Under the radar

Ongoing recruitment and use of children by the Myanmar army

CHILD SOLDIERS INTERNATIONAL

Child Soldiers International
9 Marshalsea Road
4th Floor
London SE1 1EP
United Kingdom

Tel: +44 (0) 20 7367 4110
Fax: +44 (0) 20 7367 4129
info@child-soldiers.org
www.child-soldiers.org

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 organization. Child Soldiers International seeks 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. The organization 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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Summary

The widespread recruitment and use of children by state armed forces and armed groups in Myanmar has been documented by the UN and human rights organisations for over a decade. Armed conflict between the state and numerous armed ethnic groups has provided the violent backdrop against which child recruitment and other grave violations of human rights have occurred. Children have been drawn into participation in all sides of the armed conflicts not just as a result of militarisation of societies but by socioeconomic compulsions. The pressure to maintain and strengthen troop numbers in the armed forces and armed groups has been a key driver in ongoing underage recruitment.

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. These changes, together with an increased level of engagement between Myanmar and the international community, have created an unprecedented opportunity to properly resolve longstanding problems of underage recruitment and use. Research conducted by Child Soldiers International demonstrates the need for the Government of Myanmar to adopt further and more effective measures if it is to fulfil its stated commitment towards the eradication of child recruitment and use. While regulations and military instructions have been adopted as a part of the Myanmar government's 2012 Joint Action Plan (JAP) with the UN for the prevention of the recruitment and use of children and their discharge and rehabilitation, the Myanmar military needs to urgently implement measures - including oversight mechanisms - to ensure that children are not recruited and used and that all those unlawfully recruited are promptly discharged.

International pressure and assistance can play a significant role in assisting the Myanmar government and the military to address child soldier recruitment and use. Prevention of the recruitment and use of children should be a core principle of international assistance provided to Myanmar, including technical assistance being offered to professionalise the armed forces.

Key recommendations

Recommendations to the Myanmar government

- Ratify and implement the following 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 (OPAC); the ILO Minimum Age Convention 138; the Additional Protocols to the Geneva Conventions; and the Rome Statute of the International Criminal Court;

- Empower and increase the capacity of Scrutiny Boards to effectively review individual applications, including by training them in assessing documentation and age, ensuring that recruits appear before Scrutiny Boards and are interviewed effectively to determine their age and their motivation to join the armed forces. Empower Scrutiny Boards to reject and release recruits under 18 years of age, identified through the review of their applications;

- Effectively and independently investigate all credible allegations of child recruitment or use by the Myanmar army, the *Tatmadaw Kyi* and the Border Guard Forces (BGFs), and bring to justice suspected perpetrators in proceedings that meet international standards for a fair trial. Remove

barriers to prosecution including any form of immunity from civil prosecution of military personnel provided in the Constitution;

Recommendations to the UN Country Task Force on Monitoring and Reporting (UN CTFMR)

- Strengthen the capacity of all actors supporting the implementation of the JAP, including long-term monitoring of the six Grave Violations against children and the effectiveness of the measures taken by the Myanmar government under the plan, ensuring transparency of the process;

- 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.

Recommendations to the UN Security Council and the international community

- Ensure that the UN CTFMR is provided with the necessary time and resources to support the government to take all necessary measures to implement the JAP, and to monitor violations against children comprehensively;

- 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 of the *Tatmadaw Kyi* and BGFs.

Scope and methodology

This report focuses on an assessment of recent practices of recruitment by the Myanmar army (*Tatmadaw Kyi*). It examines specific practices of age verification and recruitment and measures designed to prevent underage recruitment, and identifies evidence of gaps in these measures and failure to implement them. The report offers a set of recommendations, which, if implemented, would contribute to ending and preventing the practice of underage recruitment and use within the ranks of the *Tatmadaw Kyi*.

Research was carried out by Child Soldiers International staff in Myanmar during two research missions conducted in September 2013 and July 2014, 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.[1]

During the September 2013 research mission, meetings were held with senior officials from the Ministries of Defence, Foreign Affairs and Social Welfare in Naypyitaw, including with Major General Ngwe Thein, Director of Military Strength. Meetings were also conducted with senior UN officials in Myanmar and Thailand, diplomats and representatives of national and international non-governmental organisations (NGOs).[2] In July 2014, Child Soldiers International conducted meetings with officials from the Ministry

[1] 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, officials from the UNDP, and others.

[2] Meetings were held with senior officials from the Ministries of Defence, Foreign Affairs and Social Welfare in Naypyitaw, including with Major General Ngwe Thein, Director, Directorate of Military Strength. Staff visited the *Tatmadaw* Recruitment Centre No.1, Danyingone, on the outskirts of Yangon where they met with the Commanding Officer, Recruitment Officers and Medical Officer of the recruitment unit in addition

of Foreign Affairs, Ministry of Social Welfare and the office of the Judge Advocate General (JAG) in Naypyitaw. Meetings were also conducted with senior UN officials, diplomats and representatives of national and international NGOs in Yangon. On 10 December 2014, Child Soldiers International met with senior officials from the Ministry of Defence, Ministry of Foreign Affairs, Ministry of Social Welfare, Relief and Resettlement, Ministry of Immigration and Population in Naypyitaw to discuss this report.[3]

Child Soldiers International appreciates the cooperation it received from the Myanmar government in the course of this research. Officials from the Myanmar government offered substantive comments on this report and strongly disputed some of our findings. Consequently, Child Soldiers International conducted further research and upholds its initial findings while reflecting comments made by the Myanmar government, which have been verified and confirmed. 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 the armed forces in Myanmar. With this in mind it is hoped that the findings and recommendations will form the basis for a productive dialogue in the future with key stakeholders, including the Myanmar government.

1. Background

1.1 Ongoing instability and conflict

Myanmar has been marred by armed conflicts for over six decades. The military governments that ruled Myanmar for a good part of the last half a century attempted to neutralise armed opposition groups through both direct military offensives and ceasefire agreements.[4] Historically, ceasefires functioned as military truces rather than as precursors to enduring political solutions, allowing the military to concentrate its fighting troops in the remaining areas of ongoing conflict.

Since 2009, efforts by Myanmar's military government to incorporate numerous armed ethnic groups into a BGF by disarming them, providing them with government weapons and making their troops subordinate to regional *Tatmadaw Kyi* commanders, have had only limited success. 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 unfree and unfair[5] – Thein Sein took office as President in March

to five new recruits. Meetings were held with representatives of the Myanmar Peace Centre; members of the Myanmar National Human Rights Commission (MNHRC); Parliamentarians; leaders of the 88 Generation Peace and Open Society; and domestic civil society organisations. Meetings were conducted with officials from the UN, including: the International Labour Organisation (ILO); UN Development Programme (UNDP); Office of the UN High Commissioner for Human Rights (OHCHR) representatives and the UNICEF child protection team. Child Soldiers International also met with diplomatic representatives from the UK, US and EU; and the International Committee of the Red Cross (ICRC) in Thailand and in Myanmar.

[3] Meetings were held with Major General Than Soe, Deputy Adjutant General; Colonel Khin Maung Hlaing, Deputy Director, Directorate of Military Strength; U Kyaw Thu, Head of Office, Ministry of Defence; Colonel Soe Lwin, Senior Liaison Officer; Colonel Aung Khin Thein, Assistant Judge Advocate General; Lt-Colonel Tun Tun Win, Officer from Adjutant General Office; U Sit Aye, Legal Adviser to President; U Myo Set Aung, Director, Ministry of Social Welfare, Relief and Resettlement; U Maung Oo, Assistant Director, Ministry of Immigration and Population; and U Kyaw Thet Swe, Ministry of Foreign Affairs.

[4] 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 (ICG), *Myanmar: A New Peace Initiative*, 30 November 2011, http://www.crisisgroup.org/en/publication-type/media-releases/2011/asia/myanmar-a-new-peace-initiative.aspx

[5] 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 (GA), Resolution adopted by the GA [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).

2011. The new government restarted ceasefire talks with 14 armed groups, resulting in a significant decrease in military clashes in a number of regions. A joint government-non state armed group ceasefire drafting committee was created in March 2014, but a nation-wide ceasefire has remained elusive.[6] Meanwhile, military operations against armed opposition groups have continued and intensified in the Kachin and northern Shan states.

In the Kachin state, there has been fierce fighting between the Kachin Independence Army (KIA) and the Myanmar military over the past three years.[7] Clashes escalated during 2014.[8] In addition, there have been routine clashes between the Myanmar military and armed groups in the Shan state, particularly with the Shan State Army (South) and Shan State Army (North).

Steps towards constitutional reform in the lead up to the 2015 elections have been slow. The powerful position of the military within the constitutional framework has not changed (see below). In May 2014, the NLD and the 88 Generation Peace and Open Society began a joint campaign seeking, in particular, amendments to Article 436 of the 2008 Constitution, which provides the Myanmar military veto power over constitutional amendments. However, the electoral commission has defended the constitutional provision guaranteeing 25 per cent of parliamentary seats to serving military officers, claiming the quota was needed to avert any future coup.[9]

1.2 Socio-economic context

Myanmar remains one of the poorest and most underdeveloped countries in the world. In 2013, the UN ranked Myanmar 149 out of 187 states in its Human Development Index.[10] 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.[11] According to a 2009–2010 UN Development Programme (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).[12]

[6] *Burma News International* (BNI), "Deciphering Myanmar's Peace Process", March 2014, http://www.themimu.info/sites/themimu.info/files/documents/Report_Deciphering_Myanmar_Peace_Process_Mar2014.pdf
[7] A 17-year ceasefire with the 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.
[8] *The Irrawaddy*, "Burma Army Launches Deadly Incursion Into Kachin Rebel Territory", 13 February 2014, http://www.irrawaddy.org/burma/burma-army-launches-deadly-incursion-kachin-rebel-territory.html; See also, *The Irrawaddy*, "Civilians Flee Fresh Fighting Between KIA, Govt Troops", 15 January 2015, http://www.irrawaddy.org/burma/civilians-flee-fresh-fighting-kia-govt-troops.html
[9] Human Rights Watch (HRW), *Burma: Election Body Intimidating Opposition, Restrictions Threaten Democratic Process*, Future Polls, 4 June 2014, http://www.hrw.org/news/2014/06/04/burma-election-body-intimidating-opposition
[10] UNDP, *Myanmar Country Profile: Human Development Indicators*, 2013.
[11] UN Human Rights Council (HRC), 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.
[12] 34 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] (UNDP, *Integrated Household Living Conditions Survey in Myanmar*, 2009–2010).

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.[13] In particular, tension between the central government and local rural populations has heightened in a number of regions due to the government's continuing interest in natural resource extraction as a means of obtaining economic wealth.[14] There is widespread concern that large scale mining and other projects are leading to significant violations of land rights and have deprived many local communities of sources of livelihood.[15]

A recent survey conducted by Myanmar's planning and development committee cited in a national newspaper, placed current unemployment levels at nearly 40 per cent.[16] Against this background, one of the most serious and widespread reported abuses against civilians by the Myanmar military has been unpaid forced labour.[17] On 16 March 2012, the Myanmar government entered into a new agreement with the International Labour Organization (ILO), pledging to eliminate the use of forced labour by 2015.

Investments in health and education have been extremely low.[18] Concern about limited public spending on health and education has been underscored by the UN Committee on the Rights of the Child (CRC), which has urged the government to address this imbalance.[19] The government has stated its intention to reform education, and public expenditure on education was raised from 2.93 per cent to 4.91 per cent in 2012.[20] On 30 December 2014, the Ministry of Social Welfare, Relief and Reintegration launched a new multi-sectoral, social protection strategy which includes support to child protection, by adopting integrated case management services to identify and refer children at risk of violence, abuse, neglect and malnutrition. While net enrolment in schools has increased over the past decade,[21] access to quality education is still severely limited: only 54 per cent of primary school-age children complete a full course in primary education at the correct age and only 32 per cent of children are able to attend high school. Further, 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.[22]

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

[13] See for instance: Vikram Nehru, "Myanmar's Five Economic Priorities", *Carnegie Endowment for International Peace*, 23 April 2012, http://carnegieendowment.org
[14] See for instance: *The Irrawaddy*, "Villagers in Southern Burma Protest Against Chinese-Backed Oil Refinery", 29 April 2014, http://www.irrawaddy.org/burma/villagers-southern-burma-protest-chinese-backed-oil-refinery.html
[15] UN HRC, Report of the Special Rapporteur on the situation of human rights in Myanmar, UN. Doc. A/HRC/25/64, 2 April 2014, paragraphs 27-32.
[16] *Eleven Myanmar*, "Myanmar unemployment rate near 40 percent, study finds", 24 January 2013, http://www.elevenmyanmar.com/index.php?option=com_content&view=article&id=2230:myanmar-unemployment-rate-near-40-percent-study-finds&catid=33:business&Itemid=356
[17] See for instance: HRW, *Dead Men Walking, Convict Porters on the Frontline in Eastern Burma*, 13 July 2011, http://www.hrw.org/news/2011/07/12/burma-war-crimes-against-convict-porters
[18] In the 2012-13 budget, health constituted less than six per cent of total spending on ministries and departments and only five per cent of current expenditure. Education accounted for 11 per cent of the total government expenditure but only 1.5 per cent of the GDP for 2012-13. UNICEF, *Snapshot of social sector public budget allocations and spending in Myanmar*, 2013, http://www.unicef.org/eapro/Social_Sector_Public_Budget_Allocations_and_Spending_in_Myanmar_.pdf
[19] CRC, 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.
[20] Report of the UN Special Rapporteur on the situation of human rights in Myanmar, UN Doc. A/67/383, 25 September 2012.
[21] 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).
[22] CRC, 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.

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.[23] Similar disparities emerge in areas of enrolment, literacy and educational attainment.

Low enrolment rates in schools are exacerbated by high rates of child labour, which despite the Myanmar government's ratification of ILO Convention No. 182 on the Worst Forms of Child Labour, 1999,[24] stands at 18 per cent among impoverished children.[25] Many children are employed in factories, teashops and other business enterprises where they work long hours in arduous conditions for very little pay.[26] Working children are generally from poor families who rely on poorly paid, unstable, casual, seasonal or unskilled jobs. The children's income is often a critical support for the families' survival—both in terms of access to food and repaying high levels of interest accrued due to family debts.[27]

1.3 The *Tatmadaw*

Myanmar's military, the *Tatmadaw*, took control of the country in 1962, and has since dominated matters of politics and governance.[28] Since its inception, the *Tatmadaw*'s main stated objective has been to "consolidate the Union [of Myanmar]" and protect its sovereignty.[29] This has ensured that its main focus has remained on counter-insurgency efforts against ethnic armed groups seeking greater autonomy and/or democratic rights.[30] 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 an enormous demand for recruits, although pay and conditions were poor, resulting in high rates of desertion.

Defence has consumed the largest portion of government expenditure in recent decades, but since President Thein Sein's government took office, military spending has reduced and in the 2014 budget it stood at 12 per cent of the national budget, down from about 23 per cent in 2011. It is still higher than the proposed spending on health and education.[31]

After decades of military rule, Myanmar has begun its transition towards a semi-civilian government. The *Tatmadaw* is no longer said to be in charge of most aspects of everyday governance and its decision-making authority is perceived to have significantly diminished.[32] However, it plays an important role in

[23] "Access" is defined as living within a one-hour walk of a school building (UNDP, *Integrated Household Living Conditions Survey in Myanmar*, 2009–2010).
[24] Myanmar ratified the Convention on 19 December 2013, http://www.ilo.org/global/standards/information-resources-and-publications/news/WCMS_233060/lang--en/index.htm
[25] UNICEF, *Children in Myanmar*, http://www.unicef.org
[26] UNICEF, op.cit.
[27] UNICEF and Ministry of National Planning and Economic Development, *Situation analysis of children in Myanmar*, 2012, http://www.unicef.org/eapro/Myanmar_Situation_Analysis.pdf
[28] Maung Aung Myoe, "Building the Tatmadaw: Myanmar Armed Forces Since 1948", *Institute of Southeast Asian Studies*, 2009, p.73.
[29] Myanmar Constitution, 2008, Chapter 7.
[30] Maung Aung Myoe, op.cit. p.61; Tin Maung Maung Than, *Asia Pacific Countries' Security Outlook and Its Implications for the Defense Sector*, The National Institute for Defense Studies, 2010, p.124–125.
[31] *The Irrawaddy*, "Burma Defense Ministry Puts Forward Budget Request", 15 January 2015, http://www.irrawaddy.org/burma/burma-defense-ministry-puts-forward-budget-request.html
[32] ICG, *Myanmar's military: back to the Barracks?* 22 April 2014, http://www.crisisgroup.org/en/regions/asia/south-east-asia/myanmar/b143-myanmar-s-military-back-to-the-barracks.aspx

the ongoing peace processes.[33] Beyond its military strength, it retains enormous constitutional and political power: 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.[34]

1.4 Structure and strength of the *Tatmadaw Kyi*

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.[35] 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 army ranges from 400,000 to 450,000,[36] in addition to a paramilitary police force numbering some 72,000.[37] These estimates may be inflated and in any event overstate the fighting capability of the *Tatmadaw Kyi*.[38] Battalions are often undersized, at times being just 15 per cent of their purported size.[39] In addition to the army, there are 23 known BGFs, each consisting of approximately 30 army personnel and around 330 former members of armed groups.[40]

The Defence Services Commander in Chief is the head of the military and is appointed by the President following approval by the National Defence and Security Council.[41] 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.[42]

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 ten battalions; two or three Military Operation Commands (also with ten battalions each); and an inconsistent number of Tactical Operation Commands (consisting of four battalions).

The *Tatmadaw Kyi*'s strength has been undermined by poor morale, especially among the lower ranks, which has led to a high rate of desertions and triggered the need for constant recruitment, particularly in some infantry battalions.[43] Voluntary enlistment in infantry battalions continues to remain low, even though salaries in the military, as with other state organisations, have risen in 2012.[44] This is primarily because of poor conditions of service and deployment in conflict areas. When stationed in conflict areas

[33] The Irrawaddy, *Army chief says ethnic conflicts must end for Burma's development*, 27 March 2014.
[34] Myanmar Constitution, 2008, Article 232 (b) (ii) (iii) and (c).
[35] Tin Maung Maung Than, op.cit. p.201.
[36] Confidential estimates received by Child Soldiers International in 2014.
[37] Jane's Sentinel, *Security Assessment – Southeast Asia*, 27 March 2012.
[38] Jane's Sentinel, op.cit.
[39] Maung Aung Myoe, op.cit. p.78.
[40] BNI, Myanmar Peace Monitor, *Border Guard Force Scheme*, http://www.mmpeacemonitor.org/background/border-guard-force
[41] The Council is made up of the Defence Minister and a number of senior military officials as well as government ministers and parliamentarians. Myanmar Constitution, 2008, Section 342.
[42] Myanmar Constitution, 2008, Section 40 (c).
[43] According to confidential interviews, recruitment into combat divisions such as infantry is lower than other divisions such as supply and logistics.
[44] AFP, *Myanmar military, civil servants get a pay rise*, 14 March 2012, http://news.asiaone.com/News/AsiaOne+News/Asia/Story/A1Story20120314-333489.html

there are no guarantees of resupply of rations and ammunition or medical evacuations, particularly during counter-insurgency operations.[45] Once enlisted, recruits have to commit to a minimum of five years of service, although in practice some have reported that they are not allowed to leave even after five years on grounds of national security.[46] The pressure to recruit leads to forced underage recruitment: infantry battalions are those with the highest reports of child recruitment. In other divisions of the *Tatmadaw Kyi* including supplies and logistics and training and signals, better living conditions coupled with an overall increase in salaries have ensured that recruitment is seldom coercive.

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 instill discipline.[47]

2. Child recruitment and use in the *Tatmadaw Kyi*

2.1 Drivers of underage recruitment

Ongoing armed conflict, related insecurity and high levels of attrition have ensured that the military is under pressure to maintain its troop strength, thereby necessitating constant recruitment and the resulting continued reports of forced recruitment, including of children. While representatives from the Myanmar military strongly denied the prevalence of this practice, Child Soldiers International's research found that an unofficial system of incentives to reward recruiters and punishments for failure to meet recruitment targets still exists at the battalion level. Bonuses in cash or in kind are also known to be 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.[48]

The pressure on battalions to be self-sufficient in maintaining troop numbers has been found to have significantly contributed to forced recruitment. In June 2014, the *Tatmadaw Kyi* issued a directive[49] and instructions which laid down that Infantry Regiments and Light Infantry Regiments could no longer directly recruit and that recruitment would only take place through recruiting units and recruitment centres. While the extent of implementation of these new procedures and their impact has yet to be independently verified, such measures could go a long way in checking forced underage recruitment. Until recently, in the absence of an official 'recruitment quota', battalion commanders, particularly in battalions such as the infantry and other combat units, were known to have informally applied significant pressure on their subordinates to deliver new recruits. The ILO, which continues to receive complaints of

[45] Maung Aung Myoe, op.cit. p.201.
[46] Child Soldiers International, Interview with ILO deputy representative, Yangon, 14 July 2014.
[47] Child Soldiers International, Interviews with former child soldiers, Thailand, 2011.
[48] Retirement age from the *Tatmadaw Kyi* is established at 60 years, unofficially however, in order to seek early retirement, military personnel are required to bring in new recruits. Interviews with confidential sources show that in non-military government offices, employees seeking early retirement have to pay a large amount of money estimated at approximately US$5,000 in order to leave their jobs. This amount of money depends upon their years of service and training received as it has to cover the costs the state has invested in human resources that will not be serving the nation anymore.
[49] The Directive is not on file with Child Soldiers International.

forced recruitment through its complaints mechanism established in 2007[50] has received complaints from soldiers who were granted leave but overstayed, and in order to return without being subjected to punishment had to bring back a recruit or face imprisonment if they failed to meet this demand.[51]

This 'recruitment economy' has led to the creation of an informal network of civilian 'brokers', who receive payments for delivering new recruits. It has also generated pressure on recruiting officers to ignore the minimum recruitment age restrictions which exist under Myanmar law (see Section 3.1) in a context where adults are unwilling to volunteer and where recruitment procedures designed to prevent underage recruitment have not been strictly enforced. Despite recent measures to spread greater awareness about the unlawfulness of underage recruitment, children continue to be targeted as they are easier to trick and susceptible to pressure to enlist. Where children from economically deprived or troubled backgrounds have volunteered for enlistment, the absence of rigorous enforcement of safeguards has facilitated their recruitment.

2.2 Patterns of underage recruitment

Information gathered by Child Soldiers International shows that military officers and informal recruiting agents (civilian 'brokers') continue to use deliberate misrepresentation, intimidation, coercion and enticement to obtain new recruits, including under-18s. Civilian brokers are known to frequently recruit boys under false pretenses, often offering them a different job, such as a driver. Recent information on the manner in which underage recruitment by the *Tatmadaw Kyi* takes place appears to remain unchanged from that reported in the past decade by the UN and NGOs.[52] Cases of underage recruitment by the *Tatmadaw Kyi*, verified by the UN CTFMR,[53] 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 conditions, and the absence or presence of conflict in each particular area. In 2014, cases of underage recruitment were mostly being reported to the UN from the Yangon, Ayeyarwaddy and Mandalay regions.[54]

It is virtually impossible to provide reliable overall estimates of the number of child soldiers in the *Tatmadaw Kyi*. Since 2013, a total of 723 cases of underage recruitment have been reported to the UN CTFMR of which 474 are children or were under 18 at the time of the signing of the JAP. Of the 474 children reported to the UN CTFMR, 126 have allegedly been recruited in 2013 and 2014. Since the

[50] 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. Under this mechanism individuals can bring cases of forced labour under ILO Convention 29 concerning forced labour (including forced and underage recruitment) to the ILO Liaison Office in Yangon.
[51] Child Soldiers International, Interview with ILO official, Yangon, July 2014.
[52] 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; 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.
[53] United Nations Security Council (UNSC) Resolution 1612 mandates the UN to establish UN-led CTFMRs in countries where there is verified evidence that Grave Violations against children are being committed by parties to a conflict, either by armed forces and/or by armed groups. The CTFMR is tasked with establishing a Monitoring and Reporting Mechanism (MRM) which documents, verifies and reports to the UNSC on Grave Violations against children. The CTFMR was established in Myanmar in 2007 and is co-Chaired by the UN Resident Coordinator and the UNICEF Representative in Yangon. The CTFMR in Myanmar includes relevant UN agencies (ILO, UNDP, United Nationals Population Fund (UNFPA), UNHCR, UNICEF, UN Office for the Coordination of Humanitarian Affairs (OCHA), the UN Resident Coordinator Office (RCO) and UN World Food Programme (WFP)), Save the Children and World Vision.
[54] UN GA, Report of the Secretary-General on children and armed conflict, UN Doc. A/66/782–S/2012/261, 26 April 2012, paragraph 67.

beginning of the ILO Complaints Mechanism on Forced Labour in 2007, it has received 1,293 reports of individual cases of underage recruitment. Representatives of the Myanmar government informed Child Soldiers International that they had discharged 587 children between 2004 till 2012 through the Committee for the Prevention of Military Recruitment of Underage Children.[55] The UN CTFMR jointly secured the release of 176 children from the *Tatmadaw* in 2012 and 2013, another 96 children in January 2014, 91 in August 2014, 109 in September 2014 and 80 in November 2014, totaling 553 children discharged since the adoption of the JAP in 2012.[56] In 2013 and 2014 ILO received 481 reports of underage recruitment; of these, 81 had been recruited in 2013 and 2014.[57] However, the number of complaints and subsequent releases do not provide an accurate picture of the real numbers of children recruited. Firstly, there can be a time-lag of almost six months from the time a child is recruited to the filing of a complaint, making it difficult to arrive at an accurate assessment of numbers. Secondly, not all recruited children are identified and released as processes to identify and release children from the *Tatmadaw* have yet to be systematically applied.

Information gathered by Child Soldiers International shows that most recent cases of underage recruitment have involved coercion, with children being tricked or lured into the army through false promises. The practice of falsification of age documents, including National Registration Cards (NRC) – now also called Citizenship Scrutiny Cards (CSC)[58] - and family lists, continues unchecked and no effective measures have been taken to establish accountability for this practice.

In rural Myanmar, children have been recruited while 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, markets, and outside temples.[59] Underage recruitment is carried out by civilian brokers, non-commissioned soldiers and junior police officers.

Recruitment affects mostly poor and uneducated children.[60] A tactic which is increasingly used is to offer a child a good job with a decent salary (for instance as a driver), and lure them to the nearest recruitment centre or battalion. In other cases, recruiters demand to see the individual's NRC or CSC, 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.[61] Recruiters are also known to threaten children and use force. In some cases known to Child Soldiers International, underage boys are kept temporarily in

[55] Child Soldiers International, Meeting with Myanmar government delegation led by Major General Than Soe, Deputy Adjutant General, Ministry of Defence, Naypyitaw, 10 December 2014.
[56] See: UNICEF, *Mass release of children by Myanmar Armed Forces important step towards a new Myanmar*, 18 January 2014, http://www.unicef.org/eapro/media_22067.html; UN News Centre, *Myanmar: UN welcomes release of child soldiers, commitment to get them educated*, 1 August 2014, http://www.un.org/apps/news/story.asp?NewsID=48394#.VDu-dBbX71U; UNICEF, *Myanmar Military releases more than 100 children from armed forces*, 25 September 2014, http://www.unicef.org/media/media_76028.html; Myanmar Armed Forces release a further 80 children, 25 November 2014, http://unicefmyanmar.blogspot.co.uk/2014/11/myanmar-armed-forces-release-further-80.html.
[57] Child Soldiers International, Interview with ILO official, Yangon, 11 December 2014.
[58] NRC and CSC are often used interchangeably and they are both legitimate forms of civil documentation, but confidential sources have informed Child Soldiers International that the CSC is now regarded as more important and that the three-folded NRC document is exchanged for CSC after scrutiny. While the old NRC denotes residency and can be obtained on the basis of a few documents, the CSC determines citizenship and requires more supporting documentation to be provided to the Immigration and National Registration Department (INRD). The law makes it very clear that proof of citizenship (i.e. CSC) is required for entry into the army.
[59] Child Soldiers International, Confidential interviews, London, 26 May 2014.
[60] Reuters, *Myanmar army releases more than 100 child soldiers*, 25 September 2014, http://www.reuters.com/article/2014/09/25/us-myanmar-childsoldiers-idUSKCN0HK0NP20140925
[61] Child Soldiers International, Confidential interviews, Yangon, 24–28 April 2012.

battalion barracks before being formally recruited, while efforts are made to falsify documents or otherwise disguise their real age.[62] Interviews conducted by Child Soldiers International with former child soldiers in 2011 indicated that conditions in the centres where they were initially held after recruitment and in the training camps were extremely poor. The barracks were overcrowded, the quality of food poor and nutritionally inadequate, and child soldiers were routinely beaten by senior personnel.

The ages of children have been systematically falsified or wrongly recorded in the initial recruitment processes (see Section 3.3.4) and these children are therefore treated as adult recruits during training and deployment (recruits are required to undertake approximately four and a half months of training before being sent to their duty station). In some instances, local civilian authorities are reported to have hindered efforts to locate child recruits by delaying or failing to provide proof of age and character reference documents when children are reported missing.[63]

Child soldiers can be deployed in hostilities, where they are exposed to death and injury and face greater risks of physical and mental trauma because of their lack of experience and relative immaturity. 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 landmines. Field research conducted by Child Soldiers International in March 2011 indicated that children recruited by the *Tatmadaw Kyi* had been deployed in frontline battalions. This practice continues: in 2014 children forcibly recruited by the *Tatmadaw Kyi* continued to be deployed in the frontlines of the Kachin conflict, although precise numbers were difficult to determine.[64]

Children who attempt to escape from the *Tatmadaw Kyi* are detained and treated as adult deserters. Based on current laws, the penalty for a child soldier who deserts the military may be higher than the penalty for someone who recruits a child soldier (see Section 5). Many child soldiers who have tried to escape the army have been labelled as 'deserters' and sentenced to imprisonment.[65] Of the total of 376 children discharged by the UN CTFMR in 2014, 65 were labelled as Absent Without Official Leave (AWOL). Between January 2013 and mid-July 2014, the ILO received information on 145 underage recruits who fled the *Tatmadaw Kyi* and were declared "deserters". Out of these, 17 under age recruits were arrested, charged with desertion and imprisoned. In June 2014 the *Tatmadaw Kyi* issued specific orders requiring their personnel to exercise diligence in ensuring that in all cases of individuals found to have been recruited as children, as verified by the UN CTFMR, they should not be arrested or otherwise harassed as deserters but instead their cases should be expedited for discharge.

Information gathered by Child Soldiers International shows that if the period of "desertion" is short, an individual will be detained for the same amount of time as if he was AWOL. But if he was absent for longer periods, he stands likely to be subjected to a military summary trial before being transferred to civilian detention in prison. There is no access to a legal counsel during detention but according to the prison manual, a family member could visit every 15 days.

[62] Child Soldiers International, Confidential interviews, London, April and December 2014.
[63] 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.
[64] UN GA, Report of the Secretary General on children and armed conflict, UN Doc. S/2014/339, 15 May 2014, paragraph 107.
[65] ILO Governing Body, 319th Session, Geneva, GB.319/1NS/1NF/2, 16-31 October 2013.

3. Defence Sector Governance: Steps taken to address and prevent underage recruitment

3.1 National legislation, army regulations and instructions addressing underage recruitment

The Myanmar army is supposed to be an all-volunteer force. The 1959 People's Militia Act, superseded by a 2010 law of the same name, provides for conscription (of over-18s) in certain circumstances, but the relevant provisions of these laws that would trigger conscription have never been used. Indeed there are a number of laws and regulations which specifically instruct the army not to recruit under-18s and provide for sanctions if this happens.

The recruitment of individuals below 18 years of age is prohibited under the provisions of the 1974 Regulation for Persons Subject to the Defence Services Act (War Office Council instruction 13/73). Defence Directive Order 13/73 (1974) establishes that recruits have to fulfill the following criteria to enter the ranks of the Myanmar army: be nationals of Myanmar above the age of 18; have a clean criminal record; be physically fit and skilled to serve; and most importantly, they must enroll on their own volition, free from any form of coercion. Section 65 of the Defence Services Act and Defence Services Rules, 1960 and relevant War Office Council instructions provide the procedure for disciplinary measures when military personnel fail to adequately discharge their duties. This would include failing to uphold the minimum age requirement demanded in the above-mentioned Directive.

Notably, under Military instruction 1/131/ye 1 (ka) of 2 October 1997, the recruitment of individuals below 18 years of age is deemed to constitute forced labour. Under Order 1/99 and Supplementary Order 1/99,[66] forced labour[67] is illegal and as such is criminalised by Section 374 of the Myanmar Penal Code[68] allowing for the prosecution of such a crime.

As part of its efforts to implement the JAP for the prevention of the recruitment of children and their discharge and rehabilitation signed with the UN in June 2012,[69] the *Tatmadaw Kyi* has adopted a number of further directives to clarify policies and practices for military recruitment. The Directorate of Military Strength issued a Directive in October 2012 that contains key measures for implementation of the JAP. It includes procedures to identify and verify the age of recruits; provides time frames for these procedures to be implemented; and lays down measures to be taken against those who fail to comply with the directive and continue to recruit children. These accountability measures include demotion in rank, a ban on future promotion and also imprisonment (see Section 5).

The October 2012 directive has been further complemented by more recent instructions under which underage recruitment has been confirmed to be a form of forced labour that can be prosecuted as a criminal offence.

[66] Ministry of Home Affairs, State Peace and Development Council Order No. 1/99. Order directing not to exercise powers under certain provisions of The Towns Act, 1907 and The Village Act, 1907, Yangon, Government of the Union of Myanmar, 14 May 1999.
[67] Order 1/99 and the supplementary order did not define what is forced labour, and the ILO committee of experts continued to demand that the Myanmar Legislature make this clear until 2012 when the Ward and Village Tract Administration Act was passed with a supplementary article clearly defining forced labour – a definition encompassing underage recruitment into the armed forces.
[68] Section 374 Penal Code: "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".
[69] The JAP between the Myanmar government and the UN, signed on 28 June 2012 after five years of negotiation, became effective from 1 September 2012.

As well as issuing additional directives and instructions, steps have reportedly been taken to remove "exceptional" pathways into the army for under-18s that had previously been used: until November 2013, an exception ('10th Grade exception') allowed children who were 16-years-old, had passed the 10th Grade and obtained special authorisation from the office of the Adjutant General, to be recruited (in 2012, the *Tatmadaw Kyi* recruited 167 children under this "exception")[70] but this practice has now reportedly been discontinued.

3.2 Awareness raising and training on the prohibition of underage recruitment

Working closely with UN agencies, in 2013 the Myanmar government launched a nation-wide awareness raising campaign, disseminating information related to the JAP, focusing particularly on the prohibition of underage recruitment. Billboards, posters, radio and television communications have been used to inform the general public with billboards being put up in 66 cities by 2014.

The Myanmar government maintains that it has also begun to incorporate information on preventing underage recruitment into training programs for military personnel, with Sergeants and Corporals receiving annual training on this issue.[71] According to the Myanmar military, all Adjutant Officers from the RMC, who are responsible for staff administration, have been provided training in underage recruitment and received a booklet detailing commitments made under the JAP.[72] In addition, the Myanmar government maintains that pocket cards, which lay down the basic principles behind the JAP with clear instructions not to recruit under-18s, have been distributed within all battalions of the *Tatmadaw*. However, Child Soldiers International understands that while the UN CTFMR has been allowed access to some BGFs where trainings have been conducted and the pocket cards distributed, compliance by BGFs remains poor for a variety of reasons, including the inability to access information in ethnic languages.

As part of the coordination with the UN CTFMR, the Myanmar military has also trained military focal points located in the 14 RMCs across the country. These focal points are in charge of the training of the Adjutant Captains in different military commands. Through this system of training of trainers, the Ministry of Defence is said to be trying to ensure that the terms of the JAP are fully understood by all commanding officers of the *Tatmadaw Kyi*.[73]

The government's measures have been reinforced by the work of other stakeholders to ensure that the issue of underage recruitment is raised in training schools and at recruitment centres. Awareness about underage recruitment is raised by UN CTFMR members during monitoring missions to recruitment centres to evaluate the implementation of the JAP.

Training and awareness-raising appear to have begun to have some impact on public awareness of the unlawfulness of underage recruitment. This is evidenced most notably by the increased number of

[70] UN GA, Report of the Secretary-General on children and armed conflict in Myanmar, UN.Doc. S/2013/258, 1 May 2013, para. 45 (d).
[71] Child Soldiers International, Meeting with Myanmar government delegation led by Major General Than Soe, Deputy Adjutant General, Ministry of Defence, Naypyitaw, 10 December 2014.
[72] Child Soldiers International, Interview with Major General Ngwe Thein, Director, Directorate of Military Strength, Naypyitaw, 10 September 2013.
[73] Child Soldiers International, Interview with Major General Ngwe Thein, Director, Directorate of Military Strength, Naypyitaw, 10 September 2013.

complaints of underage recruitment made to a public hotline number[74] and the ILO's complaints mechanism in 2014.[75]

3.3 The Myanmar military and recruitment procedures

3.3.1 Recruitment procedures

The Directorate of Military Strength is responsible for supervising military recruitment, including by overseeing all aspects relating to armed forces recruitment, such as the operations of armed forces' recruitment units and recruitment centres, their adherence to the *Tatmadaw Kyi's* recruitment needs and the minimum requirements for recruits. As such, the Directorate of Military Strength, along with the Adjutant General's Office[76] is the focal point in the Myanmar military for implementation of the prohibition of underage recruitment. A senior officer from the Directorate of Military Strength heads the Committee for the Prevention of Military Recruitment of Underage Children established in 2004.[77]

Recruitment into the military has to date been undertaken through the battalions which get channeled through to the recruitment centres via the mobile recruiting units. The recruitment units (sometimes called mobile recruitment units) are decentralised, but feed into the four main recruitment centres. The four main recruitment centres, function under the command of a Lieutenant Colonel or a Colonel.[78] Recruits entering the army through these recruitment centres are sent to training centres. All other recruits are sent to one of the 14 RMCs[79] for further scrutiny and then for training. During training, all recruits are provided with a military identification number - known as a TA number.

The majority of underage recruits have to date been admitted to the army through the decentralised recruitment process, in particular at the battalion level.[80] Mobile recruitment units,[81] which are composed of a team of two soldiers operating under the command of a Captain or sometimes a Major, have also been used to recruit. The exact working of the mobile units is unknown; they have been responsible for finding recruits, organising their documents for submission to the Regional Command Scrutiny Board and bringing them to the recruitment centre. Unlike the rest of the recruitment infrastructure within the Myanmar army, mobile recruitment units can easily be disbanded and re-formed, with the risk of hampering effective monitoring of their operations and accountability for underage recruitment.

[74] In November 2013, UNICEF supported the Myanmar government to launch a nation-wide campaign to raise awareness on its population on its commitment to end use and recruitment of Children by the *Tatmadaw*. As part of this campaign, and on behalf of the UN CTFMR, UNICEF and World Vision are managing 2 hotlines (09-421166701 and 09-421166702) where anyone can report suspected cases of children recruited by the *Tatmadaw*.
[75] UN GA, Report of the Secretary General on children and armed conflict, UN Doc. S/2014/339, 15 May 2014, paragraph 115.
[76] The Adjutant General is the military's chief administrative officer to whom the Judge Advocate General, Military Secretary and the Vice Adjutant General report.
[77] In January 2004, the Myanmar government set up the Committee for the Prevention of Military Recruitment of Underage Children "to prevent recruitment of underage children as soldiers, to protect the interests of underage children and to ensure faithful adherence to the orders and instructions for the protection of underage children".
[78] The four main recruitment centres for the Myanmar military are in Magwe, Sagaing, Yangon and Mandalay divisions.
[79] The RMCs are under the command of a Brigadier General and are allocated specific geographical territories. Although the structure is not entirely uniform, most RMCs oversee one Light Infantry Division of ten battalions; two or three Military Operation Commands (also with ten battalions each); and an inconsistent number of Tactical Operation Commands (consisting of four battalions).
[80] Child Soldiers International, Confidential interview, Yangon, 13 September 2013.
[81] Mobile Recruitment Units were set up by the *Tatmadaw* to ensure regular intake of recruits to the military. Credible sources say that approximately 15 mobile recruiting units are currently operating in Yangon alone.

Child Soldiers International understands that a military directive was issued in June 2014 which reformed the recruitment process by stopping recruitment at battalion levels and only allowing recruitment through trained recruitment units.[82]

While some steps have been taken to strengthen recruitment procedures within the *Tatmadaw Kyi*, effective mechanisms to monitor and oversee different recruitment channels have not yet been established. In 2013, the *Tatmadaw Kyi* set up Scrutiny Boards at each of the 14 RMCs to review the files of recruits entering the military through mobile recruitment units and battalions. Comprised of four senior officers, including a medical officer, the purpose of the Scrutiny Board is to examine the files to assess their suitability for the army, which should include identifying underage entrants. However, there is no public information available which shows that Scrutiny Boards have rejected potential recruits on the grounds of age. Lacking in operational independence, the Scrutiny Boards are unable to exercise genuine control over the recruitment process. A number of cases from the UN CTFMR list of suspected minors, who were subsequently found to be underage, had been previously reviewed by Scrutiny Boards. This suggests that they do not have the technical capacity or the will to carry out the necessary checks (of identity documents, etc.) that would prevent the recruitment of under-18s.

3.3.2 Requirements for recruitment

Prospective recruits are required to present identity documents to recruitment officials: as a minimum they are required to produce an NRC or CSC. In principle, other documents are also used to corroborate the identity and age of a recruit. These include the family registration list, school registration documents, a recommendation from township authorities to prove moral standing and one from police to confirm the absence of a criminal record. The stated minimum education requirement for entry into the Myanmar military is a fourth grade pass. However, information gathered by Child Soldiers International shows that this is often ignored and in fact the criterion of education is often not taken into consideration in the recruitment process.[83]

In addition to the required documents, military procedures require the prospective recruit to undergo a medical check. These constitute 13 visual checks of the body[84] and physical examinations of different parts of the recruit's body including X-rays of the wrist, a medical examination of legs and fingers, an eye test and a genital examination. While these tests serve the purpose of establishing whether the candidate is physically fit for military service, a medical examination is considered unreliable for an accurate determination of age.[85]

A personal file is created for each recruit by the military. In principle this is meant to include a copy of the NRC, the family registration list, a school leaving certificate and medical data. However, Child Soldiers International understands that documents certifying the age of recruits are often missing from files.[86] Hard copies of the recruit's personal file are maintained at the recruitment centre, in the battalion

[82] The June 2014 military directive is not on file with Child Soldiers International.
[83] Child Soldiers International, Confidential interview, London, 2 May 2014.
[84] The 13 point check list constitutes information identifying the following physical disabilities: Impediment of speech; Defect of hearing; Defect of sight; Deformity of body structure; Flat foot; Bad complexion; Gland disorder; Piles; Defect of teeth; Ill nerve system; Hernia; Defect of veins on leg; Polydactyl and oligodactyly.
[85] Terry Smith and Laura Brownlees, *Age assessment practices: a literature review and annotated bibliography*, UNICEF, 2011, p.20, http://www.unicef.org/protection/Age_Assessment_Practices_2010.pdf
[86] Child Soldiers International, Confidential interview, London, November 2014.

where the recruit is posted and in military headquarters in Naypyitaw. However, to Child Soldiers International's knowledge, no centralised database of recruits exists.

Standard required information in recruits' files[87]	
Produced by recruits	**Produced by recruiters**
Birth certificate National Registration Card (NRC) or Citizenship Scrutiny Card (CSC) Family registration list Letter from Ward Administrator School registration documents Police record Letter of consent by parent(s) or wife Letter of consent by the recruit	Fully compiled application form 13 visual checks of the body 16 physical examinations

3.3.3 Birth registration and underage recruitment

Section 24 of the Rules of Procedure of Myanmar's 1993 Child Law establishes that parents or guardians must register a child at birth, then again when the child reaches ten years of age and finally when the child turns 18.

While birth registration in the country has risen to 72 per cent in recent years, it is not universal and rural and poorer areas lag behind.[88]Among children under five living in the poorest households, only half have their births registered. In rural areas, 64 per cent of children under five are registered, and this figure is particularly low in Myanmar's poorest state, Chin State, where less than one fourth of children are registered.[89]

Myanmar currently has parallel systems for the registration of children. Under the Modified Vital Registration System, managed by the Department of Health, in collaboration with the Central Statistical Organization, the local midwife is responsible for initiating birth registration when a child is born. The birth certificate is issued by the Township Medical Officer. The Central Statistical Organization at the

[87] This information is included in a number of administrative forms kept on file, including finger prints and medical record as well as the recruits' signature of consent and a form to confirm there is no criminal record, kept at the Military Record Department.
[88] According to UNICEF, birth registration in urban areas reaches 94 per cent while in rural parts of the country it does not go beyond 64 per cent, see http://www.childinfo.org/birth_registration_tables.php.
[89] Ministry of National Planning and Economic Development and Ministry of Health, Myanmar, 2011.Myanmar Multiple Indicator Cluster Survey 2009 - 2010 Final Report, Naypyitaw, Myanmar.

central level processes forms for the production of statistical reports, but does not keep a record of the registered children. Under this system children can only be registered in the location of their birth. Poor families in rural areas are most disadvantaged because many do not have contact with a midwife when their child is born.[90]

The second way to procure a registration of birth is through the household registration system or the "family list" which is managed by the Immigration and National Registration Department (INRD) with support from the General Administration Department (GAD). This system registers children as part of a household, but the household list is neither a permanent nor individual document, and a new household list needs to be obtained upon moving residence.

The importance of birth registration to protect children's rights has been widely recognised,[91] including for the prevention of unlawful recruitment of children, yet measures to prioritise this vital safeguard in Myanmar have been slow. In fact, Myanmar has no electronic record of children registered at birth or registered through subsequent registration procedures; records exist only as paper copies kept at the local Township Medical Office. At the national level, registration forms are discarded after two years.[92] Poor record-keeping of births coupled with irregular management of such records make it difficult to obtain identity documents, thereby obstructing efficient age verification. The Myanmar government admitted that children have been wrongfully recruited in the absence of effective age verification mechanisms.[93]

To partly address the lack of birth registration in rural areas, the Norwegian Refugee Council, in association with the Myanmar government's Ministry of Immigration and Population, has established a program to facilitate access to NRCs/CSCs at the local level through mobile clinics, especially in border areas. Through this project, NRCs/CSCs are obtained free of charge and on the same day. However, NRCs/CSCs cannot be considered as a substitute for the establishment of a universal, accessible and free birth registration system, which must remain a priority.

Age verification documents are equally vital at the point of release of child soldiers from the *Tatmadaw*, to ensure they obtain access to the appropriate rehabilitation services. Child Soldiers International understands that children released through UN CTFMR programmes have received CSC cards from immigration authorities that record their age following a medical examination. However, other children released directly by the government have not received such documentation which not only represents an obstacle to accessing any rehabilitation assistance, but also exposes them to future risks of recruitment.[94]

3.3.4 Falsification of identification documents

As indicated above (Section 3.3.2), proof of age documentation is officially required at all *Tatmadaw Kyi* recruitment centres. However, research carried out by Child Soldiers International and others over a number of years, points to the fact that recruitment often occurs in the absence of official identification

[90] Ministry of National Planning and Economic Development and Ministry of Health. Myanmar Multiple Indicator Cluster Survey 2009 - 2010 Final Report, Op.cit.
[91] Birth registration has been the subject of numerous GA resolutions, seven General Comments of the CRC and for the first time in 2012, a dedicated resolution of the HRC.
[92] UNICEF, *Every Child's Birth Right: Inequities and trends in birth registration*, New York, 2013.
[93] Child Soldiers International, Meeting with Myanmar government delegation led by Major General Than Soe, Deputy Adjutant General, Ministry of Defence, Naypyitaw, 10 December 2014.
[94] Child Soldiers International, Confidential interview with official from the Department of Social Welfare, Naypyitaw, 9 July 2014.

documents. In some cases, recruits who could not present proof of identification were provided with falsified documents. In other cases, prospective recruits were asked to sign a document stating that they were 18 at the time of recruitment.

Falsification of identity documents has been regularly reported. Some military personnel and civilian recruitment brokers reportedly forge documents before bringing a child into the recruitment centre. In other cases, recruiters are reported to have taken children to a different state to the one they are registered in and had a second NRC issued in which the recruit is registered as 18 years old. Age verification documents can be easily falsified at local photocopy shops, where templates of birth certificates, family lists and school registration forms are readily available.[95] The falsification of documents appears to be most commonly practised if the child is taken to one of Myanmar's four main recruitment centres where medical examinations are regularly conducted and there is greater scrutiny.[96] Child Soldiers International understands that, in addition to age, recruiters falsely registered other information at the time of recruitment, for example altering the child's biographical information (i.e. the father's name) to make it more difficult for parents or the authorities to subsequently locate the child.[97] After their recruitment, children are often issued an NRC containing false information. The Myanmar government admitted that the falsification of documents remained an ongoing problem but denied that this led to the recruitment of children since recruitment only took place "once the documents were checked and approved by officials from the Ministry of Immigration".[98]

Child Soldiers International has also 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.[99] Photographs taken of underage recruits with their parents while in the recruitment camp have also reportedly been used to demonstrate parental consent and to justify that they had confirmed that the recruit was 18 years of age.

Concerns about such unlawful recruitment practices reflect a broader concern about the falsification of identity and other official documents in Myanmar. For example, reports suggest that ages were incorrectly recorded when compiling voting lists in the 2010 general elections in Myanmar, bringing under-18s within the voting population.[100] Family verification lists issued by the Ministry of Immigration are reportedly often manipulated for corrupt purposes.[101]

While forging citizenship documents (such as the NRC) is a crime under Article 21 of the Citizenship Act, punishable with 15 years in prison and a 50,000 kyats (approximately US$52) fine, Child Soldiers International is not aware of any investigation or prosecution for falsifying documents in relation to underage recruitment.

[95] The ILO received testimony from a child who was taken by a recruitment officer to a copy shop near Mandalay train station where he observed documents being counterfeited to establish that he was over 18.
[96] 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.
[97] See HRW, *Sold to be Soldiers*, October 2007, http://www.hrw.org/reports/2007/burma1007/burma1007webwcover.pdf.
[98] Child Soldiers International, Meeting with Myanmar government delegation led by Major General Than Soe, Deputy Adjutant General, Ministry of Defence, Naypyitaw, 10 December 2014.
[99] Child Soldiers International, Confidential interview with members of child protection group, Yangon, 27 April 2012.
[100] Child Soldiers International, Confidential interview with a representative of an international organisation, Yangon, 6 December 2012.
[101] Child Soldiers International, Confidential interview, Yangon, September 2013.

4. Oversight, complaints and release of underage recruits

In response to increasing international pressure, in 2004 the then military government of Myanmar established the Committee for Prevention of Military Recruitment of Underage Children (the Committee) to address the issue of underage recruitment in the armed forces.

The Committee's Secretary is a Major General of the *Tatmadaw Kyi*, while other members represent relevant ministries such as Foreign Affairs, Home Affairs, Labour, Social Welfare and Relief and Resettlement. The Committee is mandated to prevent the forced recruitment of children as soldiers; to protect the interests of children; and to ensure faithful adherence to the orders and instructions issued for the protection of children.

According to its Secretary, since its establishment in 2004, the Committee's work has led to the identification of some 546 underage recruits. The vast majority of the cases it has dealt with are complaints from children's families received via the ILO, UNICEF and local NGOs (in only one case has the Committee dealt directly with a family's complaint).

The response by the Committee to complaints of underage recruitment is slow and protracted and is in stark contrast to the imperative of ensuring that underage recruits are promptly identified and released. The official procedure establishes that the complaint must be presented at battalion level. If the underage recruit has not yet been assigned a TA number (provided to recruits following initial processing) release can be expedited more quickly. If the underage recruit has already been assigned a TA number (i.e. has gone through training following scrutiny of their files in the RMCs) the process takes longer as the local officer is required to transfer the complaint to the RMC for approval which then has to be transmitted to the Adjutant General. The Adjutant General assesses the complaint and only when satisfied of its authenticity can send the name(s) of underage recruits to the Commander-in-Chief, who can authorise discharge of the recruits.

Since the adoption of the JAP in 2012, 553 children have been discharged from the army and reunited with their families.[102] Under the JAP, Myanmar military officials are required to facilitate three routes for identifying underage recruits in a battalion or at the recruitment centre. These are: i) through a process of mass identification where officers are required to separate out and question those who visibly appear young in age; ii) through a system of self-identification, where underage recruits can come forward and declare their age in response to announcements made by officials; and iii) by carrying out a review of recruitment documentation to identify through a set of agreed procedures, the presence of an underage recruit in the battalion or recruitment centre.

In practice, despite training being provided on agreed procedures and methods of identifying recruits, officers are loathe to admit underage recruits are present in their ranks and children are too fearful to come forward and declare they are underage. The few children who do come forward are reportedly intimidated by officers and withdraw their statement. In cases where a documentation review is conducted, the Sergeant Clerk or Adjutant Commander in a battalion is tasked with verifying the actual age of the recruit with Township authorities and the child's parents. Widespread corruption within

[102] UNICEF, *Myanmar Military releases more than 100 children from armed forces*, 25 September 2014.

Township authorities and the significant, if unofficial, influence that the military exerts on them ensures that documentation is often falsified and an accurate proof of age is seldom obtained (see details on falsification in Section 3.3.4). As a result, the *Tatmadaw*'s progress in identifying children within its ranks has been slow: to implement the JAP, the army is required to compile lists of suspected minors for the UN CTFMR to verify; however, Child Soldiers International has received information to suggest that such lists are often incomplete or fail to include all suspected minors in the battalions.[103]

Once released, there are few programs to support former child soldiers. According to the Ministry of Social Welfare,[104] it has a memorandum of understanding with UNICEF aimed at assisting released children to access education and psychological assistance.[105] The support is also supposed to extend to the families of released children as a means of improving their livelihood and addressing social problems.

However, the evidence indicates, and indeed the Ministry of Social Welfare admits to, lacking human resources and reach to provide adequate assistance to released children. Out of the 879[106] children released since the JAP came into operation in September 2012, 59 per cent have been provided support by the Ministry of Social Welfare. Of the 41 per cent remaining, some are visited by reintegration partners and therefore remain within the ambit of receiving some assistance. However, those currently in prison for crimes allegedly committed since discharge remain out of reach of reintegration programs. In addition, some are not eligible for reintegration under the JAP as they are above 18 and were born before 1994.[107]

As part of its assistance program, the Ministry of Social Welfare established Child Rights Committees at the national, regional/state, district and township level. At the township level these Committees are mandated to provide psychosocial assistance to the released children and their families. However, the number of social workers is insufficient: only six districts (and 25 townships) out of a total of 100 employ social workers and the system has to largely rely on volunteers. According to the Ministry of Social Welfare figures, 50-100 children are released on average from the *Tatmadaw* each year but adequate human and financial resources are currently not being dedicated to support their effective recovery, rehabilitation and reintegration. Recognising the current inadequacy of resources, in 2013 the Ministry of Social Welfare presented a proposal to the Myanmar Parliament to expand its program for psychosocial assistance. At the end of 2013, an inter-ministerial working group on reintegration was established under the leadership of the Ministry of Social Welfare, Relief and Reintegration. As a result, technical reintegration guidelines were developed and endorsed by the Parliament in February 2014 and several directives were issued, including one by the Ministry of Education to allow a child to resume school at any time of the school year and to take exams even with less than 70 per cent of attendance.

[103] Child Soldiers International, Confidential interview, London, November 2014.
[104] Child Soldiers International, Interview with a representative of the Ministry of Social Welfare, 8 July 2014, Naypyitaw, Myanmar. The Ministry of Social Welfare established a task force on child soldiers chaired by the Directorate General of the Ministry and composed of child protection agencies such as UNICEF and Save the Children. The task force is assisted by a coordination committee to ensure the expeditious reintegration of children into their families and communities.
[105] Since 2009, 546 children have been provided support which includes formal and informal education, vocational training and support in the form of monthly visits by social workers.
[106] This figure provided by the Ministry of Social Welfare includes the number of children released by the Myanmar army directly, in addition to those released under the JAP.
[107] Child Soldiers International, Confidential interview, Yangon, 14 July 2014 and London, 6 January 2015.

5. Accountability: disciplinary measures and prosecution

Myanmar's 2008 Constitution codifies immunity from prosecution for government officials who have committed human rights violations,[108] provides a blanket amnesty for members of past military governments for "any act done in the execution of their respective duties,"[109] and grants the military effective veto power over any Constitutional amendments.[110] It gives the Defence Services the right to independently administer and adjudicate the affairs of the armed forces[111]and establishes a system of military courts that are ultimately answerable to the Defence Services Commander-in-Chief, with no right to appeal to the Supreme Court or another civilian body.[112] The Special Rapporteur on the situation of human rights in Myanmar has repeatedly stated the need for civilian control of the military as fundamental to any democracy that upholds the rule of law, and has recommended the amendment of these constitutional provisions.[113]

Despite the provision of immunity in the Constitution, Section 65 of the 1959 Defence Services Act provides for disciplinary measures when military personnel fail to adequately discharge their duties. These disciplinary measures vary depending on the gravity of the misconduct in question. The number of disciplinary measures taken against those responsible for underage recruitment has been steadily rising over the years.[114] Since 2007, 312 perpetrators have been identified by the Myanmar government as being responsible for underage recruitment, including 48 officers.[115] A total of 25 individuals were convicted under the Myanmar Penal code (23 military and 2 civilians), while others were subjected to punishments in the form of fines, salary deductions and discharge of extra duties. In the vast majority, disciplinary procedures have been initiated in cases resulting from reports by the ILO and the UN CTFMR.[116]

While some form of disciplinary action by the military is taken in cases brought to their attention, a large number of those punished continue to remain in the lower ranks (Corporals, Sergeants, Lance Corporals). According to the Myanmar government, 48 officers have been punished so far which includes one full

[108] Myanmar Constitution, 2008, Section 445, lays down: All policy guidelines, laws, rules, regulations, notifications and declarations of the State Law and Order Restoration Council and the State Peace and Development Council or actions, rights and responsibilities of the State Law and Order Restoration Council and the State Peace and Development Council shall devolve on the Republic of the Union of Myanmar. No proceeding shall be instituted against the said Councils or any member thereof or any member of the Government, in respect of any act done in the execution of their respective duties.
[109] Myanmar Constitution, 2008, Section 445.
[110] Myanmar Constitution, 2008, Sections 74, 109, 141, respectively reserve 110 of the 440 total seats in the Lower House and 56 of the 224 total seats in the Upper House for Defence services personnel nominated by the Commander-in-Chief. Section 436 of the Constitution requires a 75 per cent majority to ratify any amendment to the Constitution, *de facto*, giving the military a veto.
[111] Myanmar Constitution, 2008, Section 20 (b) establishes that "the Defence Services has [sic] the right to administer and adjudicate all affairs of the armed forces". Sections 293 (b) and 319 provide the establishment of permanent military tribunals for which the Commander-in-Chief exercises appellate power.
[112] Myanmar Constitution, 2008, Sections 293, 319 and 343 (b). Article 319 states that only court-martials "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 court-martials 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.
[113] See Tomas Ojea Quintana, Special Rapporteur on the situation of human rights in Myanmar, Report to the HRC, UN.Doc. A/HRC/22/58, 2013, para. 76.
[114] Update on the operation of the complaint mechanism in Myanmar, Governing Body, 319th Session, Geneva, 16-31 October 2013, ILO doc. GB.319/INS/INF/2.
[115] Child Soldiers International, Meeting with Myanmar government delegation led by Major General Than Soe, Deputy Adjutant General, Ministry of Defence, Naypyitaw, 10 December 2014.
[116]"An unverified report to an international organisation from the Ministry of Defense suggests that the government disciplined 30 military officers and 154 enlisted personnel for the recruitment of children; though the majority of these received reprimands, three officers and one enlisted soldier were reportedly dismissed, and two officers and seven enlisted personnel were reportedly imprisoned", US State Department, Trafficking in Persons Report, 2013, http://www.state.gov/j/tip/rls/tiprpt/countries/2013/215412.htm.

Colonel and four Lieutenant Colonels.[117] Punishments have ranged from warnings, reduction in salary, denial of promotion and imprisonment up to three months. Only a handful of prosecutions have been initiated against civilians, including brokers, who play an important role in luring children into recruitment. While the Myanmar authorities insist this is largely due to the absence of specific complaints on civilian brokers[118], it is the primary responsibility of the Tatmadaw to investigate each case of underage recruitment and use and take action against perpetrators.

While it was reported that in April 2013 the Commander-in-Chief issued instructions establishing that military staff accused of committing forced labour would be tried before civil courts under Section 374 of the Penal Code, there is no record of such a policy being effectively implemented.[119]

As referred to above, disciplinary procedures within the *Tatmadaw* fall under the jurisdiction of the JAG's office and are covered under four kinds of court martial procedure: general court martial;[120] summary general court martial;[121] district court martial;[122] and summary court martial.[123] Disciplinary action for cases of underage recruitment is generally dealt with under a summary court martial. In such cases, the commander of a battalion where a commissioned or non commissioned officer is charged with underage recruitment, commissions an officer of the rank of a Captain or Major to investigate the charge and write a summary of evidence. This summary of evidence is sent to the Assistant Adjutant General based in one of the 14 RMCs, who then studies the evidence and forwards it to the Assistant JAG in the RMC. At this stage, the Assistant JAG could prepare a charge sheet based on existing evidence or send the case back to the Battalion Commander to gather more evidence. Once the evidence is deemed satisfactory, the case is sent to JAG headquarters for final approval. When disciplinary action is approved, the case is sent back to the Assistant Adjutant General and then to the Regional Commander. Summary Disposal is applied in cases which involve imprisonment for up to 28 days in prison or loss of salary for 7-14 days. The punishment for knowingly recruiting a child includes one grade demotion, salary cut, loss of pensionable years of service, and no promotion for a few years. If such misconduct systematically occurs, the recruiter can be punished with imprisonment; however, only 16 military personnel accused of child recruitment have received prison sentences to date.[124] Recruiters face lighter punishment if it is ascertained that the child made false claims of being 18 or above in order to be recruited.

The procedures of summary court martial for underage recruitment have been used effectively in some cases to impose disciplinary sanctions on lower ranking officials and non-commissioned officers, including Corporals and Sergeants. However, it lacks the necessary independence to address the complicity in the practice of underage recruitment by higher level military personnel, who have in most cases escaped adequate punishment.

[117] Child Soldiers International, Meeting with Myanmar government delegation led by Major General Than Soe, Deputy Adjutant General, Ministry of Defence, Naypyitaw, 10 December 2014.
[118] "Till now we have not received one list of accurate identities of civilian brokers by the CTFMR, if we receive such a list, we will take action," Major General Than Soe during a meeting with Child Soldiers International, Naypyitaw, 10 December 2014.
[119] Reportedly, there have been two cases of civilian brokers who have been charged under Section 374 for collusion in committing forced labour for providing underage recruits.
[120] Five military officers and one JAG take decisions in a general court martial which can result in a death sentence to the offending officer.
[121] Three military officers and one JAG take decisions in a summary general court martial which may also result in a death sentence to the offending officer.
[122] The army area commander chooses three officers in his area to play the role of judges in the district court martial which can result in two years imprisonment.
[123] A summary court martial can be instituted by the battalion commander, which is attended by two officers and can result in one year imprisonment.
[124] Report on ILO activities in Myanmar, Governing Body, 320th session, Geneva, 13-27 March 2014, ILO doc. GB.320./INS/6 (Rev).

Beyond the court martial system, there are still further significant legal and political obstacles to holding military personnel criminally accountable for underage recruitment. The legal hurdles to ensure command responsibility are still significant and may ultimately only be overcome by amending the provisions of the 2008 Constitution. Further, 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 and other mechanisms about ongoing impunity for serious human rights violations in Myanmar[125] which are facilitated by constitutional provisions that shield the military from prosecution. Limited recourse to prosecution of those responsible for underage recruitment and lack of transparency about the disciplinary actions taken by the JAG against military personnel (the judgments of the court martial as well as the sanctions adopted against military personnel are not made public) perpetuate the climate of impunity in which underage recruitment thrives.

6. Conclusion

The signing of the JAP with the UN in 2012 marked an important step for the Myanmar government and military in addressing underage recruitment in its armed forces and has led to additional prevention and accountability mechanisms designed to strengthen those put in place over the past decade. Children continue to be identified and released from the armed forces, orders and instructions have been issued to underline that underage recruitment is a crime and disciplinary measures (albeit mainly of low ranking officials) have been taken against those found responsible for underage recruitment. Public messages and training programs have helped to raise awareness of the issue and the increasing number of complaints of underage recruitment suggests that these programs are beginning to have an effect. Furthermore, the Myanmar military has progressively improved its cooperation with the UN CTFMR, resulting in a significant number of monitoring visits to battalions and other military sites.

Despite this, underage recruitment into the armed forces continues. Research for this report indicates that the persistence of an informal recruitment quota system and ongoing pressures to recruit into the Myanmar army means that children are still targeted for coerced recruitment. Patterns previously documented by Child Soldiers International that facilitate underage recruitment - the activities of civilian "brokers", the falsification of documentation at the point of recruitment, other weakness of the recruitment process (particularly of Scrutiny Boards), and the inadequacy of accountability measures - continue.

Until safeguards within recruitment procedures are implemented in practice across the country at all levels and until effective age verification mechanisms are put in place and properly enforced, as repeatedly requested by the UN,[126] the situation will not significantly improve and children will remain at

[125] In its April 2014 resolution, the HRC "encouraged the Government of Myanmar to take further steps to strengthen good governance and the rule of law, including through legislative and institutional reform, and to address the need for an independent, impartial and effective judiciary, and repeats its call upon the Government to take the measures necessary to ensure accountability and end impunity, including by undertaking a full, transparent and independent investigation into all reports of violations of international human rights law and humanitarian law", UN. Doc A/HRC/RES/25/26, 15 April 2014; See also: Tomás Ojea Quintana, Report of the Special Rapporteur on the situation of human rights in Myanmar, UN.Doc. A/HRC/25/64, 2 April 2014, paragraphs 55 and 56.

[126] In February 2012 the UN CRC 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"

risk of recruitment and use in the armed forces. At the same time, administrative processes put in place in to identify and discharge children should be simplified in order to allow for the prompt release of children and their effective reintegration into their families and communities. Significant resources are required to achieve this objective and should be allocated as a matter of priority.

7. Recommendations

Recommendations to the Myanmar government and the *Tatmadaw*

General measures

- Ratify and implement the following international standards that would strengthen Myanmar's commitment to eradicating the recruitment and use of child soldiers: OPAC; the ILO Minimum Age Convention 138; 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 all armed forces (including BGFs and other security forces) to prevent the unlawful recruitment of children.

Recruitment procedures and practices

- Standardise recruitment procedures for all armed forces (including 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;

- Ensure that recruiters are expressly instructed to recruit only individuals in possession of a valid, official identity document, such as CSCs/NRCs and birth certificates and that in the case of doubt over an individual's age or of the validity of the identity document, to not recruit the individual;

- Establish a centralised database identifying individual *Tatmadaw* and BGF recruits, including their date of birth, supported by a copy of their NRC and birth certificate, and the full name and rank of the recruiting officer;

- 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, particularly for remote areas;

(UN CRC, 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 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).

- Ensure, including by seeking technical assistance, that NRCs or CSCs are available to all, correctly reflect an individual's age and other relevant details, and are issued in a format that prevents forgery;

- Dismantle the informal system of incentives to reward recruiters and practices of punishment for failing to meet recruitment targets.

Oversight of the recruitment process

- Strengthen control and oversight mechanisms at all stages of the recruitment process so that a review of documentation, age and voluntariness of the recruitment is carried out by the recruitment unit, the recruitment centre, the training centre and, after training, on arrival at the battalion of destination;

- Ensure Scrutiny Boards function independently and are held accountable for cases of underage recruitment;

- Empower and increase the capacity of Scrutiny Boards to effectively review individual applications, including by training them in assessing documentation and age, ensuring that recruits appear before Scrutiny Boards and are interviewed effectively to determine their age and their motivation to join the armed forces. Empower Scrutiny Boards to reject and release recruits under 18 years of age, identified through the review of their applications;

- Ensure that any case of underage recruitment identified through the Scrutiny Board is effectively followed up, including by investigating the circumstances that led to their recruitment and identifying and prosecuting those responsible;

- Regularly publish figures of the number of recruits rejected on the grounds of age by the Scrutiny Boards;

- Ensure that the method of recruitment - whether it is through mobile recruitment units, battalions or recruitment centers - in addition to the recruiting officer's name and designation, is incorporated in the file of each recruit;

- Mandate an independent body, separate from the military, with the task, 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 investigate cases of suspected non-compliance.

Accountability

- 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. Remove barriers to prosecution, including any form of immunity from civil prosecution of military personnel provided in the Constitution;

- Ensure prompt independent investigation into allegations of falsification of identity documents which have led to unlawful recruitment whether committed by brokers, civilian authorities or military personnel. 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, prosecutions and disciplinary actions taken and the outcome of these proceedings.

Detention of former child soldiers

- Immediately cease the practice of detaining and imprisoning children and former child soldiers on the grounds of "desertion" from the armed forces, and ensure their swift and unconditional release.

Identification processes, recovery, rehabilitation and reintegration programs

- Review the procedures adopted by the Committee for Prevention of Military Recruitment of Underage Children with a view to strengthening its capacity to identify children in the ranks of the army;

- Provide sufficient resources and effective mechanisms to ensure that children, including those who were recruited under-18, are promptly discharged from the army, issued with official documents certifying their permanent release from the army, and expeditiously reintegrated into their communities;

- In collaboration with the UN and other child protection actors, collect authoritative data on the numbers of current and former child soldiers requiring assistance (including those over-18 on release). Conduct a full needs assessment of the nature, scope, duration, funding and expertise needed for the provision of "appropriate assistance" to former child soldiers, including rehabilitation, education and vocational training.

Recommendations to the UN Country Task Force on Monitoring and Reporting

- Strengthen the capacity of all actors supporting the implementation of the JAP, 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 Myanmar government in the review and reform of recruitment practices aimed at preventing the 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.

Recommendations to the UN Security Council and the international community

- Encourage and support the Myanmar government to implement the JAP fully, and take all necessary measures to prevent the recruitment of children into the *Tatmadaw Kyi* and the BGFs;

- Ensure that the UN CTFMR is provided with the necessary time and resources to support the Myanmar government to take all necessary measures to implement the JAP, and to monitor violations against children comprehensively;

- 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 of the armed forces and BGFs.

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