



## Security Council

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### **Report of the Secretary-General on children and armed conflict in Myanmar**

#### *Summary*

The present report has been prepared in accordance with the provisions of resolution 1612 (2005). It is presented to the Security Council and its Working Group on Children and Armed Conflict as the first country report pursuant to paragraphs 2, 3 and 10 of that resolution. The report, which covers the period from July 2005 to September 2007, provides information on the current situation regarding the recruitment and use of children and other grave violations being committed against children affected by armed conflict in the Union of Myanmar. While the monitoring and reporting structures as outlined in the mechanism endorsed by the Security Council in its resolution in 1612 (2005) are in place, the modalities of an effective mechanism, including security guarantees, access to affected areas and freedom of movement of monitors without Government escort, are lacking. This first report therefore sets forth the general scope of the situation based on the information available to the United Nations country task force on monitoring and reporting at the present time.

Although there has been progress in terms of dialogue with the Government of Myanmar and two non-State actors, the report notes that State and non-State actors continue to be implicated in grave child rights violations. The Government of Myanmar has made a commitment at the highest level that no child under the age of 18 will be recruited. The Government has set up a high-level Committee for the Prevention of Military Recruitment of Underage Children and a working group for monitoring and reporting on the same issue. Further, there are Government policies and directives prohibiting underage recruitment. To date, the Government has not acceded to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (2000). Two non-State actors (the Karen National Union and the Karenni National Progressive Party) have signed Deeds of Commitment to cease the recruitment and use of children, to declare their adherence to the Optional Protocol to the Convention on the Rights of the Child and have committed themselves to appropriate follow-up action.



The Government has committed to bringing its current action plan on the prevention of the recruitment of children into its armed forces, the Tatmadaw Kyi, into line with international standards and to facilitate action plans with the United Wa State Army and other non-State actors. The Government of Myanmar has also recognized the need for the United Nations country task force in Myanmar to engage the Karen National Union and Karenni National Progressive Party in the development of action plans and monitor their compliance in accordance with Security Council resolution 1612 (2005). A principal difficulty with regard to monitoring grave violations of children's rights remains the lack of access to some locations of concern. Access to conflict-affected areas is severely restricted by the Government, a situation that impacts greatly on monitoring and possible responses to child rights violations.

## **I. Introduction**

1. The present report, covering the period from July 2005 to September 2007, has been prepared in accordance with Security Council resolution 1612 (2005), and describes what is currently known of the situation of children affected by armed conflict in Myanmar. Although a country task force on monitoring and reporting was established in June 2007, United Nations agencies and partners in Myanmar have been constrained by: (a) the lack of full access to conflict-affected areas; (b) the lack of guarantees of protection for child rights and for monitors reporting on grave rights violations; and (c) the absence of a procedure for engagement with the Government of Myanmar on grave rights violations committed by all parties. Consequently, data collection has been very difficult. This first report provides the background and baseline against which any future progress can be measured and focuses on the recruitment and use of child soldiers and other grave violations against children, with a special focus on the denial of humanitarian access to children. The report describes the progress in dialogue with the Government and non-State actors to date and identifies the plans for establishing a fully functional monitoring and reporting mechanism and action plans that meet international standards.

## **II. Political, military and social developments in Myanmar**

2. Myanmar faces challenges in interactions with its many different ethnic groups, many of which have political and armed structures and demand autonomy. Conflict between the State and these groups broke out after independence was achieved in 1948 and has been ongoing in certain border areas of the country. Myanmar is currently governed by the State Peace and Development Council. Elections held in 1990 were never recognized by the military government, despite repeated urging by the General Assembly to do so. In September 2007, the Government of the Union of Myanmar concluded its 14-year constitution-drafting National Convention, an opportunity for dialogue between political actors and ethnic group representatives. However, it appears that the participation of ethnic political parties, many of which are associated with ceasefire groups, has been limited. The Convention is the first step of the Government's "seven-step road map to democracy", which is intended to lead to a constitutional referendum and general elections. The outcome of the Convention remains unclear. The recent peaceful demonstrations by Buddhist monks and members of the general public in a number of locations around the country resulted in a brutal crackdown, including arbitrary beatings, killings and arrests by security forces.

3. In the 1990s, the Tatmadaw Kyi, the national army, negotiated ceasefire agreements with most of the ethnic armed groups. There are reports of the continued existence of distinct armed groups in the ceasefire areas. Currently, three major non-State groups, namely the Karen National Union (KNA) (armed wing: Karen National Liberation Army (KNLA)); the Karenni National Progressive Party (KNPP) (armed wing: Karenni Army (KA)); and the Shan State Army-South remain in active conflict with Government forces. Others have concluded ceasefire agreements individually brokered with the Government of Myanmar. Many of these groups still hold arms, most significantly the Kachin Independence Organization (armed wing: Kachin Independence Army) and the United Wa State Party (armed wing: United Wa State Army).

4. Myanmar continues to experience accelerating impoverishment and the impaired ability of social service provision structures to address the essential needs of the general population, especially children. A recent household survey of the United Nations Development Programme (UNDP),<sup>1</sup> conducted in collaboration with the Central Statistics Office, revealed that more than 30 per cent of the population lives below the poverty line. A recent increase of 15 to 20 per cent in food prices has had a serious effect on the rural poor, whose expenditures on food comprise 76 per cent of the total consumption budget.<sup>1</sup> Under-five and infant mortality rates remain high at 107 and 76 per 1,000 live births, respectively.<sup>2</sup> Maternal mortality rates are estimated at 316 per 100,000 live births. School enrolment rates are high, yet only 43 per cent of the children who enrol actually complete the primary cycle, because of the cost of schooling, poor conditions in many schools, language barriers, and a shortage of qualified teachers and learning materials. Awareness of child protection issues has increased in recent years, especially about areas of particular concern including child trafficking, commercial sexual exploitation of children and juvenile justice and, to a lesser extent, underage recruitment. However, reliable data on the current child protection situation remains mostly episodic and anecdotal; further investigation of the scope of the issues is needed. Although the aid community has expanded its geographical reach, and United Nations agencies and several international non-governmental organizations (NGOs) are present in a number of states, divisions and townships enabling delivery of a range of programmes and services to people in need, vulnerable people in conflict-affected areas, including areas of Kayin and Kayah states along the Thai border and parts of Shan state, remain out of reach due to restricted access.

### III. Grave violations of children's rights

5. The country task force on monitoring and reporting has set up a monitoring and reporting mechanism as outlined under Security Council resolution 1612 (2005). As the mechanism is in its early stages, this first country annual report provides only a cursory overview. Due to limited access to conflict-affected areas and the lack of guaranteed protection for monitors and victims of grave child rights violations, it is not possible currently to provide a full picture of the breadth and depth of grave child rights violations. This report, based on the limited information currently available to the task force, describes the situation of violations by a range of armed forces and groups based on confirmed information and observations.

#### **Recruitment and use of children by armed forces and groups**

6. The country task force has received numerous credible reports about violations of international humanitarian law, human rights law and Myanmar military directives,<sup>3</sup> resulting in the recruitment and use of children by some Government military units and several non-State actors. Although specific verified cases are few

<sup>1</sup> UNDP/Central Statistics Office Integrated Household Living Conditions Assessment.

<sup>2</sup> UNICEF Executive Board, Country Programme Document, 2005.

<sup>3</sup> Myanmar Defence Council Directive No. 13/73, *Regulation for military recruitment* (8 April 1974), stipulates that "A candidate for the Military Services shall meet the following qualifications: Must be 18 years old and not older than 25 years." In Defence Council Directive No. 8/75, *Relaxation of age limitation for military service in the Tatmadaw* (25 September 1975), the maximum age is extended to 35 years, while the minimum age is maintained at 18 years.

for the aforementioned reasons, there are extensive reports of children sighted in uniform, sometimes armed, riding in trucks, and marching and participating in military trainings or parades, which corroborate individual reports and point to a worrisome trend. These reports implicate the Tatmadaw and a number of non-State armed groups.

### **Tatmadaw Kyi**

7. Myanmar Defence Council directives explicitly prohibit the recruitment of children under the age of 18 into the Tatmadaw Kyi (Tatmadaw). The Government has shown increasing interest in addressing underage recruitment and has engaged the United Nations on the issue. Myanmar's five year national plan of action to combat human trafficking (2007-2011), for example, includes measures to prevent the recruitment of child soldiers. The Government has produced a poster designed to raise awareness on recruitment criteria, including a description of minimum age requirements.

8. The Government is responsible for the enforcement of its policies and laws, including Defence Council directives, the Myanmar Child Law, and international commitments to which Myanmar is a State party, such as the Convention on the Rights of the Child and International Labour Organization (ILO) Convention 29. While the Government has reported that officers have been disciplined for underage recruitment, individual officers or battalions that violate the law are not consistently held accountable. The United Nations country team is largely unable to verify Government claims that those responsible for underage recruitment have been disciplined or prosecuted, save under the ILO Convention 29 supplementary agreement procedures. Indeed, one such case is currently under review and a decision is pending as to what action, if any, the Government intends to take.

9. Despite the Government policy of prohibiting the recruitment of children under the age of 18, it is important to note the following incidents and trends.

- There is reportedly enormous pressure to accelerate Tatmadaw recruitment rates. Recruitment centres have had difficulty meeting their targets/quotas. Incentives such as money and rice are offered for maintaining recruitment targets. If a soldier wants to leave the army, reportedly, he must recruit as many as four replacements.
- There are several common patterns of underage recruitment into the Tatmadaw. One is recruitment from the street or from pagodas<sup>4</sup> of poor and unaccompanied children who are vulnerable to promises of food and shelter. This has been reported primarily in Yangon and Mandalay, and increasingly in rural areas. Other children are recruited from the street by "brokers", self-appointed agents with ties to local commanders and/or recruitment officers. Brokers can receive up to K40,000 (approximately US\$ 30) and a bag of rice from local commanders for each new recruit.
- Some children<sup>5</sup> picked up by police for not having a national identification card are offered the "choice" of either being arrested or going into the army. In

<sup>4</sup> In Myanmar, pagodas are Buddhist places of worship.

<sup>5</sup> Under the Myanmar Child Law, a child is "a person who has not attained the age of 16 years". A person who is between the ages of 16 and 18 years old is considered a "youth" under the Child Law. For purposes of this report, "child" refers to people under the age of 18.

October 2005, a 15-year-old was arrested by Myanmar police in Ayeyawady Division for not having an identification card and was taken to a military centre in Yangon. After military training, he was sent to the front line in Kayin state. In 2006, he fled to a refugee camp in the border area.

- Credible sources indicate a pattern of “pre-recruitment” in which children from vulnerable families are taken to Tatmadaw bases. They are not officially recruited, do not receive identification numbers and are used in non-combatant capacities. Once they attain the age of majority, they are subsequently enlisted.

10. A related challenge is age verification. The birth registration undertaken as part of the national vital registration system does not always provide vulnerable children in remote areas with birth certificates. The responsibility for establishing the age of the recruit lays with the recruiting party, not with the child or his/her parent or guardian. Children without a birth certificate or national identity card are at higher risk of recruitment, as there is little attempt at age verification by Tatmadaw recruiters.

11. Also of grave concern are the reliable reports of a number of incarcerated children/minors who have been convicted of desertion and sentenced to prison terms of up to five years. International practice and principles stipulate that children who have been unlawfully recruited or used by armed forces should not be treated as deserters. As children cannot legally serve in the military, deeming them deserters is not a legitimate claim. Yet, the threat of incarceration for desertion is such that children formerly associated with the Tatmadaw in refugee camps along the eastern Myanmar border areas are reportedly too afraid of being jailed for desertion to return to Myanmar.

12. Seven cases of child recruitment were reported to ILO after the Supplementary Understanding on forced labour became operational in February 2007. That number, however, does not reflect the scale of the problem. Constraints include a lack of awareness about the right to complaint, logistical difficulties in lodging a complaint and a general fear of reprisal, notwithstanding protection assurances. All seven of the children recruited were boys between the ages of 12 and 16.<sup>6</sup> Some “volunteered” for the army and their parents sought to have them released. One boy used a broker after unsuccessfully attempting to join voluntarily. In several instances, children were recruited by soldiers or policemen from the street. Three of the children have been returned to their parents/guardians. In four cases, ILO is still awaiting Government response. In five cases, ILO is still awaiting information on the outcome of military investigations. In all cases, it is clear that, notwithstanding the military directives on minimum recruitment age, oversight of the recruitment process is lacking.

13. The following verified cases about children in the Government forces were also reported, in addition to those recorded by ILO. Late in 2006, a Tatmadaw corporal visited a village in Ayeyawady Division. A 13-year-old boy guided him to the main road. The corporal promised the boy a good job and persuaded him to leave his village. When the family realized that the boy had disappeared, they made extensive efforts to determine his whereabouts and finally found him at Inn Daing Recruitment Centre. Seeking the boy’s release, the parents wrote to Defence

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<sup>6</sup> Data reflects cases registered between February and September 2007. New cases have been registered by ILO since that time.

Minister Than Shwe and General Thein Sein, sending a copy of their family registration document, and letters from the school headmaster and the village authorities. In January 2007, the boy was returned home by an army sergeant, who summoned the village authorities, including the local Peace and Development Council Chairman, and explained that the boy had been released because national policies prohibit underage recruitment. He stated that disciplinary action would be taken against the corporal. The country task force on monitoring and reporting has not been able to verify the charges and outcome of this case to date.

14. A 12-year-old boy from the Yangon slums was approached in a pagoda by a man who offered him lunch. It is possible that the boy was drugged, though this has not been confirmed, as the next thing he recalled was waking up in a car crossing a river. He awoke again later at an army base. He escaped to a nearby village, where the community helped him return to Yangon, where he was reunited with his mother.

15. A 17-year-old male voluntarily joined the army and was trained for four months. He was tasked with troop support. In April 2005, he fled to a refugee camp in the border region.

#### **United Wa State Army**

16. The Wa Special Region is isolated geographically and socio-economically from the rest of Myanmar. The Wa authorities have had little or no exposure to international child rights standards. The actual recruitment practices are secret, though reportedly there is a quota principle of one son per family. The United Wa State Army is estimated to have a strength of 30,000 to 40,000 soldiers. Although the actual number of children associated with the United Wa State Army is unknown, credible reports indicate the visible presence of uniformed and armed children in the Wa State Army.

17. During the mission of my Special Representative for Children and Armed Conflict to Myanmar in June 2007, she met with authorities of the United Wa State Army who asserted that they had not recruited children since the ceasefire agreement with the Government of Myanmar. Eyewitness reports of children as young as nine years old in the ranks at Wa military training schools do not, however, bear this out. It has been reported that the Wa primary school curriculum includes pre-military training. At the age of 12, children can join the Wa Army and work in non-combatant positions; at the age of 15, children can join as combatants.

#### **Karen National Union/Karen National Liberation Army and the Karenni National Progressive Party/Karenni Army**

18. The United Nations has not received reports in 2007 of recruitment and use of children by KNU/KNLA and KNPP/KA. The Government's denial of access to areas in which these armed groups operate is a major obstacle to the collection and verification of data and reports received. The United Nations received reports of child recruitment earlier in the reporting period (2005-2006), with indications that some children are recruited from inside refugee camps. These reports indicate that children are recruited for future use by KNPP/KA, whereby the children are called for active duty if and when they are needed.

19. The following verified case is illustrative of KNU/KNLA recruitment: In 2005, two KNU/KNLA children visited a refugee camp with other KNU soldiers. One of

the boys, who was 15 years old at the time, had joined KNLA in April 2004, when he was 14. According to the boy, there were 30 to 40 people in his group and 4 or 5 of them were reportedly under the age of 18. He was responsible for domestic duties for officers. On the way to a refugee camp in the border region, he met his KNLA brigade commander, who told him to go back to the village because he was too young to join the army.

#### **Kachin Independence Organization/Kachin Independence Army**

20. This ceasefire organization active in Kachin state claims to have a policy prohibiting the recruitment of children under the age of 18. There are reports, however, of a one-child-per-family quota system for recruitment, notwithstanding the age of the child. In many communities of the Kachin Independence Organization (KIO), some families apparently accept the “contribution” of one child to the Army as their obligation. Other families send their children away to school, if they can afford to do so, to protect them from recruitment.

21. Early in 2007, a 15-year-old girl was recruited when she returned to her home village from her school in Myitkyina in Kachin state. The girl’s family had not “contributed” a child to the Kachin Independence Army (KIA). Her brother and sister were no longer living in the village, and the girl was targeted as the sole remaining child in the household. To date, the girl remains in the “custody” of KIA.

22. Since signing a ceasefire agreement with the Government of Myanmar, KIO has created its own local government structure and is endeavouring to build and empower its staff and communities. The country task force on monitoring and reporting was informed that KIO/KIA provides education for children in its ranks: girls are trained for teaching, nursing, midwifery, or administrative office functions, while boys are channelled into military training. The association of both boys and girls with KIA is in contravention to applicable national and international law and guidelines.

#### **Karenni National People’s Liberation Front**

23. The Karenni National People’s Liberation Front, a ceasefire group, has a reputation for having many children in its ranks. Children have reportedly been used to search for landmines laid by other armed groups. It has not been possible for the United Nations to verify these reports in any detail.

#### **Democratic Karen Buddhist Army**

24. The Democratic Karen Buddhist Army, a breakaway faction of KNU/KNLA active in Kayin state, remains heavily armed and reportedly has children in its ranks. The United Nations has received credible reports that indicate the presence of uniformed and armed children in and near Democratic Karen Buddhist Army camps, including some children who had previously been recruited and released by KNU.

#### **Shan State Army-South and Myanmar National Democratic Alliance Army**

25. There are reports of frequent sightings of children being forcibly taken and used by armed groups in Shan state. The Myanmar National Democratic Alliance Army (Kokang) in northern Shan state reportedly allows even very young children to bear arms. There are also reports that the Shan State Army-South recruited

children in 2007 as part of a new mandatory recruitment policy. However, as monitors have not been granted access to conflict-affected areas of Shan state, comprehensive information on recruitment and use by the Myanmar National Democratic Alliance Army and Shan State Army-South remains incomplete and is a priority area for increased monitoring activities.

### **Karen National Union/Karen National Liberation Army Peace Council**

26. There are reports from several sources indicating that the KNU/KNLA Peace Council, a breakaway faction of KNU currently active in Kayin state, has recruited children from a refugee camp and from villages in the border areas in early 2007 (February-March). Sources suggest that nine males, at least five of whom were children between the ages of 13 and 17, were deceived into crossing the border by promises of pay and participation in celebrations, but were subsequently coerced into joining the armed group. While some of the children have returned, four boys are reportedly still missing and assumed active with the KNU/KNLA Peace Council.

### **Denial of humanitarian access**

27. Humanitarian organizations engage with all actors in order to provide immediate relief without regard for political considerations. The delivery of humanitarian assistance to vulnerable people, many of whom are children, in conflict-affected areas continues to be very limited at present, however, owing to restrictive Government policies governing access to both ceasefire and non-ceasefire armed groups. The Government of Myanmar cites safety concerns for its refusal to allow access to conflict-affected areas and “mixed administrative areas”.<sup>7</sup>

28. The United Nations agencies and other humanitarian organizations in Myanmar have consistently sought humanitarian access to the conflict-affected areas of Shan, Kayah and Kayin states. In fact, during the first half of 2007, some United Nations agencies that had earlier enjoyed limited access to certain areas of the country in order to implement their programmes have experienced tighter restrictions. The current situation is often unpredictable and can depend on regional commanders or other factors such as unspecified security issues at the time of travel. Until recently, the International Committee of the Red Cross (ICRC) provided critical protection and assistance activities in conflict areas. In the first half of 2007, ICRC closed down three of its five field offices, and it no longer carries out activities in conflict areas. ICRC is also no longer allowed independent access to prisons for monitoring and protection, including for children. Visits to detention facilities stopped at the end of 2005; the organization could not resume these visits. There is still no agreement about its future operational activities.

29. At the beginning of 2006, the Government issued new guidelines<sup>8</sup> requiring a range of additional authorizations, permits and registration processes, among them a requirement for Government approval of all hires (national and international), which is not in line with international practice and is in contravention to the humanitarian principle of independence. If enforced, the guidelines would further limit

<sup>7</sup> Mixed administration areas refer to locations that are under the authority of more than one governing entity.

<sup>8</sup> The Ministries of National Planning and Economic Development and Foreign Affairs led the Government guidelines process.

humanitarian interventions, and humanitarian organizations have expressed grave concerns about this narrowing of humanitarian space. Some organizations attempt to follow their mandate within these limited programmatic or geographic parameters, while others, such as Médecins Sans Frontières, France, have left Myanmar altogether.

30. In July 2006, the UNHCR Assistant High Commissioner for Operations met with officials of the Government of Myanmar and raised the issue of humanitarian access. She proposed an inter-agency assessment on humanitarian needs in conflict areas. At that time, the Government declined on grounds of security. Despite follow-up requests by UNHCR, this proposal has gone unanswered to date.

31. During his August 2006 visit, the Deputy Executive Director of the United Nations Children's Fund (UNICEF) also stressed the need for humanitarian access. He sought support from Secretary 1 Lieutenant General Thein Sein to facilitate the movement of vaccine supplies, cold chain equipment and staff to ensure the immunization of all children throughout Myanmar in connection with the Mass Measles Campaign. In the end, Government vaccinators were allowed access to ceasefire and conflict areas in Kachin, northern Shan and Kayin states.

32. The issue of access was also raised by the Assistant Secretary-General for Humanitarian Affairs during her visit in April 2007. During meetings with Government officials, the issue of access was raised in connection with humanitarian concerns in the country, including child mortality and malnutrition. During her visit, the Assistant Secretary-General proposed that the Government create a high-level committee to address humanitarian priorities at the policy level and to act as a focal interlocutor for United Nations engagement on expanding humanitarian space and accessing vulnerable areas, especially conflict-affected areas. Issues of humanitarian access were also raised by the Under-Secretary-General for Political Affairs during his visits in May and October 2006.

33. During the visit of my Special Representative, the Minister for National Planning and Economic Development, U Soe Tha, pledged that the Government would facilitate humanitarian access and operations in these affected areas. However, there has been no change to date.

#### **Killing and maiming of children**

34. Populations, including children, in a number of areas continue to suffer from the effects of landmine contamination. Myanmar has not acceded to the Mine Ban Treaty. According to information provided to the United Nations, the Government and several non-State actors manufacture and use landmines extensively, particularly in areas bordering Thailand, India and Bangladesh. Reports indicate that landmines continue to be used widely in Kayin, Kayah and Shan states. There are no mine-clearance programmes and only limited support for landmine victims. Thousands of displaced people have fled their homes as a result of landmines in or near villages and fields.

35. ICRC maintains a programme supporting medical centres, providing free prosthetic treatment at these centres. During 2006, ICRC provided 1,741 prostheses for mine victims.

36. The United Nations has received credible reports indicating that during the period 2006-2007 Government armed forces in Kayin state attacked villagers, as well as their homes, farms, areas of refuge and food stores. As a result of such reported attacks, children have died or sustained serious injuries. These reports, however, cannot be confirmed owing to lack of access to conflict-affected areas.

#### **Attacks on schools and hospitals**

37. As the United Nations has very limited access to conflict-affected areas, there have been no confirmed reports of attacks against schools and hospitals during the reporting period.

#### **Abduction of children**

38. As the United Nations has very limited access to conflict-affected areas, there have been no confirmed reports of abduction of children during the reporting period.

#### **Rape or other forms of grave sexual violence**

39. The United Nations has received credible but unverified reports of rape perpetrated by Government forces and armed groups, which the country task force on monitoring and reporting is not in a position to confirm owing to limited access to conflict-affected areas.

## **IV. Dialogue and action plans to redress violations of children's rights**

#### **Progress on dialogue and action plans with the Government of Myanmar**

40. Although the signature and ratification of the Optional Protocol of the Convention on the Rights of the Child on the involvement of children in armed conflict are pending, Myanmar national laws and directives stipulate that 18 is the minimum recruitment age for the Government armed forces. In January 2004, the Government agreed to cooperate with UNICEF on measures to prevent underage recruitment and to support reintegration of minors identified and released from military service, including improvement of birth and family registration systems to ensure age verification and raise awareness among recruiters about the minimum recruitment age of 18 and other child protection concerns. The Government of Myanmar also agreed to UNICEF education, family and community reintegration interventions for children concerned.

41. Early in 2004, the Government of Myanmar established the high-level Committee for the Prevention of Military Recruitment of Underage Children, chaired by Lieutenant General Thein Sein (then Secretary 2 of the State Peace and Development Council), comprising the Ministers for Foreign Affairs, Social Welfare, Relief and Resettlement, and Labour, together with the Judge-Advocate General, the Deputy Chief Justice, the Deputy Attorney-General and the Vice-Chief of Armed Forces Training of the Ministry of Defence. The Committee objectives are to prevent the recruitment of children and to ensure adherence to orders protecting children. The high-level Committee also set up an internal government task force to ensure the enforcement of relevant laws and the prevention of underage recruitment. The task force outlined a plan of action for the implementation of the objectives of

the Committee, which was approved by the Committee in October 2004. The action plan addresses the principal areas of concern with respect to the recruitment, the release and the reintegration of children, public awareness, and cooperation with international organizations. In addition, the action plan authorizes effective action against transgressors of recruitment policies, although the disciplinary action envisaged is not clear. Lists naming alleged child recruiters and their sentences, current as of September 2007, have been provided to the United Nations by the Government, but the country task force on monitoring and reporting does not have access to the alleged perpetrators or documents that would confirm the information.

42. Communication and dialogue on the issue of children and armed conflict over the past four years have become increasingly frequent and include:

- Visits by the United Nations Resident Coordinator and UNICEF to Tatmadaw recruitment centres outside of Yangon and Mandalay in March and August 2004, October 2006 and February 2007. The February visit included an update on the activities of the Committee for the Prevention of Military Recruitment of Underage Children.
- In August 2006, the Deputy Executive Director of UNICEF met with Secretary 1 Lieutenant General Thein Sein to discuss Government action on the prevention of the recruitment of children into the military and reintegration.
- In October 2006, the United Nations Resident Coordinator and UNICEF Representative were invited to discuss the Myanmar component of the annual report of the Secretary-General on children and armed conflict with the Deputy Director-General for International Organizations of the Ministry of Foreign Affairs.
- In April 2007, UNICEF was invited to conduct a training session during a training course for military recruitment officers, which covered child rights, child protection and relevant international human rights and humanitarian law standards on children affected by armed conflict.
- In June 2007 my Special Representative visited Myanmar, at the invitation of the Government. During her visit, she met with acting Prime Minister and Secretary 1 of the State Peace and Development Council. The Government agreed to the establishment of the monitoring and reporting mechanism within the framework of Security Council resolution 1612 (2005). Members of her delegation, accompanied by members of the United Nations country team, met with underage persons discharged and presented by the Tatmadaw Kyi.
- In September 2007, the Department of Social Welfare asked to discuss with the United Nations country team the implementation of the Government action plan and the establishment of a subcommittee on the reintegration of children, as a follow-up to commitments agreed with my Special Representative for Children and Armed Conflict during her visit in June. On 28 September 2007, a meeting was held in Nay Pyi Taw with representatives from the Office of the Special Representative and the United Nations country team, during which the follow-up developments of the Government were discussed.
- Also in September 2007, the Department of Social Welfare requested assistance from UNICEF to conduct further training on international

humanitarian law, child law, child rights and child protection with military recruitment officers.

- With respect to forced labour, in February 2007, a negotiated complaints procedure was finally agreed to as a Supplementary Understanding to the ILO memorandum of understanding of 2002. This procedure enables victims of forced labour, including child recruitment, to seek redress under ILO Convention 29.

43. Notably, in late September 2007, the Government established a working group for the monitoring and reporting mechanism on the prevention of military recruitment of underage children. This technical working group, chaired by the Director General of the International Organizations and Economic Department of the Ministry of Foreign Affairs, will, inter alia, interact with the country task force on monitoring and reporting, conduct training on relevant laws and conventions, and submit allegations of recruitment of children to the authorities concerned.

44. While interactions on child recruitment between the Government and the United Nations have continued, sometimes at the initiative of the Government, to date cooperation on concrete action remains very limited. Since 2005, the United Nations country team has received periodic updates from the Government of Myanmar on the activities of the Committee for the Prevention of Military Recruitment of Underage Children. In the first six months of 2007, the Government of Myanmar submitted four reports setting forth the Committee awareness-raising and educational activities addressing the issue of child recruitment among army personnel. Recently, the reports have included information on children released from military service and the names of officers disciplined for underage recruitment in violation of the Myanmar Defence Council directives and national policy. Thus far, there has been no method by which the United Nations could confirm either the awareness-raising activities, the disciplinary actions taken or the actual release of children. To date, the United Nations country team has not been able to access or assist any children that the Government of Myanmar claims to have formally separated from the Tatmadaw.

45. During her visit, my Special Representative urged the Government to take disciplinary actions against parties and individuals implicated in grave child rights violations. She received a commitment from the Government that an annotated list of disciplined army personnel and discharged minors with their addresses would be provided. Although the lists have been supplied, they do not include the addresses of the released children. While it is commendable that the Government has provided a list regarding disciplinary action, it is necessary, to ensure transparency and accountability and enable verification, for the Government to share additional information with the United Nations country team.

46. The need to update the Tatmadaw Kyi action plan and bring it into line with international standards was raised by my Special Representative during her visit. The Government agreed in principle, and in September 2007 representatives from the Office of the Special Representative and the United Nations country team were informed at a meeting in Nay Pyi Taw that the action plan would be brought into line with the Paris Commitments in the near future.

47. Components of a revised action plan should include:

- More regular interaction between the United Nations country team/country task force and the Committee for the Prevention of Military Recruitment of Underage Children regarding the Committee's work
- Engagement with the United Nations country team/country task force to ensure conformity of the action plan with international practice and to assist with the implementation of policies
- Identification of a focal point within the military, in addition to the focal points identified in the Department of Social Welfare and the Ministry of Foreign Affairs
- Intensified public awareness campaign on the rules and regulations governing recruitment
- Immediate release of all children being used by armed forces or groups
- Engagement with the United Nations country team/country task force to address the reintegration of children released from the Tatmadaw Kyi and other armed groups, as agreed by the Government of Myanmar and my Special Representative for Children and Armed Conflict
- A transparent reporting procedure for victims and families with guaranteed protections from reprisals
- Transparent and accountable disciplinary procedures for all persons, military or civilian, who violate recruitment rules and regulations
- Access to children separated from armed forces and groups for effective reintegration follow-up
- Access to all areas where recruitment is alleged for immediate follow-up by the country task force on monitoring and reporting.

**Progress on dialogue and action plans with non-State actors**

48. The principal issue impeding dialogue with non-State actors who remain in conflict with the Government military is the restrictive stance of the Government regarding engagement by the United Nations with these armed groups. This position was conveyed in a series of letters from the Permanent Representative of the Union of Myanmar to the United Nations, Kyaw Tint Swe, sent to the UNICEF Executive Director and the UNDP Administrator in late 2006 expressing concern about a meeting between United Nations staff members and KNU and KNLA regarding action plans for the separation of children from their forces. The respective United Nations responses stressed that the meetings were in line with the dialogue the United Nations has undertaken to follow up on the provisions of Security Council resolutions 1539 (2004) and 1612 (2005), regarding the drafting of action plans to halt the recruitment and use of children by all parties to conflict. It further highlighted that such interaction is consistent with Security Council and General Assembly resolutions on children and armed conflict. During the visit of my Special Representative, there was general agreement with Secretary 1 Lieutenant General Thein Sein that further discussions would be undertaken to finalize arrangements for the United Nations country team to engage KNU and KNPP on action plans to cease the recruitment and use of children.

49. To date, United Nations agencies and international NGOs in Myanmar have been denied access to engage with those non-State actors remaining in conflict, despite the fact that such engagement would confer neither legitimacy nor legality upon the armed groups. Rather, such access to the non-State actors would enable United Nations agencies and protection partners to fulfil their mandates to halt the recruitment and use of children by armed groups and to provide assistance to vulnerable populations.

50. Despite limited dialogue with KNU and KNPP, some progress is being made. The listing of KNU and KNPP in the report of the Secretary-General of 2005 (S/2005/72) and interaction with the United Nations has resulted in KNU and KNPP signing two separate Deeds of Commitment to halt and prevent the recruitment and use of children, signed on 6 April 2007 and 13 April 2007, respectively. These deeds also commit the parties to allow independent monitoring of violations, the release of children from their ranks and the provision of appropriate reintegration assistance by United Nations agencies and NGOs for the released children.

51. In line with this commitment, the country task force on monitoring and reporting in Myanmar will undertake discussion with KNU/KNPP and other relevant parties in order to finalize an action plan to cease the recruitment and use of children in the border areas. This will be done with support from the appropriate partners in the border areas.

52. During her visit, my Special Representative met with a representative of the United Wa State Army, who stated that since entering into the ceasefire agreement with the Government, the Wa armed forces are no longer engaged in combat and no longer recruit children. The Special Representative explained to the officials that, to be removed from the agenda of the Security Council Working Group on Children and Armed Conflict, they must develop and implement an action plan for the release and reintegration of the children associated with the Wa forces. The Wa representative expressed willingness to engage with UNICEF about the modalities of an action plan. Consequently, in July 2007 the UNICEF Representative sought the assistance of the Ministry of Foreign Affairs in facilitating a meeting with the Wa authorities. In September, the country task force on monitoring and reporting met with representatives of United Wa State Army to arrange modalities for an initial joint assessment visit by the country task force to Northern Shan state at the earliest possible time. This was welcomed by the Wa representatives, and a formal invitation was promised by 15 October 2007, to be facilitated by the Ministry of Foreign Affairs. However, the invitation has not been sent to date.

## **V. Establishment of the monitoring and reporting mechanism**

53. While dialogue on general aspects of the prevention of child recruitment has increased over the past four years, dialogue on the establishment of a formal monitoring and reporting mechanism was launched only recently during the visit of my Special Representative to Myanmar in June 2007. The stated purpose of her visit was twofold: first, to establish a country task force on monitoring and reporting, and second, to discuss monitoring and reporting modalities with the Government of Myanmar, the United Nations country team and child protection partners. During her visit, the Special Representative made clear to the Government that the reporting would be undertaken by the United Nations country team, which would share

information with the Government with respect to reports of grave child rights violations and would necessarily expect the Government and other relevant parties to also take action on information with respect to such violations. The Government agreed that the United Nations would set up a monitoring and reporting task force and mechanism within the framework of Security Council resolution 1612 (2005).

54. The Special Representative informed the Government that monitoring and reporting will cover all six grave violations perpetrated against children under Security Council resolution 1612 (2005). As the monitoring and reporting mechanism will demand high-level interaction with the Government, the Special Representative requested that a focal point be identified for regular exchange and engagement with the United Nations country team and its monitoring and reporting mechanism staff. Acting Prime Minister and Secretary 1 Lieutenant General Thein Sein appointed the Director-General of the Ministry of Social Welfare, Relief and Resettlement to be the Government focal point on matters relating to the implementation of Security Council resolution 1612 (2005). In August, the Government informed UNICEF that the Director-General of the Ministry of Foreign Affairs had been appointed as a second focal point for this task. In addition, a military focal point is necessary to interact with the country task force on monitoring and reporting on technical aspects regarding the prevention of recruitment and use by the Tatmadaw Kyi and other relevant armed groups.

55. The Government was further informed by my Special Representative that the United Nations country team intends to appoint a full-time international officer under the Office of the Resident Coordinator, to coordinate monitoring and reporting efforts and to liaise with the Government. The Special Representative communicated her concerns to the Government that the effective functioning of the monitoring and reporting mechanism in Myanmar would require access to conflict-affected areas and to other areas where a ceasefire may be in effect, including the Wa Special Region. She stated that travel authorization requirements and Government policies requiring that officials accompany United Nations staff on field visits are inadequate to the needs for independent monitoring and verification central to the Security Council resolution monitoring and reporting practice.

56. A number of important decisions were made towards the establishment of a monitoring and reporting mechanism in the initial period following the visit of the Special Representative, including:

- A Country Task Force on Monitoring and Reporting was established
- Appropriate member organizations were identified
- The Government was apprised of the creation and purpose of the country task force on monitoring and reporting.

57. In line with the monitoring and reporting mechanism guidelines endorsed by the Security Council (see S/2005/72), the country task force on monitoring and reporting, comprising United Nations agencies and child protection actors, is the main coordination structure for the monitoring and reporting mechanism. The country task force is co-chaired by the office of the United Nations Resident Coordinator and UNICEF.

58. A fully functional monitoring and reporting mechanism will require at least five international staff and two international interpreters; the granting of entry visas for those staff, and Government guarantees that no retaliatory action will be taken against witnesses of grave child rights violations and people who gather information for the monitoring and reporting mechanism. The staff of the monitoring and reporting mechanism must also have free and confidential access to relevant people and areas, which must include timely freedom to travel for the purpose of verifying information without the presence of Government officers. Furthermore, the staff will need to have access to verify that no retaliatory action has been taken against people making reports, as well as access to any existing documentation relating to the cases. They will also need regular interaction with non-State actors to ensure accountability, which will require the Government of Myanmar to allow access to these actors, particularly in conflict areas.

## **VI. Programmatic response**

59. The United Nations country team, in coordination with the Government of Myanmar, undertook the following programmatic responses for affected children in the reporting period:

- Members of the country task force on monitoring and reporting have ongoing training programmes on child rights, child protection, juvenile justice, family tracing and reintegration, child participation, anti-trafficking, and child protection in emergencies, for Government officials (including police, judges, prison personnel, law officers, social welfare officers and General Administration Department officers), the United Nations and international NGOs.
- Members of the country task force have collaborated with national NGOs, community-based organizations and the Department of Social Welfare to conduct training workshops on child rights and protection for community members, members of the Committee on the Rights of the Child and community leaders. Information, education and communication materials have been developed to support all these training workshops.
- UNICEF, Save the Children and other protection partners are supporting and building the capacity of community-based organizations in preventing and responding to child protection issues and child rights violations.
- In April 2007, UNICEF trained military recruitment officers on child rights, protection, humanitarian law and international obligations related to children and armed conflict.
- Mine-risk education was conducted by international organizations, but had to cease in 2006 because of lack of access to relevant areas.

## **VII. Recommendations**

60. The Government of Myanmar is encouraged to accede at the earliest opportunity to the Optional Protocol to the Convention on the Rights of the Child on

the involvement of children in armed conflict (2000) and to adjust national legislation accordingly.

61. The Government of Myanmar is urged to allow international and humanitarian organizations access for delivery of humanitarian services, including to all affected areas, and to accept the proposal of the UNHCR Assistant High Commissioner for Operations for an inter-agency humanitarian needs assessment. The proposal made by my Assistant Secretary-General for Humanitarian Affairs regarding the creation of a high-level committee to address humanitarian priorities at the policy level should be further pursued, and the United Nations stands ready to assist.

62. The Government of Myanmar should cease the arrest of children, under the age of 18, for desertion, and allow access to an independent international organization to monitor such cases and to ensure swift release.

63. The Government of Myanmar should develop a demining programme and a broad mine-risk education initiative in mine-affected areas. To this end, the United Nations country team is ready to support the Government and to involve international organizations with expertise in mine-risk education with appropriate programming.

64. It is recommended that the Government of Myanmar initiate immediately a comprehensive education and awareness-raising campaign for the Tatmadaw Kyi, particularly regional commanders and military recruiters, at the national and local levels, with support from the United Nations country team. The campaign should direct military personnel to refuse the recruitment of children, and instruct them on the investigation, prosecution and disciplinary actions that will be undertaken for recruitment violations.

65. The Government of Myanmar is encouraged to establish and train child protection units within its ranks at the national and regional levels, and to give these units the authority and capacity to train and oversee compliance with relevant military directives and national law within the Tatmadaw Kyi.

66. It is important that the United Nations country team and protection partners expand existing programmes and capacity to address the release and reintegration of children formerly associated with armed forces or armed groups. These programmes should include family tracing, reintegration and systematic follow-up for all cases.

#### **Monitoring and reporting**

67. It is recommended that the Government of Myanmar nominate a military focal point for day-to-day interaction on the implementation of an agreed action plan with UNICEF, the United Nations country team and child protection actors for the immediate release and reintegration of children associated with armed forces and groups in Myanmar.

68. The Government of Myanmar and ILO need to continue their cooperation under the Supplementary Understanding of February 2007, which encompasses a mechanism to eradicate all forms of forced labour, including child soldiers.

69. The Government of Myanmar is urged to facilitate and cooperate with United Nations efforts, through the provision of visas, in-country travel authorizations, unhindered access, confidentiality and security. Guarantees of security for victims,

monitors and individuals reporting cases and information should be codified and jointly signed by the United Nations country team and the Government of Myanmar.

70. The Government of Myanmar is encouraged to respect and allow the immediate engagement of the United Nations country team with KNU and KNPP to enable monitoring, verify allegations and ensure accountability regarding the recruitment and use of children.

71. The Government of Myanmar is urged to remove restrictions on United Nations access to all non-State actors and conflict areas, and to allow regular access to recruitment centres and military bases by staff of the monitoring and reporting mechanism in order to monitor and verify the absence of children under the age of 18.

### **Action plans**

72. The Government of Myanmar should take into account its responsibilities to ensure that all armed groups with which it shares a ceasefire accord are made accessible to staff of the monitoring and reporting mechanism and, should they be found to recruit and utilize child soldiers, to enter into an action plan with the country task force on monitoring and reporting, under the auspices of the Committee for the Prevention of Military Recruitment of Underage Children with immediate effect.

73. The Government of Myanmar should continue to take disciplinary action against the persons or groups responsible for aiding and abetting the recruitment of children (including the “pre-recruitment” and use of children for work on military bases), and is urged to systematize and institutionalize this disciplinary process. To this end, the disciplinary process should be open and transparent, allowing for independent verification by the monitoring and reporting mechanism.

74. The Wa State Army must immediately enter into dialogue with the country task force on monitoring and reporting and child protection partners to devise an action plan on ceasing the recruitment of children and to ensure their immediate release for reintegration and follow-up by UNICEF and its child protection partners, and to allow free access to monitoring partners for verification purposes, as agreed with my Special Representative on Children and Armed conflict during her visit in June 2007.