The information and data on specific incidents of grave violations against children included in the present report have been compiled from information confirmed and verified by the Sri Lankan Country Task Force on Monitoring and Reporting (Country Task Force), in addition to a number of cases documented by the National Child Protection Authority. However, the information does not comprise a comprehensive account of violations committed against children, as restrictions on access, as well as the harassment and intimidation of victims and a prevailing fear of reprisals by the parties to the conflict have resulted in a significant level of underreporting. In particular, the lack of access has impeded the ability of victims and their families to report child rights violations and the ability of the Organization to effectively verify such violations in the Vanni.¹

3. Displacements and continuing incidents of claymore attacks, landmines, unexploded ordnance and aerial bombings have resulted in a climate of fear. Ongoing fighting between the Sri Lankan Armed Forces and the Liberation Tigers of Tamil Eelam (LTTE) in the north of the country calls for urgent attention from both parties to minimize the risk to children and for LTTE to stop recruitment and immediately release those children recruited to its ranks, as well as to allow free passage of all civilians out of areas of their control in line with provisions of international humanitarian law.

4. Although actions have been taken to strengthen the monitoring and reporting mechanism, implemented pursuant to Security Council resolution 1612 (2005), through training workshops at the district level, there remains a need for further capacity-building, in particular in relation to national institutions. Progress has been difficult in the context of ongoing insecurity, but there have been certain positive developments. Monitoring and reporting has led to some successful advocacy at both the national and district levels for the release of children associated with armed groups and to the establishment of services for reintegration. Roles and responsibilities in relation to the prevention, release, care, protection and reintegration of children associated with armed groups have been formalized through the signature of a memorandum of understanding between the Government of Sri Lanka and the United Nations Children's Fund (UNICEF). In addition, the Tamil Makkal Viduthalai Pulikal (TMVP) has committed to stop recruiting children and to release all children in their ranks through the signature of an action plan,

¹ The Vanni refers to Kilinochchi and Mullaitivu districts and the areas of Mannar and Vavuniya districts controlled by the Liberation Tigers of Tamil Eelam.

signed by TMVP, the Government and UNICEF. There is a need to review the previous commitments made by LTTE in order to secure the release of all children associated with their forces.

II. General political, military and social situation during the reporting period

5. Throughout the reporting period, the Government of Sri Lanka has had control of the eastern province and there is ongoing resettlement of internally displaced persons. By contrast, the conflict has escalated in the northern province, in particular with the Government military operations into the Vanni, resulting in large-scale displacement of the population. Internally displaced person families have been displaced on multiple occasions. Of particular concern is the physical security and psychological well-being of the internally displaced persons, including a large number of children, trapped in an increasingly limited area of the Mullaitivu district, which has become the main theatre of operations. Humanitarian agencies have reported that in the Vanni, LTTE has placed weapons and fighters in areas of civilian concentration, preventing the free movement of civilians to the “no fire zone” declared by the Government. Heavy artillery fire between Government troops and LTTE, including within the “no fire zone”, has led to significant casualties, including children.

6. The risk to children has been compounded further by the relocation of United Nations and other humanitarian agencies outside the Vanni since September 2008 and the current situation of extremely limited access for the provision of humanitarian assistance and monitoring of child rights violations. On 5 September 2008, in the context of deteriorating security and threats to staff safety related to an increase of military operations in the Vanni, including shelling and aerial bombardments near United Nations and non-governmental organization offices, the Government of Sri Lanka informed the humanitarian agencies that it could no longer guarantee the security of United Nations officials and non-governmental organizations in the Vanni. The United Nations and international and national non-governmental organization actors were asked to withdraw from the Vanni for their safety. However, national staff from the International Committee of the Red Cross (ICRC) and at least one international non-governmental organization continue to work in the conflict-affected areas of the Vanni at great risk to their lives. The deadline agreed for the withdrawal of staff and the suspension of operations was 29 September 2008. Two United Nations national staff and 10 dependants, and 213 non-governmental organization staff and 657 dependants remained in the Vanni as of 31 January 2009, as they were unable to obtain passes from LTTE to leave, either for themselves or their families.

7. The reporting period has also seen a number of significant political and security developments. On 3 January 2008, the ceasefire agreement of 2002 was abrogated by the Government of Sri Lanka; consequently, the Sri Lanka monitoring mission, which was established to monitor the ceasefire agreement, terminated its activities in Sri Lanka on 16 January 2008.

8. On 10 March 2008, TMVP jointly contested and won the district elections in Batticaloa with the ruling United People's Freedom Alliance (UPFA) party. On 10 May 2008, Eastern Provincial Council elections were held to elect members to

the Council. UPFA successfully contested the elections in an alliance of parties that included TMVP. Sivanathurai Santhirakanthan, alias “Pillayan”, was made the Chief Minister of the Eastern Province as a result of the aforementioned election. The Eastern Provincial Council includes the districts of Batticaloa, Trincomalee and Ampara.

9. On 7 October 2008, Vinayagamoorthi Muralidharan, alias “Karuna”, was sworn into the Parliament as a UPFA Member of Parliament. Previously, as a commander in LTTE and in his current role as leader of TMVP, Karuna is suspected of a series of human rights abuses in Sri Lanka, including the abduction of hundreds of children to serve as child soldiers, and the killing of hundreds of civilians, including children.

10. During the reporting period, concerns have emerged relating to an armed group that has been operating in both the east and the north of Sri Lanka for some time. The Country Task Force has received and followed up a small number of reports of children being recruited and harassed by the People’s Liberation Organization of Tamil Eelam (PLOTE),² and other human rights agencies have reported incidents of violence and abductions, including against children, by this group. The extent of violations committed by PLOTE remains unclear; its actions will continue to be monitored closely by the Country Task Force.

III. Grave violations of children’s rights

A. Recruitment and use of children in armed forces and groups

1. Liberation Tigers of Tamil Eelam

11. The report of the Secretary General on children and armed conflict (S/2009/158) and all the previous reports of the Secretary-General (S/2003/1053 and Corr.1 and 2, S/2005/72, S/2006/826 and Corr.1, and S/2007/757) have listed LTTE as a group that recruits and uses children as soldiers. In spite of repeated assurances by LTTE, recruitment and re-recruitment of children into its ranks has continued. There has been very limited progress on the release of the children recruited by LTTE in the reporting period.

12. At the beginning of the reporting period (15 September 2007), there were verified reports of 306 child combatants in LTTE. The Country Task Force received and verified reports of 39 cases of child recruitment and 6 cases of re-recruitment during the reporting period, including the cases of 4 children recruited twice by LTTE. This marks a decrease in the number of reported cases of recruitment and re-recruitment compared to previous reports submitted to the Working Group.³ In the same period, 17 children have been verified as released by LTTE. In addition, the Country Task Force verified eight cases of children who had returned to their families after running away from LTTE, as opposed to being released. As of the end of January 2009, there are an outstanding number of 81 children reported as

² PLOTE is one of several armed Tamil groups operating in the north and east of Sri Lanka.

³ During the reporting period from 1 November 2005 to 31 October 2006, 756 children were reported as recruited and 97 children as re-recruited. In the reporting period from 1 November 2006 to 14 September 2007, 262 children were reported as recruited and 32 children as re-recruited by LTTE.

recruited by LTTE and not released, and 1,342 persons recruited as children whom LTTE has refused to release and who are now 18 years or age or older.

13. The capacity to monitor and receive reports decreased steadily in the reporting period owing to limited access and increased insecurity as a result of the intensification of the conflict in the Vanni. The monitoring and reporting mechanism is now largely inoperative in the conflict area. In addition, families reported to UNICEF that they were facing harassment and intimidation by LTTE not to report child recruitment. The Country Task Force has grave concerns that, in the last months, LTTE has forcibly recruited a much larger number of children, allegedly some as young as 14 years of age, which cannot be verified owing to the aforementioned constraints. Verified cases of child recruitment include the following. In February 2008, a 17-year-old boy was forcibly abducted from his home and recruited in Kilinochchi district. After the case was raised with LTTE, it made a commitment to speak to the family and take action for the child's release. No information about the whereabouts of the boy is available to date.

14. According to the data available, during the period from 15 September 2007 to 31 January 2009, the highest number of recruitment (including re-recruitment) reports received by the Country Task Force, through UNICEF, was in the month of February 2008, with nine reports. The second highest number, six reports, was received in August 2008, the month before operations were suspended, and the last available report on child recruitment by LTTE received by the Country Task Force, through UNICEF, described new recruitments. Sixty-two per cent of the reports on recruitment and re-recruitment (28 children, including 2 children recruited and re-recruited in the reporting period) came from Kilinochchi district. Mullaitivu district stands second, with 24 per cent of reports (11 children, including 1 child recruited and re-recruited in the reporting period), followed by 6.7 per cent of reports from Batticaloa (3 children), 2.2 per cent of reports from Vavuniya (1 child) and 2.2 per cent of reports from Mannar (1 child). The shift towards the higher rates of child recruitment in the Northern province can be clearly explained by the withdrawal of LTTE from the Eastern province and the southern parts of the Northern province, and a build-up in areas engaged in direct hostilities.

15. The data collected indicates that the number of boys recruited by LTTE (64 per cent) was higher than the number of girls (36 per cent). The ratio of boys to girls recruited in the reporting period is consistent with the overall trend of LTTE recruitment since UNICEF started documenting child recruitment in 2003.

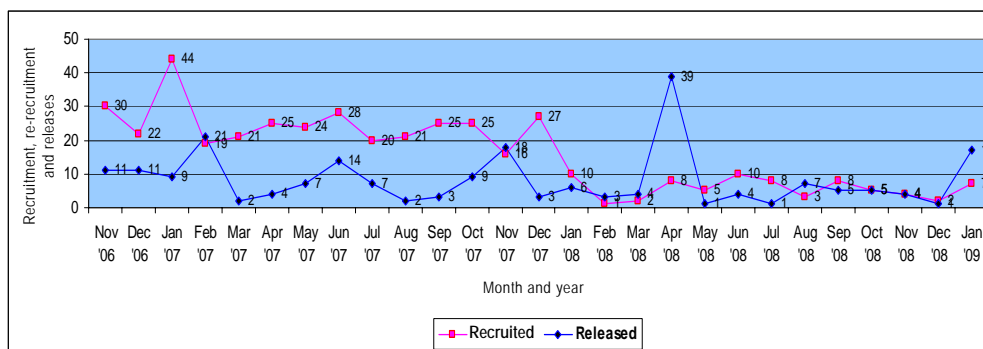
16. On 15 October 2007, LTTE committed in writing, in line with the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict and the recommendations of the Security Council Working Group on Children and Armed Conflict, to change its policy on the minimum age of recruitment from 17 to 18 years.⁴ However, it failed to translate its commitment into action and continued to recruit and use children under 18 years of age. On the basis of data available to the Country Task Force, the average age of children recruited in the reporting period is 16.65 years.

⁴ LTTE submitted a written commitment, framed as an "action plan", to the Office of the Special Representative of the Secretary-General for Children and Armed Conflict, which did not meet minimum standards. In its conclusions on Sri Lanka (see S/AC.51/2008/11), the Working Group acknowledged the commitments submitted by LTTE but requested it to take steps to ensure that they meet "minimum standards" required to be considered as a bona fide action plan.

2. Tamil Makkal Viduthali Pulikal

17. The Tamil Makkal Viduthali Pulikal (TMVP)⁵ became a registered political party on 24 January 2008. The party contested and did well in both the provincial and district-level elections in the Eastern province, covering the districts of Trincomalee, Batticaloa and Ampara. While TMVP is now a registered political party, recruitment of children by this group continues, although at a reduced rate. It has failed to abide fully by its previous commitments and relevant national and international law. However, positive developments have been registered since TMVP signed its action plan, fully supported by the Government of Sri Lanka, to stop the recruitment and use of children into its ranks in response to the recommendations of the Working Group.

18. There has been an overall reduction in reported cases of child recruitment by the TMVP, compared to the previous reporting period (see graph below). As the situation in the east of Sri Lanka, where TMVP is active, is more amenable to the collection of data and the communication of complaints of under-age recruitment, information collected there is more accurate than in the LTTE-held areas. Interviews with families and children indicate a change in the nature of child recruitment by TMVP in the east. While there continue to be cases of abduction and forced recruitment, TMVP also offers financial incentives to children and families for children to join. A further negative development is the emergence of a trend of “compensation recruitment”: if a child who was recruited runs away, the armed group recruits a sibling or another family member as a replacement. TMVP threatens or warns the parents of recruited children not to report to any agencies working with the Country Task Force. If the parents fail to comply, the children recruited are quickly and continuously moved from one camp to the other, obstructing the families’ capacity to stay in touch with them and further complicating agencies’ efforts to advocate at a local level for their release. Furthermore, there are signs of internal divisions within the group, which makes negotiations more complex, as the chain of command is not always clear.



19. At the beginning of the reporting period (15 September 2007), there were verified reports of 160 child combatants in the TMVP. During the reporting period,

⁵ In the present report, the denomination TMVP also includes the armed branch previously called the Karuna faction. TMVP is listed in annex II to the reports of the Secretary-General (S/2006/826, S/2007/757 and S/2009/158) as the “Karuna faction”, an armed group that recruits children.

the Country Task Force received 150 reports of child recruitment⁶ and re-recruitment, including reports on 7 children recruited after the signature of the action plan on 1 December 2008. In addition, the Country Task Force verified the release of 130 children, including 17 released after the signature of the action plan, and 74 cases of children who had run away from TMVP to their families but had not been officially released. There has been a decrease in reported child recruitment in the reporting period as compared to the two previous reporting periods (2005-2007), which can be attributed to the end of active hostilities in the areas of operation of TMVP and the signing of the TMVP action plan.⁷ However, the number of children reported as recruited is higher than those verified as released. As of January 2009, there is an outstanding number of 41 children reported as recruited who have not been released and 80 persons recruited as children who are now 18 years of age or older,⁸ in the Country Task Force database administered by UNICEF.

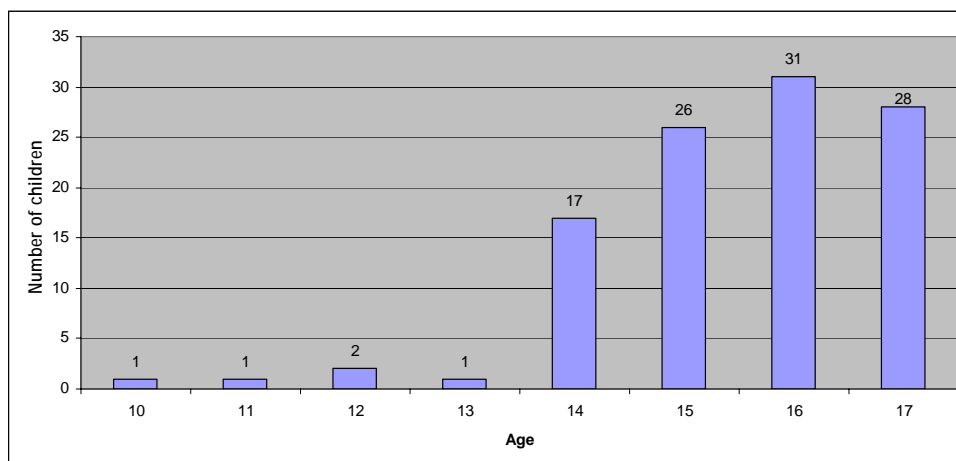
20. In terms of the geographical spread of child recruitment or re-recruitment by TMVP, 77 per cent of the children (116 children) have been recruited or re-recruited from Batticaloa district followed by significantly fewer reports from Trincomalee (19 children), Ampara (10 children) and Polonaruwa (5 children) districts. Similarly, 96 children were released from Batticaloa, followed by 19 from Trincomalee, 8 from Polonaruwa and 7 from Ampara.

21. Age analysis data (see graph below) indicates that 28.9 per cent (31 children) are recruited at the age of 16, 24.2 per cent (26 children) are recruited at the age of 15 and 26.1 per cent (28 children) are recruited at the age of 17 years. The average age of recruitment of children by TMVP is 15.90 years. Families that have reported these cases to the Country Task Force have mentioned that while the TMVP does attempt to “reject” some very young children, it reportedly will recruit such children if the children continue approaching TMVP camps or offices. Cases of recruitment reported include the following. On 12 October 2008, a 16-year-old boy was approached in the street and promised a monthly salary of 22,000 rupees (approximately 200 United States dollars) if he joined TMVP, which he did. The same day of his recruitment, the boy tried to escape but was caught by TMVP cadres and beaten. The boy was released on 19 November 2008. In the following days, he received a visit by unknown men, who asked that he report to the TMVP office. The boy is currently in hiding for fear of re-recruitment. Cases documented since 2006 indicate that TMVP has a tradition of recruiting boys almost exclusively. During the reporting period, there were no girls recruited by TMVP. In the Country Task Force database administered by UNICEF, there is only one case of recruitment of a girl, in November 2006.

⁶ The 150 cases include 7 children re-recruited during the reporting period.

⁷ From 1 November 2005 to 31 October 2006, there were 164 cases and from 1 November 2006 to 14 September 2007 there were 207 cases of child recruitment by TMVP reported to and verified by the task force.

⁸ In accordance with international human rights law and applicable standards, the Country Task Force advocates that those persons released who are over 18 years of age, but who were recruited as children and registered as such, are included in referrals to reintegration programmes.



B. Abduction of children

22. During the reporting period, several incidents of abduction reported to and verified by the Country Task Force were documented. At least 25 children were abducted by armed groups for purposes of recruitment, 5 by LTTE and 20 by TMVP. Abduction/recruitment by other factional groups from internally displaced person camps was also reported, though it is yet to be fully confirmed. However, as indicated above, the access of monitors and their ability to receive and verify allegations in LTTE areas are extremely limited. In addition, other incidents of abduction include the following. On 21 January 2008, a 16-year-old boy was abducted from his house by persons allegedly in Sri Lankan Army (SLA) uniform in Vavuniya. The next day, the mother of the child went to a nearby SLA camp and inquired as to whether SLA had taken her child. SLA denied it, saying it was not aware of the incident. His whereabouts remain unknown. On 3 April 2008, a 17-year-old boy was also allegedly abducted from his house at night by persons in army uniform. The mother of the child went to a nearby SLA camp to inquire, but SLA denied it had taken the child. The child remains missing. Both cases were reported to the police and the Human Rights Commission. No additional information on any follow-up by the authorities is available.

C. Killing and maiming of children

23. Throughout the reporting period (given recent developments, it must be underscored that the reporting period of the present report covers only the period from 15 September 2007 to 31 January 2009), children have continued to be killed and maimed as a result of the conflict. The situation has grown increasingly precarious for children since December 2008, with the intensification of hostilities in the north of Sri Lanka. The physical security of children trapped in zones of hostility has become the most critical protection concern for children as of 31 January 2009. The full scale of violations is not known owing to access impediments. However, on occasions when access to the Vanni was possible, the United Nations verified that at least 4 children were killed and 17 injured in December 2008 and 55 children were killed and 212 injured in January 2009 as a result of shelling and aerial bombardments. On 29 January 2009, ICRC successfully

escorted 226 sick and wounded patients requiring urgent medical treatment to Vavuniya hospital in the Government-controlled area. The wounded included 50 children from 4 months to 17 years of age.

24. In addition to the above-mentioned cases, nine incidents of killing and four incidents of maiming were reported and verified by the Country Task Force. The reports were received from Batticaloa, Kilinochchi, Mannar and Jaffna districts. Furthermore, the National Child Protection Authority received reports of nine incidents of killing and two incidents of injuries from the Western, Central, North-central and Uva provinces. The United Nations Mine Action Programme has received six reports of children being killed and nine reports of child injuries from Anuradhapura, Batticaloa, Trincomalee and Jaffna districts. The data from the Programme includes deaths and injuries from victim-activated landmines (anti-personnel and anti-vehicle) and other explosive remnants of war. It does not include victims from attacks using claymore mines, improvised explosive devices or bombs.

25. Reports reveal that children have become the victims of shelling and crossfire between SLA and LTTE in Batticaloa, Jaffna, Mannar, Mullaitivu and Kilinochchi. For example, on 25 October 2007, during an SLA artillery fire attack against LTTE-controlled areas in Mannar district, two children were killed by a shell that fell on a house inhabited by internally displaced persons. Several cases of claymore mine attacks have been reported. As a case in point, on 29 January 2008, a claymore mine detonated on a bus carrying civilians, mostly schoolchildren, in Thatchanamadhu, Mannar district, an area controlled by LTTE at the time. Of the victims, 13 children were killed (including 1 girl and 12 boys from 11 to 14 years of age) and 8 children were maimed (including 6 girls and 2 boys from 4 to 11 years of age). In addition, three education staff were killed. There were no confirmed incidents of killing and maiming of children by TMVP.

26. Reports of aerial bombardment and shelling were also verified during the reporting period. On 29 May 2008, in Jaffna, two boys 11 and 14 years of age were killed and two children were maimed (1 girl and 1 boy) owing to mortar shells that fell on the roofs of their houses during heavy fighting between SLA and LTTE. On 22 February 2008, during a military offensive against LTTE-controlled areas, an SLA aerial bombardment killed three children (from 6 months to 5 years of age) and maimed four others (from 2 to 7 years of age) in Sivanager village, Kilinochchi. In another incident, on 18 October 2007, an 11-year-old boy and a 15-year-old girl were killed by the Sri Lankan Navy in Mannar when it attacked a sailing boat, allegedly despite the fact that the people on board were waving white flags. The case was reported to the police but no follow-up information is available.

27. On 5 December 2007, a bomb in a bus in Anuradhapura, in the North-central province, killed 16 persons and injured 23 others, including 1 child. On 16 January 2008, in Buttala, located in Uva province, 27 persons, including 4 children, were killed and 67 were injured in a bomb blast. On 2 February 2008, in an attack on a bus stand in Dambulla, Central province, 20 persons were killed and more than 50 were injured. On 3 February 2008, a suicide bomber killed at least 12 persons, including 7 schoolboys and 1 schoolgirl, and wounded approximately 91 persons in the main railway station of Colombo. LTTE is suspected of carrying out the bombings. On 4 February 2008, in the north-eastern area of Weli Oya, more than a

dozen people were killed, including two children, and many more were injured (including 2 children) in a claymore detonation.

D. Attacks on schools and hospitals

1. Attacks on schools

28. The intensification of the conflict in the Vanni has increased the insecurity of schools and, in some instances, schooling has been suspended so that school facilities can be used by internally displaced persons fleeing active hostilities.

29. During the reporting period, two cases of attacks on schools were verified by the Country Task Force. The reports were received from Trincomalee district. In Mannar, two schools were destroyed in April 2006 during fighting between the Sri Lankan Armed Forces and LTTE. The verification of this incident could only take place in April 2008, as no access was granted to humanitarian agencies until that time.

2. Attacks on hospitals

30. The intensification of the conflict in the Vanni has adversely affected the delivery of health services to the civilian population, including children. Restrictions on access have limited the supply of medicine to conflict-affected areas. Shelling on or close to hospitals has also had a negative impact on service delivery. From 15 September 2007 to 15 September 2008, one incident of an attack on a hospital was reported and verified by the Country Task Force. However, from 15 December 2008 to 15 January 2009, 11 shellings on or near medical facilities in the Vanni were reported. On 2 February 2009, ICRC issued a statement condemning the shelling of Puthukkudiyirppu Hospital for the second time. It has since been shelled on three other occasions. Reports indicate that patients and staff had to flee the fighting. Cases reported to the Country Task Force include the following. On 1 April 2008, a hospital was shelled in Murunkan, Mannar district, an area controlled by the Government, damaging the paediatric ward and the administrative and out-patient department building. No human casualties were reported, although the capacity of the hospital was reduced by approximately 30 per cent. LTTE is believed to have been responsible. There have been no confirmed incidents of attacks on schools and hospitals by TMVP.

E. Grave sexual violence

31. There were no verified cases of rape or other grave sexual violence against children by parties to the conflict in the reporting period. Despite renewed efforts made by agencies on the ground to document individual cases, they have not been able to verify any cases to date.

F. Denial of humanitarian access for children

32. During the reporting period, across the north and east of Sri Lanka, the actions of all parties to the conflict continued to have serious consequences for the overall

protection environment for children and for the operations of humanitarian agencies, such as the delivery of humanitarian assistance and staff security.

33. Of the three forward defence line crossing points, Muhumalai in Jaffna has remained closed since 11 August 2006 and Uyliankulam in Mannar was closed in September 2007. Owing to intermittent fighting in November 2007 and July 2008, the remaining Omanthai checkpoint was closed to civilians for one week. This effectively prevented any civilian movement in or out of the Vanni, except for emergency medical evacuations, which continued to be facilitated by ICRC. On 14 November 2007, LTTE introduced more restrictive procedures in Omanthai.⁹

34. With the announcement by the Government of Sri Lanka of its decision to abrogate the ceasefire agreement of 2002 in January 2008, access to the north was further restricted, as the Government put in place new security and checking procedures at Medawachchiya as from 3 February 2008, and tightened procedures for crossing the forward defence line in Omanthai on 12 February 2008.¹⁰ The Government has also implemented more stringent administrative procedures for the issuance of visas for humanitarian workers, which has impacted the recruitment, deployment and retention of staff with negative effects on the implementation of programmes for children and displaced persons.

35. Transportation of humanitarian assistance into the Vanni became increasingly difficult with continued restrictions on the transportation of supplies, including fuel, generators to maintain the medical cold chain, medical supplies, therapeutic food to treat severely malnourished children and construction materials, including cement, shelter materials (tents and tarpaulins) and water and sanitation items (hand pumps, water tanks and jerry cans). As a result, humanitarian agencies have had insufficient supplies to meet basic needs, in particular in relation to shelter, water and sanitation. This has had an adverse impact upon displaced children and their families, who have often been temporarily accommodated in schools, thereby interrupting the education of displaced and non-displaced children, or accommodated in makeshift shelters, increasing the exposure and vulnerability of children to the elements and disease.

36. In the Vanni, LTTE has attempted on a number of occasions to forcibly recruit non-governmental organization national staff members. Humanitarian personnel have also been requested to contribute money or “volunteer” unpaid work to LTTE. The LTTE pass system created additional restrictions on freedom of movement for humanitarian actors, including the United Nations and non-governmental organizations. Permission to leave the Vanni is dependent on fulfilment of specific conditions, including the requirement that one family member remain behind as a guarantor to ensure that all persons permitted to leave will return. LTTE has refused to provide passes for entire families, including United Nations staff and dependants.¹¹ In July, LTTE seized several humanitarian vehicles, raising concerns

⁹ Civilians were required to carry their LTTE identity card in addition to their permanent pass and one-time pass in order to exit the Vanni.

¹⁰ All persons, luggage and vehicles, including United Nations staff and vehicles, were subject to search by army personnel.

¹¹ This requirement caused certain United Nations national staff to choose not to relocate to Vavuniya following the withdrawal by the Government of Sri Lanka of its guarantee of security in September 2008, since they would be forced to leave their direct dependants in the insecure environment of the Vanni.

for the security of humanitarian equipment in the Vanni and the ability of humanitarian agencies to continue their activities in support of children and displaced persons unhindered.

37. Humanitarian agencies have reported that, in the Vanni, LTTE has placed weapons and fighters in areas of civilian concentration, preventing the free movement of civilians to “zones of safety” declared by the Government of Sri Lanka. Furthermore, fighting in those “zones of safety” was also reported.

38. In the Eastern province, where the military is directly involved in administering formerly LTTE-controlled areas, the Ministry of Defense has put in place tight controls on humanitarian non-governmental organizations seeking access to work in these return areas. Hence, non-governmental organizations do not always have free access to these areas. Both military and administrative approvals are still required to access these former LTTE areas, which impinges on humanitarian work, including delays in the provision of assistance. In the Northern province in Mannar, humanitarian access to the Kalimodai and Sirukandal internally displaced persons sites remains inconsistent, and certain humanitarian agencies have had difficulty gaining access to provide assistance.

IV. Dialogue and action plans to redress violations of children’s rights

A. Liberation Tigers of Tamil Eelam

39. LTTE developed an action plan which sought to address the violations related to Security Council resolution 1612 (2005) in October 2007. Although the effort was recognized, key elements of a bona fide action plan were missing in the LTTE submission. These included such elements as transparency and accountability, and measures for verification of compliance and prevention. As such, the plan was deemed unfit. However, LTTE did commit to raise the age of recruitment to 18 and to release any child within their ranks by 31 December 2007. During the first month of the plan, October 2007, eight children were verified as released. Unfortunately, this progress was not maintained and within the entire reporting period only 17 children were verified as released, the last verification taking place in April 2008. While only 45 children have been verified as having been recruited during the same period, the number of actual child recruits is believed to be higher.

40. The Country Task Force, through UNICEF staff in the Vanni, maintained a weekly dialogue with the LTTE so-called “Child Protection Authority” in Kilinochchi to specifically review outstanding cases of children reported to UNICEF as recruited by the group. The meetings provided a forum for a review of the outstanding cases of children reported as recruited on the Country Task Force database, as well as to troubleshoot in cases reported to facilitate early releases and address other protection issues. Cases reported as released by LTTE during the reporting period became increasingly difficult to verify owing to decreased access to areas where children were reported to have returned as hostilities intensified in the Vanni. The number of children reported as recruited who have yet to be released is registered as 81 as of the end of January 2009, while the number of children recruited who have since attained the age of 18 years stands at 1,342. Actual

numbers of child recruits taken in the last months of the conflict are feared to have been very high.

41. In addition to the weekly meetings, United Nations agencies held periodic meetings with both the Child Protection Authority and the political wing to discuss policy issues and the obligations of LTTE in relation to children's protection in general. Concerns were raised about the increased intimidation by LTTE of some families not to report on child recruitment and the requirement of LTTE to fulfil its own commitments from its "action plan" not to recruit any person under 18 years of age. The Resident Coordinator, UNICEF, the World Food Programme and representatives of the Office of the United Nations High Commissioner for Refugees repeatedly addressed with LTTE during the reporting period the recruitment and use of children, as well as the need to respect United Nations staff and assets.

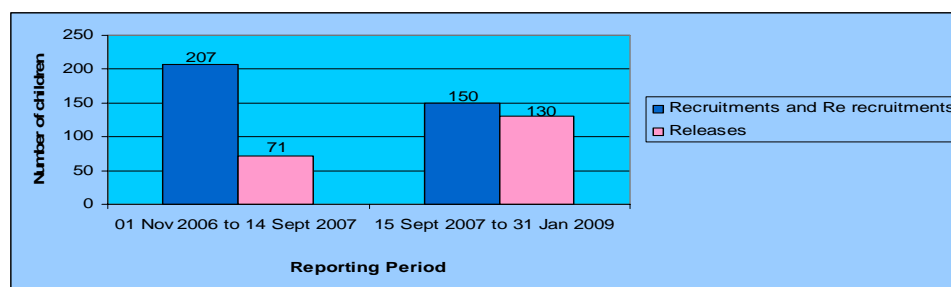
42. With the escalation of the conflict in the Vanni leading to the eventual relocation of United Nations and other humanitarian agencies, sustained dialogue has been difficult to maintain with LTTE, including with its Child Protection Authority. Opportunities to review the LTTE "action plan" so as to discuss its conformity with the standards expected have been limited; the provision of access to the LTTE military camps by UNICEF in order to verify the presence of children has never occurred despite commitments to this effect within the "action plan". At the time of writing, there is no international presence in the Vanni and the United Nations has been unable to receive reports of child recruitment or verify the status of children previously recruited.

B. Tamil Makkal Viduthali Pulikal

43. On 1 December 2008, following a period of negotiations between TMVP, the Government of Sri Lanka and UNICEF, TMVP signed an action plan in response to the recommendations made by the Security Council in its conclusions, issued on 21 October 2008 (S/AC.51/2008/11), urging TMVP to commit to a "time-bound action plan". The action plan lays out a three-month process, ending on 1 March 2009, by which time TMVP should stop the recruitment of children and release all children in its ranks. The negotiation process and signature of the action plan saw the Government take increased responsibility for child recruitment by TMVP and resulted in a series of positive actions. These included the establishment of a district task force in Batticaloa (the district most affected by child recruitment), chaired by the Government agent with the participation of the police, armed forces, probation services, TMVP and UNICEF; the direct engagement of the police in responding to child recruitment and a more effective implementation of the existing legal framework, ensuring that the magistrates and probation officers play their role fully; an increase in the number of children released and a decrease in the number of children recruited. Further progress still needs to be achieved in order to eliminate child recruitment completely and the positive engagement of the police and judiciary should lead to the prosecution of commanders who continue to recruit children.

44. The overall number of children reported to the Country Task Force on monitoring and reporting as recruited by TMVP decreased from 207 in the previous reporting period to 150 in the current period (see graph below). The dialogue

between the Country Task Force, through UNICEF, and TMVP at the district and national levels has been inconsistent. However, as the reporting period progressed, the Country Task Force increasingly engaged the Government of Sri Lanka directly on the question of child recruitment by TMVP and in April 2008, 39 children were released on two separate occasions facilitated by the Government. The children were released in the presence of the Commissioner-General for Rehabilitation and UNICEF, and linked thereafter to programmes of rehabilitation and reintegration. As of the end of the reporting period, 130 children were verified to have been released.



45. Despite 130 children having been verified as released during the reporting period, the Country Task Force has still received reports of more recruitment by TMVP than the number of releases it has verified. However, the end of the current reporting period has seen a reverse in this trend and provides encouragement for the future. As of the end of January 2009, 41 children remained recruited and have not been released to date. The number of persons recruited as children but who have exceeded 18 years of age totalled 80 at the end of January 2009.

C. Government of Sri Lanka

46. The Government of Sri Lanka has made advances during the reporting period in relation to setting up structures and policies to support its obligations in relation to children leaving armed groups. In addition, it has taken concrete steps to enforce its well publicized “zero tolerance” position on child recruitment.

47. The Office of the Commissioner-General for Rehabilitation has led the way with five specific initiatives in the reporting period: the establishment of the Ambe Pusse Centre in March 2008 for the rehabilitation of children leaving armed groups; the development and signing on 18 July 2008 of a memorandum of understanding with UNICEF, which clarifies roles and responsibilities in relation to the prevention of recruitment and the release, care, protection and reintegration of children associated with armed groups in accordance with international standards; the drafting of an emergency regulation in relation to the provision of rehabilitation for children leaving armed groups; the development of a public awareness campaign against child recruitment; and the facilitation of the action plan, signed between the Government, TMVP and UNICEF.

48. The Ambe Pusse Centre, coordinated by the Office of the Commissioner-General for Rehabilitation, was established to address a situation in which children either fleeing armed groups or captured by Government forces (referred to as “surrendeeds”) were arrested and held in prison alongside adult ex-combatants. The

Centre achieved the twofold objective of separating children from adults and ensuring that children were not placed in detention, but were rather kept in an open environment where they could access education, vocational training and psychosocial support. As of 31 January 2009, 61 children formerly associated with armed groups (LTTE and TMVP) have stayed at the Centre. Of these, 51 have returned to their homes and families, where they have received reintegration support.

49. As mentioned in paragraph 47 above, the Office of the Commissioner-General for Rehabilitation signed a memorandum of understanding with UNICEF on 18 July 2008. The Office, on behalf of the Government, undertook a coordinating and planning role in relation to the prevention of recruitment and the rehabilitation of children from armed groups.

50. As referred to in paragraph 47 above, the emergency regulation related to the rehabilitation of “child surrendees”, adopted on 15 December 2008, provides a framework for providing care and protection for children leaving armed groups in line with the Paris Principles and commitments of the Government to implement them. The regulation was formally circulated to key stakeholders and the media on the occasion of the launching of a public awareness campaign on child recruitment, in February 2009. The campaign targets armed groups, vulnerable communities and children affected by the armed conflict and provides information on Government accountability in the response to child recruitment.

51. Although the Government of Sri Lanka has made marked efforts, improvements in facilitating the release of children from the armed groups, in particular TMVP, should be undertaken and the subsequent provision of reintegration support should be strengthened. It is hoped that, with the signing of the action plan with TMVP, a platform is in place to ensure that all children will be released, recruitment will cease and the services of rehabilitation and reintegration will be available for children leaving armed groups in the near future.

52. As referenced in the aforementioned conclusions of 21 October 2008 of the Security Council Working Group, there has been no known progress on the work of the high-level inter-ministerial committee (established on 27 August 2007) mandated with conducting a thorough and impartial investigation into allegations that certain elements of the Sri Lankan security forces may have been complicit in the recruitment of children by TMVP. The early completion of the investigation and the submission of the report to the Working Group would be an important aspect of translating the “zero tolerance” commitment into action.

53. The high-level Consultative Committee on Humanitarian Access, which addresses policy issues concerning humanitarian assistance in Sri Lanka, continued to meet on a regular basis in Colombo during the reporting period. It includes a number of sub-committees, some of which have a special focus on children, such as the ones on education and health. The Consultative Committee and its sub-committees have proven to be a useful way to highlight needs and problems concerning access, and have helped to increase access to conflict-affected areas, especially with respect to education and health supplies. It has, however, not managed to resolve certain issues, including the facilitation of Government clearance for the supply of the most effective therapeutic foods for severely malnourished children living in areas not under Government control. Efforts were made to find alternatives, but not with full success, with the result that children in

some parts of the country do not have access to much needed therapeutic feeding. This was one example where an extensive concern about possible diversion of relief supplies has led to important supplies not being provided to children even though, in some cases, an agreement had been previously reached with the Consultative Committee.

V. Follow-up and programmatic response to violations

54. Discussions are ongoing for a formal disarmament, demobilization and reintegration process in Sri Lanka. Meanwhile, advocacy for the release of children recruited to the armed groups has been maintained throughout the reporting period, as indicated above. The United Nations, and, in particular UNICEF and its partners, have worked closely with the Government of Sri Lanka to put in place a policy framework for the care, protection and reintegration of children leaving armed groups, formalized in the form of a memorandum of understanding signed in July 2008 (see paras. 47 and 49 above). Technical support has been provided to the Office of the Commissioner-General for Rehabilitation for the drafting of an emergency regulation in relation to the provision of rehabilitation for children leaving armed groups and financial and operational support for the establishment and maintenance of the Ambe Pusse Centre, a care facility for children leaving armed groups (see paras. 47, 48 and 50 above). In addition, at the district level, a framework of cooperation between UNICEF, its partners and the National Child Protection Authority and Probation Services to support the reintegration of children is being discussed and elaborated.

55. To date, over 3,400 children have been supported in reintegration programmes. Since the last reporting period, 295 children have accessed reintegration support in terms of livelihoods, return to school, vocational training and psychosocial support.

56. In an effort to strengthen the link between the Country Task Force and district-level monitoring and reporting mechanisms, a series of training workshops were conducted in the most affected districts. There were five training workshops in which a total of 124 people participated. Unfortunately, owing to insecurity and access constraints, Kilinochchi and Mullaitivu could not be covered.

VI. Recommendations

57. Reaffirming that the reporting period of the present report is from 15 September 2007 to 31 January 2009:

(a) **The Government of Sri Lanka was urged to take all possible measures to avoid further killing and maiming of civilians, in particular children, during its military operations against LTTE and to facilitate the free passage of the civilians, as well as children associated with the LTTE forces, still trapped in the areas under LTTE control;**

(b) **The Government of Sri Lanka was urged to facilitate access of humanitarian actors and the delivery of assistance to internally displaced persons, including the many children, who were still in the Vanni under LTTE control as well as to all internally displaced persons coming out of the Vanni to Government-controlled areas;**

(c) LTTE was requested to immediately release all children and their caregivers, including children associated with its forces, from the conflict zone and allow them to move to safety;

(d) LTTE was called upon to cease all attacks on civilians and suicide bombings, which have killed and maimed children and created an insecure environment for all civilians;

(e) LTTE was requested to immediately cease all recruitment and re-recruitment of children under 18 years of age and to release those recruited to their ranks, taking urgent steps to review its previous commitments in line with accepted standards for action plans in line with Security Council resolutions 1539 (2004) and 1612 (2005).

58. In line with recent developments:

(a) The Government of Sri Lanka is urged to build on the progress achieved to date, with the support of the United Nations and other parties, and to ensure that children are not recruited from areas it controls and that all children released by armed groups have access to care, protection and reintegration programmes, including other appropriate assistance to those recruited as children who are now over 18 years of age. In particular, the Government should ensure that the identification, release, and rehabilitation of all children leaving armed groups and their successful reintegration into the communities is given priority and implemented in accordance with international standards. Moreover, special services, such as psychosocial support, should also be provided to those children;

(b) The Government of Sri Lanka is urged to facilitate access of humanitarian actors and the delivery of assistance to internally displaced persons, including to ensure the relevant care and protection for children separated from their families, and to address the high rates of malnutrition among internally displaced children;

(c) The Government of Sri Lanka is urged to ensure effective implementation of its “zero tolerance” position on child recruitment, including systematic and vigorous investigations for every reported case, followed by prosecutions and convictions of responsible perpetrators. The Government should complete the investigation undertaken by the inter-ministerial committee on the complicity between the security forces and TMVP in the abduction and recruitment of children. The report should be provided to the Security Council working group;

(d) Although progress has been made in implementing the TMVP action plan, important steps need to be taken to fulfil all requirements. TMVP should fully comply and implement the time-bound action plan signed on 1 December 2008 to release all children in its ranks and cease all child recruitment;

(e) In the longer term, concerns related to accountability for grave violations against children and transitional justice issues must be addressed through appropriate mechanisms.