



September 27, 2000

Secretary-General Kofi Annan  
United Nations  
New York, NY 10017

Dear Secretary-General Annan:

We support the establishment of the Special Court for war crimes in Sierra Leone and feel it is important that crimes against humanity, war crimes and other serious violations of human rights be prosecuted and those responsible be held accountable. We feel the Statute will enable exposure, investigation and prosecution of the abuses that have torn apart Sierra Leone. In addition, we hope the Statute and Special Court it establishes will focus on the protection of child victims and witnesses and highlight abuses perpetrated against children and the circumstances that allowed these violations to occur. However, we want to express our deep concern about the proposal to prosecute children in the Special Court for war crimes in Sierra Leone. We understand that the United Nations is finalizing the Statute that will establish the Special Court this week.

We are concerned that the prosecution of these children will undo much of the positive work that has been achieved to date by the demobilization, disarmament and reintegration programs within Sierra Leone. It might also destroy the trust that has been built with these young people, which would prove a disincentive for other children to come forward in the future for demobilization. As you know, a large portion of the young people in Sierra Leone were abducted, abused and/or coerced into joining the combatants. Therefore, there is a serious question as to the voluntary nature of children's participation in the conflict. Furthermore, it appears that only minimal consultation has taken place on this issue with significant players within Sierra Leone, including non-governmental organizations serving as members on the National Child Protection Committee, among others.

The Convention on the Rights of the Child, which defines a "child" as anyone below the age of 18 years, recommends that children who have committed crimes might be best dealt with, in certain circumstances, without resorting to judicial proceedings (CRC art.40/b/3). When children's rights are violated by being forcibly recruited into armed conflict, it violates fundamental fairness to then prosecute them as adult offenders. The Convention on the Rights of the Child internationalizes the "best interests" standard, and we believe that trying children as young as 15 in Sierra Leone is *not* in the best interests of individual children. Furthermore, the International Criminal Court does not extend to perpetrators who are either under the age of 18 or were under the age of 18 at the time the criminal act was committed. Thus, we urge you to intervene to ensure that the prosecution of children would not be allowed by the Statute of the Special Court for war crimes in Sierra Leone.

We also understand that the United Nations is considering whether the Special Court should have jurisdiction over the crime of recruiting a child under the age of 15 into an armed force or allowing a child under 15 to take part in hostilities. We believe that this should be age 18, given the recent advances in international law, including the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts.

Sincerely,

Mary Diaz  
Director, Women's Commission  
for Refugee Women and Children

Marie de la Soudiere  
Director, Children Affected by Armed Conflict Unit  
International Rescue Committee

CC: Mr. Hans Corell, Head, Office of Legal Affairs, United Nations  
Mr. Ralph Zacklin, Office of Legal Affairs, United Nations  
Ms. Daphna Shraga, Office of Legal Affairs, United Nations