

# Children in Hostilities

Optional Protocol to the Convention on the Rights of the Child regarding the use and recruitment of children in hostilities

International Save the Children Alliance  
Position Paper

2000

# Introduction

More than 300,000 children under the age of eighteen are actively involved in 36 current armed conflicts. Many of these receive brutal treatment inconsistent with fundamental human rights and humanitarian law standards. Many, though not all, States have set eighteen as the minimum age for recruitment into their armed forces, existing international law protects only persons under the age of fifteen years from recruitment into armed forces or participation in hostilities

In 1995 the UN Commission on Human Rights established an open-ended Working Group to undertake the task to draft an Optional Protocol annexed to the Convention on the Rights of the Child (CRC) to raise the minimum age for recruitment and participation in hostilities to eighteen years. The Committee submitted to it a draft text for consideration. Yet, four years and five Working Group sessions later, and despite the committed chairing of the Working Group, an effective agreement is still some way off.

Following the failure of the Working Group to agree on the text of an Optional Protocol at its session in February 1998, the Commission on

Human Rights requested all interested parties to submit comments on the report of the Working Group in time for circulation before its next session. At the following meeting on 11 January 1999 the UN Working Group decided to promote to the Commission on Human Rights that the mandate for broad informal consultations by the Chair be continued for a further year. It was decided that a decision on the Optional Protocol had to be taken during the year 2000.

There is an emerging consensus that this 15-years threshold, which is included in the United Nations CRC, provides inadequate protection to children who, in other respects, are defined as any person under the age of 18 years. However, although vigorous attempts have been made by NGOs, the ICRC, various UN agencies and a number of States to set the minimum age for military recruitment and participation at 18 years, a small number of states are resolute in their opposition. In order to strengthen the process of drafting a “straight-18-Optional Protocol” to the CRC, the International Save the Children Alliance has decided to support the UN Working group drafting process.

## Existing International Human Rights Law

International human rights law applicable to children, embodied in the 1989 UN Convention on the Rights of the Child, Article 38, sets 15 as the minimum age for military recruitment and participation:

“1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.

2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.

3. State Parties shall refrain from recruiting any persons who have not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest

4. In accordance with their obligations under the international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict”.

## Standards to be advocated by the Alliance

As to children's involvement in armed conflict, the Save the Children Alliance calls for the following standards to be adopted in the CRC Optional Protocol, Art. 38:

1. Recruitment below the age of 18 should be prohibited in all circumstances, including by regular governmental armed forces, irregular armed

forces, or any other armed groups such as militias and civil defence forces, opposition forces and private groups.

2. Any direct or indirect participation in hostilities, whether as a result of compulsory or voluntary recruitment, should be prohibited below the age of 18.

# Activities

The International Save the Children Alliance is committed to following up the recommendations of the UN Report on the Impact of Armed Conflict on Children. The Alliance will focus its work on programming issues, and advocacy concerning prevention, protection and rehabilitation of children's involvement with the armed forces. The International Save the Children Alliance will strengthen the co-operation with its members regionally and internationally, and with other relevant partners to increase the extent and quality of protection and rehabilitation measures, as well as utilising documentation in advocating for the rights of children not to be recruited or to be released from armed forces.

The International Save the Children Alliance participates in an international campaign named "Stop the Use of Child Soldiers". The campaign seeks to mobilise regional and global support for the Optional Protocol to article 38 and national legal standards, raising the legal recruitment age from 15 to 18 years of age. The Campaign is organised by a secretariat and a steering committee in Geneva.

Participants in the Steering Committee are – the International Save the Children Alliance, Amnesty International, Human Rights Watch, International Federation Terre Des Hommes, Defence for Children International, the Jesuit

Refugee Service, Geneva, and the Quaker UN office, Geneva. Active links and co-operation have been established with UNICEF, the ICRC and the Red Crescent Federation and other key UN agencies. The campaign is a high-profile media campaign involving prominent international figures, and its purpose is to raise awareness of the child soldier problem through different means (media, regional conferences, active lobbying on governments and UN agencies, national and regional coalitions, etc). The first regional conference took place in Africa (Mozambique 19–22 April, 1999), the second in Uruguay in July and the third in Asia during the fall of 1999. The effort will culminate in the convening of a major international conference (most likely in Paris, 2000).

The International Save the Children Alliance will initiate and support appropriate research into the issue of recruitment, prevention, protection and rehabilitation of children used in hostilities.

The only regional human rights treaty stating 18 years as a minimum age for recruitment and participation of children in hostilities is the Charter on the Rights and Welfare of the African Child. The Alliance shall therefore advocate for further ratifications of the African charter and work in favour of its implementation.

# References

## Important internal documents are:

Revised Strategy Paper (Rädda Barnen to the Alliance, 03/03/98)

CAC/006 Terms of Reference on Child Soldiers (Alliance ToR)

Stop Using Child Soldiers (Coalition to Stop the Use of Child Soldiers, 1998)

## Other important documents:

ICRC Plan of Action Concerning Children in Armed Conflict, 1997

ICRC Position on the Optional Protocol to the CRC, 1998

UNICEF Cape Town Principles/Plan of Action on the Prevention of Recruitment of Children into the Armed Forces and Demobilisation and Social Reintegration of Child Soldiers in Africa, 1997.

Charter on the Rights and Welfare of the African Child (OAU, 1990)

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# Abbreviations

CRC The United Nations Convention of the Rights of the Child

ICRC International Committee of the Red Cross

NGO Non-governmental organisations

UN United Nations

UNICEF The United Nations Children's Fund