

NEW YORK
CITY BAR

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His Excellency Mr. Kyaw Tin
Permanent Mission of Myanmar to the U.N.
10 East 77th Street
New York, NY 10075

Your Excellency:

I write on behalf of the Association of the Bar of the City of New York (the "Association") to urge your government to ratify the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (the "Optional Protocol").

The Association is an independent non-governmental organization of more than 23,000 members in over 50 countries. It has a long history of dedication to human rights, most notably through its Committee on International Human Rights, which investigates and reports on human rights conditions around the world. The Association's Committee on African Affairs monitors and responds to legal and policy developments in Africa. The Association's Military Affairs and Justice Committee addresses legal and policy issues affecting the United States armed services. The Association has consistently advocated against the use of child soldiers. In 1999, the Military Affairs and Justice Committee authored an influential report on the minimum age of military service in connection with the then-proposed Optional Protocol on the International Convention on the Rights of the Child. The African Affairs Committee has convened public forums on the topic, and last June, the Association sent a letter to United States President Barack Obama urging the Administration to strengthen enforcement of the United States Child Soldiers Prevention Act.

The deplorable use of child soldiers is ongoing throughout the world. Today, child soldiers are fighting in at least 14 countries.¹ Children are often recruited through force or deception, and exposed to horrific violence.² Some children are forced to

¹ Jo Becker, *Child Soldiers: A Worldwide Scourge*, L.A. Times, Mar. 22, 2012, available at <http://articles.latimes.com/2012/mar/22/opinion/la-oe-becker-icc-child-soldiers-20120322>. The United Nations has also reported the recent use of child soldiers in Northern Mali. See Associated Press, *UN Says Children Being Targeted in Northern Mali* (July 6, 2012), available at <http://bigstory.ap.org/article/un-says-children-being-targeted-northern-mali>.

² Human Rights Watch, *DR Congo: Bosco Ntaganda Recruits Children by Force* (May 16, 2012), available at <http://www.hrw.org/news/2012/05/15/dr-congo-bosco-ntaganda-recruits-children-force>.

commit atrocities and many girls are sexually exploited. Child soldiers are denied an education and robbed of their childhood. Many do not survive to adulthood.³

The Optional Protocol deals with these crimes perpetrated against children by prohibiting the forced recruitment or participation in hostilities of children under the age of 18.⁴ The Optional Protocol was adopted by the UN General Assembly on May 25, 2000 and entered into force on February 12, 2002.⁵ It requires States Parties to “take all feasible measures to ensure that members of their armed forces” under 18 “do not take . . . direct part in hostilities”⁶ and are not “compulsorily recruited into their armed forces.”⁷ Additionally, the Optional Protocol requires States Parties to prevent such recruitment and use by armed groups, “including [through] the adoption of legal measures to prohibit and criminalize such practices.”⁸ According to the treaty, armed groups not connected to a State should also not recruit or use children younger than 18 as soldiers.⁹

We note that the Optional Protocol permits flexibility for States to maintain military institutions and traditions for adolescents. Article 3(5) of the Optional Protocol authorizes the continuation of military schools and academies operated by States Parties, and the voluntary recruitment and training of teenagers as young as 15,¹⁰ provided that such practices are carried out in a manner consistent with the human rights protections defined in the Convention on the Rights of the Child.

Implementation of the Optional Protocol is accomplished by requiring that States Parties “take all necessary legal, administrative and other measures” to guarantee “the effective implementation and enforcement of the Protocol.”¹¹ In addition, each State Party must submit reports to the Committee on the Rights of the Child “on measures it has taken to implement . . . the Protocol,”¹² and cooperate in implementing the prevention and rehabilitation of boys and girls covered by the Protocol through technical cooperation and financial assistance, which will be “undertaken in consultation with . . . relevant international organizations.”¹³

The Optional Protocol additionally requires that States Parties “take all feasible measures to ensure that persons . . . recruited or used in hostilities contrary to the . . . Protocol . . . are demobilized or . . . released from service . . . and accord to such persons . . . assistance for their physical and psychological recovery and their social reintegration.”¹⁴

³ *Id.*

⁴ Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, available at <http://www2.ohchr.org/english/law/crc-conflict.htm>.

⁵ Child Soldiers Initiative, *FactSheet: Laws That Protect Children in Conflict*, Laws and Legal Bodies 2010, available at http://childsoldiersinitiative.org/pdfs/FACTSHEET-laws_and_legal_bodies.pdf.

⁶ Article 1 of the Optional Protocol.

⁷ Article 2 of the Optional Protocol.

⁸ Article 2 of the Optional Protocol.

⁹ Article 1 of the Optional Protocol.

¹⁰ Articles 1 and 3 of the Optional Protocol.

¹¹ Article 6(1) of the Optional Protocol.

¹² Article 8(1) of the Optional Protocol.

¹³ Article 7(1) of the Optional Protocol.

¹⁴ Article 6(3) of the Optional Protocol.

To date, 147 countries around the world have ratified the Optional Protocol, including 16 which became States Parties within the past two years.¹⁵ To help end the heinous practice of recruiting and using children under the age of 18 in armed conflict, the Association urges you to encourage your government ratify this important treaty. By so doing, your government would clearly commit to end the use of child soldiers, as have the majority of countries throughout the world.

Thank you very much for your consideration.

Respectfully yours,

A handwritten signature in black ink, appearing to read "Carey R. Dunne", followed by a horizontal line extending to the right.

Carey R. Dunne
President

¹⁵ UN Treaty Collection, Chapter IV, 11.b., (status as at Aug. 3, 2012), available at <http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg no=IV-11-b&chapter=4&lang=en>