



**Convention on the
Rights of the Child**

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**REVISED GUIDELINES REGARDING INITIAL REPORTS TO
BE SUBMITTED BY STATES PARTIES UNDER ARTICLE 8,
PARAGRAPH 1, OF THE OPTIONAL PROTOCOL TO THE
CONVENTION ON THE RIGHTS OF THE CHILD
ON INVOLVEMENT OF CHILDREN IN ARMED CONFLICT**

September 2007

Introduction

Pursuant to article 8, paragraph 1, of the Optional Protocol, each State party shall, within two years following the entry into force of the Protocol for that State party, submit a report to the Committee on the Rights of the Child (“the Committee”) providing comprehensive information on the measures it has taken to implement the provisions of the Protocol. Thereafter, pursuant to article 8, paragraph 2, of the Optional Protocol, States parties having submitted their initial report under this Protocol shall include in the reports they submit to the Committee in accordance with article 44, paragraph 1 (b), of the Convention any further information with respect to the implementation of the Optional Protocol. States parties to the Optional Protocol that are not parties to the Convention shall submit a report within two years following the entry into force of the Protocol and then every five years.

Guidelines regarding initial reports to be submitted by States parties under article 8, paragraph 1, of the Optional Protocol were adopted by the Committee at its 736th meeting, on 3 October 2001. The process of reviewing the reports received has led the Committee to adopt revised guidelines, in order to assist the States parties that have not yet reported to better understand the kind of information and data it considers necessary to assess and evaluate the progress made by States parties in implementing their obligations and to enable it to provide them with appropriate observations and recommendations.

The revised guidelines are divided into VI sections. Section I refers to general measures of implementation relevant to this Optional Protocol; section II concerns the prevention of the recruitment and use of children in hostilities; section III concerns the criminalization of these practices and related matters; section IV concerns protection of the rights of child victims; section V concerns international assistance and cooperation; and section VI concerns other relevant provisions of national or international law.

I. GENERAL MEASURES OF IMPLEMENTATION

1. Reports should contain a description of the process of preparation of the report, including the consultations with governmental, independent national human rights institutions and non-governmental organizations/ bodies in its drafting and dissemination. Reports of federal States and States having dependent territories or autonomous regional governments should contain summarized and analytical information on how they contributed to the report.

2. Reports should contain information on the legal status of the Optional Protocol in the internal law of the State party, including whether its provisions can be directly invoked before the courts and applied by the national authorities. If internal legislation is required for the application of the Optional Protocol, the State party should indicate the legal amendments adopted.

3. Reports should accurately describe the implementation of the Optional Protocol with regard to all territories and persons over which the State party exercises jurisdiction, including all parts of federal States, dependent or autonomous territories, all military forces of the State party and all locations where such forces exercise effective control.

4. States parties are invited to include in the reports, when relevant, information about the intention of the State party to withdraw any reservation(s) it has made to the Optional Protocol.

5. If the State party has indicated an age under 18 for voluntary recruitment in its binding declaration under article 3 made upon ratification or accession to the Optional Protocol, the State party is invited to indicate whether there are plans to raise this age to minimum 18 and a tentative timetable for doing so.

6. States parties are also invited to submit information on the governmental departments or bodies having primary responsibility for the implementation of the Optional Protocol and the mechanism(s) that have been established or are used to ensure coordination between them and the relevant regional and local authorities, as well as with civil society, including the media and academia.

7. States parties are encouraged to provide details of the dissemination of the Optional Protocol and the appropriate human rights training offered to all relevant

professional groups, in particular the armed forces and members of international peacekeeping forces, law enforcement and immigration officers, judges, social workers, teachers, media professionals and legislators.

8. Data included in the reports should be disaggregated, to the extent possible, by age, sex, nationality, region and ethnicity, if relevant, and any other criteria that the State party considers relevant and that would help the Committee come to a more accurate understanding of the progress made in implementing the Optional Protocol and any remaining gaps or challenges. The report should also contain information on the mechanisms and procedures used to collect these data. In particular the State party is requested to present:

(a) Data on the number of children under the age of 18 voluntarily recruited into national armed forces;

(b) When applicable, available data on the number of children recruited and used in hostilities by armed groups in the State party. Data should also indicate the number of children incorporated in demobilization and reintegration programmes. The data provided should also show increase or decrease in practices over time, when possible;

(c) When applicable, information on whether and how many children have been charged for war crimes committed while recruited or used in hostilities;

(d) Data on the number of child victims of practices prohibited by the Optional Protocol among refugee and asylum-seeking children within the jurisdiction of the State party.

9. With reference to the Committee's general comment No. 2 (2002) on the role of independent national human rights institutions in the promotion and protection of the rights of the child, States parties should inform the Committee whether there is an independent national human rights institution and, when applicable, provide information on its mandate and the role it plays in monitoring the implementation of the Optional Protocol.

10. The Committee invites States parties to provide an analysis of the factors and difficulties, if any, affecting the degree of fulfilment of their obligations under the Optional Protocol.

II. PREVENTION

(arts. 1, 2, 4; para. 2, and art. 6; para. 2)

11. States parties are invited to indicate all the measures taken, including of a legislative, administrative or other nature, to ensure that persons who have not reached the age of 18 are not compulsorily recruited into the armed forces and do not take direct part in hostilities. In this regard, reports should provide information on:

(a) The process of compulsory recruitment (i.e. from registration up to the physical integration into the armed forces), indicating the minimum age linked to each step and at what point in that process recruits become members of the armed forces;

(b) The documents considered reliable to verify potential recruits' age prior to their acceptance into compulsory military service (birth certificate, affidavit, ID card or any form of identification);

(c) Any legal provision enabling the age of conscription to be lowered in exceptional circumstances (e.g. state of emergency);

(d) For States parties where compulsory military service has been suspended but not abolished, the minimum age of recruitment set for compulsory military service and how, and under which conditions, compulsory service can be reactivated.

12. With regard to the minimum safeguards that States parties shall maintain concerning voluntary recruitment, reports should provide information on the application of these safeguards and indicate, among other things:

(a) A detailed description of the guarantees in place to ensure that the recruitment is genuinely voluntary and of the procedures used for such recruitment, from the expression of intention to volunteer to the physical integration into the armed forces;

(b) Medical examinations foreseen before volunteers can be recruited;

(c) The documentation considered reliable to verify the age of the volunteers (birth certificate, affidavit, ID card or any other form of identification);

(d) The effective minimum service time and the conditions for early discharge; the application of military justice or discipline to recruits under 18 and disaggregated data on the number of such recruits being tried or in detention; the minimum and maximum sanctions foreseen in case of desertion;

(e) Information that is made available to the volunteers and to their parents or legal guardians, allowing them to formulate their own opinion and to make them aware of the duties involved in the military service (a copy of any materials used for this purpose should be annexed to the report);

(f) The incentives used by the national armed forces for encouraging volunteers (financial incentives, scholarships, career prospects, advertising, meetings at schools, games, etc.).

13. In relation to article 3, paragraph 5, of the Optional Protocol, States parties are requested to provide information on:

(a) The minimum age of entry into schools operated by or under the control of the armed forces;

(b) Disaggregated data on schools operated by or under the control of the armed forces, including their number, the type of education provided and the proportions of academic education and military training in the curricula; length of the education; academic/military personnel involved, educational facilities, etc.;

(c) Efforts to ensure that education is provided in accordance with articles 28 and 29 of the Convention on the Rights of the Child and that the school curricula include human rights and humanitarian principles. The report should also contain information on the measures taken to ensure that school discipline is administered in a manner consistent with the child's human dignity and the Committee's general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment;

(d) Disaggregated data (for example, by sex, age, region, rural/urban areas and social and ethnic origin) on the students attending schools operated by or under the control of the armed forces; their status (members or not of the armed forces); their military status in the case of a mobilization or of an armed conflict, a genuine military need or any other emergency situation; their right to leave such schools at any time and not to pursue a military career;

(e) Whether independent complaint mechanisms are accessible for children attending military schools.

14. If applicable to the State party, reports should give details of measures taken to prevent recruitment of children by armed forces distinct from the State. In particular, information should be provided on:

(a) Armed groups operating on or from the territory of the State concerned;

(b) An update on the status of negotiations of the State party with armed groups and whether ongoing negotiations contemplate any forms of amnesties for war crimes;

(c) Any written or oral commitment made by armed groups not to recruit and use children under the age of 18 in hostilities;

(d) Measures adopted by the State party aimed at raising awareness amongst armed groups of the need to prevent the recruitment of children under the age of 18 and of their legal obligations with regard to the minimum age set in the Optional Protocol for recruitment and participation in hostilities;

(e) Whether the State party cooperates with the International Committee of the Red Cross (ICRC) for the above purpose.

15. Reports should describe the methods used to identify children who are especially vulnerable to practices contrary to the Optional Protocol due to their economic and social status, such as children living in poverty, those living in remote areas and, if applicable, refugee, internally displaced, minority and indigenous children.

16. If applicable to the State party, the report should contain information on measures taken to prevent attacks on civilian objects protected under international humanitarian law and other international instruments, including places that generally have a significant presence of children, such as schools and hospitals.

17. In accordance with article 6, paragraph 2, reports should describe any campaigns or other measures that have been taken to promote public awareness of the principles and provisions of the Optional Protocol, including:

(a) Measures, specifically aimed at making children aware of the harmful consequences of involvement in armed conflict, and of resources and sources of assistance intended to prevent children from falling victim to recruitment;

(b) Efforts undertaken to include peace education in the school curricula;

(c) Programmes targeting any specific groups other than children and the general public (e.g. the armed forces and members of international peacekeeping forces, law enforcement and immigration officers, judges, social workers, teachers and legislators);

(d) The role played by non governmental organizations, the media, the private sector and the community, in particular children, in the design and implementation of the awareness measures described above;

(e) Any steps taken to measure and evaluate the effectiveness of the measures described above, and the results obtained.

III. PROHIBITION AND RELATED MATTERS

(art. 1, 2, 4, paras. 1 and 2)

18. Reports should provide information on all regulations and criminal legislation in force, including details of the exact provisions, covering and defining the acts enumerated in articles 1 and 2 and of the Optional Protocol, including:

(a) The material elements of all such acts and offences, including the definition of the compulsory recruitment and use of children in hostilities and what constitutes direct participation;

(b) The maximum and minimum penalties that can be imposed for each of these offences;

(c) Available data or information concerning the number of prosecutions and convictions for such offences;

(d) Guarantees in place to ensure that superior orders cannot be invoked as justification for acts contrary to the Optional Protocol and whether any defences and aggravating or attenuating circumstances can apply to these offences;

(e) The statute of limitations for each of these offences;

(f) Any other offences recognized by the laws of the State party that it considers relevant to implementation of the Optional Protocol;

(g) The sentences applicable under the law(s) of the State party for attempts to commit and complicity or participation in the offences covered by the Optional Protocol.

19. Reports should provide information on all criminal legislation in force, including details of the exact provisions, covering and defining the offences enumerated in article 4, paragraphs 1 and 2, of the Optional Protocol, including:

(a) The material elements of all such acts and offences, including the definition of the recruitment and use of children in hostilities and what constitutes direct participation;

(b) If applicable, whether provisions covering such crimes have been included in transitional justice measures such as war crimes tribunals or truth commissions;

(c) The maximum and minimum penalties that can be imposed for each of these offences;

(d) Available data or information on the number of prosecutions and convictions for such offences, including, if applicable, the existence of international jurisprudence relating to the State party or its nationals;

(e) The statute of limitations for each of these offences;

(f) Any other offences recognized by the laws of the State party that it considers relevant to implementation of the Optional Protocol;

(g) The sentences applicable under the law(s) of the State party for attempts to commit and complicity or participation in the offences covered by the Protocol.

20. State party reports should contain information on:

(a) All relevant laws, decrees, military codes, manuals or regulations adopted by the national, State or regional legislatures or other competent bodies of the State party in order to give effect to the Optional Protocol;

(b) Any significant jurisprudence adopted by the courts of the State party, in particular that applies to the Convention on the Rights of the Child, the Optional Protocol or related international instruments referred to by the present guidelines. States parties are invited to submit, together with their reports under article 8, copies of the principal legislative, administrative and other relevant texts, judicial decisions and relevant studies or reports.

21. Reports also should indicate any provisions of legislation currently in force that the State party considers an obstacle to the implementation of the Optional Protocol, and whether there are plans to review such provisions.

22. States parties to the Optional Protocol that are not parties to the following treaties are invited to indicate whether they have considered becoming parties to them:

(a) The Additional Protocols I and II to the 1949 Geneva Conventions, (1977);

(b) The Rome Statute of the International Criminal Court (1998);

(c) The International Labour Organization Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999).

23. Reports should contain a description of any law concerning the criminal liability of legal persons, such as private military and security companies (PMCs and PSCs), for the acts and activities enumerated in the Protocol, and comments on the effectiveness of such laws as a deterrent to the recruitment of children. If the law of the State party does not recognize the criminal liability of legal persons for such offences, the report should explain why this is so and the position of the State party on the feasibility and desirability of modifying it.

24. Reports should indicate the legal provisions that establish jurisdiction over the acts and offences referred to in articles 1, 2, 4 of the Optional Protocol, including information about the grounds for this jurisdiction (see article 4, paragraphs 1 and 3).

25. Reports also should indicate what national legal provisions provide for the establishment of extraterritorial jurisdiction over serious violations of international humanitarian law and whether to date the State party has exercised its jurisdiction over child recruitment as a war crime. Furthermore, reports should indicate the age at which such jurisdiction on crimes of child recruitment applies.

26. Reports should describe the law, policy and practice of the State party concerning the extradition of persons accused of having committed offences referred to in the Optional Protocol. In particular, reports should describe the legal basis, including international agreements, for cooperation with other States parties with regard to investigations and, if applicable, details of criminal and extradition proceedings brought

with regard to the offences referred to by the Optional Protocol, including examples of cases in which it has cooperated with other States parties and any significant difficulties it has experienced in obtaining the cooperation of other States parties.

IV. PROTECTION, RECOVERY AND REINTEGRATION (art. 6, para. 3)

27. Reports should contain information on the measures adopted by the State party to implement article 6, paragraph 3, of the Optional Protocol with a view to ensuring that the rights and best interests of children who have been the victims of the practices prohibited under the Optional Protocol are fully recognized, respected and protected at all stages of demobilization processes as well as in criminal investigations and proceedings where they are victims or witnesses. States also may wish to refer to any efforts made to implement the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime adopted by the Economic and Social Council in its resolution 2005/20.

28. Reports should indicate what measures are taken to ensure legal, psychological or other training for those who work with victims of the offences prohibited in this Protocol.

29. Reports should describe existing public and private demobilization programmes that provide child victims of recruitment with assistance in social reintegration, paying special attention to family reunification, and physical and psychological recovery. Information should be provided on:

- (a) Budget allocations for such programmes;
- (b) The level of cooperation between public entities and civil society in this regard;
- (c) The degree of participation of children in their design and implementation;
- (d) To what extent such programmes are gender sensitive.

30. Reports should also describe the measures taken by the State party to ensure that the child's identity is protected, in accordance with article 16 of the Convention on the Rights of the Child, in order to maintain confidentiality and prevent media exposure and stigmatization of victims.

31. If unaccompanied foreign children who have been involved in armed conflict are in the jurisdiction of the State party, reports should indicate measures taken to ensure that they are treated in accordance with paragraphs 54 to 60 of the Committee's general comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin.

32. Reports should contain information on existing remedies and reparations that may be sought by child victims of recruitment and in particular on the role of the State in enforcing such measures. States parties are encouraged to describe efforts made to

promote and implement the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law adopted by the General Assembly in 2006 in its resolution 60/147.

V. INTERNATIONAL ASSISTANCE AND COOPERATION
(art. 7, para. 1)

33. Reports should provide information on measures to strengthen international cooperation regarding the implementation of the Optional Protocol, including in the prevention and investigation of any activity contrary to the Optional Protocol and in the recovery and reintegration of children victims of acts contrary to the Optional Protocol, through for example technical cooperation and financial assistance. When applicable, States parties are requested to provide information on their cooperation with international tribunals.

34. The State party should indicate whether its national legislation prohibits the trade and export of small and light arms as well as military assistance to countries where children are involved in armed conflict. If not, it should indicate whether consideration is given to the possibility of adopting such legislation.

35. Reports should provide information on whether the State party has cooperated with the Office of the Special Representative of the Secretary-General for Children in Armed Conflict.

36. Reports should provide information on whether the situation in the State party has been identified in reports of the Secretary-General to the Security Council in accordance with resolution 1612 (2005).

VI. OTHER LEGAL PROVISIONS
(art. 5)

37. Reports should describe:

(a) Any provisions of domestic legislation in force in the State party that it considers more conducive to the realization of the rights of the child than the provisions of the Optional Protocol;

(b) Any provisions of international law binding on the State party that it considers more conducive to the realization of the rights of the child than the provisions of the Optional Protocol, or that it takes into account in applying the Optional Protocol;

(c) The status of ratification by the State party of the main international instruments of humanitarian law which relate to the recruitment of use of children in hostilities as

well as any other international or regional commitments undertaken by that State concerning these issues.
