

Human Rights review / UNICEF inputs

A. Background.

Despite years of conflict and emergency, Sri Lanka has maintained an unbroken and active democratic tradition since independence. It is a state party to all seven major international human rights treaties, as well as many of the core labour conventions. Sri Lanka's Constitution includes a comprehensive fundamental rights chapter. The Supreme Court has a long tradition of human rights jurisprudence. However, significant challenges remain for the justice system and some independent oversight commissions have yet to gain the full autonomy and resources they require". Observations by the various UN Treaty Bodies point out, that challenges remain in order to consolidate the effective implementation and protection of human rights at all levels. (United Nations Development Assistance Framework (UNDAF) Sri Lanka, 2007)

Twenty-years of *armed conflict* have had a major impact on economic and political developments in the country. The conflict has left 65,000 dead and, at times, up to one million displaced. In general terms, the Ceasefire Agreement (CFA) concluded between the GoSL and the Liberation Tigers of Tamil Eelam (LTTE) has had a hugely beneficial impact on human security and the prospects for economic reconstruction and recovery. The CFA and broader peace process have also been steadily eroded by rising levels of violence and human rights violations, particularly since an internal split in the LTTE's eastern ranks in 2004 giving rise to a breakaway "Karuna faction". (United Nations Common Country Assessment (CCA) Sri Lanka, 2006) Furthermore the Govt. of Sri Lanka has announced its decision to terminate the CFA.

In the course of twenty years of conflict, there has been a progressive militarisation of social and political life, especially in the northeast that has heightened violence and closed democratic space. While Sri Lanka has a sufficient legal and institutional framework to protect human rights, too often there is an implementation and enforcement gap. There are significant barriers to accessing the formal justice system and alternative channels for mediation and redress are relatively weak and overstretched. (United Nations Common Country Assessment (CCA) Sri Lanka, 2006)

Sri Lanka is firm in its commitment to meet the obligations of the Convention on the Rights of the Child. *National Action Plan for the Children of Sri Lanka 2004-2008* (NPA) follows up on commitments made at the UN General Assembly Special Session on Children, and its launch in September 2004 made Sri Lanka among the first countries in the world to complete a National Plan of Action to fulfil the commitments made for children in the outcome document of the Special Session on Children, a World Fit for Children. The NPA includes a government commitment of US \$14.2 million to start-up the plan. The responsibility for the implementation of the NPA lies with relevant Ministries at National and Provincial levels as well as other stakeholders. The provincial Ministries and Departments are required to formulate their own plans of actions commensurate with the NPA and allocate funds for implementation to reach the goals set thereof. A monitoring committee chaired by the Ministry of Child Development and Women's empowerment has initiated a stock taking of the progress of objectives set out in the NPA. (United Nations Common Country Assessment (CCA) Sri Lanka, 2006)

The protection of children is a concern. Children in contact with the law are often re-victimised, this includes both child victims of abuse and neglect and also child offenders. This takes the form of ill treatment, at times extending to torture of child offenders, delays, separation from families, incarceration, disruption of education and lack of attention to their therapeutic needs. Trainings carried out so far have addressed the *attitudes and skills* of individual service providers but failed to develop *standards and procedures* which would enable a uniform protective environment to all

children in contact with the law. Legal reforms have generally been *top down* and they have not taken into account the views and experiences of children and service providers. The strengthening of practice must be supplemented with a continuous review of law and policy, institutionalized training and the provision of necessary infrastructural support. Key issue is that the age of criminal responsibility is 8yrs with the courts having discretion to extend to 12 yrs depending on the subjective assessment of level of maturity. (United Nations Common Country Assessment (CCA) Sri Lanka, 2006)

Institutional care is at present the most common solution for children deprived of parental care in Sri Lanka. At the end of 2006 more than **19,000** children were living in these institutions, separated from their families; girls outnumber boys by 8 percent (i.e. they represent **54%**)

Fostering is possible through the issuing of a Fit Person Order, but such an order is utilized only in cases where children can be entrusted to a relative. Furthermore, the recourse to institutional care is frequently practiced also to solve family problems not related to parental care: children are sent to institutions either through an intervention of the officers of the Department of Probation and Child Care Service (DPCCS) - which is the agency providing social services to children - or directly by parents. (Report on Voluntary Residential Institutions for Children in Sri Lanka, Ministry of Child Development & Women's Empowerment and UNICEF, 2007)

B. Promotion and protection of human rights

The Government of Sri Lanka has ratified the UN Convention on the Rights of the Child [12/7/91] and the Optional Protocol on the Involvement of Children in Armed Conflict [8/9/00]. The Second Report to CRC Committee submitted for the period 1994 to 1998 was adopted in June 2003 when the Committee issued its Concluding Observations. The Ministry of Child Development and Women's Empowerment is coordinating the preparation of a Consolidated Report [Third and Fourth Reports from 1998 - 2008] due on 10 August 2008.

Sri Lanka is required to report on the Security Council Resolution 1612. To this end a task force has been established to monitor and report on grave child rights violations. The taskforce is chaired by the UN Resident Coordinator and UNICEF is the Vice Chair and provides secretariat facilities as well. The government is a member of the Taskforce. Inputs to 2 reports have been provided to the SRSR.

The Government of Sri Lanka established a multidisciplinary task force on children and armed conflict in April 2007. The task force is chaired by the Secretary of the Ministry of Child Development and Women's Empowerment, and includes representatives from the Ministries of Justice, Education and Defence, the National Child Protection Authority, the Human Rights Commission, the Department of Probation and Child Care Services and UNICEF. The task force has discussed a number of issues, including the harmonization of the national legislation with the United Nations Convention on the Rights of the Child and its Optional Protocol on children and armed conflict; education as a preventive tool against child recruitment; the promotion of birth registration; the protection, rehabilitation and reintegration of former children associated with armed groups; the development of an effective response to allegations against the security forces; and the improvement of law enforcement in relation to child rights violations. (Report of the Secretary-General on children and armed conflict in Sri Lanka, December 2007)

C. Identification of achievements, best practices, challenges and constraints

1. Achievements

- From 1 January to 30 November 2007, **283** children have been documented recruited by the different armed groups: 156 from LTTE and 227 from TMVP, which represent a decrease of **38%** in comparison to 2006. Most likely, these figures represent a portion of the real number of children being recruited; families are still rather restricted in their movement, or under pressure and threat from different armed groups to report. (UNICEF data base monitoring system)
- During the same period, **254** children have been released (180 from LTTE and 74 from TMVP) which represent an increase of **42%** in comparison to 2006. The release of these children occurred after regular advocacy with all parties. **228** children have been also reported to have runaway from both armed groups and reported to different Child Protection Organizations. (UNICEF data base monitoring system)
- **1357** children released from armed groups are presently under reintegration process with the support of Child Protection agencies providing special protection, transit care, vocational training, back to school and income generating activities (UNICEF data base monitoring system)
- The Commissioner General of Rehabilitation under the Ministry of Justice has been appointed to establish protective accommodation and rehabilitation centres and develop proper policy for the protection and reintegration support of children who surrendered to the Government, including children who ran away from armed groups and sought protection. UNICEF provides financial and technical support to this initiative, a policy concept paper is under finalization and a child rehabilitation centre should open in January 2008.
- **136** cases of grave violations of child rights have been verified and reported.
- Since 1 November 2006, there were verified reports of 45 children killed and 77 children maimed owing to the conflict, with more than half of the incidents occurring in Batticaloa, followed by Mannar and Jaffna districts. (Report of the Secretary-General on children and armed conflict in Sri Lanka, December 2007)
- Despite the increased risks there are signs of a positive impact of the Mine Risk Education program; only **17** Civilian mine/UXO casualties were reported in 2007 compared to the 64 casualties reported in 2006. (Information management System for Mine Action (INSMA) database)

2. Challenges and constraints

- Due to the considerable fear among communities and potential monitoring partners to report or monitor violations; the volatility of the security situation; and fear of reprisals from reporting violations perpetrated by the parties to the conflict; it is currently likely that there is a degree of under-reporting of grave violations.
- Till date **406** children are documented to be with both armed groups (245 with LTTE and 161 with TMVP) and additionally **1244** youth recruited when there were children are now over 18 and still remain in both armed groups (1189 with LTTE and 55 with TMVP) (UNICEF data base monitoring system)
- Despite repeated statements from both groups on not recruiting children, children continue to be recruited or re recruited by the LTTE and the TMVP in the north and east of the country.
- The TMVP continues to recruit children in government controlled areas.
- The split of the TMVP into 2 factions have disorganized the chain of command and makes any negotiation for the release of children more complex.

- Families are facing difficulties in reporting to Child protection organizations because they are restricted in their movement or threatened.
- There is a lack of secure environment for children to return to in their communities. Children are exposed to the risk of re recruitment and to continuous suspicion.
- In this context it is more and more challenging to secure alternative care facilities for children who have been released or who have run away from the armed groups and cannot return home.
- Child Protection organizations face difficulties in conducting regular follow-ups for reintegrated children; access to some areas being restricted, populations are displaced. Child protection organizations also have limited access to children who returned spontaneously to propose reintegration support due to families hiding children or sending them abroad for security reasons.
- Community protection and prevention initiatives are still restricted, individuals or local organization are subject to threats.
- The heightened politicization of humanitarian issues in the media, including issues pertaining to children; and negative media and at times, statements against the United Nations, NGOs and humanitarian workers, further worsened the working environment for humanitarian workers, compromised their ability to carry-out their work, and potentially endangered their safety and security. Security concerns were also raised because of threats made to humanitarian workers, including child protection workers and media representatives by armed groups.
- The intensification of the conflict severely affected the local population and led to large-scale displacement of civilians in the reporting period, predominantly from Batticaloa, Mullaitivu, Kilinochchi and Jaffna districts. The numbers of people displaced by the recent conflict fluctuated throughout the reporting period. As of August 2007, an estimated 180,000 individuals were displaced in Sri Lanka due to the escalation of the conflict since April 2006; and 97,923 individuals (30,150 families) returned to their places of origin. Responding to internally displaced families and children from renewed conflict and the tsunami remains a challenge. The number displaced due to the armed conflict fluctuates depending on the location and intensity of the conflict.
- Humanitarian access has been limited in certain divisions of Batticaloa, Trincomalee, Ampara, Jaffna, Mannar, Vavuniya, Kilinochchi and Mullaitivu throughout the reporting period, directly impeding the regular provision of essential services to children by humanitarian agencies
- Lack of security and restricted movement, continue to affect the access to education for children. Schools being used by IDPs, and extended absence coupled with disruptions in schools during resettlement, resulted in an increased number of children dropping out of school and an inability of many children to competitively perform in exams. The displacement of teachers also detrimentally affected children's access to and quality of education during the reporting period
- The challenge is exacerbated by the presence of a large number of Unexploded Ordnances (UXO) particularly in areas that have seen heavy fighting in 2006 and 2007, posing major obstacles to resettlement.
- Despite the efforts of the Ban Landmine Advocacy Forum, convened by the Consortium of Humanitarian Agencies (CHA), the Government has not signed the Ottawa Treaty

D. Key national priorities, initiatives and commitments

The Commissioner General of Rehabilitation under the Ministry of Justice has been appointed to establish protective accommodation and rehabilitation centres and develop proper policy for the protection and reintegration support of children who surrendered to the Government, including children who ran away from armed groups and sought protection. The Government is also working with UNICEF's support in formulating a policy on this.

E. Summary of UNICEF capacity-building and cooperation

1. Tsunami affected children

- UNICEF has contributed to a major construction effort, rebuilding and improving a wide range of health and education facilities that were damaged or destroyed by the tsunami three years ago. Under the tsunami recovery plan UNICEF has been building 32 schools, working with the United Nations Office for Project Services (UNOPS), which is managing construction projects in the affected areas.
- UNICEF, with UNOPS, the Sri Lankan government and other partners, is also completing a large building programme for health facilities in many tsunami-affected areas. New maternity and paediatric wards are providing vital services for families up and down the east and south coast. More than twenty Gramodaya health centres now serve communities with improved facilities and better access to localized healthcare, and UNICEF has also supported the construction of 27 social care centres, which provide families and children with combined social and health services in one locality.

2. Health and Nutrition

Maternal and child malnutrition and neonatal mortality represent the country's most pressing health issues, along with wide disparities in the health and nutritional conditions of children living in the conflict-affected and poorer areas. The key objectives of UNICEF's Early Childhood and Development programme are to build the knowledge and skills of caregivers in appropriate child care practices, improve access and quality of maternal and child health services, and to support national and sub-national capacity building to develop and implement health and nutrition programmes.

3. Child Protection

UNICEF's Protection programme aims to contribute to the reduction of child abuse and exploitation, and to eliminate gender and family-based violence and the exploitation of women. It also works to protect and support the realization of rights of children and women most affected by armed conflict and to mitigate the effects of conflict on all children and women.

- Monitoring and Reporting: At the Oslo round of Peace Talks in November 2002, UNICEF was given a mandate to monitor child rights violations of the ceasefire agreement. As part of this mandate UNICEF compiles and verifies data on child recruitment, as reported usually by family members, and makes this information

available regularly to partners, working with them to advocate against child recruitment.

- Training: UNICEF is providing support to partner NGOs to provide training and mentoring to probation and child care officers and government social work officers in addition to providing direct social work services.

4. Education

UNICEF supports Sri Lanka to assist its education system in achieving universal access to basic education for all children and to improving the quality of education in disadvantaged communities, primarily through its Catch-Up Education and Child Friendly Schools (CFS) initiative and programmes. UNICEF's Learning Years programme focused on meeting the immediate needs of tsunami-affected children while also concentrating on ongoing goals of improving access and quality of education. Special focus was placed on making sure that education systems remained equitable within and across districts, whether affected by the tsunami or not.

5. Water and Sanitation

UNICEF's water and sanitation activities aim to address both the immediate needs of Sri Lankan coastal communities affected in the aftermath of the December 2004 tsunami, as well as to support the entire country's ongoing requirements in maintaining clean and safe water supplies, sanitation and hygiene support.

Main areas of focus include: Coordination and Policy Development; Rehabilitation of major water supply schemes; Providing water and sanitation facilities to war affected, internally displaced persons (IDPs), returnee and tsunami-affected families; Improving water and sanitation in Schools and Health Centres; Improved public health through establishing district wise water quality surveillance systems; and Hygiene promotion.