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Home > Child soldiers

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IHL prohibits the recruitment <sup>[1]</sup> and use of children <sup>[2]</sup> in hostilities <sup>[3]</sup>.

The prohibition is applicable in both international <sup>[4]</sup> and non-international armed conflicts <sup>[5]</sup>. The bans on recruitment of children below the age of 15 enshrined in Article 77 of Additional Protocol I, and in Article 4 of Additional Protocol II are also considered to prohibit accepting voluntary enlistment <sup>[6]</sup> (P I, Art. 77 (2); <sup>[7]</sup> P II, Art. 4(3)(c) <sup>[8]</sup>).

In international armed conflicts, the prohibition covers direct participation in hostilities, while in non-international armed conflicts, it covers any type of participation in hostilities. In both IACs and NIACs, these terms (“direct participation” and “participation”) are understood more broadly than the term “direct participation in hostilities <sup>[9]</sup>” as it is used in the language of the rule governing the conduct of hostilities which deprives civilians from protection against attacks.

Article 38(3) of the Convention on the Rights of the Child <sup>[10]</sup> prohibiting the recruitment of children below the age of 15 is similarly interpreted as banning voluntary enlistment of such children and, hence, completely outlawing child soldiers.

The Optional Protocol to the Convention on the Rights of the Child <sup>[11]</sup> differentiates between States and non-State armed groups <sup>[12]</sup> in setting the age-limit for recruitment and use in hostilities. For States, the age limit for direct participation in hostilities and for *compulsory* recruitment is 18. This means they can accept voluntary enlistment of persons between the ages of 15 and 18. Armed groups, on the other hand, are bound by a stricter

prohibition, affecting both voluntary and compulsory recruitment of under-18s.

An Occupying Power must not enlist children on the occupied territory (GC IV, Art. 50<sup>[13]</sup>). This provision is understood to relate only to children below the age of 15 years.

Under the Statute of the International Criminal Court<sup>[14]</sup>, conscripting or enlisting children into armed forces or groups constitutes a war crime<sup>[15]</sup> in both international and non-international armed conflicts (ICC Statute, Article 8(2)(b)(xxvi) and (e)(vii)).

See [Children](#)<sup>[2]</sup>; [Enlistment](#)<sup>[6]</sup>; [Recruitment](#)<sup>[16]</sup>; [War Crimes](#)<sup>[15]</sup>;

## OUTLINE

[Chapter 8, Special protection of children](#)<sup>[17]</sup>

## LEGAL SOURCE

[PI, 77/2](#)<sup>[18]</sup>

[PII, 4/3](#)<sup>[8]</sup>

[CIHL, 137](#)<sup>[19]</sup>

## DOCUMENT

[Optional Protocol to the Convention on the Rights of the Child, on the Involvement of Children in Armed Conflict](#)<sup>[20]</sup>

## CASES

ICC, The Prosecutor v. Lubanga <sup>[21]</sup>

Sierra Leone, Special Court Ruling in the AFRC Case <sup>[22]</sup>

Geneva Call, Puntland State of Somalia Adhering to a Total Ban on Anti-Personnel Mines <sup>[23]</sup>

Case Study, Armed Conflicts in Sierra Leone, Liberia and Guinea (1980-2005) <sup>[24]</sup>

ICJ, Democratic Republic of the Congo/Uganda, Armed Activities on the Territory of the Congo <sup>[25]</sup>

Democratic Republic of Congo, Involvement of MONUSCO <sup>[26]</sup>

Mali, Conduct of Hostilities <sup>[27]</sup>

Engaging Non-state Armed Groups on the Protection of Children <sup>[28]</sup>

Philippines, Armed Group Undertakes to Respect Children <sup>[29]</sup>

Somalia, the fate of Children in the conflict <sup>[30]</sup>

USA, Jawad v. Gates <sup>[31]</sup>

Central African Republic, Report of the UN Independent Expert, July 2016 <sup>[32]</sup>

ICC, Confirmation of Charges against LRA Leaders <sup>[33]</sup>

UN/Colombia, Human Rights Committee Clarifications and Concluding Observations (2016) <sup>[34]</sup>

Somalia, IHL violations in Somalia's long-running armed conflict <sup>[35]</sup>

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**Links**

[1] <https://casebook.icrc.org/Recruitment>

[2] <https://casebook.icrc.org/glossary/children>

[3] <https://casebook.icrc.org/glossary/hostilities>

[4] <https://casebook.icrc.org/glossary/international-armed-conflict>

[5] <https://casebook.icrc.org/glossary/non-international-armed-conflict>

[6] <https://casebook.icrc.org/glossary/enlistment>

[7] [\[databases.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=8F7D6B2DEE119FBAC12563CD00\]\(https://databases.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=8F7D6B2DEE119FBAC12563CD00\)](https://ihl-</a></p></div><div data-bbox=)

[8]

<https://www.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=F9CBD575D47CA6C8C12563CD>

[9] <https://casebook.icrc.org/glossary/direct-participation-hostilities>

[10] [\[databases.icrc.org/applic/ihl/ihl.nsf/Treaty.xsp?documentId=B92BDC3CAE1B142DC12563CD002D6E8C&action=openD\]\(https://databases.icrc.org/applic/ihl/ihl.nsf/Treaty.xsp?documentId=B92BDC3CAE1B142DC12563CD002D6E8C&action=openD\)](https://ihl-</a></p></div><div data-bbox=)

[11] [\[databases.icrc.org/applic/ihl/ihl.nsf/Treaty.xsp?documentId=24CAD49E85523D5941256937002F7220&action=openDocu\]\(https://databases.icrc.org/applic/ihl/ihl.nsf/Treaty.xsp?documentId=24CAD49E85523D5941256937002F7220&action=openDocu\)](https://ihl-</a></p></div><div data-bbox=)

[12] <https://casebook.icrc.org/glossary/armed-groups>

[13]

<https://www.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=E09D15BDEC76F8D9C12563CD>

[14] <https://casebook.icrc.org/glossary/international-criminal-court>

[15] <https://casebook.icrc.org/glossary/war-crimes>

[16] <https://casebook.icrc.org/glossary/recruitment>

[17] [https://casebook.icrc.org/law/civilian-population#i\\_2\\_c](https://casebook.icrc.org/law/civilian-population#i_2_c)

[18]

<https://www.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=8F7D6B2DEE119FBAC12563CD>

[19] [https://www.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule137](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule137)

[20] <https://ihl-databases.icrc.org/ihl/INTRO/595?OpenDocument>

[21] <https://casebook.icrc.org/case-study/icc-prosecutor-v-thomas-lubanga-dyilo>

[22] <https://casebook.icrc.org/case-study/sierra-leone-special-court-ruling-afcr-case>

- [23] <https://casebook.icrc.org/case-study/geneva-call-puntland-state-somalia-adhering-total-ban-anti-personnel-mines>
- [24] <https://casebook.icrc.org/case-study/case-study-armed-conflicts-sierra-leone-liberia-and-guinea-1980-2005>
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