

Statement of  
**The Honorable Richard J. Durbin**

United States Senator  
Illinois  
April 24, 2007

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Chairman, Subcommittee on Human Rights and the Law  
Hearing on "Casualties of War: Child Soldiers and the Law"  
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Good morning and welcome to "Casualties of War: Child Soldiers and the Law," the third hearing of the Subcommittee on Human Rights and the Law.

This is the first time in Senate history that there has been a subcommittee focused on human rights.

And this is the first-ever Congressional hearing on the urgent human rights crisis of child soldiers. That fact alone demonstrates the need for this new Subcommittee.

As this hearing's title suggests, during times of war both the rule of law and children are victims.

There is a clear legal prohibition on recruiting and using child soldiers, and yet around the world hundreds of thousands of boys and girls are used as combatants, porters, human mine detectors and sex slaves. While most serve in rebel or paramilitary groups, some government forces use child soldiers as well.

In countries like Burma, Uganda, and Colombia, children's health and lives are endangered and their childhoods are sacrificed.

Today we will discuss the tragedy of child soldiers and why the law has failed so many young people around the world.

Cicero said, "In times of war, the law falls silent."

The American legal system rejects that notion. There is no wartime exception to the Constitution.

International human rights law, created primarily by Americans and based largely on American legal principles, takes the same position - fundamental rights must be protected even during wars or other armed conflicts.

Yet so often in times of war or perceived threat, human rights are sacrificed.

There is no better example than the tragedy of child soldiers. The law provides special protections to children, the most vulnerable members of our society, but during wars they are often the most exploited.

Over 110 countries, including the United States, have ratified the Optional Protocol to the Convention on the Rights of the Child, which prohibits the recruitment and use of child soldiers.

But if the law is not enforced, it is meaningless. This Subcommittee has found similar problems when it comes to genocide and human trafficking.

When there is no accountability for violating the law, governments and rebel forces can violate human rights with impunity.

During today's hearing we will discuss legal options for holding accountable those who recruit or use child soldiers.

The Special Court for Sierra Leone is prosecuting nine people for using child soldiers. And the International Criminal Court's first prosecution is against Thomas Lubanga of the Democratic Republic of Congo for recruiting and using child soldiers.

These are positive developments, but they pale in comparison to the scale of the child soldiers crisis. The average perpetrator runs very little risk of being prosecuted.

One option, which we will discuss today, is for national courts to play a greater role in prosecuting perpetrators. I am sorry to say that recruiting and using child soldiers is not a crime under U.S. law, so the U.S. government is unable to prosecute perpetrators who are found in our country.

Immigration law is another important tool for holding individual perpetrators accountable. Today we will discuss whether the U.S. government has sufficient authority to deport or deny admission to an individual who has recruited or used child soldiers.

Governments must also be held accountable for their actions. That's why Senator Sam Brownback and I have introduced the Child Soldiers Prevention Act of 2007, legislation that would limit U.S. military assistance to countries that are clearly identified in the State Department's Human Rights report as recruiting or using child soldiers.

Our bill would ensure that U.S. taxpayer dollars are not used to support this abhorrent practice by government or government sanctioned military and paramilitary organizations.

U.S. military assistance could continue under this bill, but it would be used only to remedy the problem by helping countries successfully demobilize their child soldiers and professionalize their forces.

We must work to eliminate the use of child soldiers, but as long as the practice persists, we must also ensure that the law facilitates and encourages the rehabilitation and reintegration of these young people back into civilian life.

Sometimes the law contributes to the stigmatization of former child soldiers. For example, provisions of our immigration law brand former child soldiers as terrorists and prevent them from obtaining asylum or refugee status in the U.S. We must give the government flexibility to consider the unique mitigating circumstances facing child soldiers and allow child soldiers to raise such claims when they seek safe haven in our country.

We also should support programs that provide psychological services, educational and vocational training, and other assistance to these traumatized young people.

As I have said before, this Subcommittee will focus on legislation, not lamentation. I look forward to working with the members of this Subcommittee to ensure that our laws treat former child soldiers fairly and hold accountable those who recruit and use child soldiers. And these laws must be enforced.

We must prove Cicero wrong. Even during times of war, the law should never fall silent for the most vulnerable among us - our children.