

NGO Letter to President Obama regarding waivers to the Child Soldiers Prevention Act

November 5, 2010

Dear President Obama,

We are writing to express our deep disappointment with your decision to grant blanket national interest waivers and allow all forms of US military assistance to Chad, the Democratic Republic of Congo (DRC), Sudan, and Yemen, despite their continued use of child soldiers in violation of the Child Soldiers Prevention Act of 2008 (Title IV of the William Wilberforce Trafficking Victims Protection Reauthorization Act).

We recognize that the United States has a complex set of national interests in each of these countries, including for example, counter-terrorism concerns in Yemen. However, the administration could have accommodated these concerns while also showing that it was taking the Child Soldiers Prevention Act seriously and using its leverage strategically to effectively end the use of child soldiers.

As you know, the Child Soldiers Prevention Act was adopted in 2008 with strong bipartisan support from Congress because of deep concerns over the continuing recruitment and use of child soldiers around the world. By prohibiting foreign military financing, military training and several other categories of US military assistance to governments using child soldiers, the law allows the US administration to exert powerful leverage on states with abusive child recruitment policies and practices. The United States was one of the first countries in the world to enact such groundbreaking legislation.

As mandated by the Act, the State Department identified countries in violation of the law in its annual Trafficking in Persons report, which was published on June 14, 2010. The countries identified were Burma, Chad, DRC, Somalia, Sudan, and Yemen. Of the six, Burma receives no US military assistance and the administration contends that the assistance received by Somalia is not covered by the law.

Your decision to give the remaining four countries a blanket waiver means that none of the six violators will be impacted by the law. We believe that your waiver undermines the intent of the law and sends an unfortunate message that the administration is not seriously committed to ending the use of child soldiers. By giving a blanket waiver, the administration has also given up the significant leverage that the law provides to influence the child recruitment practices of its military allies.

The White House has stated that continued engagement will allow the United States to help these governments end their use of child soldiers, including by professionalizing their military forces and implementing existing plans to end child recruitment. However, this approach has been ineffective thus far. The DRC has received IMET training from the US since FY 2004, and Chad has received IMET since at least FY 2002. Yet both countries continue to use child soldiers in their forces. Continuing existing programs—as the US has done for years—without other changes in the approach is unlikely to yield change. Informing these governments that certain programs will be suspended until they have removed all child soldiers from their ranks could prove more effective.

The Child Soldiers Prevention Act does not present an “all or nothing” approach. Section 404 (e) of the Act permits continued engagement with governments in violation of the Act. Specifically, the section allows assistance for “international military education, training, and nonlethal supplies” otherwise prohibited under the Act upon certification to the appropriate congressional committees that the government is taking reasonable steps to demobilize child soldiers, provide rehabilitation and reintegration assistance, and that US assistance is directly supporting the professionalization of the military.

Many of the military programs identified in the memorandum of justification regarding the waiver of restrictions could have been continued under Section 404 (e). In contrast to the use of the blanket waiver, providing programs through Section 404 (e) would have tied the continued assistance directly to concrete progress in ending child soldier use.

Your decision to issue the waivers was unfortunate. However, we don’t believe that you need to wait until next year’s determination process to take additional action on this issue. We recommend the following:

- 1) Establish specific benchmarks with the governments concerned within the next six months. These benchmarks should require a cessation of new child recruitment and demonstrable progress in the demobilization or release of children from existing forces. Failure to do so should result in the suspension of specific and targeted military programs;
- 2) Publically commit to refrain from transferring any lethal equipment to Chad, DRC, and Sudan until the Secretary of State certifies that these countries are no longer in violation of the Child Soldier Prevention Act;
- 3) Establish a substantive dialogue with key stakeholders, particularly the NGOs and Congressional offices involved in creating the Child Soldiers Prevention Act, regarding:
 - a) the determination of governments to be listed in 2011;
 - b) how determinations regarding any waivers and/or exceptions under section 404(e) will be made;
 - c) how the law can be most effectively implemented in order to achieve its objectives.

Thank you for your consideration.

Sincerely yours,

African Centre for Justice and Peace Studies
African Faith & Justice Network
American Federation of Teachers
Amnesty International USA
Baptist Peace Fellowship of North America
Caring for Kaela
Child Protection International
Coalition to Stop the Use of Child Soldiers
3D Security Initiative
Fellowship of Reconciliation
Foreign Policy in Focus
Friends Committee on National Legislation

Human Rights First
Human Rights Program, University of Minnesota
Human Rights Watch
International Labor Rights Forum
International Justice Mission
Multifaith Voices for Peace and Justice
National Consumers League
Open Society Policy Center
Oxfam America
Pax Christi USA
Physicians for Human Rights
Presbyterian Church USA
Ramsay Merriam Fund
Refugees International
Resolve
United Methodist Church, General Board of Church & Society
World Vision

CC:

The Honorable Hillary Clinton, Secretary of State
Samantha Power, Special Assistant to the President and Senior Director for Multilateral Affairs and
Human Rights at the National Security Council
The Honorable Maria Otero, Undersecretary of State for Democracy and Global Affairs
The Honorable Michael Posner, Assistant Secretary of State for Democracy, Human Rights, and Labor
The Honorable Andrew J. Shapiro, Assistant Secretary of State for Political-Military Affairs
The Honorable Harold Koh, Legal Advisor, Department of State
Ambassador Luis CdeBaca, Office to Monitor and Combat Trafficking in Persons
Senator Richard Durbin
Senator Sam Brownback
Senator John Kerry, Chair, Senate Foreign Relations Committee
Senator Richard Lugar, ranking member, Senate Foreign Relations Committee
Congressman Howard Berman, Chair, House Committee on Foreign Affairs
Congresswoman Ileana Ros-Lehtinen, ranking member, House Committee on Foreign Affairs