



COERCION, CRUELTY AND COLLATERAL DAMAGE

An assessment of grave violations of children's rights in conflict zones of southern Burma



Woman and Child Rights Project, January, 2012

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**By
Woman and Child Rights Project (WCRP)
Human Rights Foundation of Monland
January 2012**

The Woman and Child Rights Project

The Woman and Child Rights Project (WCRP) was founded in 2000 by members of the Human Rights Foundation of Monland (HURFOM) in order to monitor and protect the rights of women and children in southern Burma. WCRP promotes and protects the rights of women and children according to the Convention on Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC), which the Burmese government signed in 1997 and 1991, respectively. WCRP hopes that through documentation, advocacy, capacity building, campaigning, community training, workshops, and education, change can be realized.

Human Rights Foundation of Monland—Burma (HURFOM)

The Human Rights Foundation of Monland—Burma is a non-governmental local human rights organization formed in 1995 by Mon students, Mon youth and community leaders displaced from Mon areas in the lower part of Burma. The objectives of HURFOM are:

- To monitor the human rights situation in Mon territory and the southern part of Burma
- To protect and promote internationally recognized human rights in Burma

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Acronyms and Notes on Terminology

HURFOM	Human Rights Foundation of Monland, a non-governmental organization that works for the restoration of democracy, human rights and genuine peace in Burma
KNU/KNLA	Karen National Union/Karen National Liberation Army, a non-state armed group operating in Karen ethnic areas that is currently engaged in active conflict with the government
LIB	Light Infantry Battalion
MRM	Monitoring and Reporting Mechanism called for in UNSC Resolution 1612 to address grave violations of children's rights in armed conflict
NMSP/MNLA	New Mon State Party/Mon National Liberation Army, a non-state armed group operating in Mon ethnic areas that has signed a ceasefire agreement with the government
<i>Pyi thu sit</i>	Village Militia that serves as a proxy force for the Tatmadaw and is used by the government to monitor the conduct of villagers and the activity of non-state armed groups
SPDC	State Peace and Development Council, the official name of the ruling military regime prior to March 2011
<i>Tatmadaw</i>	Burma's Military
UNHCR	Office of the United Nations High Commissioner for Refugees
WCRP	Women and Child Rights Project, a non-governmental organization formed to monitor and protect the rights of women and children in southern Burma

This report refers to the country as "Burma." The military government officially changed the country's name to "Myanmar" in 1989, though neither opposition groups nor the international community have universally accepted the switch. The United States, United Kingdom, Australia and Canada, for instance, continue to use "Burma" rather than "Myanmar."

Executive Summary

Research by the Women and Child Rights Project (WCRP) has demonstrated that grave violations of children's rights continue to occur in southern Burma despite the creation, by the United Nations, of the Monitoring and Reporting Mechanism (MRM) pursuant to United Nations Security Council (UNSC) Resolution 1612 on Children and Armed Conflict passed in 2005.

The Burmese government has failed to meet the time-bound action plan under Resolution 1612, demonstrated by the fact that WCRP researchers found numerous accounts of 'grave violations' under United Nations Security Council's Resolution 1612 on children and armed conflict. These violations, committed by Burmese soldiers against children in southern Burma, include recruitment of child soldiers, killing and maiming, rape and sexual abuse, and forced labor. Though the Burmese government agreed to the implementation of a monitoring and reporting mechanism (MRM), pursuant to Resolution 1612, to report on instances of these grave violations, WCRP has found that abuses have continued unabated since 2005.

The data detailed below provide evidence of widespread and systematic abuses, the vast majority of which were committed by soldiers from the *Tatmadaw*, the Burmese military. These confirmed cases of grave violations, taken from just 15 villages in two townships, committed over a period of 5 years, suggest that the Burmese government has failed to live up to its obligations under international law to protect children during situations of armed conflict. Limitations imposed by the Burmese government on the UN country team has made it difficult for them to receive, or verify, accounts of grave violations, in turn preventing the MRM from making a noticeable impact on the continued widespread abuse of children in southern Burma. WCRP's data strongly suggests that the real numbers of abuses against children is vastly greater than officially recognized.

Additionally, despite the fact that WCRP's primary research covered only the period from 2005 through November 2010, recent updated reports suggest that all of the violations documented by WCRP have continued to occur over the course of the past year. Despite the political changes that may be underway in Naypyidaw, children in areas where armed conflict is ongoing continue to suffer grave violations. Thus, the international community must take further action to ensure that the MRM can effectively protect the rights of Burma's children and realize the objective put forth in Resolution 1612, an end to the grave violations of children's rights.

Methodology

This report is based on field research conducted by WCRP between May and October 2010 which involved interviews with local residents in 15 villages in Ye Township, Mon State and Yebhyu Township, Tenneserim Division, southern Burma. The cases documented by WCRP researchers detail abuses between the first year of the MRM's operation, 2005, and September 2010. Many of the areas in which research was conducted are still partially contested by the *Tatmadaw* and local armed resistance groups¹. These communities are heavily militarized, and as a result, significant security measures were taken to protect the safety of both researchers and interview subjects. Interviews with victims and witnesses of grave violations were conducted only in secure situations and only with those who were not connected in any way to *Tatmadaw* forces. Additionally, names that appear in this report have been changed to ensure the autonomy of the interviewee.

Although this resulted in a selective, rather than random, sampling of violations, it was necessary to avoid putting researchers in danger and to ensure that villagers who spoke with the researchers

¹ All data gathered by WCRP researchers and used in the completion of this report is available on the website of the Human Rights Foundation of Monland at www.rehmonya.org

would not be targeted for reprisal attacks. These interviews are only a sample and are not intended to represent quantitative results. What they do show is a consistent trend of grave violations committed amongst residents in two townships in Mon State, Burma. It is quite likely that, given the limitations on WCRP's ability to gather data, many more instances of grave violations of children's rights are taking place in southern Burma than are documented here.

All details in the data collected by WCRP researchers are checked with at least one other person from the same area with knowledge of the incident but who is unrelated to the original complainant. In the majority of cases, the facts are verified by two or more additional sources. A number of the cases for which sufficient details have been confirmed have been reported to UNICEF which files cases through the Monitoring and Reporting Mechanism run by the Thailand Country Team.

While all of the data used for this report was collected before the November 2010 elections, recent cases demonstrate that the violations documented here are continuing unabated. Information about several recent instances of grave violations is included below.

Background

Decades of conflict and repression by Burma's military dominated government has created the conditions under which the grave violations continue to be perpetrated on a regular basis. Since 1962 Burma has been the scene of wide scale conflict pitting the *Tatmadaw*, against a wide range of non-state armed groups (NSAGs), fighting on behalf of ethnic political organizations seeking to resist the domination of the government and achieve some level of autonomy for their people. In the late 1980s and early 1990s many NSAGs reached ceasefire agreements with the government.

Other armed groups have refused ceasefires and have continued to engage in armed resistance against the government.



Tatmadaw unit outside approaching a village in Mon State

The *Tatmadaw* has gained territorial dominance over most of the country by directly targeting civilian communities through the use of the "Four Cuts" policy under which the government seeks to undermine support for NSAGs by cutting off their access to food, funds, information and recruits. This policy has been used to justify numerous gross human rights violations committed against children. These violations have been documented by WCRP and other human rights groups based along the Thailand-Burma border with access to regions that see the frequent presence of *Tatmadaw* troops.

Though a nominally civilian government was elected in November 2010, the military continues to dominate state policy, and grave violations against children are still committed with impunity. The armed conflict between the *Tatmadaw* and the NSAGs has continued, and in many cases, longstanding ceasefires have been broken with renewed fighting in formerly peaceful areas leading

is to an increase in human rights abuses. The new constitution sets the stage for further conflict, as it denies political equality and basic human rights to the ethnic nationalities.

The day after the 2010 elections fighting erupted between the *Tatmadaw* and a faction of the Democratic Karen Buddhist Army that had previously been allied with the Burmese government. While fighting continues in Karen areas along the Thai border, the *Tatmadaw* also broke a seventeen year ceasefire with the Kachin Independence Army (KIA). New offensives have been launched against Kachin, Karen and Shan NSAGs and, as has been the *Tatmadaw's* longstanding practice, against entire ethnic communities. With this expanded fighting, an increase in human rights abuses, including grave violations of children's rights like those described in this report, have been documented by a number of civil society groups.

The findings of this report support the recent comments by the International Labor Organization, comments by the Special Rapporteur on the situation of human rights in Burma, Thomas Ojea Quintana, and the recent UN Resolution on Children and Armed Conflict. In particular, forced labor and military recruitment practices documented in this report provide further evidence that concerns raised by the Secretary-General's report are well-founded:

Credible reports indicate that, in addition to children who are officially recruited into the Tatmadaw, children are used by the Tatmadaw as porters, and as labor for road construction, kitchen work, farming, and aides-de-camp to high-ranking officers. Reports also confirm the recruitment and use of children by village militias known as "Pyi thu sit."

As noted in the report of the UN Secretary-General in April 2011, recent numbers of reported child soldiers remain low, but this is not because few children are recruited as soldiers. Rather, as the Secretary-General noted, "this most likely does not represent the total number of children recruited...". This under reporting often is due to the lack of awareness of reporting mechanisms, the difficulty families of child soldiers face in seeking to access these mechanism and the threat faced by families who risk judiciary or retaliatory action should they seek to file a report.

Continued failure by the *Tatmadaw* to grant members of the UN country task force free and regular access to regions where conflict continues, or even to many ethnic areas under the control of the military, undermines the ability of the task force to accurately report on, or confirm, cases of grave violations. The International Campaign to Ban Land Mines has also expressed concern that their Mine Risk Education (MRE) programs in areas where landmine use is of particular concern are limited by humanitarian access restrictions. This blanket effort to deny monitoring or support programs means that, in many cases, information about grave violations does not become available until years later, if at all. As a result, many of the cases documented for this report have so far gone unreported. This is not unique to WCRP's research, as the UN Secretary-General noted, "There were many additional allegations in 2010 of children being directly targeted and killed and maimed by parties to the conflict...".

The data in this report demonstrates that numerous grave violations, in addition to those conveyed to the MRM have been occurring over the course of the past five years. These abuses have continued despite visits, and articulation of concerns regarding the rights of children in conflict areas, by the Special Rapporteur and Secretary-General, and the implementation of the MRM action plan. The research and analysis conducted by WCRP, especially when combined with the data collected by numerous civil society groups, indicates the urgent need for the international community to take action to ensure that these crimes, currently perpetrated with impunity, are halted.

Existing International Legal Standards

In 2005, in response to the UN Secretary-General's report on children and armed conflict, the UN Security Council passed Resolution 1612, aimed at addressing serious human rights abuses perpetrated against children in armed conflict. The resolution outlined six "grave violations" of children's rights in conflict zones:

1. Killing or maiming of children
2. Recruitment or use of child soldiers
3. Attacks against schools or hospitals
4. Rape or other grave sexual violence against children
5. Abduction of children
6. Denial of humanitarian access to children

Resolution 1612 established a framework aimed at providing the much-needed attention regarding the grave violations of children's rights. This framework consists of regular Secretary-General's Reports, a task force of UN agencies, a working group on children in armed conflict and a monitoring and reporting mechanism (MRM).² The MRM was established in order to document and share information on the commission of these violations.

Pursuant to Resolution 1612, all parties, be they governments or Non-State Armed Groups (NSAGs), found to be involved in the recruitment of child soldiers are automatically listed in the Secretary-General's annual report on Children and Armed Conflict. Listing in this report triggers enhanced monitoring in the country and directs the UN to work with the violator to create time-bound action plans to eradicate the use of child soldiers. The *Tatmadaw* has been listed as a recruiter of child soldiers in multiple reports by the Secretary-General, including the most recent. As of yet, this listing and increased UN attention to the situation has not resulted in significant progress towards ending the use of child soldiers in Burma. As the evidence provided below demonstrates, this is, in part, due to the fact that a shockingly small number of people who experience violations children's rights actually use the MRM. Additionally, the Burmese government's refusal to permit the UN to work with a number of NSAGs that have been listed as recruiting child soldiers has prevented the UN from creating action plans to demobilize children from these groups.

In 2009, UNSC Resolution 1882 was passed, highlighting two additional violations that would 'trigger' listing in the Secretary-General's annual report on children and armed conflict and the attendant increased monitoring and need for time-bound action plans. These are the killing and maiming of children and rape and other forms of sexual violence against children. More recently, in July 2011, the UN Security Council passed Resolution 1998 which added attacks against schools or hospitals to the types of violations that 'trigger' listing in the Secretary-General's report. The purpose of these resolutions is to guarantee immediate 'shaming' in the Secretary-General's annual report and thereby pressure perpetrators of the four 'triggers' to implement immediate action plans to end the violations.

In addition to the Security Council's resolutions on Children and Armed Conflict there are numerous other international instruments that address violations of children's rights. Most notable among those that have been ratified by Burma are the Convention on the Rights of the Child (CRC) and the Forced Labour Convention. The CRC contains a host of other provisions related to children's rights, most applicable to the analysis contained in this report is the requirement that, "States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict." The Forced Labour Convention prohibits all forms of forced or compulsory labor for children below the age of 18.

² See <http://www.un.org/children/conflict/english/monitoringreporting.html>

Along with the above international instruments and jurisprudence, there are a number of domestic laws in place that require protection of the rights of the child. These include:

- Child Law (1993)
- Rules and Regulations related to the Child Law (2001)
- Unnamed orders of 1999 and 2000 amounting to accession of ILO Forced Labor Convention, 1930 (No. 29)
- Plan of Action for the Elimination of Forced Labor established in collaboration with ILO

Despite the existence of these laws that purport to protect the rights of children in Burma, the daily reality for children living in conflict zones throughout Burma is one of fear and abuse. The findings from WCRP's research demonstrate that neither international nor domestic law, nor the existence of the MRM, have been successful in preventing grave violations of children's rights.

Analysis of Findings

Below, WCRP provides data and analysis that assesses the violations of children's rights in southern Burma, with a focus on the grave violations described by the Security Council in Resolution 1612. WCRP's research demonstrates that the recruitment of child soldiers and use of children for forced labor are prevalent and killing, maiming, rape, and sexual assault are also being perpetrated against children in southern Burma.

Recruitment and Use of Child Soldiers

vThe *Additional Protocols to the Geneva Conventions* and the *Convention on the Rights of the Child* prohibit the recruitment and use of children under the age of 15 in hostilities. The recruitment or use of a child under the age of 15 as a soldier is a war crime by customary international law and as such applies universally, to all parties to all conflicts, whether they are international or non-international.³ The *Rome Statute of the International Criminal Court* reflects this, as do all statutes of the UN-endorsed international tribunals.



Child Soldiers receiving training from the *Tatmadaw*

The *Convention No. 182 on the Worst Forms of Child Labor* by the International Labor Organization (ILO) declares that the recruitment as soldiers of children below the age of 18 constitutes "one of the worst forms of child labor." The ILO recommended that all nations criminalize child recruitment

³ In 2004 the *Special Court for Sierra Leone* ruled in the *Hinga Norman case* that the recruitment and use of children in armed conflict is also a war crime under customary international law.

although Burma is not a party to Convention 182. Burma has also passed domestic legislation to this effect.⁴

Village Militias and Military service

Direct recruitment of children into the *Tatmadaw* has been documented by numerous NGOs⁵ and UN bodies. However, WCRP's research has demonstrated that recruitment of children into village guards and militias established by the *Tatmadaw* is also of major concern. The government establishes these village guards and militias which exist temporarily for the duration of the *Tatmadaw's* stay in a particular village, which can be anywhere from a few days to a month or more. These militias and guards serve a range of purposes, including defending against attacks by the NSAGs while the *Tatmadaw* is staying in or around the village, assessing which residents in the village are possible candidates for future recruitment into the *Tatmadaw*, and acting as a pro-government surveillance body. These militias can be activated or disbanded based on orders from the local battalion commander, frequently they will be reactivated for purposes not related to the village security, but rather to tax the local community, enforce the government's policies, or provide a form of constant intimidation over residents even when the military is not present.

Methods of Recruitment

The recruitment of children as soldiers by the *Tatmadaw*, or into local militias serving as proxy forces for the government, disregards international standard age of minimum recruitment, and has allowed children as young as 11 to enter into service. Additionally, while nearly all of the methods of recruitment described below require a "representative from the family" to consent to the recruitment, this does not make such recruitment acceptable. Such consent by members of the child's family does not demonstrate a genuine desire on the part of parents to have their child serve in the military. Rather consent is often the only option parents have, due to pressure by the military representative doing the recruiting, fear of repercussions if they refuse, or because allowing a child to serve may be seen as the least harmful choice when the family is forced to provide a member for militia service. This is because many parents must invest their time in paying employment if the family is to have enough money to pay for food, shelter, medical care, etc. If a family cannot provide an individual for militia service, they must pay a fine that is equal to around a week's wages, which can be catastrophic for the family's livelihood. Regardless of the method of selection used, and the ostensible consent from the family, it is the responsibility of the *Tatmadaw* to ensure that recruits, and those serving in proxy militias, are of legal age.

WCRP has documented 4 different methods of recruitment for children as village guards or into village militias which are described below. The methods described are those that were documented as part of incidents that occurred since 2005 in Ye Township, Mon State, and Yebyu Township, Tenasserim Division, and reported to WCRP. Children recruited ranged in age from the youngest at 10 to 17 years old, with a median age of 15, and included both boys and girls.

- **Lottery System**

Tatmadaw units often use a lottery system to recruit local residents into a 'village militia' that is used as an auxiliary force to control villagers, guard against attacks from NSAGs, and conduct arbitrary taxation, amongst other tasks. Using a lottery system to conduct recruitment may be an attempt to make the compulsory nature of the recruitment less apparent. Village headmen are tasked with drawing up a list of participating families in the village. A member from each family must draw a ticket from a box which will determine

⁴ Details can be found under the Child Law (1993); Rules and Regulations related to the Child Law (2001); Unnamed Orders of 1999 and 2000 amounting to accession of ILO Forced Labor Convention, 1930 (No. 29); Plan of Action for the Elimination of Forced Labor established in collaboration with ILO

⁵ See, for example, Watchlist on Children and Armed Conflict, "No More Denial: Children affected by Armed Conflict in Myanmar (Burma)", May 2009.

whether that family is required to participate in the militia. Although half of the tickets are supposedly marked with an indicator that the family does not have to send a member to participate in the militia, in practice it is rare for families to receive such a ticket. If a family is selected to send a member, the family is forced to make a choice between sending an adult or a child and, since adults must work to earn a daily wage to provide for the family, this often results in the sending of a child.

- **Rotation**

In a more direct method of recruitment, families must take turns providing one member to work in the village militia based upon a basic rotation system. Again, children are often selected by families to fill this role so that the adults can work to meet the family's basic livelihood needs.

- **Delegation to Village Headman**

In this form of recruitment, orders are given to the local village headman to provide a certain number of recruits for the village militia or the local *Tatmadaw* battalion. Village headmen are frequent targets of human rights abuses when the *Tatmadaw* comes under attack from NSAGs in the area, or suspect that NSAGs are receiving support from villagers, and face severe penalties if they fail to comply with orders from the *Tatmadaw*. In this case residents are selected by the village head to meet the battalion request, and are forced to join the battalion or militia. As is the case with other forms of recruitment, children are often selected by the headman to allow adults to work in paid employment to provide for their families.

- **Specific Recruitment**

On rare occasions, the SPDC demands particular villagers to participate in the village guard or village militia. This is generally used when the SPDC wishes to punish an individual or a family for some real or perceived infraction. In such cases, given the retributive purpose for which the person is recruited, the recruit's service is more likely to be dangerous or to have other negative consequences for the individual.

Duties of Children While Serving

The tasks required of the militia members vary but generally include assisting the local battalion in guarding the village, patrolling the area, serving as a look-out at village entry points, reporting on the activities carried out by local residents, and acting as messengers for commanders. However, members of militias have also been used as porters to carry heavy items for *Tatmadaw* battalions as well as human shields and human minesweepers. Specifically, in areas still contested by ethnic armed groups, militia members will be forced to walk ahead of the *Tatmadaw* units, in order to bear the brunt of ambushes or detonate landmines that



Child soldier collecting tolls for the *Tatmadaw*

have been placed on the road. Militia members have no say in how they are used by *Tatmadaw* units and are under the direct control of the military.

A father of one child describes an incident in southern Ye Township, Mon State, in which five children ranging in age from 12 to 14 years old were forced to join the village militia. The recruitment was conducted by a unit from Infantry Battalion (IB) No. 31. The children served for three months, and their primary responsibility was patrolling the village to look for NSAGs. Soldiers instructed the children in the use of guns and provided the children with guns or knives to use while on patrol. The children were mainly used as night guards and were taught to ring a bell if they saw one of the NSAGs approaching. During the day the children were allowed to visit their homes, although at night they were forced to stand guard. The Burmese troops were not too strict with the children and the father felt the experience was a trial run so that later on they could induct the children more easily into a permanent force. The father explained that:

Children were taught how to shout at ordinary villagers, how to ask [for] money and other property from villagers, especially the shopkeepers in the market. So, some villagers hate them even though they see these children were [being used] by the Burmese soldiers. So, I got very worried that my child would keep this attitude later.

According to a 16-year-old boy who was recruited to his village's militia through a lottery system:

I was in the militia representing my cousin's family. My cousin is only 12 years old, and lives alone with his grandmother. If they did not give someone from the family to the militia, then they would have been arrested and beaten, so I had to stand for their family. My father represented my family.

Mhem Pine Non, an 18-year-old boy now living in Thailand, said:

I fled from my village over two months ago to avoid being in the village militia after I was chosen in the ballot. I don't want to be in village militia. When I was in my village I was forced to guard and do other types of hard labor very often. [...] I am okay, I can cope, but I feel very worried and sad for two of my cousins who are still studying. They are only 12 and 14 years old, and they are also forced to guard the whole night without sleep and then in the morning they have to go to school. I am sure they are sleepy when they are at school. I think they have to drop out of the school soon like me.

A 17-year-old, Mhem Seik Mon, who worked as a village guard in southern Ye Township from the middle of 2008 until he fled to Thailand at the end of 2009, explained:

We had to guard the Burmese soldiers all the time. When they were sleeping, we could not sleep even though we were very tired and wanted to sleep very much, because if the soldiers see that we are asleep, we would get fined and have to give the soldiers money – 5,000 kyat per time, or food such as pigs and chickens that belong to our families for the soldier's food. I fled to Thailand. The other children are probably still working as guards.

According to a 63-year-old father:

The SPDC establishes these militias from the villagers because the [NSAG] members are usually from the local villages and they know the villagers. They will be reluctant to attack their friends or family, and if they do attack, it will be the locals who are killed. The [NSAGs] do not attack when they know a militia has been established comprising of local villagers.

Non-State Armed Groups (NSAGs)

None of the children who had served in militia or army units have been active in the service of NSAGs. While evidence has indicated that recruitment of child soldiers by other NSAGs does occur, WCRP was not able to document any cases of such recruitment and thus the use of child soldiers by NSAGs is beyond the scope of this report.

Despite the fact this report does not directly address the behavior of NSAGs, WCRP believes that these groups must also be held accountable for recruitment of child soldiers. WCRP has met with Lt. Col. Nai Jartar Marn of the Mon National Liberation Army (MNLA), the armed wing of the New Mon State Party (NMSPP), which is the principle NSAG operating in the area where research for this report was conducted. During this meeting, Lt. Col. Nai Jartar Marn highlighted the fact that the group's constitution adopted in 1958 prohibits the recruitment of child soldiers, and the NMSPP takes active steps to prevent recruitment of children and rehabilitate those who have already served.

Killing and Maiming

Prohibitions against killing or otherwise targeting of civilians as part of armed conflict are enshrined in the principles of humanitarian and international human rights law. The principle of distinction is considered one of the cardinal principles of international law and requires that a distinction be made between combatants and civilians and that attacks not be directed against civilians. The principle of *proportionality* prohibits launching military attacks in the knowledge that they will cause incidental loss of civilian life which will be excessive in relation to the direct military gain. Violation of either of these principles constitutes a war crime. The *Tatmadaw* completely disregards these principles and deliberately targets civilians through the laying of landmines in civilian areas, the shelling of human villages, forced recruitment of child soldiers, and the use of human shields. Most cases of children being killed or injured accidentally in fighting have occurred when *Tatmadaw* troops directly targeted a village or other civilian area.

In the southern Ye and Yepyu Townships, the protracted civil war has meant that children continue to be victims of violent attacks, perpetrated by the *Tatmadaw*. While many children escape with relatively minor injuries, the duration of the conflict, the regularity of open fighting between government and armed ethnic forces, and the lack of care taken to prevent injury to children all mean that the killing or serious injury of children continues to occur. This has become an increasing concern as violence has increased and formerly calm areas have begun to see conflict since the November 2010 elections.

WCRP researchers collected reports of three situations in which children were killed or maimed:

- **Direct attacks**

Direct attacks are those in which children were specifically targeted. WCRP has documented four cases of the extra-judicial execution of children by *Tatmadaw* soldiers. The children were shot and after being accused of supporting a NSAG. There was no trial, and no chance for the children to defend themselves.

According to a villager, who has fled to territory under the control of the NMSPP, described to WCRP field researchers two incidents, both of which occurred in southern Ye Township. In the first case, two brothers, age 12 and 17 years old, were shot and killed by SPDC soldiers from a battalion believed to be either LIB No. 273 or No. 282 from Yebyu Township. In the second incident, in October 2009, two novice monks, aged 14 and 15 years old, were shot by Burmese soldiers outside their monastery around 4pm, also in southern Ye Township. A villager informed WCRP researchers that:

In the evening, the two went back home from their farm. They met with the soldier half way home. The soldiers accused the boys of supporting a [NSAG]. Then the soldier shot the boys as they were walking home from their farm. Also the Burmese soldier from a Tavoy battalion killed two child novices. The soldiers suspected them of supporting a [NSAG]. The boys were not questioned before they were shot. The abbot of the temple has followed this case, and he asked the SPDC for the reason the boys were killed and evidence of their guilt but soldiers denied the shooting took place.

- **Indirect attacks**

Indirect attacks are those cases in which children were killed or injured by weapons fired either indiscriminately, or fired at a particular target but went astray striking unintended targets. WCRP received reports of one child being killed and three children being injured as a result of such indiscriminate attacks.

According to a resident, in March 2008, between 6 and 7pm a bomb was thrown into Khaw Zar village, Ye Township by an unknown attacker. Two children were injured during the explosion. The children, who were 12 and 14 years old, were immediately rushed to Ye Hospital. According to a villager, soldiers often open fire on the village at random:

They shoot their guns carelessly, to frighten the villagers. [In attacks] instead of fighting the NSAGs they just shoot in and around the village; this happens very often. When I was forced to porter for the soldiers, they would open fire randomly, not aiming at anything.

In another instance, a girl was killed when *Tatmadaw* forces converged on the area to fight NSAGs who were staying in her home. A villager explained to WCRP researcher that:

*A young girl aged 6 was killed by the SPDC LIB No. 282 in the east of Moulmein-Tavoy motor road near Kaloin Ong (Kalein Aung in Burmese) of Yebyu Township. In the evening, a Mon NSAG arrived at her hut to stay for a day. The next early morning around six, her parents went to the plantation. After two hours later, the *Tatmadaw* soldier and the NSAG exchanged a short round of gunfire around her hut. At that time, she was in her hut but she try to get outside. Unfortunately she was killed by the *Tatmadaw* soldier. Two hours later, her parents ran back to the hut and the *Tatmadaw* soldier tried to arrest her parents.*

- **Landmines**

Landmines are present in more than 10% of Burma. They have been planted by the *Tatmadaw* and many NSAGs over the course of decades, and Burma is one of only a handful of countries that continues to lay new landmines. Even in areas where conflict is not presently taking place and no new landmines are being laid down, forgotten mines laid down years ago continue to pose a threat to civilians. The Burmese government has undertaken virtually no demining or mine education programs.

While the laying of landmines is not, on its own, a violation of international humanitarian law, the laying of these mines in civilian areas of little military value and the direct targeting of civilians in the laying of mines violate the principles of distinction and proportionality. Employed widely as part of the government's 'four cuts' campaign, landmines are effectively used as a weapon of terror by Burmese forces to ensure that a depopulated area would remain so. After destroying crops and homes to wipe out villages, and ensure the resettlement of residents to a government controlled area, soldiers from the *Tatmadaw* frequently plant landmines throughout the village to ensure the area would be unsafe for

the villagers to return home.⁶ Also as part of its four cuts campaign, *Tatmadaw* soldiers often plan landmines around fields to prevent villagers from cultivating crops that could potentially be used to feed NSAGs.

However, NSAGs also rely on the mines to set up defensive perimeters. As mines trigger indiscriminately, a forgotten defensive line, or failure to communicate the location of mines to local residents can be catastrophic. Because of the extensive use of mines by both the *Tatmadaw* and the NSAGs, in many areas civilians are in constant danger of stepping on landmines while going about their daily lives. Children, who often work alongside adults or run errands for the family, are among the victims of these weapons. Additionally, because young children are often attracted to the shiny metallic mines, they may be at increased risk of injury.

According to a 48-year-old man from Khaw Zar, in 2007, a 16-year-old novice monk stepped on a landmine near a pagoda in Mihtawhlalay village, southern Ye Township:

His leg was lost in the explosion. After the explosion he was sent to Ye Hospital. Ye authorities visited the boy in the hospital but no report was filed. Villagers think the land mine was placed by the SPDC because troops often move through the area and they assume that a NSAG is in contact with the temple. He uses bamboo to replace his leg.

Rape or other forms of sexual violence against children

Rape and other sexual violence committed against children constitute a breach of numerous international legal instruments including the CRC and the Geneva Conventions. In situations of armed conflict, rape perpetrated by soldiers is a war crime, and, when perpetrated in a widespread and systematic manner, may also constitute a crime against humanity.

WCRP documented five instances of rape of young girls by a *Tatmadaw* soldier. Because rape and sexual violence are stigmatized within local Burmese and Mon culture, frequently, instances of rape end in forced marriage, or the rejection of the victim as a member of society. In the cases that WCRP documented, all of the girls were subsequently forced to marry their attacker. It is crucial to note that cases of sexual violence are exceedingly hard to document and confirm as the same stigma against rape or sexual violence silences victims and their families. Often families will opt to either move, retreat from the community, or send the girl away after she experiences sexual violence, effectively further victimizing the child.

According to a resident of Grunggaryar village, southern Ye Township, a local girl, now 17, was abducted at age 16. While she was out of the house, a *Tatmadaw* soldier from LIB No. 31 abducted her from the street and took her to his base camp where he raped her. In accordance with the prevailing customs in the area, a wedding was expected to be conducted. Although both the girl and her parents objected, the soldier married the victim the following day and she was forced to live at the base camp with him.

According to a resident from the village where it occurred, two *Tatmadaw* soldiers from LIB No. 587 were on guard duty for their commander, Sergeant Myint Maung, and raped a 13-year-old school girl. Her parents had been detained a short distance from where she was raped, and could hear their daughter shouting for help but they could not help her.

⁶ IRIN, " Myanmar: Landmines take toll on livelihoods in east", 10 October 2011.

Forced Labor

WCRP researchers documented 114 cases of children being forced to provide labor for military camps and government projects since 2005. The median age was 14.5 years, with the youngest child being 8 years old. In these cases, 54% of the victims of forced labor were girls and 46% were boys. Children were given manual labor tasks or required to perform guard duty, but never received a wage. Tasks often involved work in inclement weather and



Children providing forced labor for road building as ordered by state authorities

hazardous conditions, for long hours, and under the watchful eye of armed soldiers. This forced labor frequently prevented the children from attending school. The United States Department of State's 2010 *Trafficking in Persons Report*, in regards to Burma, notes that, "the regime's widespread use of and lack of accountability in forced labor and recruitment of child soldiers is particularly worrying and represents the top causal factor for Burma's significant trafficking problem."⁷

In many cases this forced labor, particularly where children are taken away from their homes and prevented from leaving the worksite, constitutes the grave violation of abduction. In Resolution 1539 the UN Security Council defined, abduction as "the removal, seizure, apprehension, taking, taking custody, detention or capture of a person under the age of 18 years either temporarily or permanently by force, threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power or deception for the purpose of any form of exploitation of such person under the age of 18 years – this includes but is not limited to ... forced labour."

Even if many of the instances of forced labor do not rise to the level of the grave violation of abduction, they all constitute violations of Burma's international legal obligations. Numerous international treaties include measures protecting children from forced labor. Notable among these is the CRC which, in article 32, provides that, "States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development."

Due to the high level of militarization in southern Burma, the *Tatmadaw* demands that villagers provide labor for their projects on a regular basis. The tasks civilians are forced to undertake include guard duty for camps, intensive manual labor such as digging ground for construction projects, maintaining roads and buildings, portering goods for military forces, and even walking ahead of *Tatmadaw* columns in order to trip landmines. Children in southern Burma are not exempt from these demands and must frequently miss school to work for no money under threat of violence. Demands for labor by military forces are often passed on to a child, similar to what happens in

⁷ For further information see, WCRP, "Nowhere else to go", August 2009.

response to demands that families produce recruits for a village militia, because adults need to continue work for a daily wage, without which the family would face immediate livelihood challenges. As the ILO reported in 2010, forced labor used by the military continues to be one of the most enduring and damaging labor abuses.

Nai Ong Mon, a former village headman from a village in southern Ye Township, explained how he was forced to participate in the recruitment of children for forced labor. In a village of 50 households, children as young as 8 years old were forced into labor, and every child had performed some type of forced labor by the age of 15. The primary responsibility of the children entailed building roads inside the military camp:

I used to collect the villagers to go and work when they were ordered to do so by the SPDC. We would get the order from the soldiers almost every day for at least 10 people to go to work for them. If there were 10 people doing the work, at least 5 of them would be under 18. Eventually, I could not do it any more, I could not bring myself to follow the orders of the soldiers. I quit my position and fled my village.

A 13-year-old boy from Khawzar Sub-Township, Ye Township, was forced to porter soil to a construction site where villagers were repairing a stretch of the main road. The victim performed this task from 6am until 6pm and was not able to attend school. Armed soldiers supervised the work and intimidated the child, as well as the other workers. The child explained that many villagers must participate in unpaid labor every day, including other children.

A 50-year-old villager from Khawzar Sub-Township, Ye Township, said that in 2008 three boys, ages 10, 14 and 15, were randomly selected by the village headman under pressure from the *Tatmadaw* to work in the army camp stationed near their village. The three children worked from sunrise to sunset digging ditches, repairing roads, carrying soil and building fences around the camp:

The children can only go to school when it is the turn of other households to do the forced labor. If it is their family's turn, then they must work, because their families are too poor to pay the fine, or for their parents to take time away from their paid work.



Children forced to labor in a *Tatmadaw* camp

Additional Grave Violations

WCRP's research in 15 villages in Ye and Yehbyu Townships did not find any incidents of attacks against schools and hospitals or denial of humanitarian aid, the other two grave violations, between 2005 and 2010. However, it is important to highlight the presence such abuses in other areas of Burma. In areas more heavily contested, abundant evidence of attacks against schools and hospitals are shown to have occurred.⁸ Similarly, in areas where heavy fighting is ongoing, the government has frequently prevented humanitarian assistance from reaching those in need, including children. There is thus reason to be concerned that, should the ceasefire between the *Tatmadaw* and the NMSA be breached, and open conflict reemerge, that these grave violations will impact children in the areas where WCRP has conducted its research.

Updated Information

WCRP researchers returned to areas of southern Burma between September and October 2011 and gathered information about instances of human rights abuses perpetrated against children since the November 2010 elections. This research suggests that the situation for children in southern Burma has not improved and grave violations of children's rights continue to be perpetrated with impunity. For example, two instances of children being killed during armed conflict, one on 10 November 2010 and one on 5 June 2011, were documented with one victim dying as a result of shrapnel from an explosion and one dying from a gunshot wound. On 21 October 2011, Burmese Captain Way Lin Phyoo of IB No. 31 attempted to rape a 12-year-old girl living in Pai Karain Khawzar village, Khawzar Sub-Township, Ye Township. On 24 October, the victim was brought to the headquarters of Battalion No. 31 and instructed not to tell anyone of the incident and to deny that it took place.

Four children, ages 14, 15, 15 and 17, were reportedly recruited by LIB 282 to serve as guards in Ale-Sa-Khang village, Yebyu Township since June 2011. According to villagers:

Children were forced to work as guards for the village headman and SPDC's military base in the area. As guards, they have to protect the soldiers the whole night and day. The children have to hold the security tools, such as guns or knife. The whole night they had to be up, hiding in trees, watching out for strangers who could come near the camp. Three times a night they had to "ring the bell", which is used as a communication signal between the camps, as a sign that they noticed armed groups approaching.

Additionally, numerous children from Kao Mine village were reportedly engaged in forced labor in September 2011.

Conclusion

It is clear from the cases documented by WCRP that, since 2005, the *Tatmadaw* has engaged in multiple grave violations of the rights of children. It is also clear that the recent elections and highly touted "reforms" underway in the country have not included measures to put an end to these violations. The continued failure of the Burmese government to meet its international legal obligations, including those specifically referenced in Resolution 1612, combined with the UN country team's inability to independently verify, and address, the instances of grave violations demonstrates the need for further action to protect the rights of Burma's children.

⁸ Other border-based research organizations have documented further grave violations against children in eastern Burma. See, for example, Karen Human Rights Group, "Attacks on Health and Education: Trends and incidents from eastern Burma, 2010-2011", 6 December 2011.

On some occasions the child victims are directly targeted, while on others, the soldiers are simply indifferent to the terrible consequences of their actions. In both cases, the Burmese government is failing in its moral and legal obligations to protect the weakest and most vulnerable members of society. Given the long duration of the military rule and the period over which violations such as those documented in this report have been occurring, it is clear that the Burmese government disregards the importance of safeguarding the welfare of its children. The Burmese government is well aware of its domestic and international legal obligations and continues to flout them. Now is the time for international organizations, such as the United Nations and its agencies like UNICEF and ILO to take all available measures to end the grave violations perpetrated against children.

Recommendations

To the UN Burma and Thailand Country Teams:

- Engage actively with the MRM by cooperating with NGOs and civil society organizations to share information and resources and providing UNICEF with timely and accurate case reports;
- The MRM Task Forces in Thailand and Burma should increase their level of cooperation with border-based civil society organizations. This would include strengthening the technical and financial capacities of the NGOs and working in close partnership with them to ensure that the information submitted to the UN follows UN reporting standards;
- Take steps to increase public awareness of the MRM within Burma to improve the MRM's ability to document cases of grave violations against children; and
- Work with the Burmese government to ensure that there is no retaliation against those providing reports to the MRM.

To the UN Security Council:

- Call on the Burmese government to immediately cease all violations against children, including establishing deadlines for effecting compliance with international standards. If tangible progress is not achieved within a specified time frame the Security Council should impose targeted measures in line with Resolutions 1539 and 1612;
- Demand that the Burmese government lift all restrictions on access and independent movement for UN agencies and humanitarian organizations in conflict areas;
- Allow the office of the Special Representative for Children and Armed Conflict to work with NSAGs towards creating a time-bound action plan to end recruitment of child soldiers by the NSAGs;
- Impose a global arms embargo on Burma;
- Use existing mechanisms of resolution 1612 and 1882 to bring justice and end impunity to the perpetrators of the child rights violations in armed conflict situation; and
- Establish a commission of inquiry into war crimes and crimes against humanity in Burma.

To ASEAN and neighboring countries:

- Exert pressure on the regime to cease all violations against children;
- Insist that, as the chairman of ASEAN in 2014, the Burmese government must abide by its international legal obligation to protect children during armed conflict;

- Support the creation of a commission of inquiry into war crimes and crimes against humanity in Burma;
- Support the imposition of a global arms embargo on Burma; and
- Provide asylum for children and their families fleeing violations occurring in conflict areas in Burma.

To the international community/donors:

- Maintain prohibitions on financial support to the Burmese government as well as companies that continue to deal with the Burmese government despite ongoing human rights violations;
- Provide financial support to civil society organizations to enable them to continue documenting human rights violations as well as to allow them to provide necessary humanitarian assistance to individuals fleeing the conflict; and
- Call for a global arms embargo as well as the creation of a commission of inquiry into war crimes and crimes against humanity in Burma.

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