

The involvement of children in armed conflict

The International Committee of the Red Cross is deeply concerned about the increasing number of children recruited or volunteering to take part in hostilities throughout the world. Such children are exposed to the worst dangers and the most horrible suffering, both psychological and physical. What is more, they are easily manipulated and encouraged to commit grievous acts which they are often unable to comprehend.

Since the adoption in 1989 and the almost universal ratification of the United Nations Convention on the Rights of the Child,¹ much attention has been paid at the international level to the rights of the child in times of armed conflict. The subject has been the focus of several studies conducted both by the Movement² and by the United Nations.³ Numerous non-governmental organizations have also joined in studying the question of the impact of armed conflict on children, whether in the case of child soldiers⁴ or in relation with sexual exploitation.

For the third consecutive time, in January 1997 the ICRC was invited by the United Nations Commission on Human Rights to take part in a session of the Working Group entrusted with the task of drawing up a draft

¹ Convention on the Rights of the Child, 20 November 1989. As at 15 December 1997, only the United States and Somalia had not yet ratified the Convention.

² Guy Goodwin-Gill and Ilene Cohn, *Child Soldiers, The Role of Children in Armed Conflicts*, A Study on Behalf of the Henry Dunant Institute, Clarendon Press, Oxford, 1994, 228 pages.

³ UN Document A/51/306: *The Impact of Armed Conflict on Children — Report of the Expert of the Secretary-General, Ms Graça Machel*. Following this study, Mr Olara Otunnu was designated the Special Representative of the United Nations Secretary-General for children and armed conflict.

⁴ Rachel Brett and Margaret McCallin, *Children: The invisible soldiers*, Rädda Barnen (Swedish Save the Children), Stockholm, 1996, 257 pages.

optional protocol to the Convention on the Rights of the Child. The draft's aim is to raise from 15 years — the current limit set out in Article 38 of the Convention — the minimum age for the recruitment of children and for their participation in hostilities. The ICRC has expressed its support for raising the minimum age to 18, in accordance with the Plan of Action for the International Red Cross and Red Crescent Movement on children affected by armed conflicts.⁵

In light of the way work is progressing on the draft optional protocol, and in anticipation of the questions often posed by representatives of the States, the ICRC has prepared a document detailing the legal basis of its position for the February 1998 session of the Working Group. Indeed, the ICRC's concern that the existing standards could be weakened has prompted it once again to highlight certain crucial legal points, with the aim of bringing the draft protocol in line with the principles and rules of international humanitarian law. The document is published below.⁶

As concerns the scope of the draft protocol, the ICRC's position may be summed up in the following four points:

- (a) the optional protocol must apply in any situation of armed conflict;
- (b) it must be binding on all parties to the conflict;
- (c) it must prohibit any form of recruitment of children under the age of 18;
- (d) it must prohibit their participation in hostilities.

While maintaining this stance, the ICRC emphasizes the need to address one of the most troubling aspects of modern warfare: the participation in hostilities of children under the age of 15. It reiterates that such participation is a flagrant violation of existing international norms contained in both humanitarian law treaties and the Convention on the Rights of the Child. Such acts must be sanctioned with all the severity they deserve. The ICRC thus proposes that recruitment in the armed forces of

⁵ Resolution 2C, 26th International Conference of the Red Cross and Red Crescent, Geneva, 1995, *International Review of the Red Cross*, No. 310, January-February 1996, pp. 63-64; Resolution 5 of the Council of Delegates, Geneva, 1995, *ibid.*, pp. 146-147; Resolution 8.1 of the Council of Delegates, Seville, 1997, see p. 148 of this issue of the *Review*.

⁶ Or see the ICRC web site (<http://www.icrc.org>), under "Issues and Topics", "Children in War". The text has also been published in UN document E/CN.4/1998/WG.13, paragraphs 53-105.

children under the age of 15 and their participation in hostilities should figure among the war crimes covered by the statutes of the future international criminal tribunal.

The adoption of a new legal standard is not in itself a sufficient response in a context where the existing rules are not applied in practice. For its part, the ICRC therefore strongly supports the view that effective measures should be taken, be they preventive or curative, to tackle the problem of child soldiers.

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Optional Protocol to the Convention on the Rights of the Child concerning involvement of children in armed conflicts

Position of the International Committee of the Red Cross

Geneva, 27 October 1997

1. The International Committee of the Red Cross (hereinafter “the ICRC”) fully supports the adoption of an optional protocol to the United Nations Convention on the Rights of the Child aimed in particular at prohibiting the recruitment of children under 18 years of age into the armed forces and armed groups and their participation in hostilities.

2. As in previous years, the ICRC took an active part in the third session, held in January 1997, of the Working Group entrusted with the task of drawing up a draft optional protocol. On that occasion it stated its views, which had been developed over a number of years through studies conducted within the International Red Cross and Red Crescent Movement (hereinafter “the Movement”),⁷ and particularly by the ICRC itself.

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⁷ The Movement comprises all the National Red Cross and Red Crescent Societies, the ICRC and the International Federation of Red Cross and Red Crescent Societies.