

# Child soldiers: one of the worst abuses of child labour

## Introduction

It is estimated that more than 300,000 children under the age of 18 are currently fighting in conflicts around the world and hundreds of thousands more are members of armed forces who could be sent into combat at any time. Although most child soldiers are between 15 and 18 years old, significant recruitment starts at the age of 10 and the use of even younger children has been recorded. Many of these have been forced to join armed forces (governmental or non-governmental) by intimidation, abduction or other forms of violence. Others volunteer, mostly because they do not know where else to go, or because they seek food, shelter and security. Amnesty International has drawn attention to human rights abuses in the context of child recruitment both by government and/or armed opposition groups in countries such as Colombia, Democratic Republic of Congo, Sierra Leone, Sri Lanka and Uganda. The involvement of children in armed forces, particularly in situations of armed conflict, has been shown to have devastating effects on their physical and mental integrity. There are frequently higher casualty rates among children due to their inexperience and lack of training. Because of their size and agility children may be sent on particularly hazardous assignments.

Increased international awareness about the involvement of children in situations of armed conflict has ensured that the concern for child soldiers is on the international agenda. Existing international law sets 15 as the minimum age for recruitment into armed forces and participation in hostilities<sup>1</sup>, but for more than a decade non-governmental organizations (NGOs) have argued that it is time to stop the use of child soldiers and have campaigned for the minimum age to be 18 years for recruitment into armed forces and participation in hostilities. In addition to helping protect 15 to 18 year olds, raising the minimum age for recruitment and participation to 18 will also help to ensure implementation of existing standards. In some countries birth registration is not universal and raising the age from 15 to 18 will make it much more difficult for children under 15 to pass as 18 year-olds.

Amnesty International, in close cooperation with the Coalition to Stop the Use of Child Soldiers<sup>2</sup>, is campaigning for the explicit inclusion of child soldiering as

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<sup>1</sup>See article 77(2), Additional Protocol I 1997 relating to the Protection of Victims of International Armed Conflicts; article 4 (3)(c), Additional Protocol II 1977 relating to the protection of Victims of Non-International Armed Conflicts; and Article 38 (UN) Convention on the Rights of the Child.

<sup>2</sup>The Coalition to Stop the Use of Child Soldiers was established in June 1998. Its primary objectives are the adoption of, and adherence to, an Optional Protocol to the Convention on the Rights of the Child. Amnesty International January 1999 AI Index: IOR 42/01/99

one of the worst abuses of child labour in the International Labour Organization's (ILO) Proposed Convention and Recommendation concerning the prohibition and immediate elimination of the worst forms of child labour.

## **International Labour Conference and proposed standards on the worst forms of child labour**

At its 86<sup>th</sup> session in June 1998, the International Labour Conference (ILC) considered the first draft of the texts of the proposed new ILO Convention and Recommendation on the worst forms of child labour. These texts have been revised<sup>3</sup> by the ILO in the light of those discussions, and comments have now been invited from governments (in consultation with trades unions and employers' associations) on the revised texts, with a view to finalization and adoption at the 87<sup>th</sup> session of the Conference in Geneva in June 1999.

The question of the use of children as soldiers as one of the worst forms of child labour was not included in the first draft of the Convention, but was raised at the International Labour Conference. Inclusion would automatically mean that the involvement of persons under the age of 18 in the activities specified would be prohibited.<sup>4</sup>

In the light of the discussion at the Conference, the ILO comments:

*“As the proposed Convention is drafted, the Office understands that the participation of children in military services, armed forces or in armed conflicts would be contrary to the Convention if the determination is made under Article 4 that the work or activity in which they are engaged is likely to jeopardize their health, safety or morals. It may be assumed that participation in armed conflict would necessarily jeopardize their health, safety or morals. Participation in military activities might also be covered by other provisions of Article 3, for example, if it is forced or compulsory labour. The Office invites comments on the issue, including whether an explicit reference should be made to the subject as constituting one of the worst forms of child labour.”*

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of the Child prohibiting the military recruitment and use in hostilities of any person younger than 18 years of age, and the recognition and enforcement of this standard by all armed forces and groups, both governmental and non-governmental. The Coalition's Steering Committee comprises Amnesty International, Defence for Children International, Human Rights Watch, International Federation Terre des Hommes, International Save the Children Alliance (represented by Rädda Barnen), Jesuit Refugee Service and the Quaker UN Office, Geneva. Website: <http://www.child-soldiers.org>.

3 The revised texts are attached for ease of reference

4Article 2 of the Proposed Convention states: “For the purpose of this Convention, the term “child” shall apply to all persons under the age of 18”.

## **Child soldiering: a hazardous activity**

Article 3 of the Proposed ILO Convention states that the "the worst forms of child labour" consist of:

- "(a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, forced or compulsory labour, debt bondage and serfdom;
- (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- (c) the use, procuring or offering of a child for illegal activities, in particular for the production and trafficking of narcotic drugs and psychotropic substances as defined in the relevant international treaties;
- (d) any other type of work or activity which, by its nature or the circumstances in which it is carried out, is likely to jeopardize the health, safety or morals of children".

In determining the types of hazardous work referred to under Article 3(d) above, paragraph 3 of the Proposed Recommendation states that consideration should be given to:

- "(a) work and activities which expose children to physical, emotional or sexual abuse;
- (b) work underground, under water, or at dangerous heights;
- (c) work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads;
- (d) work in an unhealthy environment which may, for example, expose children to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health;
- (e) work under particularly difficult conditions such as work for long hours or during the night or work which does not allow for the possibility of returning home each day".

Participation in hostilities is an activity which *jeopardizes the health and safety* of children as they are liable to be killed, injured and traumatized. Children are intrinsically less cautious and less able to take care of themselves and therefore liable to be killed and injured in greater numbers than adult soldiers. Children are less likely than adults to survive battlefield injuries because of their smaller size and consequent greater likelihood of damage to vital organs or lower resistance to blood loss. The combat-related injuries most frequently suffered by surviving child soldiers are loss of sight, loss of hearing and loss of limbs.

Malnutrition or skin and respiratory diseases are common among child soldiers. All of them are exposed to severe psychological consequences of active participation in hostilities. However, too many child soldiers are given drugs and/or alcohol in order to increase their willingness to take risks.

The treatment of child soldiers tends to be such as to be abusive, and mentally and physically hazardous in itself. Even within regular government armed forces children are subjected to 'toughening-up' regimes which are often detrimental to their mental and physical well-being, as well as to punishments which can lead to death or permanent physical or mental injuries. Younger children may have deformed backs and shoulders as a result of carrying loads too heavy for them. Child soldiering is usually a full-time occupation, which implies long hours of work and little possibility of returning home. Child soldiers are separated from their homes/families and rarely receive education.

Regarding *morals*, girl soldiers are usually expected to provide sexual services as well as to fight as combatants, with consequent dangers of sexually transmitted diseases, HIV/AIDS, pregnancy, childbirth or abortion. Boys too are liable to sexual abuse. The physical, mental, emotional and societal impacts, including the possibility of finding work and/or of marriage, continue long after the conclusion of hostilities.

In addition to the impact of soldiering on the individual child, the recruitment of children can have repercussions on other children. If certain children are being used by armed forces or groups, all children, or all children of the same group(s), will tend to come under suspicion. Furthermore, the social cost of using children as soldiers is very high. They are deprived of education or vocational training, and even of learning the family's traditional means of livelihood. Instead, they learn how to make use of a gun to obtain what is wanted. This often leads to an increase in urban violence as well as to numerous problems and high cost for their reintegration.

It is clear that the recruitment and use of children as soldiers fall within many aspects of the definition of hazardous work as well as violating many of the rights of the child, including the right to life, the prohibition on torture, inhuman and degrading treatment and punishment, the rights to health, education, and to protection from exploitation, including sexual exploitation.

### **Why include child soldiers specifically?**

Under the proposed ILO Convention on the worst forms of child labour, the determination of what constitutes work or activities 'likely to jeopardize the health, safety or morals of children' under Article 3(d), is to be decided by national authorities. This is likely to lead to a situation where national practice is

divergent, particularly in the case of participation in armed conflict which can easily be overlooked by a 'competent authority' geared to more traditional forms of child labour. The use of children in military activities has not previously been included within the scope of child labour. In October 1995, the ILO stated, «The idea of 'the minimum age for admission to employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of young persons,' who must not be less than 18 years (article 3(1) of Convention No. 138 on Minimum Age, 1973), may be applied in corollary to the involvement in armed conflicts, although the latter is considered to be outside the scope of the ILO Conventions on minimum age.»<sup>5</sup>

The initiative at the International Labour Conference to include child soldiering in the Convention is evidence of the increasing international consensus that children have no place in war and should be protected from participation in it. Limiting the provision in the Convention itself to participation in hostilities should enable the broadest support. At the same time, the Recommendation should address ways in which to specifically implement this provision in addition to the general proposals already included. Non-recruitment<sup>6</sup> of children into any armed forces or armed groups is the most effective means of preventing participation in hostilities in practice.

## Links to child labour

The research<sup>7</sup> undertaken on the issue of child soldiers for the UN Study on the Impact of Armed Conflict on Children demonstrates that it is predominantly the same groups of children who become child soldiers in times of armed conflict as become child labourers in peace-time. The groups who form the overwhelming majority of child soldiers are:

- Children separated from their families or with disrupted family backgrounds (eg orphans, unaccompanied children, single-parent families, child-headed households);
- Economically and socially deprived children (the poor, whether rural or urban, those without access to education, vocational training and a

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<sup>5</sup> Comments on the report of the Working Group on a draft Optional Protocol to the Convention on the Rights of the Child on involvement of children in armed conflicts, E/CN.4/1996/WG.13/2 of 23 November 1995, p12

<sup>6</sup> whether voluntary or compulsory since the method of recruitment is irrelevant to the likelihood of involvement in hostilities.

<sup>7</sup> Rachel Brett & Margaret McCallin: *Children: The Invisible Soldiers* (Rädda Barnen, Stockholm, 1996)

reasonable standard of living);

- Other marginalized groups (eg street children, certain minorities, refugees and the internally displaced); and
- Children from the conflict zones themselves.

The last category is, of course, peculiar to armed conflict situations, but children from conflict zones also tend to overlap with other categories, particularly as a conflict continues and they are therefore liable to be displaced, lose or be separated from their family members, and the adverse impact on any pre-existing education and economic systems is felt.

Recruitment of children from these categories occurs whether that recruitment is compulsory, forced or voluntary, and whether it is carried out by government armed forces or by non-governmental armed groups.

The fact that the same groups of children are affected suggests that the involvement of children in armed forces is an issue about children working rather than a distinct activity to which the normal rules about, and dynamics of, child labour do not apply.

### **Amnesty International's recommendations:**

Amnesty International is committed to a higher standard of protection in international law for children at risk of participating in hostilities and recruitment into armed forces. To this end Amnesty International is campaigning for the explicit inclusion of child soldiering as one of the worst forms of child labour in the proposed ILO Convention and Recommendation on the worst forms of child labour. Amnesty International is recommending that:

1. the proposed new ILO Convention on the worst forms of child labour should prohibit child soldiering explicitly as one of the worst forms of child labour;
2. the prohibition on children participating in hostilities should be included in a separate sub-paragraph in Article 3 of the Convention; and
3. the accompanying Recommendation should specify ways to secure implementation of non-participation in hostilities, including non-recruitment of under-18s into armed forces or armed groups since non-recruitment is the most effective means of ensuring that children do not participate in hostilities.

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## **APPENDIX 1**

### **Text of ILO Proposed Convention concerning the prohibition and immediate elimination of the worst forms of child labour**

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 87th Session on 1 June 1999, and

Considering the need to adopt new instruments for the prohibition and effective elimination of the worst forms of child labour, as the main priority for national and international action, to complement the Convention and Recommendation concerning Minimum Age for Admission to Employment, 1973, which remain the fundamental instruments with a view to achieving the total abolition of child labour, and

Considering that the effective elimination of the worst forms of child labour requires immediate and comprehensive action, taking into account the importance of basic education and the need to remove the concerned children from work and to provide for their rehabilitation and social reintegration, and

Recalling the Convention on the Rights of the Child adopted by the United Nations General Assembly on 20 November 1989, the Copenhagen Declaration on Social Development and the Programme of Action of the World Summit for Social Development, 1995, and the Beijing Declaration and Platform for Action of the Fourth World Conference on Women, 1995, and

Recalling that some of the worst forms of child labour are covered by other international instruments, in particular the Forced Labour Convention, 1930, and the United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 1956, and

Recalling the relevant provisions of the Labour Inspection Convention, 1947, and the Human Resources Development Convention and Recommendation, 1975, as well as the Declaration on Equality of Opportunity and Treatment for Women Workers, adopted by the International Labour Conference in 1975, and

Having decided upon the adoption of certain proposals with regard to child labour, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention;

adopts this day of June of the year one thousand nine hundred and ninety-nine the following Convention, which may be cited as the Immediate Abolition of the Worst



Forms of Child Labour Convention, 1999:

*Article 1*

Each Member which ratifies this Convention shall take measures to secure the prohibition and immediate elimination of the worst forms of child labour.

*Article 2*

For the purposes of this Convention, the term "child" shall apply to all persons under the age of 18.

*Article 3*

For the purposes of this Convention, the expression "the worst forms of child labour" comprises:

- (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, forced or compulsory labour, debt bondage and serfdom;
- (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- (c) the use, procuring or offering of a child for illegal activities, in particular for the production and trafficking of narcotic drugs and psychotropic substances as defined in the relevant international treaties;
- (d) any other type of work or activity which, by its nature or the circumstances in which it is carried out, is likely to jeopardize the health, safety or morals of children.

*Article 4*

1.  National laws or regulations

2.  The list of the types of work or activity determined under paragraph 1 of this Article shall be periodically examined and revised as necessary by the competent authority after consulting the organizations of employers and workers concerned.

*Article 5*

Each Member shall establish or designate appropriate mechanisms to monitor the application of provisions for the prohibition and immediate elimination of the worst forms of child labour.

*Article 6*

1. □ Each Member shall design and implement programmes of action to eliminate as a priority the worst forms of child labour.
2. □ Such programmes of action shall be designed and implemented in consultation with relevant government institutions and employers' and workers' organizations.

*Article 7*

1. □ Each Member shall take all necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to this Convention including the provision and application of penal and other sanctions, as appropriate.
2. □ Each Member shall, taking into account the importance of education in eliminating child labour, take effective and time-bound measures to:
  - (a) prevent children from engaging in the worst forms of child labour;
  - (b) provide the necessary and appropriate direct assistance for their removal from work, rehabilitation and social reintegration through, inter alia, access to free basic education; and
  - (c) identify and reach out to children at special risk and take account of the special situation of girls.
3. □ Each Member shall designate the competent authority responsible for the implementation of the provisions giving effect to this Convention.

*Article 8*

Members shall take steps, as appropriate, to assist one another in giving effect to the provisions of this Convention through international cooperation or assistance.

## **APPENDIX 2**

### **Text of ILO Proposed Recommendation concerning the prohibition and immediate elimination of the worst forms of child labour**

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 87th Session on 1 June 1999, and

Having adopted the Immediate Abolition of the Worst Forms of Child Labour Convention, 1999, and

Having decided upon the adoption of certain proposals with regard to child labour, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Immediate Abolition of the Worst Forms of Child Labour Convention, 1999;

adopts this day of June of the year one thousand nine hundred and ninety-nine the following Recommendation, which may be cited as the Immediate Abolition of the Worst Forms of Child Labour Recommendation, 1999:

1. □ The provisions of this Recommendation supplement those of the Immediate Abolition of the Worst Forms of Child Labour Convention, 1999 (hereafter referred to as "the Convention"), and should be applied in conjunction with them.

#### **I. □ Programmes of action**

2. □ The programmes of action referred to in Article 6 of the Convention should be designed and implemented in consultation with relevant government institutions, employers' and workers' organizations and, as appropriate, other concerned groups. They should aim at, inter alia:

(a) identifying and denouncing the worst forms of child labour;

(b) preventing children from engaging in or removing them from the worst forms of child labour, protecting them from reprisals and providing for their rehabilitation and social reintegration through measures which address their educational, physical, emotional and psychological needs;

(c) giving special attention to:

(i) younger children, taking account of the extreme impact of the worst forms of

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child labour on their development;

(ii) the problem of hidden work situations, in which girls are at special risk;

(iii) other groups of children with special vulnerabilities or needs;

(d) identifying and reaching out to communities where children are at special risk;

(e) informing, sensitizing and mobilizing public opinion and interested groups, including children and their parents.

## II. Hazardous work

3.  In determining the types of work or activity referred to under Article 3(d) of the Convention, and in identifying their existence, consideration should be given, as a minimum, to:

(a) work and activities which expose children to physical, emotional or sexual abuse;

(b) work underground, under water, or at dangerous heights;

(c) work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads;

(d) work in an unhealthy environment which may, for example, expose children to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health;

(e) work under particularly difficult conditions such as work for long hours or during the night or work which does not allow for the possibility of returning home each day.

## III. Implementation

4.(1)  Detailed information and statistical data on the nature and extent of child labour should be compiled and kept up to date to serve as a basis for determining priorities for national action for the abolition of child labour, in particular for the prohibition and immediate elimination of its worst forms.

(2)  As far as possible and with due regard for the right to privacy, such information and statistical data should include data desegregated by sex, age group, occupation, branch of economic activity and status in employment.

5.  Members should compile and update relevant data concerning violations of national provisions for the prohibition and immediate elimination of the worst forms of child labour.

6. □ The information compiled under Paragraphs 4 and 5 should be communicated to the International Labour Office.

7. □ Members should establish or designate appropriate national mechanisms to monitor the application of national provisions for the prohibition and immediate elimination of the worst forms of child labour after consulting employers' and workers' organizations and, as appropriate, other concerned groups.

8. □ Members should ensure that the competent authorities which have responsibilities for implementing national provisions for the prohibition and immediate elimination of the worst forms of child labour cooperate and coordinate their activities.

9. □ Members should determine the persons who should comply with the provisions of national laws or regulations.

10. □ Members should, in so far as it is compatible with national law, cooperate with international efforts aimed at the prohibition and immediate elimination of the worst forms of child labour by:

(a) gathering and exchanging information concerning criminal offences, including those involving international networks;

(b) detecting and prosecuting those involved in the sale and trafficking of children, or in the use, procuring or offering of children for illegal activities, for prostitution, for the production of pornography or for pornographic performances;

(c) registering perpetrators of such offences.

11. □ Members should provide that the following worst forms of child labour are criminal offences:

(a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, forced or compulsory labour, debt bondage and serfdom;

(b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; and

(c) the use, procuring or offering of a child for illegal activities, in particular for the production and trafficking of narcotic drugs and psychotropic substances as defined in the relevant international treaties.

12. □ Members should ensure that penalties including, where appropriate, criminal penalties are applied for violations of the national provisions for the prohibition and immediate elimination of any type of work or activity referred to in Article 3(d) of the

Convention.

13.  Members should also provide for other remedies, where appropriate, to ensure the effective enforcement of national provisions for the prohibition and immediate elimination of the worst forms of child labour.

14.  Other measures aimed at the prohibition and immediate elimination of the worst forms of child labour might include the following:

(a) informing and sensitizing the general public, including national and local political leaders, parliamentarians and the judiciary;

(b) involving and training employers' and workers' organizations and civic organizations;

(c) providing appropriate training for concerned government officials, especially inspectors and law enforcement officials, and for other relevant professionals;

(d) providing for the prosecution in their own country of the Members' nationals who commit offences under national provisions for the prohibition and immediate elimination of the worst forms of child labour even when these offences are committed in another country;

(e) simplifying legal and administrative procedures and ensuring that they are appropriate and prompt;

(f) giving publicity to best practices and to legal or other provisions on child labour in the different languages or dialects;

(g) establishing special complaints procedures and making provisions to protect those who legitimately expose violations of the provisions of the Convention from discrimination and reprisals, as well as establishing help lines and ombudspersons.

15.  International cooperation or assistance among Members for the prohibition and immediate elimination of the worst forms of child labour should include:

(a) mobilizing resources for national or international programmes;

(b) mutual legal assistance;

(c) technical assistance including the exchange of information.

1.  The proposed Conclusions appearing in *Provisional Record No.19* were adopted by the Conference without change.

2. □ Paras.330 and 334 of *Provisional Record* No.19.

3. □ The Office views the relevant treaties as the Single Convention on Narcotic Drugs, 1961; Convention on Psychotropic Substances, 1971; Protocol amending the Single Convention on Narcotic Drugs, 1972; and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988.

4. □ Para.330 of *Provisional Record* No.19.

5. □ Art.9, para.2, of Convention No.138 reads as follows: "National laws or regulations or the competent authority shall define the persons responsible for compliance with the provisions giving effect to the Convention."