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# amnesty international

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## UNITED STATES OF AMERICA

### Rights of children must be respected

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*We reaffirm our obligation to take action to promote and protect the rights of each child – every human being below the age of 18 years... We acknowledge that the Convention on the Rights of the Child, the most universally embraced human rights treaty in history, and its Optional Protocols contain a comprehensive set of international legal standards for the protection and well-being of children. From: A World Fit for Children, Outcome Document of the United Nations General Assembly Special Session on Children, May 2002*

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During last year's Special Session on Children at the United Nations General Assembly, the US Government described itself as "the global leader in child protection". Its actions tell another story. The United States has carried out the only four executions of child offenders known in the world since the Special Session, and has now admitted that children are among the more than 600 foreign nationals being held without charge or trial in the US Naval Base in Guantánamo Bay, Cuba.

As the Outcome Document of the Special Session pointed out, the Convention on the Rights of the Child (CRC) is the most widely ratified human rights treaty ever.

Only one of the almost 200 UN member states featured in last month's US State Department reports on human rights practices has failed to ratify the CRC. That country was Somalia, which last year signed and signalled its intention to ratify the Convention. The only other UN member state not to have ratified the CRC did not feature in the State Department's reports. It was the country which compiled them.

The United States has signed the CRC, however, thereby binding itself under international law not to do anything to defeat the object and purpose of the treaty, pending its decision on whether to ratify it. The USA is daily contravening this obligation, at home and now abroad.

The CRC prohibits the death penalty and life imprisonment without release against child offenders – those who were under 18 at the time of the crime. Some 80 child offenders await execution in the USA for crimes committed when they were 16 or 17 years old. The USA is responsible for 65 per cent of the executions of child offenders known to have been carried out worldwide since February 1995, when the USA signed the CRC. Many other child offenders, as young as 12 at the time of the crime, are serving sentences of life imprisonment without the possibility of parole.

Reports indicate that a "handful" of children, described as being between the ages of 13 and 15 years old, have been "discovered" by the authorities in Guantánamo. It is reported that

the children were transferred, possibly from Afghanistan, earlier this year. It had already been reported that a 16-year-old Canadian national was transferred in late 2002 from Afghanistan to the Guantánamo Naval Base. Reports indicate that it took six months for even the Canadian government to be granted access to him. Along with all the other detainees, he remains without access to legal counsel or his family.

International law and standards recognize the particular vulnerability of children and require, among other things, that children should be detained only as a last resort and for the shortest time possible. When in detention, children must be fully protected according to their general and special needs. While Amnesty International notes that at least some of the children are not being held in the isolation cells in Guantánamo Bay, it should be emphasised that the definition of a “child”, according to most international legal standards, is anyone under the age of 18. Amnesty International is therefore urging that all other necessary protections and safeguards be extended to all children, including any 16 and 17 year olds, who may be held in the Naval Base.

The Guantánamo detainees, children and adults alike, have had no access to lawyers or relatives and have been denied their right to challenge the lawfulness of their detention in a court of law. Reports indicate that the child detainees may be subjected to interrogation. Article 40 of the Convention on the Rights of the Child states that “every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action”. Article 39 stresses that “the arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a last resort and for the shortest appropriate period of time”.

It seems something of an irony that the USA, one of the first countries to ratify the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts, is now treating these child detainees in a way that undermines fundamental protections under the body of the main treaty itself. The Optional Protocol welcomes the “overwhelming support for the Convention on the Rights of the Child, demonstrating the widespread commitment that exists to strive for the promotion and protection of the rights of the child”, reaffirms “that the rights of children require special protection” and calls “for continuous improvement of the situation of children”. In addition, article 6 of the Protocol provides that “States Parties shall take all feasible measures to ensure that persons within their jurisdiction recruited or used in hostilities contrary to the present Protocol are demobilized or otherwise released from service. States Parties shall, when necessary, accord to such persons all appropriate assistance for their physical and psychological recovery and their social reintegration.”

Article 3 of the CRC states that “the best interests of the child shall be a primary consideration” in all official actions concerning children. Killing child offenders, locking them up and throwing away the key, or holding them in indefinite detention in a remote naval base without access to family, lawyers or the courts, surely cannot be considered to be in their best interests.

It is time for the USA to respect international law in relation to all children under its jurisdiction.

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