

AMNESTY INTERNATIONAL PRESS RELEASE

AI Index: ACT 76/005/2003 (Public)
News Service No: 157
30 June 2003

Amnesty International - Coalition to Stop the Use of Child Soldiers:

UK reserves option to use children in war, contrary to treaty

The United Kingdom government last week formally ratified an important child rights treaty - pledging to try to avoid deploying its under-age soldiers into active combat - but then also undermined the treaty's purpose by reserving wide discretion to use young people in battle.

"A government simply cannot agree to a human rights treaty not to use child soldiers, and simultaneously outline broad circumstances in which it would use children in war. The UK's stance is unacceptable, both legally and morally," said Casey Kelso, Coordinator of the Coalition to Stop the Use of Child Soldiers. The Coalition is made up several human rights and humanitarian organisations, including Amnesty International, Human Rights Watch, International Save the Children Alliance, Jesuit Refugee Service, Quakers United Nations Office in Geneva and World Vision International.

On Tuesday 24 June 2003, the UK Permanent Representative to the UN Sir Jeremy Greenstock sent a letter to UN Secretary-General Kofi Annan conveying the UK formal ratification of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. That UN treaty obliges States "...to take all feasible measures to ensure that members of their armed forces who have not attained the age of 18 years old do not take a direct part in hostilities." (Article 1 of the Optional Protocol)

But the UK government attached a devastating, undercutting reservation that sets out the conditions for deployment of youth, such as military necessity, impracticality of withdrawing youthful soldiers and to avoid undermining "operational effectiveness... and risk the successful completion of the military mission". In the UK, 16-year-olds continue to be targeted extensively for recruitment into the Armed Forces. No other European country apart from the UK deploys under-18s. The UK is the EU country with the lowest recruitment age.

The Child Soldiers Coalition said that the UK action which justified the possible use of child soldiers out of military necessity was a dangerous move that seriously undermined the treaty.

"The declaration of reservation made by the UK is incompatible with the object and purpose of the treaty - that is, to keep kids from fighting wars," said Coordinator Casey Kelso. "That reservation is, therefore, null and void and that the UK remains bound by the Optional Protocol to "...take all feasible measures to ensure that members of their armed forces who have not attained the age of 18 years do not take a direct part in hostilities."

The Coalition to Stop the Use of Child Soldiers campaigns for a "straight-18" ban on the use of children as soldiers - a ban on all recruitment of children under the age of 18, by any armed force or group - and to ensure the demobilisation and rehabilitation of child soldiers.

For more information or an interview, please contact Mr Casey Kelso of the Coalition offices at +44-207-713-2761, at mobile +44-7900-892-552; or Ms Rachel Brett of the Quakers United Nations Office in Geneva at +41-22-748-4804 or mobile +41-79-408-5468.

Background

The Coalition to Stop the Use of Child Soldiers (the Coalition) opposes any recruitment of under-18s not only as a matter of principle but also because of the difficulty of ensuring that under-18s who are members of the armed forces do not in practice participate in hostilities or become a target of attack.

The Optional Protocol recognises that children need special protection in armed conflict. It encourages governments to raise the age of voluntary recruitment into armed forces, and requires states to take all feasible measures to ensure that under-18s do not take a direct part in hostilities. It entered into force on 12 February 2002, and has been ratified by 54 states.

The reservation made by the government of the United Kingdom sets out the circumstances in which they anticipate they would deploy under-18s in their armed forces to take a direct part in hostilities and as such the UK is anticipating that they may act contrary to the treaty. The reservation therefore contravenes the object and purpose of the Optional Protocol.

Allowing this reservation to pass uncontested would set a very bad legal precedent given that this treaty is an optional protocol and the purpose of the protocol is to protect children from participating in wars. The reservation is "incompatible with the object and purpose" of the Optional Protocol as specified in Article 19(c) in light of the Vienna Convention on the Law of Treaties and therefore, null and void. Thus the UK remains bound by the Optional Protocol to "take all feasible measures to ensure that members of their armed forces who have not attained the age of 18 years do not take a direct part in hostilities."

The legal basis for this view is as follows: The UN's Human Rights Committee emphasized in its General Comment 24 on reservations "[t]he normal consequence of an unacceptable reservation is not that the Covenant will not be in effect at all for a reserving party. Rather, such a reservation will generally be severable, in the sense that the Covenant will be operative for the reserving party without benefit of the reservation." (HRI/Gen/1/Rev.5.)

The Coalition calls on states parties to the Optional Protocol to make known their objection to the UK's reservation as being "incompatible with the object and purpose" of the treaty. The Coalition will ask its worldwide membership to write to their foreign ministers to convey the Coalition's views and to ask for a condemnation of the UK's reservation.

States parties to the Optional Protocol are: Andorra, Argentina, Austria, Azerbaijan, Bangladesh, Belgium, Bulgaria, Canada, Cape Verde, Costa Rica, Croatia, Czech Republic, Democratic Republic of the Congo, Denmark, Dominica, El Salvador, Finland, France, Guatemala, Holy See, Honduras, Iceland, Ireland, Italy, Jamaica, Kazakhstan, Kenya, Lithuania, Mali, Malta, Mexico, Monaco, Morocco, Namibia, New Zealand, Panama, Paraguay, Peru, Qatar, Romania, Rwanda, Serbia and Montenegro, Sierra Leone, Spain, Sri Lanka, Sweden, Switzerland, Tajikistan, Tunisia, Uganda, United Kingdom, United States of America and Viet Nam.

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