

## Case Study **Myanmar: A chance for change?**

Despite important political and security developments in Myanmar in recent years the forcible recruitment of children and their use in hostilities by the national army, *Tatmadaw Kyi*, continued and reports of unlawful child recruitment by state-allied armed groups persisted. However, recently after protracted negotiations with the UN, the government of Myanmar agreed in June 2012 to an action plan for the release and reintegration of children associated with the government forces. It is too early to judge whether the action plan will impact on ending this long-standing violation of children's rights, but it is hoped that it represents the starting point for the development of effective prevention strategies.

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

Recruitment of boys by the army in Myanmar takes place in violation of domestic law (since the army is all male, underage recruitment affects only boys). Under the 1959 Defence Services Act (amended in 1974) and War Office Regulation 13/73 of 1974, persons under the age of 18 are prohibited from joining the armed forces. The Myanmar military is also an all-volunteer force, making compulsory recruitment illegal under current domestic law.<sup>1</sup>

While the precise number of children in the army's ranks is unknown, levels of reported cases of child recruitment (widely recognised as being lower than the actual number) suggest that they are high: 243 complaints of underage recruitment were reported in 2011;<sup>2</sup> and 24 cases of underage recruitment were verified in the first three months of 2012.<sup>3</sup>

In the context of widespread poverty, youth unemployment and lack of education and training opportunities, some boys lie about their age in order to enlist. However the dominant pattern is of forced recruitment. Typically, boys between the ages of 14 and 17 are targeted, although there have been cases of 11 year olds being forcibly recruited. While some child recruits, particularly younger ones, may be given lighter duties, for example as orderlies, children have frequently seen active service and combat in internal conflicts against non-state armed groups. In addition to those formally recruited, there are confirmed reports of children being used as porters on the front line.<sup>4</sup>

Military recruitment of children is in large part a by-product of the pressures to meet recruitment targets and a lack of willing adult recruits. Army expansion in the 1990s created high demand for recruits at a time when pay and conditions were poor and attrition rates among enlisted men high. As a result forced recruitment increased – particularly of minors, who were more easily tricked or pressured to sign up – and continues today.

Recruiters are rewarded for exceeding recruitment quotas and punished for failing to meet them. This has led to the emergence of an informal network of civilian brokers who are paid in cash or kind for bringing in recruits. Where individual cases of underage recruitment have been brought to the military's attention it has resulted in them being demobilised, but the authorities have so far been unwilling to address the systemic problem of economic incentives that drive the practice of forced recruitment of children.

Effective age determination procedures are critical to addressing both forced and "voluntary" forms of child recruitment. Those without proof of age documentation (birth certificate or identification cards) are at greatest risk of unlawful recruitment, but falsification of age and

identity in recruitment registers is also said to be common. According to the government, screening of new recruits does take place: it claims that 417 potential new recruits were rejected between January and the end of September 2011 because they were under 18 years old.<sup>5</sup> However, more robust procedures are clearly needed to verify ages which must include systems to ensure that a copy of at least one official proof of age document is placed on the file of every new recruit. Strengthening birth registration systems and improving access to and affordability of other forms of documentation in which age is recorded – such as household lists and national ID cards – are also needed to support such processes.<sup>6</sup> Recent steps by the new government to streamline documentation services should help in this regard.

Age verification must also be reinforced by effective oversight and accountability. Again, some measures have been taken but they are insufficient to address the nature and scale of the problem. A complaints mechanism on forced labour established by the International Labour Organization (ILO) in 2007 in Myanmar provides a route through which parents and other concerned parties can seek the release of unlawfully recruited children.<sup>7</sup> The mechanism has had some notable successes in resolving individual cases but is not a substitute for proactive monitoring, including regular, independent, on-site verification of military facilities to ensure compliance with the law. In this regard, restricted access to UN monitors to conflict-affected areas and to military facilities has hampered independent international oversight.

In the past five years disciplinary action is reported to have been taken against recruiters (including against 27 officers) in 166 cases. These do not, however, reflect the number of alleged incidents of underage recruitment. Punishments, generally in the form of reprimands and salary deductions, do not appear to act as a meaningful deterrent, the benefits derived from underage recruitment outweighing the risk of sanctions. Despite recommendations by the Security Council Working Group on Children and Armed Conflict (SCWG) to prosecute as a matter of priority persons responsible for crimes committed against children, to Child Soldiers International's knowledge only one criminal prosecution (of a civilian broker) for child recruitment has ever taken place.<sup>8</sup> The lack of an independent, impartial judiciary in Myanmar remains a contributing obstacle to addressing accountability for such crimes.

## **Government responsibility for other armed forces**

State responsibility for other elements of the armed forces or armed groups allied to it must also be addressed as part of any strategy to protect children from recruitment and use in Myanmar. Reports indicate that processes initiated in 2009 to merge former armed opposition groups into units of the Border Guard Forces (BGF, a paramilitary unit under the command of the army) have not involved the demobilisation of children.<sup>9</sup> Some of the groups that transformed into BGF units have been listed in the UN Secretary-General's report annexes as having children in their ranks. These include the Democratic Karen Buddhist Army (DKBA), about which there are continuing reports of forcible recruitment of children.<sup>10</sup>

In addition to BGF units, dozens of local militia groups are allied with the government, thereby placing a responsibility on the government to take steps to ensure that these groups do not recruit or use children. They include the Kachin Defence Army, Mong Tai Army Homein, Pao National Organization, Rawang Militia (formerly known as the Rebellion Resistance Force), Brigades 3 and 7 of the Shan State Army–North and the Pansay Militia. None are “listed” by the UN as having children in their ranks, but there are allegations of child recruitment by

some of these militia groups.<sup>11</sup> The origins of these groups are complex, and their legal status unclear. Some are small insurgent groups that have surrendered, or individual units that have split away from larger groups to agree peace deals with the government. Others have been established by the Myanmar authorities as a strategy to undermine the influence of other, larger armed groups. However, given their reliance on government support, the Myanmar state has responsibilities for ensuring that children are neither recruited nor used by them.

## Prospects for progress

The *Tatmadaw Kyi* was first listed in the annexes to the UN Secretary-General's annual report on children and armed conflict in 2003 as having unlawfully recruited and used child soldiers and it has been named in every annual report since (the BGF was included alongside the *Tatmadaw Kyi* in 2011). It was not until 2007 that the Special Representative of the Secretary-General obtained a commitment from the government that it would work with UNICEF to finalise an action plan to prevent underage recruitment.<sup>12</sup> Five years on the action plan has now been signed. But this is the beginning and not the end of a process that will require a significant commitment of resources by the national authorities and by the UN to ensure that real protection from unlawful military recruitment and use of children is achieved.

As a next step, the government must ratify the Optional Protocol and seek support for its effective implementation from UN child rights bodies, other child rights experts and second states as appropriate. On its side the UN must dedicate adequate resources to supporting both the implementation of the action plan and the Optional Protocol when adopted. Progress must also be closely monitored. To this end the SCWG, which has not reviewed Myanmar's record on implementation of UN Security Council resolutions on children and armed conflict since 2009, must increase its level of scrutiny and exercise pressure if recent developments in Myanmar are to lead to real protection of children there from involvement in armed conflict in state armed forces.

## Notes

- 1 A new law providing for conscription, the People's Military Service Law, was introduced in 2010 but has not been brought into force.
- 2 Children and armed conflict, Report of the Secretary-General, UN Doc. A/66/782-S/2012/261, 26 April 2012.
- 3 Confidential source.
- 4 Children and armed conflict, Report of the Secretary-General, UN Doc. A/66/782-S/2012/261, 26 April 2012.
- 5 Children and armed conflict, Report of the Secretary-General, UN Doc. A/66/782-S/2012/261, 26 April 2012.
- 6 The national birth registration rate in Myanmar is 72 per cent. See UNICEF, *The State of the World's Children 2012*, Statistics, Table 9, <http://www.unicef.org>. Temporary national registration cards (NRC) are issued when births are registered and are later converted into a permanent ID document. However, the process of obtaining the permanent NRC can involve taking time off work and travelling significant distances, which incurs costs that are prohibitive for some.
- 7 In February 2007 the Government of Myanmar signed a Supplementary Understanding with the ILO which provided for the establishment of a complaints mechanism under which individuals could bring cases of forced labour under ILO Convention 29 concerning Forced and Compulsory Labour.
- 8 See Security Council Working Group on Children and Armed Conflict, *Conclusions on Myanmar*, UN Doc. S/AC.51/2009/4, 28 October 2009.
- 9 This arrangement was designed to implement section 338 of the 2008 Myanmar Constitution which states that "all the armed forces in the Union shall be under the command of the Defence Services". For discussion, see International Crisis Group, *Myanmar: Towards the Elections*, 20 August 2009. Smaller groups were given the alternative of becoming government militias.

- 10 Children and armed conflict, Report of the Secretary-General, UN Doc A/66/782-S/2012/261, 26 April 2012. The DKBA split in 2010, with the majority joining the *Tatmadaw Kyi* as border guard forces. There are also continued reports of child soldier recruitment and use by DKBA forces that did not join as well as by other armed opposition groups in Myanmar.
- 11 According to Children and armed conflict, Report of the Secretary-General, 2011, there were also confirmed reports of the recruitment and use of children by village militias known as "*Pyi thu sit*", UN Doc. A/65/820-S/2011/250, 23 April 2011.
- 12 Office of the Special Representative of the Secretary-General for children and armed conflict, "Myanmar: Government and UN begin dialogue on Child Soldiers", 29 June 2007.