

Non-Governmental Armed Groups: Provisions of the Optional Protocol to the CRC

Article 4 [...]

2. Armed groups, distinct from the armed forces of a State, should not under any circumstances, recruit or use in hostilities persons under the age of 18 years;
3. States Parties shall take all feasible measures to prevent such recruitment and use, including the adoption of all legal measures necessary to prohibit and criminalize such practices.

the Tribunal's attention to the need to translate both international humanitarian law and international human rights law into domestic legislation. In the latter case, the adoption of the Statute of the International Criminal Court in 1998 represents an important step forward, because Article 8 makes it an international crime to recruit children under 15 or to use them in hostilities, whether national or international, governmental or non-governmental. Nevertheless, the Statute still lacks over 80 percent of the ratifications necessary for it come into force, and in many countries major legislative changes will have to take place before ratification can be achieved – changes that would take at least two years 'even with the best will in the world.' A short-term option would be to try to induce external supporters of non-governmental armed groups to limit their support if children are recruited and used. In addition, children themselves and their parents might be induced to resist the practice: 'The perpetrators would thus be face to face with their own angry people.'

Mr. Vonivier concluded his testimony by expressing the view that it is unlikely that states will give away the privilege of being considered alongside international organisations as the only subjects of international law. Thus he recommended that states should be encouraged to achieve the highest international standards of compliance with international law and to publicise this in order to put pressure on non-governmental armed groups to also comply.

Questions to Raphael Vonivier

The Tribunal's questions to Raphael Vonivier concerned the role of the international community and in particular the International Criminal Court. The International Criminal Court, although not yet in force has universal principles and scope, applying to both perpetrators and victims.

Mr. Vonivier reiterated the points made in his evidence about limits on the role of the international community. He stressed the role played by the International Committee of the Red Cross through its neutrality and also stated that non-governmental armed groups can acquire political weight and credibility in their own countries and from the international community by adhering to international humanitarian law.

During interventions from other witnesses, Nevena Vuckovic Sahovi, from the Yugoslav Child Rights Centre stated that even governments do not know their responsibilities under the CRC and asked what has been done to raise awareness among non-governmental armed groups. Mr. Vonivier replied that non-governmental armed groups are aware of their responsibilities – and can give plausible

answers that conceal or falsify the age of child soldiers. The idea that children should not fight wars is universal. Kathy Vandergrift, from World Vision Canada, commented that, in the experience of World Vision, many governments do not wish to draw attention to their own violations of child rights by denouncing violations by non-governmental armed groups.

In an area of armed conflict: The status of Palestinian children's rights in Israeli Occupied Territory:

Testimony of Khaled Quzmar, Lawyer, Defence for Children Inter-national-Palestine Section, Israeli Occupied Territory
Mr. Quzmar introduced himself as a lawyer working in a legal aid programme in Occupied Palestinian Territory who has witnessed first-hand the harmful effects of armed conflict on children. The organisation for which he works is Defence for Children International – Palestine Section (DCI/PS), which was established in 1992 as an independent Palestinian non-governmental organisation and is an affiliate of Defence for Children International, based in Geneva. DCI/PS aims to promote and protect the rights of Palestinian children. It provides legal aid and representation, advocacy and social support for Palestinian children, especially those who are arrested and tortured by Israeli authorities. More than 2,500 such cases have been pursued and a complementary project providing counselling and rehabilitation was established in 1995.

Mr. Quzmar referred to the killings, imprisonment, torture, curfews and beatings experienced by Palestinian civilians during over 30 years of Israeli occupation. Between 1987 and 1993, he stated, 23,000 children were wounded as the result of the use of live plastic and rubber-coated bullets, or tear gas, or through beatings. Despite the Peace Process that was put in place in 1993, children continued to be arrested and detained by the Israeli army for committing what are termed security offences. In 1999, the DCI/PS legal program dealt with 202 cases of Palestinian minors arrested, detained or imprisoned by the Israeli Military Authority, an increase of 113 over the number in 1998. In addition, in the absence of a democratic state with a coherent legal system, children's rights are also violated by the Palestinian National Authority. Mr. Quzmar stated that, despite international human rights and humanitarian instruments, several of which have been signed and/or ratified by Israel, Palestinian children 'continue to endure gross violations of their most basic rights'. He claimed that this highlights a number of weaknesses in international law, foremost among which is broad and diffuse nature of international instruments.