



129th ASSEMBLY OF THE INTER-PARLIAMENTARY UNION AND RELATED MEETINGS

Geneva, 7 – 9.10.2013

Assembly
Item 3

A/129/3(c)-R.1
2 September 2013

THE ROLE OF PARLIAMENTS IN PROTECTING THE RIGHTS OF CHILDREN, IN PARTICULAR UNACCOMPANIED MIGRANT CHILDREN AND IN PREVENTING THEIR EXPLOITATION IN SITUATIONS OF WAR AND CONFLICT

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Introduction

Although several international conventions and their optional protocols protecting the rights of children and prohibiting their involvement in armed conflicts have been signed, there is every indication that violations of children's rights are on the rise. In certain countries torn by instability and political conflict, such violations are clearly rampant, capitalizing on loopholes in domestic or international law. Governments with little concern for children's rights thus breach international conventions and covenants. These very governments or warring parties - be they factions, political parties or individuals - exploit children for their own purposes. They enlist them in armed forces or militias. They compel them to participate in anti-government demonstrations and marches. Knowing that they are easily manipulated and impulsive, they use them to attract media attention and sway public opinion. After all, what could be more moving than images of wounded children or child martyrs?

The Convention on the Rights of the Child prohibits the forced recruitment of persons who have not attained the age of 18 years. In fact, they are not even allowed to do military service. The life and health of children – which the Convention aims to protect in all persons under the age of 18 years – should thus not be jeopardized in this way.

When encouraging children to participate in anti-government demonstrations, crowds and marches, not to mention acts of violence or sabotage, parties to the conflict – factions, political parties, non-governmental organizations (NGOs) or individuals that stand to benefit – promise them material reward and indoctrinate them intellectually or religiously. Sometimes even relatives exploit them in this way and risk getting them arrested or exposing them to gunfights in cases of clashes. They unscrupulously place their lives at risk, expose them to disabling injuries or loss of consciousness caused by anti-riot equipment. Not to mention the terrible psychological damage that a child may suffer throughout his or her life, or which may affect the family or society. Children who witness violence and see murders and corpses are traumatized by that experience. They often become aggressive and themselves commit abuses. This in turn only serves to increase crime to the detriment of children or on account of them.

Moreover, the exploitation of children during political conflicts causes them to drop out of schools to take part in the fighting. Illiteracy and ignorance are rife in affected countries, thus impeding their development. The fundamental right of the child to dignity is more easily flouted.

Several international instruments protect the rights of the child, notably the Optional Protocol to the Convention on the Rights of the Child, which prohibits the involvement of children in armed conflicts. Nevertheless, there are loopholes in international law insofar as NGOs, political parties, civil society organizations and individuals who use and exploit children or involve them in conflicts and fights, thus working against their vital interests, are not held accountable.

This is why parliamentarians must assume their responsibility to protect the rights and interests of children. They must encourage all stakeholders to play their part in shielding children from exploitation so that they are not thrust into conflicts, marches, demonstrations and political disputes in keeping with the Convention on the Rights of the Child, its Optional Protocol and international humanitarian law. Parliamentarians are bound to take all the necessary steps to guarantee children a stable and safe life so that they may become citizens who can help build their country.

For all these reasons, we recommend the following:

Recommendations

Protect children and prevent their exploitation in situations of war and conflict and during marches and demonstrations:

1. Parliamentarians should urge their governments if they have not yet signed the Optional Protocol to the Convention on the Rights of the Child prohibiting the involvement of children in armed conflict, to ratify it as soon as possible.
2. Encourage all States, especially those torn by conflict, to modify their laws so that enlisting children in wars, marches, crowds and political disputes is considered a crime and prohibited in accordance with international conventions on the rights of the child and, in particular, the Optional Protocol to the Convention prohibiting the involvement of children in armed conflict.
3. Parliaments, human rights organizations and associations and governments must analyse together the problem of using children in political conflicts in order to understand its causes and find solutions.
4. We suggest that Article 2 be modified of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict by deleting the word "compulsorily" to read as follows: "States Parties shall ensure that persons who have not attained the age of 18 years are not recruited into their armed forces". The adverb "compulsorily" implies that the voluntary involvement of children under the age of 18 in armed forces would be tolerated. However, this would jeopardize their humanity because at such an age, persons are not as yet capable of making informed choices and do not possess the physical strength needed for military operations.
5. We also suggest modifying Article 3 paragraph 2 of the same Protocol to read as follows: "Each State Party shall deposit a binding declaration upon ratification of or accession to the present Protocol that sets forth the minimum age at which it will permit voluntary recruitment into its national armed forces in accordance with the provisions of Article 2 of the present Protocol" and we believe that paragraphs 3 through 5 of the same Article should be deleted.

6. Call for the establishment of an international organization mandated with compelling occupying powers to clearly undertake to respect the ban on recruiting children into military corps that fall under such powers in addition to the obligation for the occupying powers to guarantee health, education and food to the children of the occupied country, considering that the foregoing provisions represent an essential guarantee that children will not be involved in armed conflict.
7. Work for the establishment of an international legal entity entrusted with holding to account NGOs and individuals who use or exploit children in marches and demonstrations or in armed, unarmed, peaceful or non-peaceful conflict.
8. Call urgently for a serious international debate aimed at establishing an international entity mandated with compensating the victims of violations of international humanitarian law. The mechanisms of the UN Security Council and the Human Rights Council are limited to the observance of violations of international humanitarian law committed by States and do not cover violations committed by NGOs. The latter, however, are often responsible for violations suffered by children. Therefore, a new international convention seems imperative, or a new Office of the High Commissioner mandated to oversee NGO finances and monitor compensation of victims of violations committed by NGOs.
9. Considering that armed groups have no moral qualms and use children in armed conflict; considering that the legal rules set forth in the Geneva Conventions and the Additional Protocol relating to the Protection of Victims of International Armed Conflicts are no longer adequate, we believe that an international debate should be organized as a matter of urgency with a view to establishing an international legal entity mandated with protecting child prisoners, obliging States involved in conflict to not hold child soldiers as prisoners but to rather return them to their country unconditionally, even if the conflict goes on.
10. Urge States Parties to provide the necessary material and moral assistance to regions in which conflicts rage on in order to guarantee a dignified life to all and ensure that no one is tempted by conflict promises, sabotage operations or by illegal activities for want of means.
11. Organize an international campaign to sensitize the public to the dangers of recruiting child soldiers and to the negative after-effects of using children in demonstrations or marches.