

Statement on behalf of the International Committee of the Red Cross: Testimony of Sylvia Ladame, Lawyer, International Committee of the Red Cross, Division for Policy and Cooperation within the Movement

Giving evidence to the Tribunal on behalf of the International Committee of the Red Cross (ICRC), and drawing attention to the tragic conditions and suffering inflicted on children involved in armed conflict, Sylvia Ladame outlined current activities and future plans of the ICRC with respect to war-affected children. In the field, the ICRC takes concrete measures to ensure protection and assistance to all children including:

- Protection and registration of unaccompanied children;
- Family reunification;
- Conveying personal messages between family members separated by conflict;
- Searching for missing persons;
- Monitoring conditions for those in detention;
- Providing food, medical care, treatment and rehabilitation;
- Helping to restore health-care systems;
- Ensuring that children continue to receive education;
- Arranging for the repatriation of children, where necessary.

The protection of unaccompanied children begins with their identification and the search for parents and relatives, finishing where possible with family reunion. With respect to children who have been arrested or detained as a result of armed conflict, the ICRC pursues its work of negotiation, seeking their liberation, asking for them to be separated from adults in detention, and also seeking means of family reunification. ICRC actions are founded on the principle of ensuring respect for international humanitarian law for each child.

Far Reaching Consequences

Children are often not mature enough to be able to distinguish between forms of violence that are not prohibited by the law and custom regulating warfare and war crimes. In a warped environment they may lose all notion of the distinction between good and evil, between proper conduct and criminal behaviour. They are capable of performing the most heroic deeds but can also commit the most appalling crimes, in particular if they are induced to do so by adults, which unfortunately is all too often the case.

Sylvia Ladame: Evidence to the Tribunal

Weaknesses in the Optional Protocol

How can one determine if a child soldier has been recruited voluntarily or not? One should not forget that in many contexts, it is very difficult to provide any proof of age for children.

Sylvia Ladame: Evidence to the Tribunal

Ms. Ladame stated that the ICRC approach to child soldiers is to define them as war victims, rather than combatants or criminals, whatever acts they may have committed. This is based on respect for humanitarian law, which is the foundation for respect of human rights law. The ICRC fully endorses the objective of banning the recruitment of children below 18 years of age, to which end the International Red Cross and Red Crescent Movement has prepared a Plan of Action. Resolution 2C of the 26th International Conference of the Red Cross and Red Crescent, held in Geneva in December 1995, recommended that:

[...]parties to the conflict refrain from arming children under the age of 18 years and take every feasible step to ensure that children under the age of 18 years do not take part in hostilities.

This appeal was renewed by the 27th Conference in 1999, at which governments expressed their support for the objectives of the Plan of Action.

The ICRC has also supported the process leading to the adoption of the Optional Protocol to the CRC. Nevertheless, Ms. Ladame stated that the ICRC notes certain weaknesses in the text of the Optional Protocol and other international legislation:

- The obligation imposed on states to prevent participation in hostilities should have been made more absolute and should have covered indirect participation;
- The protection provided against forced recruitment is weakened by the provision that permits voluntary recruitment below the age of 18 years;
- The exception applying to military schools makes it possible for the age limit to be circumvented;
- The regulation of the behaviour of non-state actors by states in internal conflicts is a moral rather than legal obligation;
- Criminal repression under domestic law is likely to be ineffective because those who take up arms against a government are already exposing themselves to severe legal penalties;
- Non-state actors are unlikely to feel bound by norms that are different from those imposed on states.