



Office of the Special Representative
of the Secretary-General for

CHILDREN AND ARMED CONFLICT

MISSION REPORT



Visit of Major General (ret.) Patrick Cammaert,
Special Envoy of the Special Representative for
Children & Armed Conflict,
to

Sri Lanka

05-11 December 2009

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I- INTRODUCTION

Following military operations in May 2009 between the Liberation Tigers of Tamil Eelam (LTTE) and the Sri Lankan Armed Forces, the Government of Sri Lanka controls all former LTTE-held areas. The last phase of the conflict resulted in large-scale displacement of the population. Heavy artillery fire between Government troops and LTTE, including within the “no fire zone”, led to significant casualties, including children, although the extent of these casualties is unknown.

The defeat of the LTTE heralds a new era for Sri Lanka with new opportunities for children. It also signifies the end of the large-scale recruitment and use of children in conflict seen previously.

At the request of the Special Representative of the Secretary-General for Children and Armed Conflict, Ms. Radhika Coomaraswamy, and upon the invitation of the Sri Lankan Government, I undertook a mission to Sri Lanka from 05-13 December 2009 to assess first-hand the situation of children in post-conflict Sri Lanka.

I met with Government officials, including Hon. Milinda Moragoda, Minister of Justice and Law Reforms; political leaders, such as Vinayagamoorthy Muralitharan (also known as Karuna) and TMVP Chief Minister of the Eastern Province Sivanesanathurai Chandrakanthan (also known as Pillayan), members of the opposition and of the Tamil National Alliance; Representatives of the UN Country Team; NGOs and civil society organizations; as well as children and young people themselves. During my trip I visited Colombo, Batticaloa, and Vavuniya.

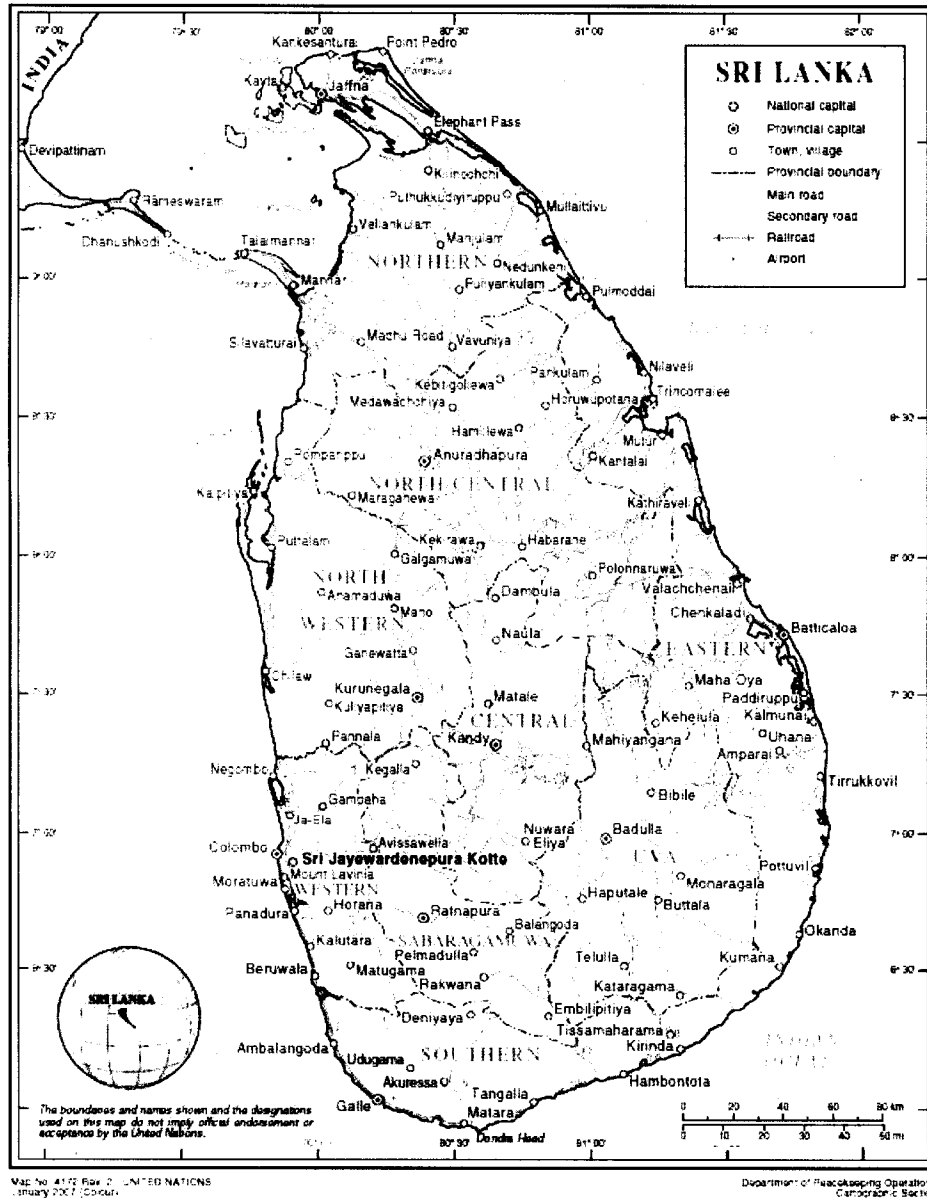
The purpose of my visit to Sri Lanka was the following:

1. Assess the impact of the armed conflict in Sri Lanka on children through interaction with the UN country team, Government and civil society actors and children themselves
2. Review measures undertaken to combat the recruitment and use of child soldiers, including Action Plans, and assess procedures and programs for their rehabilitation and reintegration, including the special needs of girls
3. Visit IDP camps in the north and east and assess firsthand the situation of children and advocate for their protection with Government, UN agencies and the donor community
4. Liaise with the Task Force on Children and Armed Conflict and the wider UN country team on measures that will assist the UN system in better protecting children affected by the armed conflict.
5. Follow up on recommendations of the three Secretary General’s reports on children and armed conflict in Sri Lanka and on the two sets of conclusions of the SCWG on Children and armed conflict on Sri Lanka.

In doing so, I focused on a number of issues of concern, including recruitment and use of children by armed groups and the finalization of Security Council resolution 1612-mandated Action Plans,

the situation of children in IDP camps, rehabilitation of children formerly associated with the LTTE, and the issue of accountability for violations committed against children.

I wish to thank the Government of Sri Lanka for its invitation and for according priority to my visit, the United Nations Country Team for its support, as well as the many civil society organizations working tirelessly for the rights and welfare of conflict-affected children in Sri Lanka.



2- BACKGROUND

By the end of hostilities in May 2009, some 270.000-300.000 persons fled the former conflict zone and settled in IDP camps in Jaffna, Vavuniya, Trincomalee, and Mannar. Meanwhile, the Government of Sri Lanka has increased efforts to implement its 180-day-plan aimed at facilitating the return of 70-80% of the IDPs before the end of January 2010. According to the latest tally at the time of my visit, there were 118,150 IDPs remaining in camps in and around Vavuniya in northern Sri Lanka. There were 115,298 IDPs who had since returned to their home places or who had been moved to other districts. Additionally, there were 23,582 IDPs who had been released to host families based on criteria such as advanced age, families with young children under the age of 1 year, etc.

An estimated 40 % of these IDPs are children under the age of 18 years of age, with a significant number of children below the age of 5 years. All children have suffered trauma through multiple forced displacements, proximity to heavy fighting and generalized insecurity. A significant number have been separated from their parents or traditional care givers. The process of screening IDPs in order to identify former combatants of the LTTE or sympathizers is still ongoing.

Children have been associated with the Liberation Tigers of Tamil Eelam (LTTE) practically since its inception. Former LTTE commander Sivanesanathurai Chandrakanthan (also known as Pillayan) told me during our meeting that he was recruited into the LTTE at the age of 16 years. In 2004, the LTTE split with its eastern faction under then-commander Vinayagamoorthy Muralitharan (also known as Karuna) and formed the Tamil Makkal Viduthalai Pulikal (TMVP) which also recruited and used children. In February 2009, Karuna left the TMVP and joined the ruling party, and the TMVP became a political party under the leadership of Pillayan. Recruitment of children by LTTE seems to have increased towards the end of the fighting between Government forces and the LTTE in May 2009 before the leadership of the movement was killed during the last days of the fighting. With the demise of the LTTE, recruitment by their cadre has ceased. Of special note regarding the recruitment of children by the LTTE is their reliance on the recruitment of girls as well as boys. Over one third of the documented LTTE child recruits are girls, which poses special challenges for their reintegration into traditional Tamil communities.

The TMVP has been documented as recruiting and using 596 children under the age of 18 years of age since the UN began documenting cases in 2006. All documented cases of recruitment are boys except two girls one 17 and one 16 year old. As per the recommendations of the Security Council Working group of 2007 and 2008, on 1 December 2008 the Government of Sri Lanka, the TMVP and the United Nations in Sri Lanka signed a tri-partite Action Plan aimed at halting all recruitment by the TMVP and releasing all children within its ranks within a three month period. The TMVP has made great strides in meeting its commitments to implement the Action Plan and has released a almost all children.

The risk to children has been compounded further by the relocation of United Nations and other humanitarian agencies outside the Vanni, in Vavuniya, since September 2008. The need to provide humanitarian assistance and to monitor child rights violations more closely remains of prime importance.

3. CRITICAL ISSUES OF CONCERN

3.1 Children associated with armed groups

Children associated with the LTTE

It is to be noted that the LTTE resisted all efforts to implement a verifiable Action Plan with the United Nations as called for by the Security Council Working Group in its recommendations of 2007 (S/AC.51/2007/9) and 2008 (S/AC.51/2008/11).

Children formerly associated with the LTTE, currently in rehabilitation centers, told me that they were forced, some abducted, in the last stages of the conflict weeks or days before the final military defeat of the LTTE. There is a potentially significant number of former child combatants and support personnel who were recruited and trained by the LTTE some years ago and are now 18-20 years of age. They have most probably spent a greater amount of time with the LTTE forces and can presumably be found in the adult “surrendee” centers. The Paris Principles and Commitments on children associated with armed groups and forces (2007), of which Sri Lanka is a signatory, call for special consideration for these former child combatants. I addressed in my de-briefing with the Minister of Justice and his colleagues the issue of former child soldiers who are now between 18-21 years of age. I urged them to initiate dialogue with the Government on the need to review the cases of these individuals who had been victimized. I am heartened by the fact that the Government indicated that it is open to such a dialogue. In addition, there are 1,380 individuals who were under 18 at the time of recruitment, out of whom 33 are still under 18, that are still open cases in the UNICEF database and their whereabouts need to be established

Recommendation: The Government of Sri Lanka is encouraged to work in collaboration with the Office of the SRSF for Children and Armed Conflict, UNICEF and other partners, such as the IOM, to develop special guidelines, programs and procedures for youth surrendees between the age of 18 and 21 years who may have been recruited as minors and need assistance gauged by the length of time and abuses suffered as child soldiers. Furthermore the Government of Sri Lanka should launch an investigation to establish the whereabouts of all the children who had been recruited, including those who are now over 18 years, and whose fate remains unknown.

Children associated with the TMVP and status of the Action Plan to stop the use of children

The TMVP, which is now re-constituted as the TMVP under control of Pillayan while Karuna has joined the ruling party, has been documented as recruiting and using 596 children under the age of 18 years of age since the UN began documenting cases in 2006. However, following conclusions and recommendation of the Security Council Working Group on children and armed conflict (SCWG) of 2007 and 2008, the Government of Sri Lanka, the TMVP and United Nations in Sri Lanka signed an Action Plan in December 2008 to cease all new recruitment and to release and rehabilitate these former child soldiers.

At the time of the signing of the tri-partite Action Plan, 62 children under the age of 18 years remained with TMVP forces. Great progress has been made in implementing this Action Plan. From an initial tally of 41 children reported in June of 2009 as remaining in the forces of the listed parties, the Task Force in Sri Lanka has secured the release or determined the whereabouts outside

of armed groups of all but two children by the time I left Sri Lanka on 11 December 2009. Both cases attributed to “commander” Barrathi should be cleared as a matter of great priority. In addition, the case of 53 persons recruited as children and who have now come of age was also brought to my attention together with the plight of families worried about the fate of their previously undocumented children from whom they have not heard for months and in some instances for years.

I learned during my stay in Batticaloa that there are a number of reports of recruitment of children and threats of re-recruitment of children in Ampara district in the Eastern Province by a “commander” named Iniya Barrathi who was part of the TMVP breakaway faction under Karuna’s leadership. I was alarmed when I heard that some children from Ampara district, currently undergoing re-integration assistance and skills training, felt it was un-safe to return to Ampara upon completion of their training, as they feared re-recruitment and further abuse by “commander” Barrathi.

I raised this issue with Mr. Karuna, who was appointed Minister of National Integration in March 2009. He stated that he was aware of the situation and that he had urged “commander” Barrathi to stop recruiting. Karuna expressed frustration over the commander’s behavior. He stated that he had already informed “commander” Barrathi that, should he continue, the police would intervene, as under-age recruitment is a criminal offence in Sri Lanka.

I raised the issue also in my meeting with the Minister of Justice and the Secretary Justice. I made it clear that if “commander”. Barrathi did not immediately cease recruiting and harassing children, he would be in clear violation of the Government of Sri Lanka’s “zero tolerance” policy regarding child recruitment and use. They promised that they would follow up on this case. This needs to be monitored closely, as it would be difficult to foresee an effective conclusion of the TMVP Action Plan without a halt to all new recruitments and threats of recruitment by this commander or other rogue commanders.

Recommendation: 1) The whereabouts of the two remaining cases of children associated with the TMVP should be cleared as a matter of great priority. 2) The Government of Sri Lanka is strongly encouraged to implement its “zero tolerance” policy for those who recruit and use or re-recruit children under the age of 18 years by prosecuting individuals who committed this crime under Sri Lankan domestic law. As a first step, the Government should, in particular, seek to address the allegations of recruitment or threatened re-recruitment of children by individuals operating in the Eastern province such as “commander” Iniya Bharati.

3.2 Government of Sri Lanka Screening of Suspected LTTE Elements

I spoke with several children who were subject to Sri Lankan Government screening process when they fled the Mullaitivu area in mid-2009. According to the children’s accounts, the Sri Lankan authorities publicly announced that all persons without stipulation of age, who “...have spent even one minute with the LTTE in any way should report themselves...”. As a result, many children’s families, fearing reprisals, encouraged their children to report themselves, even if they only had spent a few hours in the custody of the LTTE in the final days of the fighting. Many children reported themselves and were either picked up straight away or were later visited by various Sri Lankan Government agents including by the Criminal Investigation Division (CID). Most were

officially handed over to an adult “surrendee” center and were later moved to a child protection and rehabilitation center.

With regard to screening of children who may have been associated with the LTTE, the issues which come to the fore are three-fold:

First, there were and remain no set of guidelines for such screening known to protection personnel nor, indeed, to any agents of the Government with whom I spoke. This is despite the Sri Lankan Attorney General’s commitment made in September 2009, to the Representative of the Secretary-General for the Human Rights of IDPs, Mr. Walter Kaelin, to create a task force in his Office to develop screening procedures, during the latter last visit to Sri Lanka. I am aware that the Representative also made concrete proposals on this matter to the Attorney General in October 2009.

Second, screening guidelines should include transparent criteria for triage of those associated with the LTTE taking into account the history of these individuals, including the duration of service and function.

Third, in the case of minors accused of association with the LTTE, their cases should be swiftly handed-over to the Magistrate as per Emergency Regulation 1580/5 of 15 December 2008 and appropriate determination should be ensured of whether rehabilitation is needed or if the child can be remanded to his parents or care-givers as foreseen in the regulation.

It should be noted that the problem of accessing camps for humanitarian personnel persists throughout the country. The expertise of the ICRC and other child protection actors, especially regarding age verification, could strengthen the Government’s efforts to protect children from further association with armed elements and avoid any mistaken transfers to adult “surrendee” facilities. In this regard, it should be noted that UNICEF and its partners have had partial access to certain adult “surrendee” camps to undertake additional screenings for the presence of children under the age of 18 years. However, this has not been regularized and there are facilities which have not been accessed to date.

During my visit to Vavuniya, was able to visit the Poonthotam primary school. Half of the class rooms are currently being occupied by the Sri Lanka Army (SLA) to host adult surrendeers, disrupting the education of more than half the student population. It is necessary that alternative locations are promptly identified.

Recommendation: 1) There is an immediate need to clarify, in a transparent manner, the process and guidelines on screening of children whereby the “one fits all” treatment for children in rehabilitation camps should be replaced by a more individual and need-oriented approach. Children who only spent a short amount of time with armed groups need a different treatment than those who were associated for a longer period of time and directly involved in the fighting. 2) Regular visits by child protection actors to all facilities to further screen for the presence of minors needs to be undertaken on a regular basis in a transparent manner. In addition, access of statutory bodies, such as probation officers, responsible for children formerly associated with armed groups should be granted on a regular basis. 3) All schools currently being used to host adult surrendeers or as SLA barracks should be vacated and returned to their educational function.

3.3 Legal Framework Concerning Children Associated with Armed Groups

The legal framework concerning children associated with armed groups in Sri Lanka was a result of previous efforts regarding legal clarification of the status of children who either escaped the LTTE, were captured by the Sri Lankan armed forces during encounters, or who were separated from the TMVP armed group. I will first make some observations on the current process and then come up with a few suggestions on how best to bring the system more fully in line with international best practice.

Procedures

Emergency Regulation 1580/5 of 15 December 2008 under the Section 2A of the Public Security Ordinance bestows the Commissioner General of Rehabilitation the responsibility to establish centers to care for children who have been subjected to forced recruitment, forced labor, debt bondage and other crimes. Further, it establishes a clear procedure for the custody of these children from the state official who first identifies the child, through the nearest police station. Upon notification of surrender or arrest, the child shall be brought before a Magistrate within 24 hours. The Magistrate is then called upon to request, within one month's time, a social inquiry report spelling out the immediate and long term needs of the child.

At the time the child is produced, the Magistrate has two options, after interviewing the child, *in camera*: He may:

1. Return the child to the charge care and custody of his parents or guardians.
2. Make order that the child be placed in a Protective Child Accommodation Center

Should the child be placed in a Protective Child Accommodation Center, the Magistrate shall examine the social inquiry report previously requested and make a determination:

1. Return the child to the charge care and custody of his parents
2. Determine if a child should be accommodated for a period not exceeding one year in a Protective Child Accommodation Center under the care of the Provincial commissioner for Child Care Service
3. Send the child to a Protective Child Rehabilitation Centre for a period not exceeding one year. Should the child have committed an offence during any period in which he was recruited as a combatant, the Magistrate shall place him in a Protective Child Rehabilitation Center.

It is interesting to note that, though the Emergency Regulation makes a distinct difference between an *Accommodation Center* (no evidence of offence committed) and a *Rehabilitation Center* (evidence of offence while associated with an armed group), the Commissioner General of Rehabilitation has described his facilities as "*Child Accommodation and Rehabilitation Centers*", effectively erasing the line between potential criminal responsibility and rehabilitation of children victimized by armed groups. However, I was heartened to hear from both the Commissioner

General for Rehabilitation Major General Daya Ratnayake and the Attorney General Mr. Mohan Peiris that these children are viewed as victims and that they will be treated as such.

The Magistrate, if he places a child to a Accommodation Center, should review the child's case every 3 months until such time that he or she can be released to his or her parents or care-givers. If he places a child in a Protective Rehabilitation Center should review the child's case every month for a period not to exceed one year's time.

The Emergency Regulation further establishes that all locations used as Child Accommodation or Child Protective Rehabilitation Centres should be declared as such in a Gazette. All three centers, Ambe Pussa, Poonthotam center and the Ratmalana Hindu College are yet to be declared and established as rehabilitation centers accordingly.

In my talks with the Commissioner General for Rehabilitation, child protection partners and UN specialists as well as children themselves, the following issues came to light:

Length of stay in centers

When I spoke with children in the center at Poontham, they all confirmed that they had had at least one presentation before the Magistrate in Vavuniya and that they were in regular contact with the probation officers. However, most boys and girls could not tell me how long they were to stay in the center, with some stating that they assumed one year, while others simply stated that they did not know.

Another related issue is the fact that, regulations notwithstanding, the vast majority of cases of children now under the authority of the Commissioner-General of Rehabilitation at the Ratmalana and Poontham centers and have had a delay of several months in the processing of their cases. Although the legislation states that children should be immediately presented to the Magistrate before being remanded to a center, these children have had several months delay in the processing of their cases and many of these children had spent a lengthy amount of time in adult "surrendee" centers prior to identification and referral. This begs the question of whether the maximum of one year the State may assign these children to the care of a center should be calculated from the time of their dossier being officially opened or since the time the children were deprived of their liberty.

Many may assert that the remand of a child before the one-year term would somehow rob the child of skills training or education offered at the center. However, international standards and best practice, including the Paris Principles and Guidelines on Children Associated with Armed Groups and Armed Forces (Paris Principles) and the Paris Commitments for which Sri Lanka is a signatory, emphasize the centrality of the family and community in the rehabilitation process; something which their institutionalization does not adequately address.

Recommendation: The international community should work with the Sri Lankan Government to design and implement community-based education and skills training programs, even if the children remain in IDP camps, in order to ensure that the option of remanding these children to the care of their parents and communities results in community-based education and skills training opportunities outside of center-based care.

Child friendly procedures before the Magistrate

The Government of Sri Lanka should be commended for the child-friendly procedures built into the legislation concerning children associated with armed groups (No 1580/5) of December 2008. However, though the Magistrate takes the care to interview children of concern *in camera*, parents or guardian are not present during the interview.

Recommendation: The process before the Magistrate may better serve the intended protection concerns of the Government by mandating that the parents or guardian also be present and that the children and their guardians understand the proceedings as well as the options available to the Magistrate. In this way, the suitability of early remand to the parents may be more fully and adequately explored at the time of initial interview as well as at quarterly reviews. Child protection agencies may also play a role in supporting the review process and outreach to families and communities, and their participation in review should be encouraged.

Very few children have been remanded to their parents to date

Although the law applicable to children associated with armed groups foresees that children can be remanded to their parents, it appears that Magistrates rarely take this avenue. Indeed, in the last months, the Vavuniya Magistrate has only availed himself of the option of remanding children to their parents in seven cases, all of whom were girls in various stages of pregnancy. It should be noted that as of 18 January 2010, 183 children have been released and that continued support is required for these children including the issuance of personal documents such as birth certificates and regular ID cards. The children released at the end of December 2009 and in January 2010 have only received a temporary ID card issued by the Terrorist Investigation Unit. This raises a protection concern as it might lead to stigmatization of these children.

Clarification of the criminal liability of children formerly associated with armed groups

All cases of children associated with armed groups have been registered in a fashion which does not identify them as perpetrators of any crime, but as victims. However, the status of these children is still not completely clear. The Attorney General, Mr. Mohan Peiris, reassured me that these children will not be pursued for any crimes and that their dossiers before the court would not lead to criminal prosecution. However, given the fact that the applicable law under emergency Regulation 1462/8 of September 12 2006, Sections, 12, 13 and 14 specifically provides for prosecution and since emergency Regulation 1580/5 of December 2008, that focus on children does not repeal or amend the above sections, prosecution remains indeed an option.

Recommendation: A judicial directive from the authorities is clearly needed and should be sent out to all judicial authorities clarifying that no child should be prosecuted based on his or her association with any armed group and spelling out the procedure for closing and dispensing of the child's dossier once the child's rehabilitation has been successfully completed. This should also be clearly communicated to the security forces to ensure that they can fulfill their protection mandate of this particular segment of the population, and will not be exposed to any form of stigmatization or further security related restrictions.

3.4 Facilities and Programs for Children Formerly Associated with Armed groups

I visited three facilities for children formerly associated with LTTE or TMVP; the Hindu College in Ratmalana (Colombo) and the Poontham Vocational School in Vavuniya, which are Rehabilitation Centers; and the Sathurukondan Sarvodaya vocational training center in Batticaloa. These three centers are all concerned with children who may have been associated with the LTTE or the TMVP, including those transferred from the now-closed center at Ambe Pussa¹.

On the whole, notwithstanding the need for the Government to re-evaluate its over-reliance on center stays, these centers seem to be well-run. In this regard, I would like to commend the Government's efforts, including through the Tamil Community in Colombo, in supporting the Ratmalana center. I conducted interviews with a number of children in this center and it seems to me that the minimum standards regarding the support for these children are respected. In particular, I noted the regular psycho-social support for these children from professionals, adequate education and skills training programmes and well-trained staff that seem to relate to the children. I also noted that the center has taken the special needs of girls into account, such as having separate quarters and mainly female staff members assigned to look after them.

At the same time, there are three particular issues of concern which I raised with the Government that could, in my view, be rectified easily, with the support of the UN country team and the Office of the Special Representative of the Secretary-General for children and armed conflict if needed.

Contact with Families

Though there was an initial delay in family visits to these centers, it seems that, by and large, with the assistance of UNICEF, family visits to Ratmalana are now becoming quite regular and those to the Poontham and Sarvodaya centers are both adequate. Children there, though very happy to see their relatives come once every month or so, need to have more time with their families and more extensive visits, which is a fundamental right of every child. My sole preoccupation concerns the children at Ratmalana center, for whom no actual visit or home leave seems to have been foreseen.

De-Militarization as a crucial aspect of good center practice

The Paris Principles and best practice concerning the separation of children from armed groups and their effective rehabilitation place great stress on the complete separation of these children from any vestiges of military life, emphasizing on the civilian nature of their re-integration back into normal life. Although I am aware that the centers's staff has recently been given the order to wear only civilian clothing, both Poontham and Ratmalana centers are staffed by Cadet Corps officers² who constitute up to 40% of the total personnel. As it was explained to me, these officers depend both on the Ministry of Defense and the Ministry of Education. Furthermore, at the Poontham center,

¹ 60 children had graduated from the Ambe Pussa center before it was closed in November 2009, associated with both the LTTE and with the TMVP, according to the Commissioner General of Rehabilitation.

² The National Cadet Corps is the Sri Lankan military cadet corps and is a Ministry of Defense sponsored youth organization in Sri Lanka. It is open to high school students on a voluntary basis and has been in existence since 1881. The officers are adults who act as instructors. The Cadets are given basic military training in small arms and parades. The officers and cadets (once reaching enlistment age) have no liability for active military service but may volunteer to join the armed forces.

unlike the other two centers I visited, the security detail is not civilian police but military. This is also a concern.

Recommendation: The civilian nature of child rehabilitation centers is a central feature of the Paris Principles and in this regard, I would call upon the Government of Sri Lanka to ensure that these centers are run by civilian staff and that they are guarded by police.

Planning for release and community-centered rehabilitation and re-integration must be a priority.

I would like to stress that in line with the Paris Principles the best option for children to recover from traumatic situations, is to live with their family and community. The vulnerability of the communities in the former conflict-affected areas of the North as well as the lack of basic infrastructure in some locales calls for advance planning must be undertaken as a priority by the Government, its partners and the United Nations in Sri Lanka for community-based integration and follow-on activities in communities where these children will return.

Recommendation: Release and community-centered rehabilitation and re-integration can best be accomplished by taking the following steps over the next months:

1. Immediate assessment of all dossiers of children in center care, with a view toward identifying a release date as soon as possible. This should be done in consultation with the children themselves, their parents and community leaders. A prime opportunity for this is the up-coming review of probation officer reports which were due in late December of 2009.
2. Mapping and planning with protection and reintegration program partners where these children will return, engaging in dialogue with those communities and spelling out the education, skills training and psycho-social assets which should be put in place. This should be undertaken not only for the center children returning but also for a number of vulnerable children in those communities. The Government's National Action Plan of the National Framework Proposal for Reintegration of Ex-combatants into Civilian Life in Sri Lanka developed in cooperation with UN agencies and ICRC may be a good framework for this essential planning.
3. Ensuring that personal documentation (birth certificates and regular ID cards) is issued for the children and that they are provided with a certificate of rehabilitation as it has been the case for all surrendee children rehabilitated in 2009.
4. Advocacy with the international community for adequate funding and assistance for the planning and execution of these programs throughout the conflict affected areas of return. In this I would encourage the SRSR-CAAC to take a leading role alongside the UN country team.
5. Family and community-based rehabilitation is strongly encouraged, as foreseen in Emergency Regulation 1580/5, while centre based rehabilitation should only be used as a last resort.

3.5 Issues of accountability

Follow-up to previous Government commitments

I discussed the issue of follow-up to previous commitments with the Minister for Disaster Management and Human Rights, Mr. Samarasinghe, the follow up to conclusions of the Security Council Working Group on children and armed conflict (S/AC.51/2007/9 and S/AC.51/2008/11) concerning the work and findings of the high-level inter-ministerial committee established on 27 August 2007 with the mandate to investigate allegations concerning the aiding and abetting of child recruitment by certain elements of the Sri Lanka security forces. Although the Minister himself constituted the committee in 2007 and one of his staff present at my meeting was on at least one field mission undertaken by this committee, neither were able to recall or to produce any report or material concerning this investigation. The Minister promised to follow-up on the results of this important investigation panel and to communicate them to me. However, I have yet to receive any communication on this from the Government of Sri Lanka. I also spoke with the Ministry of Justice concerning my preoccupation that the “zero tolerance” policy has yet to result in the prosecution of any alleged perpetrator of child recruitment.

Recommendation: I urged the Minister for Disaster Management and Human Rights to produce as matter of priority a follow up report on the findings of the high-level inter-ministerial committee established to conduct a thorough and impartial investigation into allegations concerning certain elements of the Sri Lanka security force’s possible involvement in aiding and abetting child recruitment on behalf of the Karuna faction.

Accountability for violations against children that took place during the last phases of the conflict

Throughout our stay we received allegations about grave violations committed against children in the period from January to May 2009, during the last phases of the conflict between the Government forces and the LTTE. These allegations included killing and maiming of children as well as attacks on schools and hospitals. It is important that these allegations be swiftly investigated and those responsible for these violations be held accountable with a view to national reconciliation.

Recommendation: As an essential part of national reconciliation, allegations of grave violations against children perpetrated by all parties during the last phases of the war should be fully investigated and those responsible for these violations should be held accountable. These allegations should also be part and parcel of any future truth and reconciliation mechanism the Government might devise.

3.6 The protection of Internally Displaced children

Tracing and Family Unity

Tracing activities have been led by the Sri Lankan Government probation officers under the Department of Probation and Child Care Services. To date, 1,221 separated, unaccompanied and orphaned children have been identified in the North of the country. Of these, 517 have been reunified with their families or relatives and 704 have been placed in residential homes. In addition, 162 parents have reported to probation officers that their children are missing.

Although the Government has undertaken significant efforts, many children remain untraced or unidentified as separated or unaccompanied due to the fact that there is a lack of a coordinated tracing structure and adequate information sharing with expert agencies. Exacerbating this is the fact that agencies do not have full access to all camps and areas and the limited human and other resources currently available for family tracing.

Recommendation: The Government of Sri Lanka should put in place a coordinated and comprehensive child tracing network in former conflict areas of the country. In this regard, the Government should benefit from the support of UN agencies and protection partners, such as ICRC and Save the Children that could in partnership with the relevant Government bodies scale up their activities in this area. In this respect the UN and its specialized partners should be granted full access to tracing information and full freedom of movement in the North of the country.

Prevention of Sexual Violence

Although there have been unconfirmed reports of isolated cases of sexual abuse in IDP and female surrendee camps, I am not in a position to confirm or deny these allegations. However, the aftermath of any conflict makes any vulnerable group susceptible to sexual violence, especially women and girls.

Recommendation: It is crucial that the Government of Sri Lanka take preventive measures to protect women and girls in IDP settings from any form of exploitation or abuse such as sexual violence. Protection focal points and support services should be established in all IDP and surrendee facilities. I strongly urge the Government of Sri Lanka, in conjunction with the United Nations, to devise safeguards, as a matter of priority, in IDP camps and in the Pampamadu women's surrendee center.

Psycho-social needs of children in affected communities

During my visit I spoke with a number of school teachers and school children. The teachers confirmed that many children were seriously affected by the war resulting in the lack of concentration, sleeping problems, anxiety attacks and other known symptoms of post traumatic stress disorder.

Recommendation: It is crucial that the Government of Sri Lanka, in coordination with UN agencies and relevant civil society actors, implement psycho-social programmes in affected communities.

Mines and UXOs

Mines and un-exploded ordinance (UXOs) are one of the most dangerous legacies of conflict. Children and youth are at high risk from these remnants of war. The conflict-affected areas of northern Sri Lanka are heavily mine and UXO-infested. Although the Government and its international partners have made headway, the pace must be quickened in light of the hoped-for rapid return of the entire IDP population as soon as possible. Additional support and staffing to survey and clear mined and UXO- infested areas and wide-spread mine and UXO risk education (MRE) in camps and home communities should be a priority. People severely injured and disabled during the conflict deserve appropriate medical care and rehabilitation services. Government programmes for counseling and for community-based rehabilitation need to be expanded to the conflict-affected areas.

Recommendation: More rapid mine and UXO clearance needs to be planned for and funding sources secured as a priority. The Government of Sri Lanka should encourage and develop these activities including not only MRE and demining but also victim assistance.

RECOMMENDATIONS

1. There is an immediate need to clarify, in a transparent manner, the process and guidelines on screening of children whereby the “one fits all” treatment for children in rehabilitation camps should be replaced by a more individual and need-oriented approach. Children who only spent a short amount of time with armed groups need a different treatment than those who were associated for a longer period of time and directly involved in the fighting. Regular visits by child protection actors to all facilities to further screen for the presence of minors needs to be undertaken on a regular basis in a transparent manner.
2. Relevant government bodies, UNICEF and other child protection partners, including ICRC, should be given as a matter of priority regular access to all adult surrendee sites to ensure that no children below the age of 18 years are present.
3. The whereabouts of the two remaining cases of children associated with the TMVP should be cleared as a matter of great priority. Arrested perpetrators of recruitment of child soldiers should be prosecuted. The Government of Sri Lanka should expedite the follow up on the “Barrathi case”.
4. Therefore a judicial directive from the authorities is clearly needed and should be sent out to all judicial authorities clarifying that no child should be prosecuted based on his or her association with any armed group and spelling out the procedure for closing and dispensing of the child’s dossier once the child’s rehabilitation as been successfully completed. This should also be clearly communicated to the security forces to ensure that they can fulfill their protection mandate of this particular segment of the population. and will not be exposed to any form of stigmatization or further security related restrictions.
5. The international community should work with the Sri Lankan Government to design and implement community-based education and skills training programs, even if families remain in IDP camps, in order to ensure that the option of remanding these children to the care of their parents and communities results in community-based education and skills training opportunities outside of center-based care.
6. Family and community-based rehabilitation is strongly encouraged, as foreseen in Emergency Regulation 1580/5, while centre based rehabilitation should only be used as a last resort.
7. The civilian nature of child rehabilitation centers is a central feature of the Paris Principles and, in this regard, I would call upon the Government of Sri Lanka to ensure that these centers are run by civilian staff and that they are guarded by police.

8. Release and community-centered rehabilitation and re-integration can best be accomplished by taking the following steps:

- Immediate assessment of all dossiers of children in center care, with a view toward identifying a release date as soon as possible. This should be done in consultation with the children themselves, their parents and community leaders. A prime opportunity for this is the up-coming review of probation officer reports which were due in late December of 2009.
- Mapping and planning with protection and reintegration program partners where these children will return, engaging in dialogue with those communities and spelling out the education, skills training and psycho-social assets which should be put in place. This should be undertaken not only for the center children returning but also for a number of vulnerable children in those communities. The Government's National Action Plan of the National Framework Proposal for Reintegration of Ex-combatants into Civilian Life in Sri Lanka developed in cooperation with UN agencies and ICRC may be a good framework for this essential planning.
- Advocacy with the international community for adequate funding and assistance for the planning and execution of these programs throughout the conflict affected areas of return. In this I would encourage the SRSG for Children and Armed Conflict to take a leading role alongside the UN Country Team.

9. It is crucial that the Government of Sri Lanka takes preventive measures to protect women and girls in IDP settings from any form of exploitation or abuse such as sexual violence. Protection focal points and support services should be established in all IDP and surrendee facilities.

10. The Government of Sri Lanka is encouraged to work in collaboration with the Office of the SRSG for Children and Armed Conflict, UNICEF and other partners, such as IOM, to develop special guidelines, programs and procedures for surrendees between the ages of 18 and 21 years who may have been recruited as minors and who ought to benefit from tailor-made assistance geared to the length of time and abuses suffered as child soldiers. Furthermore the Government of Sri Lanka should launch an investigation to establish the whereabouts of all the children who had been recruited, including those who are now over 18 years, and whose fate remains unknown.

11. The Government of Sri Lanka is strongly encouraged to implement its "zero tolerance" policy, in particular with regard to those who recruit and use or re-recruit children under the age of 18 years through prosecution of individuals found guilty of this crime under Sri Lankan domestic law. In particular, they should seek to address the allegations of recruitment or threatened re-recruitment of children by individuals operating in the Eastern province such as Mr. Iniyah Bharati.

12. I urge the Minister for Disaster Management and Human Rights to produce as a matter of priority a follow up report on the findings of the high-level inter-ministerial committee established to conduct a thorough and impartial investigation into allegations concerning certain elements of the

Sri Lanka security force's possible involvement in aiding and abetting child recruitment on behalf of the Karuna faction.

13. The Government of Sri Lanka should put in place a coordinated and comprehensive child tracing network in former conflict areas of the country. In this regard, the Government would benefit from the support of UN agencies and protection partners that could in partnership with the relevant Government bodies scale up their activities in this area. In this respect the UN and its specialized partners should be granted full access to tracing information and full freedom of movement in the North of the country.

14. Child protection services for war-affected children, including community based support and social infrastructure, should be urgently re-established by the Government of Sri Lanka in collaboration with the UN and relevant civil society members.

15. All schools currently being used to host adult surrendees or used as SLA barracks should be vacated as a matter of priority and returned to their educational purposes.

16. There is also an urgent need for psycho-social support in the communities and more rapid mine and UXO clearance needs to be planned for and funding sources secured as a priority. The Government of Sri Lanka should encourage and develop these activities including not only Mine Risk Education and demining but also victim assistance.

17. As an essential part of national reconciliation, allegations of grave violations against children perpetrated by all parties during the last phases of the war should be fully investigated and those responsible for these violations be held accountable. These allegations should also be part and parcel of any future truth and reconciliation mechanism the Government might devise.