

**Association Bharathi Centre Culturel Franco tamoule  
(Bharathi CCFT)  
(NGOs in Consultative Status with ECOSOC)**

# **JUSTICE FOR THE WAR AFFECTED TAMIL CHILDREN**

**77<sup>th</sup> Session - 5<sup>th</sup> & 6<sup>th</sup> Cycle Review on Sri Lanka**

**SHADOW REPORT TO THE UNITED NATIONS COMMITTEE ON  
THE RIGHTS OF THE CHILD CONCERNING SRI LANKA**

**Joint written statement\* submitted by :**

**Association des étudiants tamouls de France,**

**Association Bharathi Centre Culturel Franco-Tamoul,**

**Association Burkinabé pour la Survie de l'Enfance,**

**Association Mauritanienne pour la promotion du droit,**

**Association Solidarité Internationale pour l'Afrique (SIA),**

**Society for Development and Community Empowerment,**

**non-governmental organizations in special consultative status**

**Non-ECOSOC NGOs**

**Collectif La Paix au Sri Lanka**

**Nambikkayin Veedu (House of Hope)**

**Tamil Mouvement**

## **Introduction**

The Report to the Committee on the Rights of Child focuses on the need for justice and accountability war affected children and Sri Lanka's lack of accountability to address crimes committed during the war which has strong evidence of genocidal intent. It is apt to reiterate the 146,000 from the Vanni region who are yet to be unaccounted for as result of the final battle.<sup>1</sup>

The report was produced in the setting of two parallel developments in Sri Lanka—constitutional reform and transitional justice processes the other is the constitutional reforms process. However, both seem to be showing very little progress and the victim communities continue to suffer even eight years after the government declared the end of the three decade old war.

Since the last review, there has been a change in Presidency and Government. Shortly after the change in 2015, the Government of Sri Lanka, co-sponsored Resolution 30/1, which included commitments to creating a credible hybrid court, undertaking meaningful security sector reform, releasing military-occupied lands, and repealing the PTA. However, the Government of Sri Lanka has failed to deliver on its promises.

Resolution 30/1 calls for creation of a judicial mechanism including foreign judges to investigate and prosecute violations of human rights and international humanitarian laws. However, the president, prime minister and other senior Sri Lankan authorities have in their official statements rejected the notion of the involvement of foreign judges despite agreeing to this component in operative paragraph 6 of the Resolution.

The present government of Sri Lanka since inception of Resolution 30/1 has clearly stated that they will not abide by those obligations that they undertook as co-sponsor of the Resolution at the UNHRC in October 2015, knowing it was a promise that it could not keep. However, they were granted two year extension at the in March 2017 by the UNHRC, which is deemed futile

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<sup>1</sup> It's "Lesson Learnt" — 146,000 Equal "Naught" — Equals "Reconciliation" The Sunday Leader Bishop of the Mannar Catholic Diocese, Rt. Rev. Dr. Rayappu Joseph told the "Lessons Learnt & Reconciliation Commission," that According to the Kachcheri, (meaning the District Office) the population in Wanni was 429,059 in the early part of October 2008. By September, almost the totality of Vanni civil population was being herded in the two districts, Kilinochchi and Mullaitivu, When President Rajapaksa declared the war over on May 19, 2009, all the remaining Vanni people who were living as whole or in pieces, were being counted by the military to be taken under their control. That process did not take long. Not even a fortnight. Therefore, the UN Office for Co-ordination of Humanitarian Affairs (OCHA) had with them the numbers of displaced persons who had to be attended to, by end June, 2009. The Mannar Bishop therefore takes numbers from them and tells the LLRC, "According to UN OCHA update as of 10th July 2009, the total number of people who came out of the Vanni to government controlled areas after the war is estimated to be 282,380", There is obviously a difference in numbers and that number of 146,679 is all about human beings.

and meaningless since the government has no intention nor political will to fully establish the four reconciliation mechanisms pledged to the UNHRC.

Therefore the lack of political willingness on the part of Sri Lanka's institutions to effectively provide for truth or justice in Sri Lanka is well evident through the past judgments of Sri Lankan Courts particularly where the victims are Tamils.

Similarly, we have observed that a hybrid mechanism would not effectively deal with the issue of disappearance or war crimes and crimes against humanity. In the past such mechanisms have proved to be a failure.

Since fulfilment of the government's commitment under Operative Paragraph (OP) 6 has become an impossible task and given that independent international investigations has been the consistent demand of the victim communities in Sri Lanka, as successive governments have failed to ensure justice and accountability, we would like to point out that this could be only achieved by way of helping the Tamil people of the North and East to realize their inalienable right to self-determination in Sri Lanka. This is not only strongly emphasized in the Vienna Declaration and Durban Declaration and Programme of Action but also underlined in the Article 1 of the International Covenant on Economic Social and Cultural Rights and International Covenant on Civil and Political Rights. All the above Declarations and Covenants recognize the right of peoples to take any legitimate action, in accordance with the Charter of the United Nations, to realize their inalienable right of self-determination.

Accountability is a non-negotiable necessary step in order to begin to heal the wounds of the past, enable meaningful reconciliation and ensure non-recurrence, therefore we call on relevant agencies within the UN system to activate steps to make this a reality.

## **Context**

When the government declared the end of war in May 2009, it inevitably intensified the vulnerability of children in Sri Lanka and negatively affected their protection. The high death toll, injuries and disabilities were not only some of the immediate outcomes of the war but also internal displacement of hundreds of thousands who were forced to live in refugee camps with limited access to basic needs,<sup>2</sup> leaving hundreds of children orphaned or separated from their

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<sup>2</sup> Internal Displacement Monitoring Centre (IDMC) and Norwegian Refugee Council (2011), "Sri Lanka: IDPs and Returnees Remain in Need of Protection and Assistance", accessed 5 February 2017, <http://www.internal-displacement.org/assets/library/Asia/Sri-Lanka/pdf/Sri-Lanka-January-2011.pdf>.

parents. Some children who have been put in orphanages were not only abused and tortured but their identity like their names, language and religion was deliberately changed. And ideal example is a home in Vavuniya run by a Buddhist priest; A NGO has filed a case against the priest and lack of action taken by relevant authorities, at the Vauniya Magistrate's Court. The Case is pending.<sup>3</sup>

Further, many have disappeared. There have been instances where couple mothers have seen their children in some propaganda publications of the government. However, they could not locate their loved ones even after reporting it to the criminal investigations department.<sup>4</sup>

Allegations and reports of Sexual and Gender Based Violence by military forces were recorded during the conflict.<sup>5</sup> Research also indicates that women and children in Sri Lanka were trafficked into brothels during the war, particularly in the Anuradhapura area - a major transit point for members of the Sri Lankan Armed Forces heading north.<sup>6</sup>

Children dropped out of schools in the absence of the family's primary caregiver which in turn increased child labour.

There was large scale malnutrition amongst children. In May 2009, the prevalence of acute malnutrition among children below the age of five in Menik Farm IDP camp was 35.6 per cent.<sup>7</sup> The above violations of human rights against children occurred and is continuing to take place under a militarized North and East.

Families of the disappeared are staging hunger strikes on the streets of North and East calling on the government and the international community to find their loved ones and bring the perpetrators to justice. The hunger strike is nearing 300 days. Some of the surrendees and injured (including children under 18) who were handed over to the military which was facilitated by the ICRC are reported missing.<sup>8</sup>

The need to ensure accountability for detention of children under the prevention of Terrorism Act (PTA) is another issue that needs to be addressed without delay. One of the many commitments agreed by the government under Resolution 30/1 is the repeal of the PTA.

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<sup>3</sup> CHRD case files. Child abuse case B/1377/13 & B/1521/13 -Vavuniya Magistrate Court

<sup>4</sup> A NGO based in Colombo have recorded the complaints by the families of the victims.

<sup>5</sup> Hart, Jason (2011), "Children and Armed Conflict", Refugee Studies Centre, Oxford University, accessed on 5 February 2017, <https://www.rsc.ox.ac.uk/files/publications/other/dp-children-armed-conflict-sri-lanka.pdf>.

<sup>6</sup> US Department of State, Office to Monitor and Combat Trafficking in Persons, "Trafficking in Persons Report 2010: Sri Lanka", (2010), accessed 5 February 2017, <http://www.state.gov/g/tip/rls/tiprpt/2010/142761.htm>.

<sup>7</sup> (UNICEF ANNUAL REPORT for Sri LANKA 17 July 2011) [https://www.unicef.org/srilanka/publications\\_7195.html](https://www.unicef.org/srilanka/publications_7195.html)

<sup>8</sup> CHRD case files first 05 habeas corpus applications filed in March 2013 (HCV/Writ/507/2013, HCV/Writ/508/2013, HCV/Writ/509/2013, HCV/Writ/510/2013, HCV/Writ/511/2013), at the Mullaithivu Magistrate's Court.

The fact that sexual violence against boys and young girls by state security forces continues today, creates an added urgency to act in Sri Lanka. Despite the war having ended nearly a decade ago, the laws and institutions that facilitated violations have not been reformed. In this context, incidents of sexual violence against young men continue to be reported during arrests and detentions under the draconian Prevention of Terrorism Act.<sup>9</sup>

It is important to note that the Special Rapporteur on human rights and counter terrorism, Ben Emmerson in his statement after his visit to Sri Lanka expressed concern to learn that 80 percent of the most recently arrested, under the PTA complained of torture and pointed out that the entire PTA system amounts to flagrant denial of justice.<sup>10</sup> This is well evident with Sri Lanka currently facing questions over ongoing torture ahead of the Universal Periodic Review in November 2017.<sup>11</sup>

Therefore, it is important to immediately establish a justice mechanism to investigate violations of international human rights and international humanitarian law by the military.

## **Methodology**

The present submission is based on desk research conducted by the organizations mentioned in the cover page. The scope of the submission is to highlight the Sri Lanka's lack accountability to address the crimes committed against children during the 30 decade old war and the ensuring justice to the war affected children.

## **Ensuring the Rights of Children in the Transitional Justice process**

The so called Transitional justice process is hoped to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation'.<sup>12</sup>

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<sup>9</sup> [http://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/LKA/INT\\_CRC NGO LKA\\_27495\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/LKA/INT_CRC NGO LKA_27495_E.pdf)

<sup>10</sup> <https://lk.oneworld.un.org/news/full-statement-by-ben-emmerson-un-special-rapporteur-on-human-rights-and-counter-terrorism-at-the-conclusion-of-his-official-visit/>

<sup>11</sup> Dozens of men say Sri Lankan forces raped and tortured them

<https://apnews.com/ced017bd441f46ba838aaedf6ff5dbe2/Dozens-of-men-describe-rape,-torture-by-Sri-Lanka-government>

<sup>12</sup> Report of the Secretary General of the United Nations Security Council, (2004), at 4, United Nations Security Council.

[https://www.unicef.org/srilanka/FINAL\\_Juvenile\\_Justice\\_Assessment.pdf](https://www.unicef.org/srilanka/FINAL_Juvenile_Justice_Assessment.pdf)

The Resolution 30/1 lays down a roadmap for dealing with past violence and human rights abuses occurring in the country. In the aftermath of the Resolution, the Sri Lankan government established the Secretariat for Coordinating Reconciliation Mechanisms.<sup>13</sup>

Although the government's commitment and political willingness seem lacking in bringing about reconciliation through accountability, nevertheless, a comprehensive examination of justice for children can be relevant to Sri Lanka's transitional justice mechanisms. Article 38 of the CRC places an obligation on states parties to respect rules of international humanitarian law relating to children involved in armed conflict. Under the Geneva Convention IV, parties to the conflict are obligated to take the necessary measures to ensure that children below the age of fifteen, who are orphaned or separated from their families as a result of war, are not left to their own devices.<sup>14</sup>

Moreover, under the Convention, parties to the conflict are mandated to ensure the maintenance and education of children below the age of fifteen.<sup>15</sup>

Furthermore, Article 77 of the Additional Protocol I to the Geneva Convention calls upon parties to the conflict to provide distinct and special care to children. The Article also provides that children who commit crimes relating to the armed conflict be held separately from adults, unless families are being accommodated together in family units.

Article 77 states that individuals shall not be subjected to the death penalty for a crime they committed when they were below eighteen years of age. Article 4(3) of Protocol II also provides that children must be afforded the care and aid they require.

According to Article 38 of the CRC states parties are required to ensure the care and protection of children affected by armed conflict. Article 39 of the CRC directs states parties to take all measures necessary to enable the recovery and reintegration of child victims of an armed conflict.

The 2009 Children and Transitional Justice Key Principles Document outlines the principles for child protection and participation in transitional justice.<sup>16</sup>

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<sup>13</sup> These mechanisms include the: Office on Missing Persons, Truth, Justice, Reconciliation and Non-Recurrence Commission, the Special Court, and the Office on Reparations. [https://www.unicef.org/srilanka/FINAL\\_Juvenile\\_Justice\\_Assesment.pdf](https://www.unicef.org/srilanka/FINAL_Juvenile_Justice_Assesment.pdf)

<sup>14</sup> Convention (IV) relative to the Protection of Civilian Persons in Time of War, Geneva, 12 August 1949, article 24. [https://www.unicef.org/srilanka/FINAL\\_Juvenile\\_Justice\\_Assesment.pdf](https://www.unicef.org/srilanka/FINAL_Juvenile_Justice_Assesment.pdf)

<sup>15</sup> .Convention (IV) relative to the Protection of Civilian Persons in Time of War, Geneva, 12 August 1949, article 4(3) (a). [https://www.unicef.org/srilanka/FINAL\\_Juvenile\\_Justice\\_Assesment.pdf](https://www.unicef.org/srilanka/FINAL_Juvenile_Justice_Assesment.pdf)

<sup>16</sup> 143.UNICEF Office of Research – Innocenti, Children and Transitional Justice Key Principles Document (2009), accessible at: [https://www.unicef-irc.org/publications/pdf/tj\\_publication\\_eng.pdf](https://www.unicef-irc.org/publications/pdf/tj_publication_eng.pdf). [https://www.unicef.org/srilanka/FINAL\\_Juvenile\\_Justice\\_Assesment.pdf](https://www.unicef.org/srilanka/FINAL_Juvenile_Justice_Assesment.pdf)

The Document states that the best interests of the child should guide a country's transitional justice processes.<sup>17</sup> Moreover, the principles reaffirm a child's right to participate in decisions affecting his or her life (e.g. by giving testimonies before a truth commission).<sup>18</sup>

Additionally, in the context of child offenders, the Committee on the Rights of the Child has stated that Sri Lanka is required to take all feasible measures to ensure the demobilization of recruited persons in accordance with article 6(3) of the Protocol.<sup>19</sup> The Committee further stated that under this article, Sri Lanka is obliged to afford child offenders all appropriate assistance for their physical and psychological recovery.<sup>20</sup>

In 2011, the Report of the Commission of Inquiry on Lessons Learnt and Reconciliation (LLRC) recommended that young detainees who were physically disabled, recovering from injuries or in need of any special assistance be identified so that they could receive counselling and other necessary services. The Commission also recommended that the government create mechanisms to integrate rehabilitated children into society.<sup>21</sup>

On matters concerning transitional justice and child rights, Sri Lanka's 2016 State Party Report to the Committee on the Rights of the Child, stated that the country had conducted large-scale rehabilitation of ex-child combatants.<sup>22</sup> According to the report, such rehabilitation was facilitated through community-based correctional programs for former child combatants.<sup>23</sup> However, such measures have been at embryonic stage and unrealistic.

Moreover, submissions in the final report of the Consultation Task Force on Reconciliation Mechanisms released in November 2016 emphasize that, where judicial mechanisms are set up, there should be: (a) special arrangements for children to testify in private, and (b) a victim and witness unit to provide for counselling, protection and the establishment of other forms of support for affected children. Furthermore, the recently enacted Office on Missing Persons (Establishment, Administration and Discharge of Functions) Act, No. 14 of 2016 (OMP), affords

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<sup>17</sup> Ibid.

<sup>18</sup> Ibid.

<sup>19</sup> .Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (2000), Article 6(3). [https://www.unicef.org/srilanka/FINAL\\_Juvenile\\_Justice\\_Assessment.pdf](https://www.unicef.org/srilanka/FINAL_Juvenile_Justice_Assessment.pdf)

<sup>20</sup> Ibid.

<sup>21</sup> Report of the Commission of Inquiry on Lessons Learnt and Reconciliation, November 2011.

[https://www.unicef.org/srilanka/FINAL\\_Juvenile\\_Justice\\_Assessment.pdf](https://www.unicef.org/srilanka/FINAL_Juvenile_Justice_Assessment.pdf)

<sup>22</sup> Sri Lanka's 2016 State Party Report to the Committee on the Rights of the Child, p. 55.

[https://www.unicef.org/srilanka/FINAL\\_Juvenile\\_Justice\\_Assessment.pdf](https://www.unicef.org/srilanka/FINAL_Juvenile_Justice_Assessment.pdf)

<sup>23</sup> State Party Report to the Committee on the Rights of the Child (2016), at 56.

[https://www.unicef.org/srilanka/FINAL\\_Juvenile\\_Justice\\_Assessment.pdf](https://www.unicef.org/srilanka/FINAL_Juvenile_Justice_Assessment.pdf)

children the right to seek assistance to search for and trace their missing relatives.<sup>24</sup> However, the effectiveness and child-friendliness of the OMP and other transitional justice mechanisms will ultimately depend on their ability in practice to integrate child rights into their operations.<sup>25</sup>

### **The need to address grave violations of children's rights**

#### **Abduction of children<sup>26</sup>**

In December 2009, in response to the numerous tracing requests received, the Vavuniya Government agent and the Probation and Child Care Commissioner (Northern Province) jointly established a family tracing and reunification unit for unaccompanied and separated children, with UNICEF support. As of 30 June 2011, 2,564 tracing applications had been recorded by the unit, 676 of which related to children. End of 2011, 78 children have been matched and referred to the probation officers for tracing and verification. A total of 29 (12 males and 17 females) of the 78 children have been reunified with their family members and relatives.

#### **Incidents of killing and maiming of children<sup>27</sup>**

Between January and May 2009, the United Nations was able to directly verify that 264 children had been killed (including 155 boys and 109 girls) and 164 children maimed (including 96 boys and 68 girls) in the districts of Kilinochchi and Mullaittivu, based on information gathered in the internally displaced persons camps.

The vast majority of the children, 97 percent, had been maimed or killed in Mullaittivu district, and 3 per cent had been maimed or killed in Kilinochchi district. It should be noted the National Child Protection Authority, which has been consulted, has rejected that claim, but has not provided any alternative data.

According to testimonies gathered during the first five months of 2009, children were killed or maimed while they were performing everyday activities outside, such as bathing, collecting water, going to the toilet, walking along the street and visiting the hospital in areas where there was activity between LTTE and the security forces. At other times, they were captured as they were looking for safe cover outside their bunkers/homes during an

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<sup>24</sup> Office on Missing Persons (Establishment, Administration and Discharge of Functions) Act, No. 14 of 2016, section 10.

[https://www.unicef.org/srilanka/FINAL\\_Juvenile\\_Justice\\_Assesment.pdf](https://www.unicef.org/srilanka/FINAL_Juvenile_Justice_Assesment.pdf)

<sup>25</sup> [https://www.unicef.org/srilanka/FINAL\\_Juvenile\\_Justice\\_Assesment.pdf](https://www.unicef.org/srilanka/FINAL_Juvenile_Justice_Assesment.pdf)

<sup>26</sup> Based on the Report of the Secretary-General on children and armed conflict in Sri Lanka; 21 December 2011; S/2011/793  
United Nations-Security Council

<sup>27</sup> Based on the Report of the Secretary-General on children and armed conflict in Sri Lanka; 21 December 2011; S/2011/793  
United Nations-Security Council

attack. The percentage of incidents increased significantly during the final days of the conflict, with children being hit by artillery while they were trying to flee from the crossfire between the parties. Multiple such incidents were reported on dates where very large numbers of people were attempting to cross over from LTTE-controlled areas to areas controlled by the security forces (for example, on 20 and 21 April, and on 14 and 15 May).

The exact number of children killed or maimed during the first half of 2009 remains unknown. In October 2010, the concluding observations of the Committee on the Rights of the Child on Sri Lanka expressed serious concern that insufficient efforts had been made by Sri Lanka to investigate the deaths of hundreds of children during the last five months of the conflict (CRC/C/LKA/CO/3-4, para. 32).

A few months after the end of the conflict, the Special Envoy recognized that, although the extent of the casualties was unknown, the last phase of the conflict had resulted in heavy artillery fire between Government troops and LTTE, including within the “no fire zones”, which had caused a significant number of casualties, including children. The Government has asserted, however, that it did not use heavy artillery at any point during that time. A final report on that stage of the conflict is pending from the Lessons Learned and Reconciliation Commission.

Children and youth remain at high risk of mine injuries and death owing to the presence of mines and unexploded ordnance. According to a Sri Lankan Army estimate, 1.6 million landmines have been laid in Sri Lanka by both parties to the conflict. Although the military claims that all of them have been cleared. Even now many fear that mines may exist in some of the areas in the North where a few acres of lands occupied by the military for many years were newly released for civilian use.

In 2009, the National Mine Action Centre<sup>28</sup> reported 19 incidents affecting 11 children (2 boys were killed, and 8 boys and 1 girl were injured). In 2010, 27 incidents were recorded, in which 21 children were affected (5 boys had been killed and 11 boys and 5 girls had been injured). During the first six months of 2011, 11 incidents had taken place and four child casualties were reported.

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<sup>28</sup> The data includes deaths and injuries from victim-activated landmines (anti-personnel and anti-vehicle) and other explosive remnants of war. It does not include victims of attacks using claymore mines, improvised explosive devices or bombs.

## **Attacks on schools and hospitals<sup>29</sup>**

### **Military use of schools**

Many schools have been occupied and used by the security forces, negatively affecting the education of many thousands of children especially in the Valikamam North, Mullikulam, Kepapilavu etc. The schools had been used for a variety of purposes, including as barracks for the security forces, as transit sites for displaced persons who had left the internally displaced persons camps but who had been unable to return to their places of origin (mostly as a result of the presence of mines and explosive remnants of war apart from security threats by the military) or as sites for detention of LTTE cadres".<sup>30</sup>

### **Attacks and military use of hospitals**

According to public communications made by the International Committee of the Red Cross (ICRC) during the final stages of the conflict to raise awareness about the humanitarian situation, the shelling of hospitals occurred during the first five months of 2009. Reported incidents included four occasions of shelling of the Puthukkudiyiruppu hospital on 1 and 2 February 2009. According to a Committee statement on 2 February, at least nine people had been killed and at least 20 others injured as a result of the first three shelling. In addition, the ICRC findings and observations were shared bilaterally and confidentially with the parties to the conflict in order to improve the situations of persons affected.

Hospitals and community health centres remained occupied by the Sri Lankan Army.

### **Grave sexual violence<sup>31</sup>**

The number of reported incidents indicated below is a combination of events that occurred before and after the 2009 displacement. Many reports have recently come to light. Protection monitoring and participatory assessments suggest that many gender-based violence incidents were not being reported since the displaced and resettled population felt uncomfortable discussing incidents which they felt brought shame onto themselves and their families and communities, and/or might bring retribution against their families. However, reporting of gender-based violence has improved somewhat owing to an extensive network, developed in 2009, of various actors in the internally displaced persons sites, in districts and at hospitals, including the establishment of police

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<sup>29</sup> Based on Report of the Secretary-General on children and armed conflict in Sri Lanka; 21 December 2011;S/2011/793 United Nations-Security Council

<sup>30</sup> Persons identified by the security forces as having been formerly associated with LTTE but not formally charged.

<sup>31</sup> Based on the Report of the Secretary-General on children and armed conflict in Sri Lanka; 21 December 2011;S/2011/793 United Nations-Security Council

desks dealing with women and children, particularly in the Vavuniya internally displaced persons sites. This does not apply to the areas of return in the Vanni, where the presence of Tamil-speaking female officers remains extremely limited, notably in the desks dealing with women and children and, more generally, among probation officers, social services officers, public health staff, United Nations agencies and non-governmental organizations.

According to the Department of Probation and Child Care Services and district child development committees, a total of 215 sexual violence incidents involving children were reported in 2009 in northern and eastern Sri Lanka, and in 2010, 359 cases of sexual violence against children were recorded. However, many fear the number are much higher as this pattern continues under a militarized North and East.

#### **Denial of humanitarian access for Tamil children<sup>32</sup>**

During the first months of 2009, the population inside the conflict zone was displaced multiple times and experienced dwindling supplies of food and basic materials, coupled with high levels of insecurity and little access to humanitarian assistance.<sup>33</sup>

Before the final stages of the conflict in 2009, the space for humanitarian activity was reduced as a result of intensified fighting in the north, which caused a substantial influx of internally displaced persons into emergency sites.

At the end of June 2009, orders were issued by the Ministry of Defence to all commanders of the security forces requiring new clearances to be issued for humanitarian access by all United Nations agencies, international organizations, international and national non-governmental organizations to the conflict areas. The orders included a strict requirement for such clearance, including for any movement to the north by all agency staff and vehicles and within the north by United Nations staff already based there. The presidential task force for resettlement, development and security in the Northern Province<sup>34</sup> officially requested the United Nations not to work with international non-governmental organizations and non-governmental organization partners although it subsequently made exceptions to the directive for some sectors. The process affected various sectors, such as protection, and some livelihood activities.

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<sup>32</sup> Based on the Report of the Secretary-General on children and armed conflict in Sri Lanka; 21 December 2011; S/2011/793 United Nations-Security Council

<sup>33</sup> Office of the United Nations High Commissioner for Refugees, "Sri Lanka", in *UNHCR Global Report 2009: New Threats, New Challenges* (June 2010).

<sup>34</sup> Created by presidential directive on 7 May 2009. The task force was given authority to prepare strategic plans, programmes and projects to resettle internally displaced persons, and rehabilitate and develop economic and social infrastructure in the Northern Province.

However, the presidential task force approval requirement remains in force for implementing assistance programmes in the north. The approval requirement has resulted in delays that have affected, to a considerable extent, the implementation of activities at a critical time in the return process of displaced persons and have had a direct impact on child protection. Child protection projects aimed at supporting communities to prevent, identify and respond to vulnerabilities and issues affecting children were not approved and, as a result, a number of partnerships have been rescinded.

Protection monitoring in internally displaced persons sites was not initially authorized by national authorities. The International Committee of the Red Cross was denied access to the Vavuniya rehabilitation sites after mid-July 2009. It closed its offices in eastern Sri Lanka on 17 July 2009, in accordance with the request of the Government. This had an adverse impact on its activities and on its ability to access the displaced population in those districts.

Even civil society groups working at the grass-roots level with communities on issues of human rights and child protection experienced increasingly restricted access to affected areas, and their capacity to monitor situations of concern was increasingly limited.

## **RECOMMENDATIONS**

- Need for accountability measures for violations committed against children. The suffering of the children of Sri Lanka must be well documented as part of the long road to peace in Sri Lanka. The Office of the Special Representative of the Secretary-General on Children and Armed Conflict and all United Nations partners must come forward to address Sri Lanka's lack of accountability and bring Justice to the Child victims.
- Investigate, as part of national reconciliation, any allegation of violations and abuses against children perpetrated in contravention of applicable national and international law, by all parties during the armed conflict, and ensure that those responsible for the violations are held accountable. Launch an immediate investigation to establish the whereabouts of all children who were recruited, including those who are now over 18 years of age and whose fate remains unknown.
- The Government should complete the investigation undertaken by the inter-ministerial committee on the complicity between the security forces and TMVP/Karuna in the abduction and recruitment of children;
- Expedite the vacating of all schools and health-care facilities currently being used by the military and fully restore their educational and health-care functions; Call on the government to release residential and cultivation lands occupied by the military and expedite demilitarization in the North and East in order to ensure child protection services for children affected by the conflict, including psychosocial support, community-based support and social infrastructure. This would ensure children from sexual exploitation, detention and torture.
- Plan and develop a comprehensive post-conflict action plan for children that comprehensively addresses outstanding protection and psychosocial issues, with a focus on various groups of children with special needs, including, but not limited to, former children associated with armed forces and groups, formerly displaced children and children who have lost one or both parents in the conflict.
- In accordance with recommendations of the last review (cycle 4) Repeal PTA and release child detainees under 18 in order to ensure children are ill-treated and

protected from torture. Strengthen the National Human Rights Council not only to monitor and report progress and violations but also provide directives to relevant authorities.

- Last but not least, we call on the Committee to urge the government of Sri Lanka to pave the way for Tamil to realize their inalienable right to self-determination in Sri Lanka, which is not only strongly emphasized in the Vienna Declaration and Durban Declaration and Programme of Action but also underlined in the Article 1 of the International Covenant on Economic Social and Cultural Rights and International Covenant on Civil and Political Rights; This would ensure justice to the victim communities without a doubt as successive governments have failed to do so.