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06th Feb. 2007

Observations on the Report of the Secretary-General on Children and Armed Conflict in Sri Lanka” (S/2006/1006), 20 December 2006.

The SG report submitted to the Security Council by the Special Representative office of Children and Armed conflict comes as a disappointment to those committed to the ‘best interest of the child’, a principle on which the entire edifice of the Convention on the Rights of the Child (CRC) is built.

The report strikes one as another instance of politicization of the issue of children in armed conflict rather than an exercise in genuinely protecting their rights.

As observed by Prof. Jayadeva Uyangoda, a respected Colombo based analyst, in another report,

“Child recruitment by the LTTE is an issue that has been extensively politicized in Sri Lanka and international debates concerning the consequences of the civil war in Sri Lanka. This process of politicization began after 1996 when the government of Sri Lanka, headed by President Chandrika Kumaratunga, launched an international campaign to ban the LTTE. The Foreign Ministry that spearheaded this international campaign was also the main state agency to carry out the international campaign against the LTTE on the theme of child recruitment.”

(Sri Lanka’s Protracted Armed Conflict: Background, Context and Dynamics in Children and Armed Conflict, Sri Lanka: Country Report, Social Science Research Council, New York, 2006)

A brief look at the report will confirm our view.

1. False accounts and charges:

Two instances of killing charged against the LTTE (paragraph 34) are false. This paragraph is meant to be about children who were killed when “utilized

by the LTTE as child soldiers”. To illustrate this point the report goes on to say: “...on 17 June, a 15-year-old boy from Point Pedro was killed in the Government and LTTE zone of separation, close to the Muhamalai checkpoint. According to SLMM, the boy was carrying pictures of himself in LTTE uniform when he was found dead.”

This version of the incident came out from the security forces only **after** a publication in the local media that a complaint had been lodged by this boy’s mother with the Human Rights Commission that he had been abducted in Jaffna by the military intelligence. The abduction therefore took place before the shooting, and the place of the killing was more than 30 kilometres away from the alleged scene of killing.

Further, the report adds, “three soldiers reportedly admitted to shooting the boy”. As the SLMM says, it was only **after** he had been shot dead that he was allegedly found to have been carrying pictures of himself in LTTE uniform. Why was he shot dead, then? Was there any provocation? It is clear that in this instance the party to be charged is the State military machinery.

Secondly, in the same paragraph, the 16-year-old boy alleged by the report as “affiliated with the LTTE in Kayts” has been vouched by the villagers as being in fact affiliated with the para-military group EPDP.

2. Bias

Paragraph 34 which, as stated above, is about ‘children killed when utilized by the LTTE as child soldiers’ includes a case of “16 mutilated bodies including three under-aged Tamil boys”. This has been included in the paragraph despite the fact that “according to the SLLM, the victims were reportedly unarmed”, and on the basis that “it was alleged by the Government that the victims were members of the LTTE...”

Now, if as the SLMM says the victims were unarmed, they were either civilians or LTTE members but *hors de combat*. In either case, it was a breach of the international humanitarian law, constituting a war crime.

Such an allegation to have been included in paragraph 34, and that, despite the word of the SLLM, gives the impression of being politically motivated bias.

If ‘allegations’ of the Government are to be trusted, then more than half the 70,000 Tamils killed so far should be counted as members of the LTTE. Invariably, whenever the Sri Lankan forces kill Tamils, they claim that the victims were members of the LTTE.

The section on “recommendations” asks the LTTE (para. 63.4) to “respect the right to freedom of movement” and to “cease all use of civilians as human shields.” But there is no such recommendation to the Government. In the Jaffna peninsula 600,000 Tamil civilians are marooned with the closure on 11 August 2006 of the only land route (A-9) to the mainland and heavy restrictions on movement imposed by the military, and they consequently face the threat of starvation. In the midst of these 600,000 people, some 45,000 soldiers are deployed and the small peninsula is thus saturated with military personnel and camps from where attacks are carried out using “civilians as human shields.” There are no recommendations against the use of internationally prohibited weapons like ‘cluster bombs’ and other forms of indiscriminate military attacks that have claimed the lives of thousands including a ‘significant number of children’.

These are blatant instances of biased reporting.

3. Unbalanced coverage of the mandate

Although the mandate given to the Special Representative was on six areas without any prioritizing, imbalance in the treatment of the other topics relative to the issue of child recruitment is too obvious to require any explanation. Already the summary gives it away, as does the introduction: “The report...provides information on compliance and progress in ending the recruitment and use of children and other grave violations...in situations affected by armed conflict...” The in-depth analysis, its structure that clearly segregates the responsible actors, the graphic presentations, and the space allocated further corroborate our view.

The mass “killings and maiming of children” by the indiscriminate aerial and land attacks of the military has not been accorded the importance it deserves in the study. If any prioritizing is to be done, this should be the first priority.

In the section on killings the report states, “The deteriorating security situation, however, precludes obtaining a comprehensive tally of the number of children killed in affected areas” (para.33). About the number of children killed, it says in vague terms that out of the 1,135 civilians killed, a significant number of them being children. Perhaps this "significant number" is greater than the number of under-aged children said to be held by the LTTE at the reporting period. In that case, the report cannot be treated as a comprehensive one that warrants decisive conclusions about “targeted measures” (para.63.2) against a party to the conflict. For, it may be that the party that deserves such measures more eminently is spared because the reporting on a serious issue like “killings and maiming” has not been adequately done. This would amount to partial and unfair treatment.

4. Stepping outside the Mandate

The mandated reporting period is November 2005 to October 2006. Accordingly, and quite rightly, when the report speaks about the incidence of cease-fire violations (para.4), it confines itself to the said period. But regarding child recruitment, it makes reference also to the situation “...since 2001” (para.16). If this reference had been made in the ‘overall background’, it could be seen as being quite in place. But the fact is that it is featured in the main analysis of the topic.

Besides, the huge reduction – approximately ten times – in child recruitment by the LTTE “since 2001” to October 2006 that one learns from this reference, has not been accorded any appreciation. On the contrary it is presented negatively; the whole issue is treated as deserving “targeted measures” (para.63.2) against the LTTE.

This can only be interpreted as a deliberate design to highlight the incidence of child recruitment as being such as to justify the proposed targeted measures.

It also makes one wonder how it would read if a similar reference was made to the period preceding the mandated period with regard to “killing or maiming of children”, “attacks against schools or hospitals” and “rape and other grave sexual violence against children” which are three other topics covered by the mandate. One would wonder why targeted measures have not been taken against the ‘political and military leadership’ of the successive Governments.

5. Distortion of Facts

The conflict affecting Sri Lanka is said by the report (para.3) to be from 1983; but in fact it goes way back to 1947, the year of independence; and violence against Tamils including killings has been going on with State complicity from 1956. In fact it was such violence for over 25 years against the ahimsa (non-violence) struggle of the Tamils that drove them finally to resort to armed struggle.

The closure of the Mavilaru sluices according to the report was by the LTTE (para.6). But it was actually done by the local people because the Government refused to supply to Tamil villages. Contrary to the interpretation by the report, the subsequent offensive by the military was, according to the SLMM not about ‘the water issue’.

The closure of schools in Jaffna from 9th September to 9th October is said to be “forced” (para. 39). There was, admittedly, an organized boycotting of schools during that period and other periods. Perhaps this was the only least-

risky collective action of protest available to the people in a situation of military terror prevailing there. Indeed, in that sort of situation one did not need force to persuade the people to join in the protest.

6. So called 'Karuna Faction'

The coverage of 'Karuna Faction', which the report says is an "unregistered political party" (footnote 4), is curious. The report claims that it uses the name "Karuna faction" because that is how that party "is commonly known". This gives the wrong impression that this faction started as a political party. The fact is that ever since the Karuna group defected from the LTTE, it has been called by this name by the national press. The point to note here is that this group declared a name for its 'political wing' only many months after the defection. Till then it had been operating only as the para-military group, thus being the parent body of the later 'political wing'. But the footnote gives the wrong impression that the "Karuna faction" is from the beginning and primarily a political party.

The reference in the report to rulings by the SLMM about parties other than the parties to the Cease-Fire Agreement is not warranted since the SLMM is not mandated to make such rulings. Nor does it claim to make "rulings" regarding what it calls "non-State entities" while referring to the 'Karuna faction' and other para-military groups.

More importantly, treating the 'Karuna faction' as a separate party to the conflict makes a mockery of the report. The former Prime Minister and another Minister have publicly claimed credit for luring Karuna away from the LTTE. Moreover, there has been ample evidence to demonstrate that this group operates with the complicity, albeit concealed, of the State and is thus acting as a convenient proxy for the State. Hence this group should be treated as part of the State military apparatus, not as a separate entity *per se*. And the CFA requires that para-military groups be either disarmed or absorbed into the regular military of the State.

If, alternatively, the Karuna group is treated as a para-military group, then other para-military groups also should be covered equally extensively such as the EPDP whose political head, ironically, carries a ministerial portfolio.

The reference to the so called 'Karuna Faction' seems part of the hidden agenda of the politicization of the issue of 'child recruitment.' Projecting the Karuna group as another party to the conflict would facilitate the political ends of those behind such a strategy, particularly once the "political and military leadership" of the LTTE is ostracized through "targeted measures".

Conclusion

An apt conclusion to these observations would be the conclusion of the study by the Social Scientists Association cited above:

“Raising awareness globally of what we are doing to our children is essential, but it should not take the form of sensationalized reporting, which might then serve the politicized agenda of one group or another but not the best interests of children affected by war...The issue of child soldiering, the armed conflict and the peace process in Sri Lanka has been internationalized to such an extent that its trajectories cannot be properly understood in isolation from external factors. It is essential to understand the phenomenon in a localized context...The recruitment debate needs to be depoliticized in order to understand the issue of child recruitment and participation, and be approached in a humanitarian manner – one that incorporates, and is based on, the Convention on the Rights of the Child principle of “the best interest of the child.” (CRC, Article 3).”

Our fear about politicizing matters of human rights is that facts and perspectives get distorted, and in the end the real needs and interests of the beneficiaries concerned get marginalized.

(the end)