



A White Paper: *Toy Soldiers*

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In the United States, we live in a country with strict child labor laws and legal protections for minors, a country that was built on the ideals of freedom and human rights. However, 'right now' I am a long way from home and overseas. My advocacy work has taken me to other parts of the world where there exists a strong sense of ideals, but not the laws and legal protects for children forced into combat. So, before you begin to feel this is another written discussion regarding the ravages of war brought down upon children by impoverished countries – I am about to surprise you ... I am calling my own country into question: America. {Why?}: Because the United States continues to support governments that violate these rights that we as citizens of the U.S. have come to take for granted.

You may not be aware, but the human rights I speak of are specifically governed under the 2008 Child Soldiers Prevention Act; stated as follows:

“The Child Soldiers Protection Act (CSPA) is a United States federal statute signed into law by President George W. Bush on 3 October 2008. The law criminalizes leading a military force which recruits child soldiers. The law's definition of child soldiers includes "any person less than 18 years of age who takes a direct part in hostilities as a member of governmental armed forces." (Source: 1."President Bush Signs Law on Child Soldiers". Human Rights Watch. 2."The Child Soldier Prevention Act of 2008". US State Department. 3."Presidential Determination with respect to the Child Soldiers Prevention Act of 2008". White House.)

The law was also intended to prevent arms trade by the United States with suspected countries, although the president may waive this rule in the national interest. In this regard, President Barack Obama most recently waived the application of this rule on 28 September 2008 to Libya, South Sudan, Yemen, and Democratic Republic of the Congo. (Source: *Presidential Memorandum -- Presidential Determination with respect to the Child Soldiers Prevention Act of 2008, The White House Office of the Press Secretary; dated 09-28-2012, <http://www.whitehouse.gov/the-press-office/2012/09/28/presidential-memorandum-presidential-determination-respect-child-soldier>.)*

I have taken the liberty of providing the exact verbiage of the Presidential Memorandum as follows:

MEMORANDUM FOR THE SECRETARY OF STATE

SUBJECT: Determination with Respect to the Child Soldiers Prevention Act of 2008

Pursuant to section 404 of the Child Soldiers Prevention Act of 2008 (CSPA) (title IV, Public Law 110–457), I hereby determine that it is in the national interest of the United States to waive the application of the prohibition in section 404(a) of the CSPA with respect to Libya, South Sudan, and Yemen; and further determine that it is in the national interest of the United States to waive in part the application of the prohibition in section 404(a) of the CSPA with respect to the Democratic Republic of the Congo, to allow for continued provision of International Military Education and Training funds and nonlethal Excess Defense Articles, and the issuance of licenses for direct commercial sales of U.S. origin defense articles; and I hereby waive such provisions accordingly.

You are authorized and directed to submit this determination to the Congress, along with the accompanying Memorandum of Justification, and to publish the determination in the Federal Register.

Fact(s):

1. The U.S. provides military aid to over half a dozen governments that use child soldiers despite the 2008 Child Soldiers Prevention Act, which prohibits U.S. military assistance to such governments.
 2. The act allows for a special presidential waiver to continue supporting governments using child soldiers, such as Yemen, Sudan, and Libya. Recently, the UN Committee on the Rights of the Child reviewed the US's aid to these governments and released recommendations.
 3. Among these was "a full prohibition on US arms exports and military assistance to countries where children are used as soldiers."
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At first I was certain that while researching the issue of abuse in all its ugly forms; including forcing children into prostitution (a matter that I know all too well), that forcing children into combat had been dealt with years ago. However, to my disgust I find that a Presidential Order was not signed until 2008, and then soon after, [...a Presidential waiver – by the same president who issued the memorandum.] It just cannot get any more bizarre, but unfortunately it does. In the simplest of terms, through both presidential support, along with concessions, the U.S. is responsible for providing military aid to governments who literally send their children off to war. In addition, as long as the U.S. continues to support these governments, we are putting weapons in the hands of children, encouraging child abuse, and sending these governments a message that violating human rights is acceptable. I welcome any other argument to the contrary. I recall reading in a book (and I am paraphrasing ... written by Robert K. Brigham, *ARVN: Life and Death in the South Vietnamese Army (Modern War Studies)*, ©1960, that the U.S. does not condone the use of torture; however, we have trained the best at carrying it out. The condoning of children being used as what I refer to as "Toy Soldiers" is therefore not a long walk to reach the same conclusion with regard to the United States' position on torture. I simply do not understand the necessity behind using children as soldiers. But I have also long since given up on trying to understand abuse of any kind.

I know I am not alone in my thinking. Certainly, no American would ever approve of this, so why does our government? As one of the strategic international countries, the U.S. should be setting a humane example. I will further by state [we] as citizens of the world, not only the U.S., have a responsibility to protect human rights *all over the world*. With this said, the U.S. government abdicates its responsibility by providing military aid to these governments using child soldiers. The U.S. government is without a doubt enabling these countries to wholly eliminate basic human rights.

Please consider the following solution:

- Cease and Desist all aid to governments not in compliance with international child soldier laws. If these governments were denied the military aid they rely on, the pressure would encourage them to stop using child soldiers. I am not suggesting it would stop these countries from using child soldiers completely, but it would be a move in the right direction.
- Provide critical assistance to children who have been forced into armed conflicts. According to my own research where the U.S. does get involved and detains these children, they are generally held in inadequate conditions and often returned to their abusive government – where the children are then subjected to torture.
- Grant the children asylum or refugee protection within the United States. Under "immigration law" the children are currently considered "terrorists." (Source: "Article I, section 8, clause 4 of the United States Constitution expressly

gives the United States Congress the power to establish a uniform rule of naturalization. The Immigration and Nationality Act of 1952 sets forth the legal requirements for the acquisition of, and divestiture from, citizenship of the United States. The requirements have become more explicit since the ratification of the Fourteenth Amendment to the Constitution, with the most recent changes to statutory law having been made by the United States Congress in 2001.”

These children are obviously not terrorists. They are victims of horrible human rights abuses and need protection and rehabilitation assistance. By giving military assistance to governments using child soldiers, the U.S. is sending a clear message that it excuses this behavior. By both definition and action: this is abuse. In addition, these children require urgent assistance. Without a definitive stance to the contrary actions of these governments, we are going to see an increase in the use of child soldiers. This is not a volunteer army. These children do not have a choice as to whether or not they are sent into combat. We cannot even call this a “draft” due to the fact we are not talking about consenting adults. There is that familiar tone of abuse – “without fault, reason, or choice” these children are being forced into a dire situation which will have a permanent adverse effect; including death.

I call on the U.S. government to act ‘now’ ... the whole world is watching as to what measures our government takes to protect the children affected by armed conflict. This is a common-sense decision – to ensure the protection of all children no matter where they are geographically.

Footnote: ““(Geneva) – The United States government should promptly carry out the recommendations of a United Nations committee of experts to improve protection of children abroad from armed conflict. The UN Committee on the Rights of the Child released a report and recommendations to the US government on February 5, 2013. The committee raised a number of concerns regarding US practices during armed conflict that were harmful to children. The committee said it was “alarmed” at reports of the deaths of hundreds of children from US attacks and air strikes in Afghanistan since the committee last reviewed US practices in 2008. It also expressed “deep concern” at the arrest and detention of children in Afghanistan, laws that exclude former child soldiers from securing asylum in the US, and presidential waivers to US laws that have allowed governments using child soldiers to receive US military assistance. On January 16, the 18-member, Geneva-based committee conducted a formal review of US compliance with an international treaty, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. The protocol was ratified by the US in 2002. It bars governments from forcibly recruiting children under 18 and from using them in direct hostilities. It also requires countries to take steps to prevent the use of child soldiers and to rehabilitate and assist children who have been involved in armed conflict. The committee’s report and recommendations regarding US compliance with the protocol were adopted on January 28.” (Source: *Human Rights Watch*.)

The following recommendations urged the U.S. to do the following:

- ❖ Take precautionary measures to prevent killing and maiming civilians, including children, and investigate and bring to justice members of the US armed forces responsible for violations against children.
 - ❖ Detain children associated with armed groups only as a measure of last resort, provide all children under 18 with special care and education, and ensure they are not transferred to another government’s custody if there is a risk of torture or ill-treatment.
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- ❖ Apply a full prohibition on US arms exports and military assistance to countries where children are used as soldiers.
 - ❖ Improve access to asylum or refugee protection in the US for former child soldiers.
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These laws will undoubtedly allow the U.S. to go forward with conviction and prosecute those who recruit children and also prohibit military aid to governments using child soldiers. However, the U.S. has yet to act on them. As of 2013, hundreds of children are still detained in Afghanistan. Many are held for over a year without adequate access to legal assistance, education, or rehabilitation services. Children under 18 have been detained with adults, contrary to international standards. Many of these children have been released and/or transferred to Afghan custody and it is likely they have been subjected to torture. UN reports have documented torture of numerous children by Afghan security forces.

The committee urged the US to separate detained children from adults, to grant the UN children's fund, UNICEF, and other humanitarian agencies access to detained children, to provide detained children with legal assistance and juvenile justice procedures, to investigate cases of torture or ill-treatment, and to provide education and rehabilitation assistance for detained children. Referring to the 2008 Child Soldiers Prevention Act, it was a crucial and positive turning-point with regard to the abuses these children are subjected – again ... however, even though the law prohibits several categories of US military assistance to governments using child soldiers, President Barack Obama has invoked the law's presidential waiver to allow continued military aid to governments using child soldiers including Chad, the Democratic Republic of Congo, Libya, South Sudan, Sudan, and Yemen. The committee has put forth a request for the U.S. to consider amending the Child Soldiers Prevention Act and remove the presidential waiver provision.

Former child soldiers, including those who have been forcibly recruited into armed groups, face hurdles to asylum or refugee protection in the US. The US considers nearly all non-state armed forces to be "terrorist organizations" for purposes of immigration law, and people who fought with such groups are considered ineligible for asylum. The committee urged the US to adopt a discretionary exemption from the "terrorist activity" bar to allow former child soldiers to be considered on a case-by-case basis for asylum or refugee protection.

Stop the waivers, Mr. President.

Because there are always conflicts throughout the world, all nations must deal with the painful aftermath of war through those [adult] men and women who have bravely served in battle. And now, another form of abuse will destroy a child's future, leaving in its wake generations of more suffering that we all must face. Generations of the horrors brought on by war no child should endure; especially as a forced combatant.

And, because of this atrocity, what we are left with are no longer innocent children, but tactical, angry, and dangerously fearful –

Toy Soldiers.

Gregg Tyler Milligan is an internationally-known author and child abuse prevention advocate. He has written two books, *A Beautiful World*, detailing his childhood and the horrific suffering Milligan endured at the hands of his mother and strangers. Milligan later completed the continuation to *A Beautiful World*, describing his next eleven years. Both books are published under the same volume, titled *God Must be Sleeping*. Milligan is a member of the Rape, Abuse and Incest National Network (RAINN) Speakers Bureau and continues to spread his message of hope.

In his words, "Please remember, the reason we are here is to save one another – Break the cycle." More information can be found at godmustbesleeping.com/.

