



## Chance for change

Ending the recruitment and use  
of child soldiers in Myanmar

January 2013

**CHILD SOLDIERS**  
INTERNATIONAL

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**Who are child soldiers?**

Child Soldiers International considers the term child soldier to be equivalent to the following description of children associated with armed forces or groups:

*A child associated with an armed force or armed group refers to any person below 18 years of age who is, or who has been, recruited or used by an armed force or armed group in any capacity, including but not limited to children, boys and girls, used as fighters, cooks, porters, spies or for sexual purposes. It does not only refer to a child who is taking, or has taken, a direct part in hostilities.*

Child Soldiers International was formerly the **Coalition to Stop the use of Child Soldiers**. Child Soldiers International is an international human rights research and advocacy organisation seeking to end and prevent the military recruitment and use in hostilities of child soldiers (boys and girls below the age of 18), and other human rights abuses resulting from their association with armed forces or groups. It seeks the release of child soldiers from armed forces or groups, promotes their successful return to civilian life and accountability for those who recruit and use them. Child Soldiers International promotes global adherence to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

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## CHANCE FOR CHANGE:

### Ending the recruitment and use of child soldiers in Myanmar

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## 1. Summary and main recommendations

For almost a decade the UN has documented the widespread recruitment and use of child soldiers in Myanmar. Armed conflicts between the state and numerous armed ethnic groups have been raging for half a century. These have claimed thousands of lives and led to human rights violations on a massive scale.

The fact that children have been drawn into active combat by all sides to these conflicts is not just the inevitable consequence of militarisation of societies or socioeconomic factors. It is also a result of pressure to maintain or increase the number of fighters and support personnel in the armed forces and armed groups.

Political reforms and the signing of ceasefire agreements with various ethnic armed groups have led to some progress in the security and human rights situation in recent years<sup>1</sup> (with the exception of the Kachin areas where conflict has escalated).<sup>2</sup> These changes, together with the renewed engagement between Myanmar and the international community, create an unprecedented opportunity to resolve longstanding problems of underage recruitment and use.

Efforts have already been made to grasp it. The Joint Action Plan signed on 28 June 2012 between the Myanmar government and the UN establishes a detailed plan to identify and release children in the *Tatmadaw Kyi* and the Border Guard Forces (BGF).<sup>3</sup> Following the entry into force of the Joint Action Plan, 42 children have been released from the *Tatmadaw Kyi*, other releases are expected, and the monitoring by the UN country task force has begun. The Joint Action Plan also provides a framework for the prevention of future child recruitment.<sup>4</sup> Measures to achieve this include reform of recruitment practices (including age verification procedures) of the *Tatmadaw Kyi* and BGF; rigorous independent monitoring of implementation of safeguards against recruitment of children; and effective accountability measures, including criminal prosecutions, where it is found that safeguards have not been implemented.

But progress is by no means rapid or guaranteed. Recent in-country research by Child Soldiers International has reviewed the recruitment and use of child soldiers in Myanmar. In particular Child Soldiers International has examined the army in Myanmar (known as the *Tatmadaw Kyi*), the recently formed BGF (under the command of the *Tatmadaw Kyi* and made up of former members of armed groups which have signed peace agreements with the government and agreed to the transformation), and two

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1 See Report of the UN Secretary-General to the UN General Assembly on the situation of human rights in Myanmar, UN Doc. A/67/333, 24 August 2012; Report of the UN Special Rapporteur on the situation of human rights in Myanmar, UN Doc. A/67/383, 25 September 2012.

2 "Ban urges political reconciliation amid reported air strikes in Myanmar's Kachin state", UN News Centre, 2 January 2013.

3 The Joint Action Plan between the Myanmar government and the UN for the prevention of recruitment of children and their discharge and rehabilitation, signed on 28 June 2012 after five years of negotiation, became effective from 1 September 2012.

4 Under the Joint Action Plan, the government has pledged to immediately identify and release all children who remain associated with the *Tatmadaw Kyi* and the BGFs. However, the Joint Action Plan requires 72 hours advance notice before verification visits, and government supervision during visits. It also allows the government to restrict access on grounds of national security to an unspecified number of sites. Information received by Child Soldiers International indicates that the UN country task force has accessed a small number of *Tatmadaw Kyi* recruitment centres and other military sites since the signing of the Joint Action Plan.

armed opposition groups (the Karen National Union/Karen National Liberation Army and the Democratic Karen Benevolent Army<sup>5</sup>).

Child Soldiers International's research reveals that, despite recent progress, the situation is not improving as quickly as it might. Recruitment of children by the *Tatmadaw Kyi* is ongoing, albeit on a reduced scale. Effective safeguards to prevent future recruitment have not been put in place. The BGFs under the command of the *Tatmadaw Kyi* have no program to verify the presence of children in their ranks, let alone plans to demobilise and rehabilitate them. And newly formed battalions of the BGF have been able to continue recruitment practices which lack basic safeguards to exclude children.<sup>6</sup>

There are grounds for concern too about the situation in armed groups in Myanmar. Child Soldiers International's research has focused on two groups: the Karen National Union/Karen National Liberation Army (KNU/KNLA) and the Democratic Karen Benevolent Army (DKBA). Although in both cases instructions not to recruit children have been issued (and in the case of the KNU/KNLA the leadership has made attempts to work with the UN and other actors towards the eradication of child recruitment), the absence of proper age verification procedures and practices of informal association of children with these armed groups continue to place children at considerable risk of participation in hostilities. Moreover, the UN's inability to engage with these groups because of objections by the Myanmar government has so far hindered the safe release of children from their ranks.

The Myanmar government's refusal to grant access to certain areas of the country on grounds of national security has also prevented independent monitoring of armed groups. Recent ceasefires signed between the government and these armed groups offer an opportunity for the safe release of children, as well as the prospect of protecting children from future military association with the armed groups. The Myanmar Peace Centre, set up by the government of Myanmar with the support of the international community, is well placed to ensure that initiatives to consolidate these ceasefires and end armed conflicts in Myanmar include measures to protect the human rights of children associated with the armed groups.

In light of this recent research, Child Soldiers International makes the following main recommendations to the government of Myanmar, the armed opposition groups, the UN and the international community.

**To the government of Myanmar:**

- Seek technical assistance to put in place the necessary strengthened recruitment procedures, age verification mechanisms and independent monitoring and oversight of the armed forces, the BGFs and other security forces to prevent unlawful recruitment of children;
- Standardise recruitment procedures for all armed forces, BGFs and other security forces, and ensure (through training where necessary) that all those involved in recruitment processes are aware of the prohibition on recruiting under-18s, the age verification procedures that must be followed, and the disciplinary and criminal sanctions applicable to those who fail to uphold them;
- Establish a central database with personal information of individual *Tatmadaw Kyi* and BGF recruits, including their date of birth supported by a copy of their birth certificate or other official

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<sup>5</sup> The political wing of the Democratic Karen Benevolent Army is the KloHtoobaw Karen Organisation. In April 2012, the KloHtoobaw Karen Organisation (KKO) was formed as the political wing of the DKBA and the army subsequently changed its name from the Democratic Karen Buddhist Army to the Democratic Karen Benevolent Army, to mark its secularity.

<sup>6</sup> See for instance, "Government's militia forcing civilians into uniform", *Karen News*, 9 November 2012, <http://karennews.org>.

identity document, and the full name and rank of the recruiting officer to enable verification and release of underage recruits, including those who were in the past recruited below 18;

- Collaborate with the UN country task force for reporting and monitoring, including by providing unhindered access to recruitment centres, military camps, training centres, and other sites where children may be present, with a view to systematically screening all *Tatmadaw Kyi* units and BGF battalions to ensure the identification and release of children;
- Effectively and independently investigate all credible allegations of child recruitment or use by the *Tatmadaw Kyi* and BGFs, and bring to justice suspected perpetrators in proceedings that meet international standards for fair trial.

**Recommendations to the KNLA and DKBA:**

- Issue, publish and widely disseminate orders to all members of armed groups to refrain from recruiting or using children in hostilities;
- Ensure that children do not take part in military operations, and are not present in military camps or in the vicinity of military targets;
- Impose appropriate sanctions against those responsible for the recruitment or use of children in hostilities;
- Facilitate access to UN and other independent humanitarian organisations for the purpose of monitoring and releasing any children associated with the armed groups;
- Seek technical support to facilitate the early implementation of effective age verification procedures to prevent underage recruitment.

**Recommendations to the UN country task force on monitoring and reporting:**

- Strengthen the capacity of all actors supporting the implementation of the Joint Action Plan, including long-term monitoring of the effectiveness of the measures taken by the government under the plan, ensuring transparency of the process;
- Support and advise the government in the review and reform of recruitment practices aimed at preventing recruitment and use of children;
- Carry out regular visits to all *Tatmadaw Kyi* and BGF military sites, training centres, and other places where children may be present, for both identification and verification purposes;
- Proactively engage in a dialogue with armed opposition groups to explore ways to verify and release children associated with them.

**Recommendations to the UN Security Council and the international community:**

- Support provisions aimed at the release, recovery and reintegration of children associated with armed groups in all peace or ceasefire negotiations and agreements with armed groups, in line with the UN operational guidelines on addressing children's issues in peace agreements, and demand the verifiable release of children by armed groups as a prerequisite for incorporation into state security forces;
- Ensure that international assistance to support security sector reform in Myanmar contributes to the prevention of child soldier recruitment and use, including by strengthening recruitment procedures and age verification mechanisms and by independent monitoring and oversight in the armed forces and BGFs.

## 2. Scope and methodology

The research for this report focuses on recent recruitment and use of children by: *Tatmadaw Kyi*; Border Guard Forces (BGF) (primarily those made up of former members of the Democratic Karen Buddhist Army); and two armed opposition groups: the Democratic Karen Benevolent Army (DKBA); and the Karen National Union/Karen National Liberation Army (KNU/KNLA). Access restraints and security considerations limited the geographical scope of the research (the Myanmar government continues to limit the access of UN and other humanitarian organisations to certain conflict-affected and contested areas of the country) and rather than attempt to cover the full range of armed opposition groups and armed actors operating in Myanmar, Child Soldiers International focused its research on a few key groups. Reference is made where relevant to UN reports that note underage recruitment practices by other armed actors.

Research was conducted into the patterns and scale of recent child recruitment and use by these state and non-state forces and their proximate causes. Mechanisms used to monitor and verify underage recruitment by these forces, such as age verification procedures where they exist, were analysed, along with accountability mechanisms in place.

The research was carried out by staff and two consultants on behalf of Child Soldiers International in Thailand, on the Thai–Myanmar border and in Myanmar in three separate research missions conducted in April–May 2012, July–August 2012 and November–December 2012, supplemented by desk-based research. The report also draws on field research conducted by Child Soldiers International along the Thai–Myanmar border in March 2011.<sup>7</sup>

During the research missions, meetings were conducted with senior UN officials in Myanmar and Thailand, officials from the International Committee of the Red Cross (ICRC) in these countries, diplomats, representatives of national and international non-governmental organisations (NGOs), community-based organisations and former child soldiers and their families.<sup>8</sup> Meetings were also conducted with representatives of the Karen National Liberation Army (KNLA), Karen National Union (KNU) and the Democratic Karen Benevolent Army (DKBA).<sup>9</sup> Some interviewees remain anonymous due to security concerns.

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7 Delegates from Child Soldiers International conducted 30 interviews with a range of stakeholders including representatives of international and national NGOs, media and the UN in Thailand including: the UNICEF country representative and members of the child protection team; the UN Resident Coordinator; and others. Delegates also interviewed two former child soldiers recruited by the Myanmar military, three former political prisoners and a representative of the Karen National Union (KNU).

8 During the April–May 2012 research mission interviews were conducted with officials from the UN, including: the International Labour Organisation (ILO); the UN Resident Coordinator; the UNHCR representative; the UN Office for the Coordination of Humanitarian Affairs (OCHA) Deputy Country Director; Office of the UN High Commissioner for Human Rights (OHCHR) representatives and the UNICEF child protection team. Child Soldiers International also met with representatives from the UK, US and French embassies in Myanmar; representatives of the EU, Swiss and Canadian missions in Bangkok; and the International Committee of the Red Cross (ICRC) in Thailand and in Myanmar. The delegates met with human rights defenders, representatives of international and national NGOs, community-based organisations, lawyers, priests, journalists and former child soldiers and their families. Delegates also met with a representative from the Myanmar National Human Rights Commission and interviewed representatives of organisations based in the Bago, Kayin, Shan and Kachin areas.

9 During the July–August 2012 research mission, meetings were conducted with representatives of community-based organisations, school teachers, students and representatives from the Karen Human Rights Group (KHRG); officials of the KNU and the KNLA; students from the New Generation Program; military and political leaders from the DKBA and the KKO, the DKBA's political wing; and a number of current and former members of the BGF.



Child Soldiers International delegates held discussions with Minister Aung Min and staff of the Myanmar Peace Support Initiative, representatives of four political parties and civil society organisations in Yangon.<sup>10</sup> Meetings with the senior presidential legal advisor, the chairperson of the Committee to prevent underage recruitment, the Attorney General and other relevant officials in the Ministries of Defence and Foreign Affairs in the Myanmar government were requested but not granted.

Child Soldiers International sought written comments on a draft of this report from the Ministry of Foreign Affairs in Myanmar but did not receive a response. Child Soldiers International sought written comments from representatives of the KNU which have been reflected in the report.

Child Soldiers International greatly appreciates the high level of cooperation it received from UN staff, NGOs and others in the course of this research. The findings of this report and the recommendations made seek to contribute to the protection of children from unlawful recruitment and use in hostilities by all parties in Myanmar. With this in mind it is hoped that these findings and recommendations will form the basis for a productive dialogue in the future with key stakeholders including the Myanmar government.

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<sup>10</sup> In November–December 2012, Child Soldiers International delegates met with Union Minister U Aung Min, Ministry of Presidential Office; Hla Maung Shwe, vice president, Myanmar Federation of Chambers of Commerce & Industry; Ngun Cung Lian and Nyo Ohn Myint, Associate Program Directors, Ceasefire Negotiation Program; Aung Naing Oo at the Myanmar Peace Centre, Yangon, on 8 December 2012. Meetings were also conducted with representatives from the National League for Democracy (NLD); National Democratic Front (NDF); New National Democratic Party; and the Shan Nationalities Democratic Party.

### 3. Backdrop of armed conflicts, insecurity and the socioeconomic situation

Since gaining independence from the United Kingdom in 1948, Myanmar's military has been involved in armed conflict with over 35 armed groups seeking varying degrees of autonomy. Past efforts by the Myanmar government to initiate ceasefires with a number of ethnic groups did not lead to lasting peace or reconciliation. Ethnic armed conflict in Myanmar has continued in the context of widespread poverty and low institutional investment in education and health. The establishment of a civilian government in March 2011 and the signing of ceasefire agreements with a large number of armed groups followed by a process of dialogue currently under way have opened up new opportunities to resolve these conflicts. These reconciliation efforts need to address the issue of underage recruitment by all armed forces and groups in Myanmar. In particular, any integration of armed groups into state security forces needs to be accompanied by measures to identify and demobilise children, and security sector reforms affecting the armed forces need to strengthen mechanisms to prevent underage recruitment.

#### 3.1 Armed conflict and insecurity

Having gained independence in 1948, Myanmar's (then the Union of Burma) government focused on establishing a unified state, inclusive of all Myanmar's diverse ethnic groups. General Aung San, who led the fight against colonial rule, negotiated an agreement at the Panglong Conference in 1947 between the Shan, Chin, and Kachin leaders, which was supposed to lead to the integrated Union of Burma.<sup>11</sup> Shortly after the conference, however, Aung San and several members of his interim government were assassinated, leading to a swift dissolution of the short-lived accord.

The military governments that ruled Myanmar for a good part of the last half century attempted to neutralise armed opposition groups through both direct military offensives and ceasefire agreements.<sup>12</sup> The ceasefires functioned as military truces rather than as precursors to enduring political solutions but, with ceasefire agreements in place in a number of regions, the government was able to concentrate its fighting troops in the remaining areas of ongoing conflict. These included the Kayin, Kayah, Shan, and Mon states. Low-intensity conflicts continued between the *Tatmadaw* and the Shan State Army-South (SSA-S), the Karen National Liberation Army (KNLA), and the Karenni Army (KA), as well as smaller armed groups, for a number of years. In the past two years conflict has reignited in Kachin state<sup>13</sup> and intensified in the northern Shan state, with protracted outbreaks of fighting. Efforts by Myanmar's military government since 2009 to incorporate numerous armed ethnic groups into a Border Guard Force (BGF) by disarming them, providing them with government weapons and making their troops subordinate to regional *Tatmadaw Kyi* commanders have had only limited success (see section 6 for more details on BGFs).

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11 Signed on 12 February 1947, the Panglong Agreement aimed to achieve equality for Myanmar's ethnic groups in a move towards a federal governance structure for the future independent state. The full text of the agreement (translated into English) can be found at <http://www.ibiblio.org>.

12 Between 1989 and 1996 the State Law and Order Restoration Council (SLORC) negotiated ceasefires with 17 organised non-state armed groups in addition to several minor breakaway militia forces. See International Crisis Group, "Myanmar: A New Peace Initiative", *Asia Report No. 214*, 30 November 2011.

13 Reuters, "Myanmar says jets used against Kachin rebels", 3 January 2013.

Following elections in 2010 – which were boycotted by the then banned opposition National League for Democracy (NLD) led by Aung San Suu Kyi, and widely criticised as fraudulent<sup>14</sup> – Thein Sein took office as President in March 2011. The new government has restarted ceasefire talks with a number of non-state armed groups but, as mentioned above, military operations against armed opposition groups have continued and intensified in the Kachin and northern Shan states.<sup>15</sup>

The government established preliminary ceasefire agreements with 11 ethnic armed groups between September 2011 and April 2012, most recently with the New Mon State Party (NMSP), the Karenni National Progressive Party (KNPP) and the Arakan Liberation Party (ALP).<sup>16</sup> Building on its preliminary ceasefire agreement with the Karen National Union (KNU) in January 2012,<sup>17</sup> the government signed a 14-point agreement with the group in April 2012,<sup>18</sup> with a view to working on the establishment of liaison offices, resettlement of internally displaced people, landmine removal and development aid to conflict zones. In the 11 months since the ceasefire agreement was reached, negotiators from the two sides have met on three occasions, aiming to progress towards agreeing to a code of conduct for troops on both sides.<sup>19</sup> While peace talks were temporarily set back due to an internal split within the KNU ranks,<sup>20</sup> there are no indications that commitment on either side has faltered.

However, some other agreements have proved fragile and in 2012 clashes occurred between the *Tatmadaw Kyi* and the Shan State Army-North (SSA-N), the SSA-S, the Democratic Karen Benevolent Army (DKBA), and the KNLA.<sup>21</sup> In June 2012, sectarian violence erupted in western Burma's Arakan state between ethnic Arakan Buddhists and Rohingya Muslims (as well as non-Rohingya Muslims) following reports of the rape of an Arakan woman by Muslim men on 28 May. Over 110,000 people, mostly Rohingya, were displaced by the violence, during which government restrictions on humanitarian access to displaced Muslim communities left many in dire need of food, adequate shelter and medical care.<sup>22</sup>

Despite these serious setbacks, there is growing evidence of the Thein Sein government's commitment to peace efforts.<sup>23</sup> At the time of writing, peace efforts are being conducted through government and internationally supported initiatives. The Myanmar Peace Centre – which is an EU-funded platform for

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14 The military-backed Union Solidarity and Development Party (USDP) won the majority of parliamentary seats up for contention amidst international concern regarding restrictive electoral laws, voter intimidation and lack of impartial observers, drawing strong criticism from the UN and various member states (UN General Assembly, Resolution adopted by the General Assembly [on the report of the Third Committee (A/66/462/Add.3)], Situation of Human Rights in Myanmar, UN Doc. A/RES/66/230, 3 April 2012).

15 A 17-year ceasefire with the Kachin Independent Army (KIA) came to an end after fighting broke out between the two sides in June 2011. In the past year, fighting in Kachin state has progressively intensified, accompanied by a steady increase in human rights abuses. The UN estimates that some 75,000 civilians have been displaced within Kachin and Myanmar's northern Shan states since fighting broke out in 2011, with more people continuing to flee insecure areas every day.

16 International Crisis Group, "Reform in Myanmar: One Year On", *Asia Briefing No. 136*, 11 April 2012.

17 "Govt, KNU sign ceasefire", *Myanmar Times*, 16–22 January 2012; "KNU, Govt Reach Historic Agreement", *The Irrawaddy*, 12 January 2012.

18 See Report of the UN Special Rapporteur on the situation of human rights in Myanmar, UN Doc. A/67/383, 25 September 2012, paragraph 45.

19 "Burma government, KNU agree to ceasefire code of conduct", *Mizzima News*, 5 September 2012; KNU and "Govt need more time to finalize ceasefire code of conduct", *Karen News*, 7 September 2012.

20 The KNU dismissed three senior leaders on 2 October 2012 for violating the organisation's protocol by opening a liaison office in the Karen capital Pa-an without obtaining approval from other KNU central committee members.

21 UNHCR, "UNHCR concerned about welfare of Kachins sent back from China", 10 September 2012, <http://www.unhcr.org>.

22 See for instance, Human Rights Watch, "The Government Could Have Stopped This: Sectarian Violence and Ensuing Abuses in Burma's Arakan State", 1 August 2012.

23 On 3 May 2012, an 11-member union-level Peace-making Central Committee was formed with the President as the chairman.

dialogue established by the Myanmar government – functions as a secretariat to the national ‘Peace Making Committee’ and acts as a focal point for international actors who form the Peace Donor Support Group. Also working with the Myanmar Peace Centre is the International Peace Support Group (IPSG) formed of international NGOs involved in capacity-building initiatives to support ethnic armed groups in negotiating peace.<sup>24</sup> The Myanmar Peace Centre is engaged in a two-step process which involves achieving ceasefire agreements with all ethnic groups and working on a process of political dialogue with the ceasefire groups. The peace dialogue with ceasefire groups is expected to address issues relating to disarmament, demobilisation and reintegration (DDR) and security sector reform (SSR).<sup>25</sup> The Myanmar (formerly Norwegian) Peace Support Initiative is piloting humanitarian projects in new ceasefire areas.

As noted by the UN Special Rapporteur on the situation of human rights in Myanmar, these political negotiations should address human rights concerns, including the verification and release of children associated with armed forces and groups.<sup>26</sup> In December 2012 Child Soldiers International received a commitment from representatives of the Myanmar Peace Centre that issues concerning ending and preventing underage recruitment would indeed be incorporated in the ongoing dialogue with armed groups.<sup>27</sup>

The NLD’s entry into parliament as a result of elections, coupled with the involvement of the international community in conflict resolution, has raised hopes that the current momentum towards peace could prove more lasting than efforts made under the previous regime.

### 3.2 The socioeconomic context

Myanmar remains one of the poorest and most underdeveloped countries in the world. In 2011 the United Nations ranked Myanmar 149th out of 187 states in its Human Development Index, sliding from its 2010 position of 132nd. Myanmar’s development, gauged on a range of indicators from health to income and education, is well below the international and regional averages.<sup>28</sup> Since taking office, President Thein Sein has made commitments to reduce poverty and improve health and education and has initiated a National Rural Development and Poverty Reduction Plan (2011–2015) which aims to reduce the poverty rate to 16 per cent by 2015.<sup>29</sup> According to a 2009–2010 UNDP household survey, 25 per cent of the total population lives below the poverty line. Considerable economic disparity persists between rural and urban areas, with poverty twice as common in rural areas (29 per cent) compared to urban (15 per cent).<sup>30</sup>

There are concerns that recent economic growth may not lead to adequate investment in social and infrastructure development, especially in regions inhabited by ethnic minorities.<sup>31</sup> In particular, tension between central government and local rural populations has heightened in a number of regions due to the

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24 The Peace Donor Support Group includes international governments, multilateral agencies like the World Bank and the UN; the International Peace Support Group is an informal coordination network of over 20 international NGOs.

25 Child Soldiers International meeting with Union Minister U Aung Min, Myanmar Peace Centre, Yangon, 8 December 2012.

26 Report of the UN Special Rapporteur on the situation of human rights in Myanmar, UN Doc. A/67/383, 25 September 2012, paragraph 47.

27 Child Soldiers International meeting with Union Minister U Aung Min, Myanmar Peace Centre, Yangon, 8 December 2012.

28 UN Development Programme (UNDP), *Myanmar Country Profile: Human Development Indicators*, 2011.

29 UN Human Rights Council, Progress report of the Special Rapporteur on the situation of human rights in Myanmar, UN Doc. A/HRC/19/67, 7 March 2012, paragraph 47.

30 Thirty four per cent of the population in rural areas has access to electricity, as opposed to 89 per cent of the urban population; twice as many people living in rural areas fall below the ‘food poverty’ line [an indicator of extreme poverty] (UN Development Program, *Integrated Household Living Conditions Survey in Myanmar, 2009–2010*).

31 See for instance: Vikram Nehru, “Myanmar’s Five Economic Priorities”, *Carnegie Endowment for International Peace*, 23 April 2012, <http://carnegieendowment.org>.

government's growing interest in natural resource extraction as a means of obtaining economic wealth.<sup>32</sup> Myanmar's ethnic community leaders are particularly concerned that large-scale mining of the country's rich mineral resources has led to significant losses of jobs and other sources of livelihood for local communities.<sup>33</sup>

Myanmar's unemployment rate in 2011 was at 5.5 per cent, a drop from 5.7 per cent in 2010 and 6.0 per cent in 1990.<sup>34</sup> Against this background, one of the most serious and widespread reported abuses against civilians by the Myanmar military has been unpaid forced labour.<sup>35</sup> On 16 March 2012, the Myanmar government entered into a new agreement with the ILO, pledging to totally eliminate the use of forced labour by 2015.

Child education and health sectors receive an exceedingly low percentage of the total government budget in comparison with military expenditure,<sup>36</sup> a concern underscored by the UN Committee on the Rights of the Child (CRC) which has urged the government to address this imbalance.<sup>37</sup> The general government expenditure on health and education in 2012 was 7.5 per cent of the annual budget, up from 5.4 per cent the previous year.<sup>38</sup> In an effort to address malnutrition, high infant and maternal mortality rates, and deaths from preventable diseases, the government has adopted a National Child Health Strategic Plan (2010–2014) and a National Reproductive Health Strategic Plan (2009–2013). A slight increase in life expectancy and a decrease in infant and maternal mortality rates indicate some recent improvement in the situation.<sup>39</sup> However, a government proposal in 2012 to increase spending on the healthcare system and direct it at boosting medical supplies, and increasing numbers of trained health professionals and disease prevention measures, amounts to only 2 per cent of the total budget.<sup>40</sup>

The government has stated its intention of reforming education, and public expenditure on education was raised from 2.93 per cent to 4.91 per cent in 2012.<sup>41</sup> While net enrolment in schools has increased over the past decade,<sup>42</sup> access to quality education is still severely limited: compulsory education ends at grade five and the primary school dropout rate is approximately 50 per cent;<sup>43</sup> families are required to pay indirect schooling fees; there is a shortage of adequately trained teachers due to low salaries; and there is a lack of schooling (both in terms of teaching staff and materials) offered in minority languages.<sup>44</sup>

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32 In December 2012, Buddhist monks held rallies across Myanmar to demand further apologies from the authorities over a crackdown in November against a copper mine protest which arose against the alleged forced eviction of local people from their land to make way for the expansion of the mine, a joint venture between Chinese arms manufacturer Norinco and the Myanmar military.

33 Transnational Institute, "Financing Dispossession, China's Opium Substitution Program in Northern Burma", 21 February 2012.

34 CIA, *The World Factbook*, May 2012.

35 See for instance: Human Rights Watch, "Dead Men Walking, Convict Porters on the Frontline in Eastern Burma", 13 July 2011.

36 In the 2012 budget, the military received 14.4 per cent of the annual budget (Defence budget (Myanmar), IHS Jane's: Defense & Security Intelligence & Analysis).

37 Committee on the Rights of the Child, Concluding Observations on the combined third and fourth report of Myanmar under the Convention on the Rights of the Child, UN Doc. CRC/C/MMR/CO/3-4, 14 March 2012, paragraphs 17–18.

38 "Burma's Minister of Finance presents budget to parliament", *The Irrawaddy*, 31 January 2012.

39 UN Economic and Social Commission for Asia and the Pacific, "Statistical Yearbook for Asia and the Pacific, 2009–2010".

40 Progress report of the Special Rapporteur on the situation of human rights in Myanmar, UN Doc. A/HRC/19/67, 7 March 2012.

41 Report of the UN Special Rapporteur on the situation of human rights in Myanmar, UN Doc. A/67/383, 25 September 2012.

42 In secondary education, net enrolment increased from 35.6 per cent to 50.8 per cent (UN Economic and Social Commission for Asia and the Pacific, op.cit.).

43 Save the Children, "What We Do in Myanmar (Burma)", 2009–2010.

44 Committee on the Rights of the Child, Concluding Observations on the combined third and fourth report of Myanmar under the Convention on the Rights of the Child, UN Doc. CRC/C/MMR/CO/3-4, 14 March 2012, paragraph 75.

Low enrolment rates in schools are exacerbated by high rates of child labour, which stands at 18 per cent among impoverished children.<sup>45</sup> Many children are employed in factories, teashops and other business enterprises where they work long hours in arduous conditions for very little pay.<sup>46</sup>

These factors affecting education are magnified in rural areas, where armed conflict and government neglect have destabilised basic standards of living and service provision, leading to a significant education gap. For example, the overall national level of access to secondary schooling is 34 per cent. A country-wide analysis reveals wide disparities: 24 per cent of children in rural areas have access to secondary schooling, while in urban areas 61 per cent of students have access.<sup>47</sup> Similar disparities emerge in areas of enrolment, literacy and educational attainment.

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45 “Children in Myanmar”, UNICEF Myanmar. <http://www.unicef.org>.

46 “Children in Myanmar”, op.cit.

47 “Access” is defined as living within a one-hour walk of a school building (UN Development Programme, “Integrated Household Living Conditions Survey in Myanmar, 2009–2010”).

#### 4. The protection of children in law from recruitment and use in hostilities

The recruitment and use of children (those under 18) by the armed forces is prohibited in law. Despite this legal commitment to protecting children, the government of Myanmar has failed to ratify a number of international standards that would strengthen its obligations in this regard. In June 2012 the Myanmar government signed a Joint Action Plan with the UN marking a significant commitment to ending underage recruitment and use.

##### **International standards**

Myanmar ratified the Convention on the Rights of the Child in 1991 thereby committing itself to protecting the rights of children, including protecting children from taking direct part in hostilities (Article 38). However, it has not taken the further step of ratifying the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (which entered into force in 2002) which contains an extensive set of obligations on states aimed at ending the unlawful recruitment and use of child soldiers. Myanmar has ratified ILO Convention 29 concerning forced labour, but it is not a party to ILO Convention 138 concerning the Minimum Age for Admission to Employment and ILO Convention 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. Nor is it a party to the Rome Statute of the International Criminal Court which requires states to criminalise the war crime of conscripting or enlisting children under the age of 15 years or using them to participate actively in hostilities. Myanmar is a party to the 1949 Geneva Conventions, but not to its Additional Protocols.

Myanmar's national law prohibits the recruitment of under-18s into the armed forces under the provisions of Directive no. 13/73 (1974) of the Myanmar Defence Services and War Office Council. Under the current law recruitment into the military is voluntary. The 1959 People's Militia Act, recently superseded by the State Peace and Development Council Law no. 27/2010 (also known as the People's Military Service Law), provides for compulsory military service for over-18s in the event that a special notification is issued by the head of state. The 1959 Act was never implemented and to date the 2010 law has not been used.

Section 374 of the Myanmar Penal Code criminalises forced labour, stating that "compelling any person to labour against the person's will is a criminal offence which could result in imprisonment for up to 12 months, or a fine, or both". The crime of forced recruitment of children into the armed forces falls under this penal provision. Order 1/99 and Supplementary order 1/99 confirm that any person who does not abide by the prohibition of exacting forced labour, including local authorities, members of the armed forces, members of the police force and other public service personnel, will be prosecuted under Section 374 of the Myanmar Penal Code.

In 1993 a Child Law was enacted, with Rules of Procedure adopted in 2001.<sup>48</sup> The law defines penalties for offences including the abuse and threatening of children, and for employing children to perform

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48 In 1993, Myanmar formed the National Committee on the Rights of the Child (NCRC) as a coordinating body for the implementation of the Child Law, and subsequently established state, division, district, and township Child Rights Committees.

hazardous, unhealthy or harmful work. However, under the Child Law, a child is classified as anyone under the age of 16. Those aged 16 to 18 are considered to be “youths”. Concerns about these provisions have been expressed by the CRC and the 1993 Child Law is currently being reviewed with technical assistance from UNICEF and international legal experts to bring its provisions in line with the Convention on the Rights of the Child and other international norms.<sup>49</sup>

## 5. Underage recruitment by the Myanmar national army – the *Tatmadaw Kyi*

Despite recent political reforms, the *Tatmadaw*<sup>50</sup> remains a powerful institution in Myanmar. More than 90 per cent of *Tatmadaw* personnel are in the *Tatmadaw Kyi* (Myanmar army), which is large, with poor pay and conditions, leading to low morale and high levels of attrition. A persistent emphasis on increasing troop numbers – accompanied by corruption, weak oversight and impunity – has led to high rates of child recruitment. There are indications that the overall environment of reform and the beginning of peace talks with various armed groups in 2012 could trigger a reform of the Myanmar military and a reduction in troop numbers.

The *Tatmadaw* took control of the country in 1962, and has since dominated matters of politics and governance.<sup>51</sup> Since its inception, the *Tatmadaw*'s main stated objective has been to “consolidate the Union [of Myanmar]” and protect its sovereignty.<sup>52</sup> This has ensured that its main focus has remained counter-insurgency efforts against ethnic armed groups seeking greater autonomy and/or democratic rights.<sup>53</sup> Following the suppression of nationwide democracy demonstrations in 1988, the ruling State Law and Order Restoration Council (SLORC) initiated an ambitious program to modernise and expand the armed forces. This created enormous demand for recruits, although pay and conditions were (and remain) poor, resulting in high rates of desertion. Despite recent political reforms, military officials hold 25 per cent of unelected seats in all national and regional parliaments and play a leading role in the appointment of the Defence, Home Affairs and Border Affairs ministers.<sup>54</sup>

The *Tatmadaw* consists of the army (*Tatmadaw Kyi*); the navy (*Tatmadaw Yay*); and air force (*Tatmadaw Lay*) but is dominated by the army, which is overwhelmingly an infantry-based force in keeping with its civil order and counter-insurgency priorities. Estimates are that troop numbers in the three services fall in the ratio of 20:1:1.<sup>55</sup> Continuing conflict has ensured that the military is under pressure to maintain its troop strength, thereby necessitating continuous recruitment, and leading to widespread reports of forced recruitment, including of children. In the context of recent political and economic reforms, the need to professionalise the Myanmar army and reduce troop numbers has been highlighted by a range of national and international actors.

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49 Committee on the Rights of the Child, Concluding Observations on the combined third and fourth periodic report of Myanmar, UN Doc. CRC/C/MMR/CO/3-4, 14 March 2012, paragraphs 9–10.

50 The Myanmar national Armed Forces, named the *Tatmadaw* by its founders, were established in 1948.

51 Maung Aung Myoe (2009), *Building the Tatmadaw: Myanmar Armed Forces Since 1948*, Institute of Southeast Asian Studies, 2009, p.73.

52 Chapter 7, Myanmar constitution, 2008.

53 Tin Maung Maung Than, *Asia Pacific Countries' Security Outlook and Its Implications for the Defense Sector*, The National Institute for Defense Studies, 2010, pp.124–125; Maung Aung Myoe (2009), *op.cit.* p.61.

54 Article 232 (b) (ii) (iii) and (c), Myanmar constitution, 2008.

55 Tin Maung Maung Than (2010), *op.cit.* p.201.



There are no publicly available official figures of the number of military personnel in the *Tatmadaw Kyi*. However estimates indicate that the number of full-time military personnel in the Myanmar military ranges from 350,000 to 400,000, in addition to a paramilitary police force numbering some 72,000.<sup>56</sup> These estimates may be inflated and in any event overstate the fighting capability of the *Tatmadaw Kyi*.<sup>57</sup> Battalions are often undersized, at times being just 15 per cent of their purported size.<sup>58</sup>

Defence has consumed the largest portion of government expenditure in recent decades, but precise figures for the overall military budget are hard to determine. While government statistics on military budgets are often made public they do not reflect total military spending. This is because some military procurement is conducted through military-owned businesses, and purchases from other ministries for items such as fuel are subsidised.<sup>59</sup> In addition, some overseas arms procurement has, on occasion, reportedly been made in exchange for resources or food.<sup>60</sup>

This aside, official defence spending has still accounted for between a quarter and a third of all government spending almost every year since 1962.<sup>61</sup> Nonetheless, recently, this overall rise in military expense has been accompanied by an expansion in budgets for health and education (see above), indicating some shift in the government's priorities.<sup>62</sup>

### **5.1 Structure and working practices of the *Tatmadaw Kyi***

Section 20(b) of the Myanmar constitution lays down that “the Defence Services has the right to independently administer and adjudicate all affairs of the armed forces”, thereby denying any civilian oversight over the armed forces. The Defence Services Commander in Chief is the head of the military and is appointed by the President following approval of the National Defence and Security Council,<sup>63</sup> which is made up of the Defence Minister and a number of senior military officials as well as government ministers and parliamentarians (as specified under section 201 of the constitution). In a state of emergency, the Commander in Chief of the Defence Services has the right to take over and exercise state sovereign power according to constitutional provisions.<sup>64</sup>

Under the Commander in Chief are seven Bureau of Special Operations commands, which in turn oversee 14 regional military commands (RMCs). The RMCs are allocated specific geographical territories and, although the structure is not entirely uniform, most RMCs oversee one Light Infantry Division of 10 battalions; two or three Military Operation Commands (also with 10 battalions each); and an inconsistent number of Tactical Operation Commands (consisting of four battalions).

Despite its centralised and rigid structure, the *Tatmadaw Kyi*'s strength is undermined by poor morale, especially among the lower ranks, which leads to a high rate of desertions and triggers the need for

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56 Jane's Sentinel Security Assessment – Southeast Asia, 27 March 2012.

57 Jane's Sentinel, op.cit.

58 Maung Aung Myoe (2009), op.cit. p.78.

59 Maung Aung Myoe (2009), op.cit. p.163.

60 Wikileaks, “Cable 09Rangoon409, S) Burma and North Korea: Rice for Arms”, released 30 August 2008, <http://www.wikileaks.ch>; Maung Aung Myoe (2009), op.cit. p.163.

61 Maung Aung Myoe (2009), op.cit. p.172.

62 Brian McCartan, “Myanmar military in the money”, *Asia Times*, 28 February 2012, <http://www.atimes.com>.

63 Section 342, Myanmar constitution, 2008.

64 Section 40 (c), Myanmar constitution, 2008.

constant recruitment. Salaries in the military, as with other state organisations, are low,<sup>65</sup> which does not generally attract young men to volunteer for the army. While some senior military officials may benefit from profits earned through military-run businesses, junior levels of staff have no such privileges and morale among lower ranking troops is lowered by the poor conditions in which they serve. When stationed in conflict areas there are no guarantees of resupply of rations and ammunition or medical evacuations, particularly during counter-insurgency operations.<sup>66</sup>

Interviews with former child soldiers who have fled the *Tatmadaw Kyi* indicate that harsh discipline is enforced by military commanders. The use of physical and psychological ill-treatment of recruits is often cited as a factor contributing to high desertion rates. Beatings, verbal abuse and harsh punishments are frequently used to instil discipline.<sup>67</sup> In addition, the pressure on regional military commands to be self-supporting and “live off the land” has resulted in patterns of extortion of the local civilian population, particularly in the highly militarised and more remote border areas.<sup>68</sup>

## 5.2 Practices of underage recruitment and use

Military recruitment of children is largely a by-product of the pressure to meet recruitment targets in a context where adults are unwilling to volunteer and in the absence of strictly enforced recruitment procedures. Forced recruitment is regularly employed, particularly targeting children, who are easier to trick and susceptible to pressure to enlist. An unofficial system of incentives to reward recruiters and punish failure to meet recruitment targets still exists. Bonuses in cash or in kind are provided to recruiters for exceeding recruitment targets and, in some cases, serving soldiers who want to leave the army are told that they will only be discharged if they find new recruits. This “recruitment economy” has led to the creation of an informal network of civilian brokers, as well as pressures on recruiting officers to ignore the minimum recruitment age restrictions which exist under Myanmar law.

Information gathered by Child Soldiers International in the course of recent research missions shows that military officers and informal recruiting agents continue to use intimidation, coercion, and physical violence to obtain new recruits, including under-18s. Recent patterns of underage recruitment by the *Tatmadaw Kyi* appear to remain unchanged from those reported in the past decade by the UN and NGOs, including forced recruitment directly by military officers and civilian brokers.<sup>69</sup> Cases of underage recruitment by the *Tatmadaw Kyi*, verified by the UN country task force for monitoring and reporting in recent years, show that children are recruited from all over Myanmar, though recruitment trends differ from place to place according to several key factors including population density, socioeconomic

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65 Interviews with former child soldiers show that salaries vary from 25,000 to 30,000 kyats (US\$28–34) per month.

66 Maung Aung Myoe (2009), op.cit. p.201.

67 Interviews with former child soldiers conducted by Child Soldiers International in Thailand in 2011.

68 Human rights groups have long attributed high rates of extortion of civilians by military personnel in remote areas to a “self-sufficiency” or “live-off-the-land” policy, believed to have been implemented by the military government in 1996 or 1997. The policy is thought to force all *Tatmadaw Kyi* battalions to sustain themselves without support from the central authorities. See for instance: Amnesty International, “Myanmar Leaving Home”, 8 September 2005, p.16, <http://www.amnesty.org>; Country Reports on Human Rights Practices, US Department of State, 4 March 2003, Section 1.f, <http://www.state.gov>.

69 See for example: Rachel Brett and Margaret McCallin, *Children: The Invisible Soldiers*, Rädda Barnen (Save the Children Sweden), Stockholm, 1998; UNICEF, “Adult Wars, Child Soldiers: Voices of Children Involved in Armed Conflict in the East Asia and Pacific Region”, October 2002; Human Rights Watch (HRW), “‘My Gun Was as Tall as Me’: Child Soldiers in Burma”, 2002; Human Rights Education Institute of Burma (HREIB), “Despite Promises: Child Soldiers in Burma’s Armed Forces”, 2006; HRW, “Sold to be Soldiers”, 2007; HREIB, “Forgotten Future: children affected by armed conflict in Burma,” 2008.

conditions, and the absence or presence of conflict in each particular area.<sup>70</sup> Recent cases of underage recruitment are mostly being reported to the UN from the Yangon, Ayeyarwaddy and Mandalay regions.<sup>71</sup>

It is very difficult to provide reliable overall estimates of the number of child soldiers in the *Tatmadaw Kyi*. The 2012 UN Secretary-General report on children and armed conflict stated that the number of complaints of underage recruitment continued to rise from 194 in 2010 to 243 in 2011,<sup>72</sup> but this reflects only a fraction of the real numbers. Up until 21 November 2012 the ILO had received 237 complaints of underage recruitment during 2012, out of which 21 children were actually recruited in that year. In August 2012 the government announced that 42 children had been released from the *Tatmadaw Kyi* following the signing of the Joint Action Plan with the UN.

In rural Myanmar, children are being recruited whilst on their way to school or when they leave their homes in search of work. In urban areas unaccompanied children are reported to have been recruited at busy locations such as railway stations, bus terminals and markets.<sup>73</sup> Underage recruitment is often carried out by civilian brokers, non-commissioned soldiers and junior police officers. In some instances, local civilian authorities actively hinder efforts to locate child recruits by delaying or failing to provide proof of age and character reference documents when children are reported missing.<sup>74</sup>

Recent information collected by Child Soldiers International shows that recruitment is achieved mostly among poor and uneducated children, the overwhelming majority of whom have not finished eighth grade at school and are particularly vulnerable to false threats of legal action, persuasive language and promises of salaries.<sup>75</sup> Recruiters are also known to threaten children and use force. A common tactic practised is to demand to see the individual's National Registration Card knowing that children generally do not carry them. If the child presents a student identity card, he is often told that it is an unacceptable form of identification and the recruiter then offers him a choice of joining the army, or facing a long prison term for failing to carry a card.<sup>76</sup> Sources say that children who resist being recruited are routinely shackled and fettered.<sup>77</sup>

The ages of children are systematically falsified or wrongfully recorded in the initial recruitment processes (see below) and these children are therefore treated like adult recruits when it comes to training and deployment. Interviews conducted by Child Soldiers International with former child soldiers indicate that conditions in the centres where they are initially held after recruitment and in the training camps are extremely poor. The barracks are overcrowded, the quality of food is poor and nutritionally inadequate, and child soldiers are routinely beaten by senior personnel. Recruits are required to undertake approximately four and a half months of training before being sent to their duty station.

Child soldiers face greater dangers when deployed to conflict situations because of their lack of experience. Field research conducted by Child Soldiers International in March 2011 and April 2012

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70 Interview with Liaison Officer, ILO, Yangon, 24 April 2012.

71 UN General Assembly, Children and armed conflict, Report of the Secretary-General, UN Doc. A/66/782-S/2012/261, 26 April 2012, paragraph 67.

72 UN General Assembly, Children and armed conflict, Report of the Secretary-General, UN Doc. A/66/782-S/2012/261, 26 April 2012, paragraph 67.

73 Confidential interviews conducted by Child Soldiers International, Yangon, 24 April 2012.

74 Proof of age and character reference documents are required to report a child missing to local authorities and a 'search' for a child can officially begin only after these documents are presented.

75 Child Soldiers International interview with ILO Liaison Officer, Yangon, 24 April 2012.

76 Confidential interviews conducted by Child Soldiers International, Yangon, 24–28 April 2012.

77 Confidential interviews conducted by Child Soldiers International, Yangon, 24–28 April, 2012.

indicates that child soldiers recruited by the *Tatmadaw Kyi* have been deployed in front-line battalions. In May 2012, Child Soldiers International received testimonies of three child soldiers who had been forcibly recruited by the *Tatmadaw Kyi* and subsequently deployed to the Kachin front line, where two had been used to carry firewood and water and perform sentry duty, while one 16-year-old was asked to engage in active combat in ongoing fighting with the Kachin Independence Army (KIA). The 16-year-old was deployed in the 384 Light Infantry Battalion and was captured by the KIA on 24 December 2011 near Laiza. He said: “I was firing guns at the KIA soldiers [but] I just fired the gun pointing in the air because I was very scared”.<sup>78</sup>

The deployment of child soldiers in the front line by the *Tatmadaw Kyi* was also observed during fighting in the eastern border areas following an attack on, and brief seizure of, the border town of Myawaddy by ethnic Karen armed groups on 7 November 2010.<sup>79</sup> The assignments given to child soldiers in hostile situations vary depending on the location and role of their battalion. Children deployed in the front line have been used to carry weaponry, detonate landmines and work as porters to carry goods and rations. In these situations they have been exposed to active fighting and often sustained serious or lethal injuries as a direct result of the fighting or of landmines. Information provided to Child Soldiers International indicates that bodies of children killed during fighting were, on occasion, dumped into rivers.<sup>80</sup>

### 5.3 Absence of age verification procedures and continuing age falsification

Section 24 of the Rules of Procedure of Myanmar’s 1993 Child Law prescribes that parents or guardians must carry out registration of a child at the time of his or her birth, when the child reaches 10 years old and then again at 18 years old. In urban areas, 93.5 per cent of children have a birth certificate or have their birth reported by the mother or caregiver to authorities; in rural areas, the figure is much lower at 63.5 per cent.<sup>81</sup> Registration in remote and rural areas is often informal, consisting of no more than the midwife’s personal records. Recording the date of birth of a child is not common practice among families in rural areas and most remember their children’s ages by counting the harvests from the time they are born.<sup>82</sup> Costs associated with travel from rural areas to the township government office to register the birth of a child are high.<sup>83</sup>

In areas where armed groups are particularly active, the issuance of birth certificates or other official documents is further limited. Information gathered by Child Soldiers International shows that most people living in KNU-dominated regions lack government-issued ID cards.<sup>84</sup>

At the age of 10, children are eligible for temporary National Registration Cards (NRC), later converted to permanent cards at the age of 18. The process for obtaining an NRC is difficult and expensive, often requiring families to travel long distances to the township government offices. A temporary NRC can cost as much as 35,000 kyat (approx US\$40), with the cost varying according to the applicant’s circumstances,

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78 Confidential interviews conducted on behalf of Child Soldiers International, Laiza, 8 April 2012.

79 Confidential interviews conducted by Child Soldiers International, Thailand, March 2011.

80 Confidential interviews with two former child soldiers conducted by Child Soldiers International, Mae Sot, March 2011.

81 UNICEF, Ministry of Health and Ministry of National Planning and Economic Development, “Myanmar multiple indicator cluster survey 2009–2012”, <http://www.unicef.org>.

82 Child Soldiers International interviews with Zipporah Sein, Secretary General, KNU; Colonel Nerdah Mya, KNLA; David Thackapaw, vice chairman, KNU; La Ngwe, first joint secretary, KNU; Major Moses, KNLA 7th Brigade; and students from the New Generation Program, Thai–Myanmar border, August–September 2012.

83 Australian Council for International Development, *Submission to the Universal Periodic Review of Myanmar*, July 2010.

84 Child Soldiers International interviews with Zipporah Sein and David Thackapaw, August 2012.

and another payment is required as a conversion fee to receive a permanent NRC when the applicant reaches 18. Without a birth certificate or NRC, children face a higher risk of being forcibly recruited.

Official proof of age documentation is in theory required at all *Tatmadaw Kyi* recruitment centres. However, some recruitment officers and civilian brokers forge documents before bringing a child into the recruitment centre. Also, age verification documents are easily falsified at local photocopy shops, where templates of birth certificates, family lists and school registration forms are readily available.<sup>85</sup> The falsification of documents appears to be most commonly practised if the child is taken to one of Myanmar's four main recruitment centres<sup>86</sup> where medical examinations are regularly conducted and there is greater scrutiny of proof of age documents.<sup>87</sup> Regardless of the recruitment centre, invariably the child is recorded as being over 18.<sup>88</sup>

Ages of children and adults have also been wrongly recorded in Myanmar for various other reasons. An estimated 13 per cent of surveyed household members lost their NRCs in the devastating cyclone Nargis which struck the country in May 2008 and affected more than 7 million people.<sup>89</sup> In many cases, new NRCs were issued in the absence of age verification documents like birth certificates, which had also been lost in the disaster, leading to an unknown number of individuals receiving incorrect proof of age.<sup>90</sup> Ages were also incorrectly recorded when compiling voting lists in the 2010 general elections in Myanmar, bringing under-18s within the voting population.<sup>91</sup>

Child Soldiers International understands that, in addition to age, recruiters change other information in registration documents at the recruitment site. Altering the child's biographical information – for instance the father's name – makes it more difficult for parents or the authorities to subsequently locate the child.<sup>92</sup> After their recruitment, children are often issued an NRC containing false information. Child Soldiers International has received reports that low-ranking military personnel have in some cases forced parents of recruited children to sign blank forms which would later be filled in by military officials to state that the child was over 18 at the time of recruitment and/or had voluntarily joined the army.<sup>93</sup> Similarly, sources indicate that age falsification occurs at each stage of the recruitment process and continues even after a child is discharged from the military.

The need to strengthen recruitment procedures and include effective age verification mechanisms and safeguards has been repeatedly raised by the UN,<sup>94</sup> yet efforts to establish and enforce strong safeguards

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85 The ILO received testimony from a child who was taken by a recruitment officer to a copy shop near Mandalay where he observed documents being counterfeited to establish that he was over 18.

86 The four main recruitment centres for the Myanmar military are in Magwe, Ayeywaddy, Yangon and Mandalay divisions.

87 A UNICEF representative in Myanmar maintains that some recruitment centre officers use a more rigorous system to check the age of recruits, including one officer in Mandalay who allegedly checks the signature of village/ward officials against copies he keeps on file. However, this system is ineffective for children who are brought in from areas far from the recruitment centre.

88 Confidential interviews conducted by Child Soldiers International, Yangon, 24–28 April 2012.

89 Estimates provided in the Post Nargis Periodic Review II, Fourth and Final report prepared by the Tripartite Core Groups comprised of the representatives of the government of union of Myanmar, the Association of South East Asian Nations (ASEAN) and the UN, July 2010.

90 Child Soldiers International confidential interview with representative of international NGO, Yangon, 5 December 2012.

91 Child Soldiers International confidential interviews with representative of international organisation, 6 December 2012.

92 See Human Rights Watch, "Sold to be Soldiers", 2007.

93 Confidential interview with members of child protection group, Yangon, 27 April 2012.

94 In February 2012 the Committee on the Rights of the Child urged the government of Myanmar to "Require that a national registration card or an original birth certificate be the minimum age verification criteria accepted by the armed forces and cease the system of offering incentives to those enlisting new recruits" (Committee on the Rights of the Child, Concluding Observations on the combined third and fourth report of Myanmar under the Convention on the Rights of the Child, UN Doc. CRC/C/MMR/CO/3-4, 14 March 2012, paragraph 82 (b)); in his 2011 annual report on children and armed conflict the UN

which would ensure that legal prohibitions on child recruitment were respected in practice have so far been lacking. Child Soldiers International has received information that in the recent context of the implementation of the Joint Action Plan, some procedures to verify the ages of children at the point of release from the *Tatmadaw Kyi* have been developed. This was demonstrated by an age verification process that took place prior to the release of 42 children from its ranks on 3 September 2012.<sup>95</sup> However, similar mechanisms need to be put in place during recruitment processes to effectively prevent underage recruitment in the Myanmar military.

#### **5.4 Absence of independent monitoring and accountability mechanisms**

The evidence above indicates continuing recruitment of children in the absence of rigorously enforced age verification mechanisms. Enforcement of any legal provisions which prohibit the recruitment of children – such as those that exist in Myanmar – requires effective monitoring systems and sanctions for non-compliance. To date, a number of monitoring initiatives taken by the government appear to have failed to effectively eradicate the practice on the ground.

In January 2004, in response to mounting international criticism of child recruitment, the then military government formed the Committee for Prevention of Military Recruitment of Underage Children (the Committee).<sup>96</sup> This was followed by the establishment, in July 2004, of the Directorate of Military Strength to supervise military recruitment and ensure that minimum age requirements were met. The Directorate of Military Strength reportedly oversees all aspects relating to armed forces recruitment, including the operations of armed forces recruitment units and recruitment holding centres, and their adherence to *Tatmadaw Kyi* recruitment quotas and directives on the minimum standards for recruits. In September 2007 the military regime in Myanmar, also known as the State Peace and Development Council (SPDC), established a Working Group for the prevention of military recruitment of underage children.<sup>97</sup>

In 2011, the Myanmar government submitted a list of children discharged for being recruited under age to the UN country task force for monitoring and reporting. It reported that 417 potential new recruits had been rejected at the recruitment unit screening between January and the end of September 2011 for being under 18 years of age.<sup>98</sup> While these mechanisms have clearly helped to identify some instances of underage recruitment, they have so far failed to either systematically monitor the army's recruitment

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Secretary-General noted concerns regarding age verification (Report of the UN Secretary-General on children in armed conflict, UN Doc. A/65/820-S/2011/250, 23 April 2011, paragraph 116).

95 Child Soldiers International confidential interview with a representative of an international organisation, Yangon, 10 December 2012.

96 The Committee's "Plan of Action" established three objectives: to prevent the forced recruitment of underage children as soldiers; to protect the interests of underage children; and to ensure faithful adherence to the orders and instructions issued for the protection of underage children. The Committee's Plan of Action briefly elaborated five types of activities: the demobilisation of child soldiers; the reintegration of former child soldiers; public awareness raising; the punishment of persons who violate recruitment laws and procedures; and cooperation with international agencies.

97 A series of developments preceded the setting up of the Working Group for the prevention of military recruitment of underage children in 2007. In February 2007 a Supplementary Understanding was signed by the SPDC and the ILO. In April 2007 the Security Council working group on children and armed conflict placed the situation of children affected by armed conflict in Myanmar on its agenda. The Special Representative to the Secretary-General for children in armed conflict (SRSG) visited Myanmar in June 2007 and met high-ranking government officials, the Government Committee for the prevention of military recruitment of underage children and representatives of the United Wa State Army. The purpose of the visit was to establish a UN task force on children and armed conflict and to discuss modalities of the monitoring and reporting mechanism, established under UN Security Council Resolution 1612, undertaken by the UN country team in cooperation with the SPDC.

98 UN General Assembly, Children and armed conflict, Report of the Secretary-General, UN Doc. A/66/782-S/2012/261, 26 April 2012.

practices throughout the country or result in the introduction of necessary reforms to recruitment procedures.

An effective, independent, national monitoring mechanism is still lacking. The National Human Rights Commission, established in October 2011, includes a division for children's rights. However, its capacity to effectively monitor practices of recruitment and use of children is still untested and the Committee on the Rights of the Child has expressed concerns about how its current institutional setting, membership and financial resources guarantee its independence.<sup>99</sup> During 2012 there were some signs that the National Human Rights Commission could play a strengthened role in documenting human rights violations in the future: in July members of the Commission undertook a second mission to the Kachin state where they denounced the use of torture during interrogation.<sup>100</sup> This marked a welcome shift from the Commission's earlier position that it was "not appropriate" to investigate human rights violations committed in ethnic conflict areas.<sup>101</sup>

In February 2007, a complaint mechanism was established by the ILO under which individuals can bring cases of forced labour under ILO Convention 29 concerning forced labour (including forced and underage recruitment) to an ILO liaison officer in Yangon.<sup>102</sup> Since February 2007, the ILO has received 778 complaints of underage recruitment and has successfully released 267 child soldiers and returned them to their families. Following a new agreement between the ILO and the government of Myanmar in March 2012 to totally eliminate the use of forced labour by 2015, the government has taken a number of proactive steps to ensure the improved working of this complaint mechanism. As a member of the country task force with responsibility to implement the Joint Action Plan (which includes a commitment to monitor the presence of children in the *Tatmadaw Kyi* and ensure their release), the ILO continues to operate the complaint mechanism to this end. However it is important to note that the complaint mechanism remains reactive and triggers action only after a complaint is made.

Research by Child Soldiers International shows that the procedure to track down a child is lengthy. Those who assist families of children have to collect information about the missing child including age – supported by age verification documents such as a birth certificate or school identification card – along with details about when the child went missing and under what circumstances. This information has to be submitted to the General Administration Department (GAD), a local government office under the Ministry of Home Affairs, to obtain a letter certifying the child is not in conflict with the law. On receipt of the letter from the GAD, the child can be reported 'missing' at the local police station. While collecting these official documents is time-consuming and difficult, recruitment centres and military units are in some instances known to delay the release of a child, even when these documents are produced.

Lawyers have been threatened for trying to obtain age verification and character reference documents in efforts to secure the release of children held at recruitment centres.<sup>103</sup> Parents who go to these centres have often been told they must pay bribes to retrieve their children, though payment has not always guaranteed their child's release. While a network of child protection workers in the community is

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99 Committee on the Rights of the Child, Concluding Observations on the combined third and fourth report of Myanmar under the Convention on the Rights of the Child, UN Doc. CRC/C/MMR/CO/3-4, 14 March 2012, paragraphs 15 and 16.

100 Report of the UN Special Rapporteur on the situation of human rights in Myanmar, UN Doc. A/67/383, 25 September 2012, paragraph 52.

101 Simon Roughneen, "Head of HR Commission Rules Out Conflict-zone Inquiry", *The Irrawaddy*, 15 February 2012, <http://reliefweb.int>.

102 The complaint mechanism was established in a Supplementary Understanding (SU) with the ILO signed between the government of Myanmar and the ILO on 26 February 2007.

103 Child Soldiers International confidential interview with members of child protection group, 27 April 2012.

gradually gaining strength, members of this network have been met with suspicion when they approach authorities and commanders at military facilities.

The lack of systematic and independent national monitoring in Myanmar is coupled with limited accountability measures which have failed so far to deter ongoing underage recruitment despite the fact that it is against the law. Since 2007, the government is reported to have taken disciplinary action against 207 military personnel suspected of involvement in underage recruitment. According to ILO records, most of those punished have been non-commissioned officers (NCOs) – sergeants, corporals and some privates. They have been subjected to serious reprimands, received salary reductions, had their pensionable years reduced or been demoted.<sup>104</sup> Those commissioned officers who have been prosecuted received reprimand, serious reprimand, dismissal, demotion in rank, and imprisonment. Only two officers and seven NCOs have been imprisoned to date. There are still significant legal and practical obstacles to holding military personnel criminally accountable for underage recruitment. Child Soldiers International has serious concerns about the independence and impartiality of the justice system in Myanmar, and therefore its capacity or willingness to investigate and try members of the military for serious human rights violations, including child recruitment and use. These concerns reflect those expressed by the UN Human Rights Council about the widespread impunity for serious human rights violations in Myanmar.<sup>105</sup> This impunity is facilitated by constitutional provisions shielding the military from prosecution.<sup>106</sup>

Criminal investigation and prosecutions of civilian perpetrators are also exceptional, with only one civilian broker having been referred to the criminal court for further prosecution.

### **5.5 Detention and ill-treatment of child “deserters”**

A number of children who have escaped from the *Tatmadaw Kyi* have been arrested and detained in prison. These children are detained with adults and Child Soldiers International has received reports of sexual abuse of child soldiers (detained in Thayet prison, Magwe division) by fellow prisoners, and torture and other ill-treatment by prison staff.<sup>107</sup>

The government of Myanmar has now accepted that children should not be charged with desertion and should be released from prison. This is reportedly reflected in a commitment – contained in the Joint Action Plan signed with the UN in June 2012 – that those under 18 will not be arrested or prosecuted for desertion. Similarly, the government has reportedly accepted that child recruits turning 18 years old while serving in the army does not legitimise their recruitment, their continued retention in the army or their being charged with subsequent desertion.<sup>108</sup> However, there is no indication that the government has taken the necessary steps to translate this into legal and policy measures, including by granting a right of voluntary discharge to adult members of the state army who were recruited as minors.

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104 Interview with Liaison Officer, ILO, Yangon, 24 April 2012.

105 In its April 2012 resolution the Human Rights Council expressed “concern that previous calls to end impunity have not been heeded”. It renewed its call upon the government of Myanmar “to undertake, without delay and with appropriate attention from the United Nations, a full, transparent and independent investigation into all reports of such violations, past and present, and to bring to justice those responsible in order to end impunity for such acts” (UN Doc. A/HRC/RES/19/21, 26 April 2012, paragraphs 11(b) and 3 respectively).

106 Article 319 of the 2008 constitution states that only courts-martial “shall adjudicate Defence Services personnel”. Under this unrestricted mandate, members of the military never have to appear before civilian courts, regardless of their crime. Article 294 of the constitution declares that the courts-martial fall outside the jurisdiction of the Supreme Court, so that the “highest court of the Union” actually has no power over the military justice system.

107 Confidential interviews conducted by Child Soldiers International, Mae Sot, March 2011.

108 Children and armed conflict, Report of the Secretary-General, UN Doc. A/65/820-S/2011/250, 23 April 2011, paragraph 114.



In some specific instances in recent years, the government appears to have released underage recruits from prison.<sup>109</sup> On 7 May 2011, the government announced a decision to release 10 underage recruits then in prison for “desertion” under what was popularly known as an “amnesty scheme”.<sup>110</sup> In June 2012, the Myanmar government provided the ILO with a list of persons serving prison sentences in civilian prisons at that time on charges of desertion. The government agreed that those identified as being under age would be released and discharged and consequently released some recruits. The ILO has reported to Child Soldiers International that the majority of underage recruits imprisoned for alleged desertion are indeed now being released.<sup>111</sup> In addition, the ILO forced labour complaint mechanism referred to above protects complainants (or their representatives) from judicial or retaliatory action. As a result, child soldiers who complain to this mechanism who are declared absent without leave as a result have been issued with “protection letters” which according to the ILO have worked as an effective tool to prevent their arrest for desertion.<sup>112</sup>

Despite these releases and limited safeguards, relevant legislation has not been amended and no regulations or specific orders have been issued to authorities that the arrest, detention and conviction of children for “desertion” are unlawful. In fact, there is strong evidence that the practice of detaining child deserters continues and that the government has failed to take adequate steps to bring it to an end.<sup>113</sup> Children who attempt to escape or escape from the army continue to be arrested, with six cases reported to the ILO in 2012 from a total of 77 received between 2007 and 2012. For those who ran away for a year or more the research shows that they would be tried in military courts for being absent from duty without permission and sentenced for a period which was proportionate to the length of time they had been escaped for and on release would be required to continue serving in the army. In some cases, child soldiers attempting to escape are reported to have been caught and detained at the battalion camp for a month or more and then returned to duty without being formally charged.

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109 “ILO reports that, to date, 7 (1 in 2010) such imprisoned underage recruits have been released from prison and discharged from the military, with negotiations continuing for the release of another 10 such persons”. See Children and armed conflict, Report of the Secretary-General, UN Doc. A/65/820-S/2011/250, 23 April 2011, paragraph 114.

110 The government has generally granted amnesties or a reduction in prison term to mark important national days. The last, in 2009, freed 7,114 prisoners. Most recipients are petty criminals, but previous mass releases have usually included a handful of political detainees.

111 Interview with ILO Liaison Officer, Yangon.

112 Interview with ILO, Yangon, 6 December 2012.

113 The Secretary General’s 2012 report to the UN Security Council notes that the “ILO documented a total of 22 children arrested and charged with desertion in 2011, of whom three were released and discharged from service” (UN General Assembly, Children and armed conflict: Report of the Secretary-General, UN Doc. A/66/782-S/2012/261, 26 April 2012, paragraph 195).

## 6. Underage recruitment and use by Border Guard Forces

Border Guard Forces, established since 2009 and made up of members of former armed groups, *Tatmadaw Kyi* officials and some new recruits, operate under the command of the *Tatmadaw Kyi* and are thereby under the responsibility and control of the state of Myanmar. Despite this, no sustained efforts have yet been made by the government to verify the presence of children in these forces and demobilise them, or to put in place the necessary safeguards to prevent the recruitment of children.

### 6.1 The establishment and structure of Border Guard Forces

In April 2009 the government announced a plan to transform armed groups who had signed up to ceasefire agreements and other smaller militias into a Border Guard Force (BGF). These forces were to become, in essence, paramilitary forces established in law,<sup>114</sup> incorporating *Tatmadaw Kyi* officers and support troops into their ranks and under the command of *Tatmadaw Kyi* regional commanders. Initial meetings between *Tatmadaw Kyi* generals and leaders of armed ethnic groups including among others the Karen, Shan, Wa and Kokang, to encourage their transformation into BGF battalions,<sup>115</sup> yielded limited results, and only nine relatively small groups agreed to the process initially.<sup>116</sup> In some cases, resistance from armed groups to the BGF scheme triggered fresh fighting. In 2009 for example, fighting erupted between the *Tatmadaw Kyi* and the Shan state-based Kokang group the Myanmar National Democratic Alliance Army (MNDAA), partly as a result of their refusal to transform into BGF battalions, thus ending two decades of ceasefire. As a result, an estimated 37,000 refugees fled across the Myanmar–China border to escape the conflict.<sup>117</sup> Many groups opposed the scheme to establish BGF battalions on the grounds that the proposal offered no opportunity for political dialogue prior to the disarmament of the armed group.

In 2010 four further larger armed groups transformed the majority of their forces into BGF battalions. These were a breakaway faction of the Democratic Karen Buddhist Army, National Democratic Army-Kachin, the Kachin Defence Army, and the Pa-O National Organisation.

For all intents and purposes, the BGF battalions are meant to function like units of the *Tatmadaw Kyi*. They have an almost identical internal structure and are entirely under the command of the *Tatmadaw Kyi*, although they wear different uniforms. The 2009 government directive concerning the establishment of the BGF laid down that each battalion would consist of 326 personnel, 30 of whom would be from the *Tatmadaw Kyi*. All members of the force would draw regular army salaries from the date they started

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114 The 2008 constitution stipulates that all armed forces in the country must be placed under central military command (Union of Myanmar, 2008: section 338, chapter VII). The Border Guard Transformation Plan aimed to bring all ethnic armed groups under the command of the SPDC, as part of its “roadmap to democracy”.

115 Wai Moe, “Border Guard Force Plan Leads to End of Ceasefire”, *The Irrawaddy*, 31 August 2009.

116 The nine transformed Border Guard Force groups were the following: the Karen Peace Force (KPF); the Lasang Awng Wa Peace Group (LAWPG); the Karenni National People’s Liberation Front (KNPLF); the New Democratic Army-Kachin (NDA-K); the Kachin Defence Army (KDA); the Kokang Region Provisional Leading Committee; two townships in Shan State-East (Mongton and Mongyawng townships); SSA-N transformed two out of three brigades; and a Lahu militia unit (“BGF Developments,” *Mizzima News*, available at: <http://www.mizzima.com>).

117 UN High Commissioner for Refugees, *Briefing Note: UNHCR calls for access to Myanmar refugees*, 4 September 2009.

training.<sup>118</sup> In practice, reports indicate that not all the BGF battalions receive material support from the *Tatmadaw Kyi*: some are believed to receive arms from the Myanmar military while others are thought to be largely self-reliant, often mobilising communities to perform laborious tasks and provide materials for building.<sup>119</sup>

BGF battalions have been deployed in direct combat operations, most recently against the KNLA, with whom they were engaged in open conflict from mid-2010 until January 2012, when a ceasefire was signed. They are also deployed to secure the government's economic interests by guarding dams and development projects.<sup>120</sup>

## 6.2 Recruitment and use of children by Border Guard Forces

A number of the armed groups which transformed into BGF battalions were known to recruit children and use them in hostilities prior to their transformation, and there is no indication of any program to demobilise child soldiers as part of the transformation process.<sup>121</sup> In 2011, BGFs were named for the first time in the UN Secretary-General's annexes to his report on children and armed conflict (together with the *Tatmadaw Kyi*) as parties that recruit and use children in armed conflict.<sup>122</sup>

As the case study of the BGF below notes, to date there has been no systematic attempt by the government to independently verify the presence of children in the ranks of existing BGFs with the aim of securing their release and reintegration. Information gathered by Child Soldiers International shows that the BGFs, while under the command of the *Tatmadaw Kyi*, suffer from weak command and poor discipline. This contributes to an environment in which recruitment can continue outside official processes and contrary to established law and policy. The Joint Action Plan signed between the UN and the government in June 2012 for the prevention of recruitment of children and the discharge and rehabilitation of child recruits covers BGFs as part of the armed forces, recognising the government's responsibility for the actions of BGF units. Any assessment of the success of the implementation of the Joint Action Plan will require an evaluation of the way in which the government has addressed practices of child recruitment by BGFs, as described in the case study below.

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118 Tom Kramer, "Neither War nor Peace: The Future of the Cease-fire Agreements in Burma", p.35, Transnational Institute, July 2009. Confidential interviews in Kayin State, Myanmar, 5 August 2012 confirmed that soldiers in BGFs transformed from former DKBA troops did not receive salaries until they had begun training.

119 Confidential interviews, Myanmar, 4 August 2012, 5 August 2012; Thailand, 9 July 2012.

120 Confidential interviews, Myanmar, 4 August 2012, 5 August 2012, 9 August 2012, 16 August 2012.

121 The Karen National People's Liberation Front and the Myanmar National Democratic Alliance Army/Kokang Army, listed in annex I of the 2010 Report of the Secretary-General on children and armed conflict, were integrated into Border Guard Forces (Border Guard Force 1004 and Border Guard Force 1006, respectively). See Children and armed conflict, Report of the Secretary-General, UN Doc. A/64/742-S/2010/181, 13 April 2010. A DKBA breakaway faction has also been integrated into the Border Guard Forces (see Children and armed conflict, Report of the Secretary-General, UN Doc. A/65/820-S/2011/250, 23 April 2011).

122 Children and armed conflict, Report of the Secretary-General, UN Doc. A/65/820-S/2011/250, 23 April 2011, Annex I.

### 6.3 Case study: Border Guard Forces (Democratic Karen Buddhist Army)<sup>123</sup>

#### *Structure*

The August 2010 transformation of the majority of DKBA forces<sup>124</sup> into BGF battalions was formally marked during four ceremonies held in different parts of Karen state that month, presided over by the *Tatmadaw Kyi* south-east commander.<sup>125</sup> The exact number of BGF battalions formed from the DKBA is disputed but there is a general consensus that there are 13 BGF battalions: 12 comprised of former DKBA forces and one formed from another KNU breakaway group, the Karen Peace Force. The latter transformed into BGF 1023.<sup>126</sup> Each battalion, according to the original government directive, should have 326 soldiers<sup>127</sup> though in practice troop numbers are generally thought to be lower, varying between 35 and 150 soldiers stationed in one battalion.<sup>128</sup>

Within each battalion, the battalion commander is a former DKBA commanding officer, while the five officers ranked between him and the individual companies are usually from the *Tatmadaw Kyi*. Each company<sup>129</sup> of the BGF has *Tatmadaw Kyi* soldiers as support troops, namely in roles that include communications, intelligence, engineers, technicians and drivers. Officially, the *Tatmadaw Kyi* troops (28–30 personnel per BGF battalion) are expected to be based in the battalion at all times. However, Child Soldiers International has been told that in some battalions this was not strictly adhered to in the battalion's initial months of operation but that since May 2012 this requirement has been implemented more strictly in order to strengthen *Tatmadaw Kyi* command over BGF ranks.<sup>130</sup> *Tatmadaw Kyi* officers are said to monitor the BGF battalion headquarters by means of regular visits and keep a close check on the number of soldiers present in the ranks.<sup>131</sup>

Child Soldiers International was informed that barring a week's training program which all BGF troops underwent following their transformation, no systematic training had been provided to the troops.<sup>132</sup> There were also unconfirmed reports that BGF battalions were not provided with weapons directly by the government but were given funds to purchase their own weapons.<sup>133</sup>

#### *Recruitment and use of child soldiers by the BGF*

The DKBA has been listed as a party to conflict that recruits and uses children in annual reports on children and armed conflict of the UN Secretary-General in 2007, 2009, 2010, 2011 and 2012. Intermittent reports of underage recruitment continued following the transformation of many of its forces

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123 The transformed DKBA is currently known simply as the BGF 1011–1022; hence this report uses the term BGF to denote those DKBA forces which transformed into BGFs in 2010.

124 A faction of the DKBA remained opposed to the government. This faction was known for some time as the DKBA (Brigade 5), also known as 555 or KloHtoobaw, but is now known as the Democratic Karen Benevolent Army (DKBA) (see section 7).

125 N. Noreen, "DKBA officially becomes Border Guard Force", *Democratic Voice of Burma*, 19 August 2010, <http://www.dvb.no>.

126 K. Yhome, "Myanmar's Changing Political Landscape: Key Players and Recent Trends", Appendix III, p.25, Observer Research Foundation, September 2011, <http://www.observerindia.com>.

127 Tom Kramer, "Neither War nor Peace: The Future of the Cease-fire Agreements in Burma", p.35, Transnational Institute, July 2009.

128 Confidential interviews, Myanmar, 4 August 2012, 5 August 2012.

129 Each battalion within the BGF (DKBA) consists of a number of companies varying between three and five.

130 Confidential interview, Thailand, 9 July 2012.

131 Confidential interview with a source who has regular access to BGF camps (location kept confidential on grounds of security), 16 August 2012.

132 Confidential interviews with a BGF deserter, Thailand, July 2012.

133 Confidential interviews with a BGF deserter, Thailand, July 2012.

into Border Guard Forces in 2010<sup>134</sup> and 2011.<sup>135</sup> The BGF was listed as a party to conflict that recruits and uses children, along with the *Tatmadaw Kyi*, in the UN Secretary-General's 2012 report on children and armed conflict.

Orders from the *Tatmadaw Kyi* to the BGF to stop underage recruitment<sup>136</sup> appear to have had some impact on the levels of child recruitment,<sup>137</sup> but recruitment procedures have not been strengthened so far to prevent and end underage recruitment. Some sources informed Child Soldiers International that the BGF commanders keep children away from joint training programs with the *Tatmadaw Kyi* to hide the fact of their recruitment. The BGF continues to be under enormous pressure to augment their troop size which is constantly depleted by desertions and defections. In this context, BGF commanders are said to routinely resort to coercion to recruit, and the absence of age verification procedures and a lack of awareness of international standards and domestic legislation among lower-level commanders results in children inevitably being amongst those forcibly recruited.

Reports indicate that recruitment quotas have been imposed by BGF commanders in villages under their control. Prior to their transformation into a BGF, the DKBA had operated a lottery system requiring families to draw a ticket which indicated whether or not they were required to contribute a family member to the DKBA.<sup>138</sup> Credible reports indicated that in some cases families sent a child under 18 years old for recruitment in lieu of older family members who were held back, as they are considered more productive workers.

In 2010 a program of large-scale forced recruitment into the BGF was initiated. This was prompted by depleting troop numbers as a result of desertions and defections and orders from the *Tatmadaw Kyi* to demobilise those over 50 years of age.<sup>139</sup> While numbers are difficult to estimate, sources independently confirmed the presence of under-18s among these recruits.<sup>140</sup>

The majority of children recruited to the BGF in the 2010 recruitment drive reportedly came from poor, rural backgrounds and had little or no access to education.<sup>141</sup> Recruitment into the BGF was mostly coerced and generally occurred when soldiers entered villages close to their military camps and demanded recruits. If villagers failed to produce recruits, they were asked collectively to pay 30,000–50,000 kyat per recruit in lieu.<sup>142</sup> In some cases the prospect of employment and a monthly salary of 30,000 kyat was a factor which led families to send children as recruits to the BGF. In a militarised environment where poverty is widespread, a job in the BGF can be seen as a way of gaining access to power and privilege. This was actively exploited by recruiters who were known to tell boys that they could be more powerful than others if they wore a uniform and held a gun. An absence of educational facilities or other job opportunities makes joining an armed force attractive to young boys who would otherwise work very hard for very little.<sup>143</sup>

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134 Information received by Child Soldiers International from the Karen Human Rights Group, Mae Sot, 19 August 2012.

135 Children and armed conflict, Report of the Secretary-General, UN Doc. A/66/782–S/2012/261, 26 April 2012, paragraph 69.

136 Information available to Child Soldiers International shows that a mid-level *Tatmadaw Kyi* official told BGF commanders to stop recruiting child soldiers in two separate meetings held in Myit Tha Lay Nyaing in Myawaddy township and in Myawaddy town in January and August 2011.

137 Confidential interviews with DKBA commanders, September 2012.

138 Child Soldiers International and HREIB interviews, Mae Sot, Thailand, March 2011.

139 Confidential interviews, Thailand, 9 July 2012; Myanmar, 4 August 2012, 5 August 2012.

140 Child Soldiers International interview with Maj. San Aung, senior intelligence officer, DKBA.

141 Confidential interviews, Thailand, 9 July 2012; Myanmar, 4 August 2012, 5 August 2012.

142 Confidential interviews, Thailand, 9 July 2012; Myanmar, 4 August 2012, 5 August 2012.

143 Child Soldiers International interviews with deserters from BGF, Thailand, 9 July 2012; Myanmar, 4 August 2012, 5 August 2012.

Child Soldiers International found no evidence of any age verification processes at the point of recruitment by the BGF. Some children were reported to have been given the identity of an adult defector or deserter at the point of recruitment and thereby been registered as adults.<sup>144</sup> In one 2011 case known to Child Soldiers International, a 13-year-old was taken aside by a sergeant from an outpost and forced to sign a document which stated that he had willingly joined the BGF. The child recruit was then taken to an outpost in Myawaddy Township, where four other child soldiers were stationed.<sup>145</sup>

Once recruited, children were employed in the BGF in similar roles as adults – as combatants, guards, porters and carriers. Strict discipline is maintained and rule-breaking is met with harsh punishment. There does not appear to be any uniformity in training within different BGF battalions. Some sources indicated that new recruits are often just “handed a uniform and a gun”,<sup>146</sup> while others talked of new recruits being provided with basic military training such as marching, as well as cleaning, setting up and shooting firearms, and basic tactical training.<sup>147</sup> However, roles are often assigned according to size and physical ability. Child recruits have been armed and deployed in hostilities but more commonly they have been used to man checkpoints, act as look-outs and guards or cook and collect firewood in the BGF camps.<sup>148</sup> Education is not provided to children within the ranks of the BGF.

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144 Confidential interviews, Thailand, 9 July 2012.

145 Confidential interviews, Thailand, 9 July 2012.

146 Confidential interview, Thailand, 9 July 2012.

147 Confidential interview, Myanmar, 5 August 2012.

148 Confidential interview, Myanmar, 5 August 2012.

## 7. Underage recruitment and use of children by non-state armed groups

A number of armed groups operating in Myanmar are known to recruit and deploy children. Some of these groups, like the KNU/KNLA and the DKBA which feature in case studies in section 7.1 below, have taken some steps to prohibit the recruitment and use of children. However, orders have not been followed up by concrete enforcement measures. Informal association of children with armed groups continues, with children frequently living in camps alongside fighters as a means of obtaining protection, food and shelter and in some cases discipline. The presence of children in these camps places them at increased risk of involvement in hostilities. Attempts by some armed groups to work with the UN and other child protection agencies to end child recruitment and use have been frustrated by the Myanmar government's refusal to grant access to these groups.

A significant number of non-state armed groups operate in different regions of Myanmar. Among the armed opposition groups which have been known to recruit and use children and which have therefore been listed in the annexes of the UN Secretary-General's reports are: the DKBA<sup>149</sup>; the Kachin Independence Army (KIA); the Karen National Liberation Army (KNLA); the Karen National Union-Karen National Liberation Army Peace Council (KNU-KNLAPC); the Karenni Army (KA); the Shan State Army-South (SSA-S); and the United Wa State Army (UWSA).

The Security Council Working Group on Children and Armed Conflict, in its last conclusions on children and armed conflict in Myanmar adopted on 28 October 2009, urged “**all parties to the conflict**” to develop action plans in order to release children within their ranks and allow effective monitoring by the UN country task force.<sup>150</sup>

Some armed groups including the KNU/KNLA and the Karenni National Peoples Party/Karenni Army (KNPP/KA) expressed their intent to end child recruitment by signing deeds of commitment not to recruit or use children in 2007. In March 2009 the Chin National Front/Chin National Army (CNF/CNA), which is not listed in the UN Secretary-General's annual report, signed a unilateral deed of commitment pledging not to recruit and use child soldiers.<sup>151</sup> In August 2012 the Karenni National Progressive Party and the New Mon State Party pledged to end underage recruitment by signing *Deeds of Commitment under Geneva Call for the Protection of Children from the Effects of Armed Conflict*.<sup>152</sup> Representatives of the Kachin Independence Organisation/Kachin Independence Army (KIO/KIA) have also indicated their willingness to sign deeds of commitment not to use or recruit child soldiers.<sup>153</sup>

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149 One faction of the DKBA joined the Border Guard Forces in 2010 and therefore operates under the control of the *Tatmadaw Kyi* (see section 6). However, another faction, for some time known as DKBA (Brigade 5) but now referred to only as the DKBA (Democratic Karen Benevolent Army), remains opposed to the government.

150 Security Council Working Group on children in armed conflict, Conclusions on children in armed conflict in Myanmar, UN Doc. S/AC.51/2009/4, 28 October 2009.

151 A copy of the Deed of Commitment was transmitted by the CNF/CNA to the UN in March 2009 together with a request for assistance in its implementation.

152 Geneva Call, “Burma/Myanmar: Two armed groups undertake not to use child soldiers: the first to sign Geneva Call's Deed of Commitment on children”, 6 August 2012.

153 Joint Briefing Note to the UN Security Council Working Group on children and armed conflict on the situation of child soldiers in Myanmar submitted by the Coalition to Stop the Use of Child Soldiers, Watchlist, Karen Human Rights Group (KHRG) and Human Rights Education Institute of Burma (HREIB), 23 June 2009.

These initiatives could potentially lead to the safe release of children and the establishment of policies and practices that prevent further underage recruitment. However, their monitoring and enforcement requires support and access by the UN and other independent organisations.

While responsibility to ensure that children are not recruited and used rests with the respective armed groups, the Myanmar government has a responsibility to take all feasible measures to prevent recruitment and use of children by such groups, and to promote and facilitate their release and reintegration.<sup>154</sup> However, the government has taken no meaningful action to facilitate initiatives aimed at ensuring the release of children from these groups or preventing their future recruitment. The government's unwillingness to allow the UN access to these groups has impeded the UN's ability to monitor human rights abuses and engage in a dialogue with these groups on issues concerning the protection of children.<sup>155</sup> The UN has recorded its frustration that the government's refusal to grant access has prevented it from concluding action plans with the KNU/KNLA and the KNPP/KA to end the use of child soldiers, in spite of efforts on the part of these groups to make progress on the issue.<sup>156</sup> The KNU/KNLA has not had any meaningful contact with UNICEF or any other UN agency since 2007 when they signed a unilateral deed of commitment on the eradication of the use of child soldiers.<sup>157</sup>

### **7.1 Case studies: The Karen National Union/Karen National Liberation Army (KNU/KNLA) and the Democratic Karen Benevolent Army (DKBA)**

The Karen National Union-Karen National Liberation Army and the Democratic Karen Benevolent (then "Buddhist") Army signed ceasefires with the government in September 2011 and January 2012 respectively, ending 60 years of fighting between the government and the KNLA. While earlier levels of fighting between the Myanmar military and these groups have ceased, occasional skirmishes continue to take place between the KNLA and the *Tatmadaw Kyi*.<sup>158</sup>

#### ***The KNLA***

Information gathered by Child Soldiers International in the course of its recent research shows that, while the recruitment of children is not official KNLA policy, children continue to be formally and informally associated with the KNLA. There are no reliable age verification procedures at the point of recruitment

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154 This responsibility is reflected in Security Council Resolutions 1612 (2005), 1882 (2009) and 1998 (2011).

155 The government's track record on providing access to international agencies has to date been far from satisfactory, although there are recent positive signs. After imposing restrictions on the ICRC's access to prison facilities since 2006, in November 2012 the Myanmar government announced that it would allow the ICRC access to prisons and detention sites. However, with the exception of Rakhine state where it has been deployed since mid-June, the organisation has not been authorised to discharge its mandate or carry out independent and neutral action in sensitive areas of the country. Information received by Child Soldiers International shows that the government continued to restrict access of the UN and other independent humanitarian actors to various parts of the country in 2012, citing security concerns as the main reason for limiting the presence and travel of international as well as national personnel of relief agencies. Access was particularly limited in ceasefire and non-ceasefire areas, including mixed administration areas. While the Joint Action Plan lacks an expressed commitment to provide UN and other humanitarian organisations access to non-state armed groups which recruit and use children, it opens up the space for such an initiative.

156 "Karen National Union/Karen National Liberation Army (KNU/KNLA) ... This party has sought to conclude an action plan with the United Nations in line with Security Council resolutions 1539 (2004) and 1612 (2005), but the United Nations has been prevented from doing so by the Government of Myanmar." See: Annex I, Annual Report of the Secretary-General, Children and armed conflict, UN Doc A/66/782-S/2012/261, 26 April 2012.

157 Child Soldiers International interview with Zipporah Sein, General Secretary, Karen National Union, Mae Sot, 1 August 2012.

158 Recent clashes between the two sides have taken place in the KNLA stronghold of Hpapun (Papun) township. See for instance: "KNLA and government's militia fight – four soldiers killed", *Karen News*, 7 August 2012, <http://karennews.org>.



into the KNLA.<sup>159</sup> Levels of birth registration are extremely low and birthdays are generally counted from the number of harvests since the birth of a child.<sup>160</sup> In some cases Child Soldiers International was told that recruitment is conducted following an assessment of how old the recruit looks and in cases where recruits are later discovered to be under 18 they are on some occasions allowed to complete their military training.

The current levels of child recruitment within the KNLA are impossible to determine. Child Soldiers International has not received information on specific cases of underage recruitment in 2012. While children are reportedly present in the ranks of the KNLA, the UN country task force was unable to verify such reports due to travel restrictions imposed by the government.<sup>161</sup> Child Soldiers International was informed by a senior general of the KNLA high command that strict orders to abstain from recruiting under-18s are issued by the KNLA leadership every year. An order issued by the KNU in 2003 gave a directive to the brigade commanders of the KNLA to “not accept youths of 18 and under in the KNLA”.<sup>162</sup> According to another senior KNLA representative, all graduates from a KNLA-run cadet training school which trains members for commanding positions are taught and given the KNLA code of conduct which includes the rule not to recruit children.<sup>163</sup>

Despite this stated commitment, no procedures appear to be in place to monitor implementation or enforcement of these orders. Information provided to Child Soldiers International about disciplinary measures taken against KNLA commanders suspected of recruiting children shows that while some mechanisms exist in principle they have so far not been applied.<sup>164</sup>

Information gathered by Child Soldiers International shows an absence of any formal or informal program for demobilisation of child soldiers in the KNLA. Within the KNU, the leadership maintains that orders were issued to KNLA commanders in 2003 and 2007 “that any existing child soldiers within their ranks be sent home”.<sup>165</sup> Similarly, orphans living in KNLA barracks were asked to be moved to refugee camps where they could stay in boarding houses and attend school.<sup>166</sup>

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159 Zipporah Sein told Child Soldiers International, “Commanders are required to check the age of men and their background situation before they recruit them. They are prohibited from recruiting under-18s, sons of widows or families that only have one son as strict policy. Most recruitment is done by recruiters from the army who go to villagers and request soldiers. They are required to check with the village head for their age and other details, as the village heads have records of all of this. However, if the child just arrives at the camp and wants to join, which is very rare, we don’t always know for sure. The commanders ask around in the village and can normally find someone who knows how old they are. If they are under 18 they are made to stay in school and then it is up to them when they are 18 if they want to enlist or if they want to go and find a job. Usually the commanders can guess their age” (Mae Sot, 1 August, 2012).

160 Information received by Child Soldiers International shows that in 2007 the Mae Sot-based border NGO Committee for Protection and Promotion of Child Rights (Burma) began birth registration in seven Karen districts and by the end of 2009 had covered 2,900 children. However, this operation was discontinued due to funding constraints.

161 UN General Assembly, Children and armed conflict, Report of the Secretary-General, UN Doc. A/66/782-S/2012/261, 26 April 2012, paragraph 70.

162 Letter to district chairman, KNU and Brigade Commanders of the KNLA from Mahn Sha Lar Hpan, General Secretary, no. SHQ/N-38/02, 6 January 2003.

163 KNLA code of conduct on file with Child Soldiers International.

164 In an interview with Child Soldiers International a KNU representative stated that cases of child recruitment are taken very seriously and if a case is reported the child is immediately returned to his family and they are given a formal apology. The local civilian administration arbitrates and compensation is paid to the family. In principle, a commander can face a court martial for repeating the offence of underage recruitment and if charged with recruiting and using more than five child soldiers can be immediately dismissed and face life imprisonment. However, such sanctions have so far never been used (Mae Sot, 1 December 2012).

165 Interview with David Thackapaw, vice chairman, Karen National Union, Thailand, 11 August 2012.

166 Interview with David Thackapaw, 11 August 2012.

KNLA commanders told Child Soldiers International that with its total estimated strength of 4,000–6,000 fighters, in times of emergency the KNLA operates on the basis of a quota recruitment system, requesting families with more than one son to send a male to join the ranks of the KNLA on a rotational basis.<sup>167</sup>

There are a range of other reasons that may lead some children to join the KNLA, including a desire to protect their community and immediate family from the *Tatmadaw Kyi*;<sup>168</sup> revenge; and to fight for the recognition of their ethnic identity and nationality.<sup>169</sup> While KNLA leadership and other observers close to the organisation claim such recruitment is purely consensual,<sup>170</sup> information gathered by Child Soldiers International suggests that social pressure and military demands often place a notable onus on males to be recruited.<sup>171</sup>

KNLA fighters and other members do not receive salaries, although they are fed three times a day, receive free healthcare from clinics run by the KNLA, and are given occasional pocket money to buy food or other presents for their families when they return home.<sup>172</sup> Most KNLA members, including fighters, are generally based in military barracks but may also be based in villages away from their homes. They are required to conform to a training schedule and provide services, which include cooking, undertaking construction work, and collecting leaves and firewood. Child Soldiers International has been told that in some cases under-18s are sent to KNLA military camps as a means of instilling discipline in them, often with the active support of parents and the community at large.<sup>173</sup> Some of these children are involved in cooking, cleaning and collecting firewood. They are provided basic military training but their role is said not to be intended to include active participation in conflict.<sup>174</sup>

In addition to the formal association and military training of children as a means of providing discipline, there is a high incidence of informal association of under-18s with the KNLA. Under-18s have been known to carry weapons and equipment, and in some cases wear KNLA uniforms despite what appear to be verbal orders by KNLA commanders to stop this practice. Child Soldiers International received information on a case of a 16-year-old who participated in combat in such a situation in 2010.<sup>175</sup> Further, it is common practice in the Karen states for civilians to travel with KNLA fighters to landmined areas or where there is a risk of attack by the Myanmar military.

Child Soldiers International also received evidence of boys spending time at the KNLA camps and taking part in various recreational activities or running errands. When staying at a camp, children often become involved in cooking, cleaning, collecting firewood and other tasks.<sup>176</sup> While some KNLA camp commanders have reportedly enforced rules prohibiting women or children from living in the camps,<sup>177</sup> this prohibition is not consistently applied.

The fact that KNLA members are often relatives, neighbours or friends of children who spend leisure time at the camps should not mask the fact that the KNLA is an armed group until recently involved in

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167 Interviews with Gen. Saw Johnny, Myanmar, August 2012 and Po Dee, Myanmar, August 2012.

168 Confidential interviews, Myanmar, 3 August 2012, 4 August 2012.

169 Confidential interviews, Myanmar, 3 August 2012, 4 August 2012.

170 Interviews with Gen. Saw Johnny, Myanmar, August 2012; Po Dee, Myanmar, August 2012; KHRG researcher, Thailand, 8 July 2012.

171 Confidential interviews, Thailand, 2 August 2012; Myanmar, 4 August 2012, 5 August 2012.

172 Child Soldiers International interviews with La Ngwe, Thailand, August 2012; KNLA captain, Myanmar, August 2012.

173 Confidential interview with KNLA commander, Myanmar, August 2012.

174 Confidential interview with KNLA commander, Myanmar, August 2012.

175 Confidential interviews, Thailand, July 2012, August 2012; Myanmar, August 2012.

176 Confidential interviews, Myanmar, 3–5 August 2012.

177 Confidential interview, Myanmar, 5 August 2012; Thailand, 11 August 2012.

hostilities with government armed forces. Even this level of informal association creates potentially serious risks to the physical safety of children from armed attacks on KNLA forces and from activities carried out by the KNLA.

### ***The DKBA***

The DKBA split from the KNU/KNLA in 1994 as a result of religious differences to join forces with the Myanmar regime, but a faction led by General Saw Ler Pwe took up arms against the government again in 2010 after refusing to transform into a BGF. The DKBA has since sought to repair its relationship with the KNU, including by changing its name from “Buddhist” to “benevolent” army to downplay religious differences. In April and August 2011 the UN received reports of forced recruitment of children by the DKBA<sup>178</sup> unless payment in lieu of recruitment was received.<sup>179</sup> The number of child soldiers currently in the ranks of the DKBA is difficult to gauge. However, research carried out by Child Soldiers International indicates that there are some children who have been recruited through formal processes and who have been involved in combat, but that the majority of children who are present in DKBA camps are informally associated with the group. Further, there do not appear to be measures in place to prevent those children informally associated with the DKBA from being caught up in active conflict.

A shift in the DKBA’s priorities towards local and regional development since it signed a ceasefire with the government in 2011 has apparently eased the immediate need for new fighting personnel. Senior DKBA commanders told Child Soldiers International in August 2012 that no children are being officially accepted as fighters and are instead being sent to school.<sup>180</sup> However, no written orders to this effect were available and the extent to which any verbal directives are being implemented at different command levels remains unclear. Child Soldiers International could find no evidence of any age verification procedures used during recruitment to the DKBA. The commitment to maintaining troop numbers until a political solution is achieved,<sup>181</sup> coupled with the absence of any formal demobilisation efforts, suggest that children continue to remain within the ranks of the DKBA.

Child Soldiers International has received credible reports that children were being used in combat roles by the DKBA in 2011.<sup>182</sup> Information gathered by Child Soldiers International does not indicate that children are given any special training before being deployed by the DKBA. In fact, there are indications that

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178 The 2012 Report of the Secretary-General on children and armed conflict states that verified reports of underage recruitment were received by the UN country team for both BGF (DKBA) and the DKBA (UN General Assembly, Children and armed conflict, Report of the Secretary-General, UN Doc. A/66/782-S/2012/261, 26 April 2012, paragraph 69).

179 The UN country task force on monitoring and reporting was able to verify this practice in Kayin state, Ta Nay Cha and Thandaunggyi townships, in April and August 2011 (UN General Assembly, Children and armed conflict, Report of the Secretary-General, UN Doc. A/66/782-S/2012/261, 26 April 2012, paragraph 69).

180 Child Soldiers International interviews with political and military officials from the DKBA including Maj. San Aung, Mahn Robert Bazan, Gen. Ko Myo and Col. Saw Maung Lay, Thailand, September 2012.

181 Interview with Mahn Robert Bazan, chairperson of the DKBA’s political wing, the Klohtoobaw Karen Organisation (KKO), Myanmar, 9 August 2012.

182 Interviews conducted by Child Soldiers International indicate that hundreds of under-18s were involved in the DKBA’s offensive against the *Tatmadaw Kyi* and BGF in 2010. The following two cases were received in 2011: in the first case, a boy of 14 or 15 volunteered to join the DKBA, was initially turned down and subsequently recruited by Commander Bo Kya Ni in the Wahlay area. He received no formal training but took part in four or five combat operations. In September 2011, he died whilst collecting firewood when he was accidentally hit on the head by another soldier’s hoe. In the second case, in late 2010, Commander Po Eh Fo, stationed in the Kawkreik region, lost his leg in a landmine accident and recruited his nephew (aged 14 or 15) to live at the camp and work as his assistant. He received no training, but soon after took on the role as an armed guard on an outpost a short distance from the battalion camp. In September 2011, after the ceasefire was signed the boy was allowed to go home, as he was not happy there.

some commanders encourage young boys to be involved with battles early on so that they can be trained on the job.<sup>183</sup>

There are also indications that the DKBA continues to use children as security guards at checkpoints in areas away from the headquarters where they can escape scrutiny from the central command.<sup>184</sup> Child Soldiers International also found worrying evidence of informal association of children with the group which places them at risk of use in hostilities and of becoming targets for attack in situations of conflict. This has been compounded by a lack of understanding of the definition of a child soldier and the protections required to end the recruitment and use of children.<sup>185</sup> A senior DKBA general told Child Soldiers International, “By my definition [for them to be a child soldier] we would have to be training them as a soldier, but we never gave them that kind of training ... But we don't allow them to hold a gun, but they wear the uniform because they are doing something else.”<sup>186</sup>

Child Soldiers International has received credible reports of a significant number of under-18s living in DKBA camps. A majority of them have been sent by their impoverished, often internally displaced, parents or have sought protection within the armed group. As with the KNLA, DKBA soldiers receive no salary, but are fed and given shelter, which has been identified as a draw for some young people in vulnerable situations.<sup>187</sup> This is particularly the case in areas of central Kayin state (where the DKBA are mostly based) due to chronic levels of land confiscation, environmental destruction and the effects of recent conflict.

Information gathered by Child Soldiers International shows that while they live separately from the fighters, children's living quarters are located within the military compound of DKBA camps and that many of the children wear uniforms.<sup>188</sup> According to the DKBA's General Ko Myo, this is because they want to feel that they are part of the armed struggle and the commanders do not want “to break their spirit”.<sup>189</sup> There are also an unquantifiable number of children of fighters who are allowed to live in the military camps either permanently or temporarily (such as during school holidays).<sup>190</sup>

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183 Confidential interviews, Thailand, 2 August 2012.

184 Confidential interviews, Thailand, 2 August 2012.

185 Child Soldier International interviews with DKBA officials Maj. San Aung, Gen. Ko Myo, Col. Saw Maung Lay and Capt. Nyo Mo, Myanmar, 9 August 2012.

186 Child Soldiers International interview with DKBA official Gen. Ko Myo, Myanmar, 9 August 2012.

187 Child Soldiers International interview with Maj. San Aung, Thailand, 9 July 2012.

188 Confidential interviews, Myanmar, 8 August 2012, 9 August 2012.

189 Child Soldiers International interview with General Ko Myo, So See Myaing, September 2012.

190 Confidential interviews, Myanmar, 9 August 2012.

## 8. Conclusions and recommendations

An absence of genuine political will has, to date, obstructed the effective implementation of the government's laws and policies intended to protect children from recruitment into the armed forces and armed groups. This report has identified practices which continue to facilitate the recruitment of children by the *Tatmadaw Kyi* and which prevent effective accountability for illegal recruitment. With regard to the newly formed BGFs, it has shown that the transformation of armed groups into BGFs under the command of the *Tatmadaw Kyi* has failed to ensure the verification and release of children in their ranks and has made little or no impact on their practices of illegal recruitment. And in the case of armed groups, it has identified continuing practices of both formal and informal association of children, which place them at significant risk.

The government of Myanmar is very keen to demonstrate that it is taking steps to end recruitment and use of child soldiers, and ultimately to ensure that its armed forces are delisted from the annex to the annual report of the UN Secretary-General on children and armed conflict. At the hearing of its third and fourth periodic report on implementation of the Convention on the Rights of the Child before the Committee on the Rights of the Child (CRC) in January 2012, the Myanmar delegation officially acknowledged the existence of underage recruitment by the army and non-state armed groups and assured the CRC that it would not happen again. The signing of the Joint Action Plan with the UN in June 2012 is a sign of the government's seriousness in this endeavour.<sup>191</sup>

It is vital that the government of Myanmar now lives up to its full range of responsibilities associated with ending child recruitment and use. This involves fully verifying and releasing children already in the ranks of the *Tatmadaw Kyi* and the BGFs. But it also means taking the necessary measures to prevent future underage recruitment. Strengthening the army and BGFs' recruitment procedures, introducing effective age verification mechanisms to remedy practices of age falsification and, more broadly, addressing the incentives that lead to underage recruitment require profound reforms to Myanmar's armed forces. As such, the commitments in the Joint Action Plan to prevent underage recruitment should not be seen in isolation, and must be reflected in the broader efforts to reform and professionalise Myanmar's armed forces.

Similarly, the government must also acknowledge its role and responsibility with regard to the recruitment and use of children by armed groups. In particular, this means ensuring full and unhindered access for independent monitors and child protection agencies to all areas of the country and ensuring that the issue of children associated with armed groups is included in the ongoing conflict resolution negotiations and mechanisms.

Armed groups responsible for the recruitment and use of children must also take measures to prevent further recruitment and release children in their ranks. Some of the measures already taken, such as military orders to prohibit recruitment of children, need to be fully enforced. The practice of informal association, with its inherent risks for children, needs to be addressed. The current ceasefires with the KNU/KNLA and the DKBA offer an opportunity to release children and address the risk of future

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<sup>191</sup> The *Tatmadaw Kyi* was first listed in the annexes of the UN Secretary-General's annual report on children and armed conflict as a party that recruits or uses children in 2003 and has been listed in those annexes ever since. The BGFs were listed in 2011 and 2012. A range of non-state armed groups active in Myanmar have also been listed since 2003. However, it was not until 2007 that a UN country task force on monitoring and reporting of grave violations of child rights in armed conflict was established in Myanmar, and a parallel working group was set up in Thailand to monitor abuses and liaise with organisations on the Thai–Myanmar border. Despite this, full monitoring and reporting on the situation of child soldiers in Myanmar has been impeded by a number of factors, including a lack of access to conflict areas.

recruitment and use. However, this requires independent monitoring and access by the UN and other humanitarian organisations.

International pressure and assistance are required to ensure the armed forces and armed groups address child recruitment and use in their ranks. Prevention of recruitment of children and their use in hostilities should be mainstreamed in the international assistance provided to Myanmar, including technical assistance to strengthen the armed forces recruitment procedures, and the necessary age verification and monitoring and accountability mechanisms should be put in place to prevent underage recruitment. More broadly, the international community, through the UN and other initiatives supporting conflict resolution, should ensure that any peace processes address the protection needs of child soldiers in line with the UN operational guidelines on addressing children's issues in peace agreements.

In light of the research findings reflected in this report, Child Soldiers International is making the following recommendations which the organisation hopes will make a positive contribution to ongoing processes of child protection. Recommendations are made to the government of Myanmar, to armed groups and to the UN respectively.

### **Recommendations to the Myanmar government:**

#### ***General measures***

- Ratify and implement international standards that would strengthen Myanmar's commitment to eradicating the recruitment and use of child soldiers: the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict; the ILO Minimum Age Convention 138 and ILO Worst Forms of Child Labour Convention 182; the Additional Protocols to the Geneva Conventions; and the Rome Statute of the International Criminal Court;
- Seek technical assistance to put in place the necessary strengthened recruitment procedures, age verification mechanisms and independent monitoring and oversight of the armed forces, the BGFs and other security forces to prevent unlawful recruitment of children;
- Ensure that the release, recovery and reintegration of children associated with armed groups is addressed in all peace or ceasefire negotiations and agreements with armed groups, in line with the UN operational guidelines on addressing children's issues in peace agreements;
- Ensure that the verifiable release of children by armed groups is a prerequisite for any future integration into any state security forces.

#### ***Recruitment procedures and practices, including age verification***

- Issue, publish and widely disseminate military orders and binding instructions to all recruiting and commanding officers in the *Tatmadaw Kyi* and BGFs not to recruit and use under-18s; these orders should be circulated not only to the two major recruitment centres but all other mobile recruitment units under the recruitment centres, all battalions and regiments;
- Standardise recruitment procedures for all armed forces, BGFs and other security forces, and ensure (through training where necessary) that all those involved in the recruitment processes are aware of the prohibition on recruiting under-18s;

- Follow effective age verification procedures and apply disciplinary and criminal sanctions to those who fail to uphold them;
- Expressly instruct recruiters that in the case of doubt over an individual's age they should not be recruited. In the absence of a birth certificate or other official identity documents, the verification of the age of recruits should be conducted via other reliable means which provide objective proof of age. This may include school diplomas or other school records (more than one document) and methodologies involving cross-checking with families and local officials. These measures should be regarded as temporary pending the achievement of universal birth registration;
- Establish a central database with personal information of individual *Tatmadaw Kyi* and BGF recruits, including their date of birth supported by a copy of their birth certificate or other official identity document, and the full name and rank of the recruiting officer to enable verification and release of underage recruits, including those who were in the past recruited below 18;
- Reform the civil registration system to ensure that all children are registered at birth (as required under Article 7.1 of the Convention on the Rights of the Child), free of charge, and without discriminatory conditions, through, inter alia, conducting awareness raising campaigns and setting up mobile registration units for remote areas.

***Independent, unhindered, monitoring***

- Collaborate with the UN country task force for reporting and monitoring, including by providing unhindered access to recruitment centres, military camps, training centres, and other sites where children may be present, with a view to systematically screening all *Tatmadaw Kyi* units and BGF battalions to ensure the identification and release of children;
- Permit unannounced and unhindered inspection of prisons and other detention centres by the UN country task force and other international bodies mandated to protect the rights of children and other detainees with the aim of ensuring the release of any children detained as “deserters”;
- Continue to collaborate with the ILO complaint mechanism, by ensuring prompt response to complaints of underage recruitment; the safe release of the children without delay; and the prompt issuing of documents certifying their permanent release from the army;
- Ensure that those individuals and organisations working for the identification and release of children from the armed forces are not subjected to arbitrary arrest, ill-treatment, intimidation or harassment;
- Establish an independent body, separate from the military, with the mandate, expertise and resources to monitor recruitment practices for compliance with national laws and international standards relating to the minimum age for recruitment, to make recommendations for reform where appropriate, and to initiate sanctions for non-compliance;
- Allow and facilitate access by the UN country task force and other independent humanitarian organisations to non-state armed groups in order to enable the negotiation of action plans, and to monitor and verify reports of child recruitment and use, and to ensure the safe release and reintegration of children associated with these groups.

### ***Accountability***

- Ensure that legal barriers to the criminal prosecution of members of the armed forces for serious violations of human rights or international humanitarian law, including the recruitment and use of child soldiers, are lifted;
- Effectively and independently investigate all credible allegations of child recruitment or use by the *Tatmadaw Kyi* and BGFs, and bring to justice suspected perpetrators in proceedings that meet international standards for fair trial;
- Suspend from duty military personnel reasonably suspected of these offences pending completion of investigations, and take appropriate disciplinary actions against them;
- Regularly make public information on the number of investigations and prosecutions and of disciplinary actions taken and the outcome of these proceedings.

### **Recommendations to the KNLA and the DKBA:**

**N.B.** Due to the scope of research of this report, Child Soldiers International is making specific recommendations to these two armed groups. However, these recommendations would also be relevant to other armed groups active in Myanmar which recruit and use child soldiers.

- Issue, publish and widely disseminate orders to all members of armed groups to refrain from recruiting or using children in hostilities;
- Ensure that children do not take part in military operations, and are not present in military camps or in the vicinity of military targets;
- Impose appropriate sanctions against those responsible for the recruitment or use of children in hostilities;
- Facilitate access to UN and other independent humanitarian organisations for the purpose of monitoring, releasing and reintegrating any children associated with the armed groups;
- Seek technical assistance to facilitate the early implementation of effective age verification procedures to prevent underage recruitment.

### **Recommendations to the UN country task force on monitoring and reporting:**

- Strengthen the capacity of all actors supporting the implementation of the Joint Action Plan, including long-term monitoring of the effectiveness of the measures taken by the government under the plan, ensuring transparency of the process;
- Support and advise the government in the review and reform of recruitment practices aimed at preventing recruitment and use of children;



- Carry out regular visits to all *Tatmadaw Kyi* and BGF military sites, training centres, and other places where children may be present, for both identification and verification purposes. Ensure that the monitoring methodology is in line with international standards and practices;
- Proactively engage in a dialogue with the government on a regular basis in order to share documented information on violations, and advise and support the government to take appropriate steps to act on this information;
- Proactively engage in a dialogue with armed opposition groups to explore ways to verify and release children associated with them.

**Recommendations to the UN Security Council and the international community:**

- Encourage and support the Myanmar government to implement the Joint Action Plan fully, and take all necessary measures to prevent recruitment of children into the *Tatmadaw Kyi* and the BGFs;
- Urge the Myanmar government to allow full and unhindered access and ensure transparency of the processes carried out as part of implementation of the Joint Action Plan;
- Ensure that the UN country team is provided with the necessary time and resources to support the government to take all necessary measures to implement the Joint Action Plan, and to monitor violations against children comprehensively;
- Support provisions aimed at the release, recovery and reintegration of children associated with armed groups in all peace or ceasefire negotiations and agreements with armed groups, in line with the UN operational guidelines on addressing children's issues in peace agreements, and demand the verifiable release of children by armed groups as a prerequisite for incorporation into state security forces;
- Urge the government of Myanmar to demonstrate its commitment to ending recruitment and use of children by ratifying, without delay, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict;
- Ensure that international assistance to support security sector reform in Myanmar contributes to the prevention of child soldier recruitment and use, including by strengthening recruitment procedures and age verification mechanisms and by independent monitoring and oversight in the armed forces and BGFs.

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