

**COMMITTEE ON THE RIGHTS OF THE CHILD**

**Forty-eighth session**

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 8 OF THE OPTIONAL PROTOCOL TO THE  
CONVENTION ON  
THE RIGHTS OF THE CHILD ON THE INVOLVEMENT OF  
CHILDREN IN ARMED CONFLICT**

**Concluding Observations: Republic of Korea**

1. The Committee considered the initial report of the Republic of Korea (CRC/C/OPAC/KOR/1) at its 1322<sup>nd</sup> meeting (see CRC/C/SR.1322), held on 23 May 2008 and adopted at the 1342<sup>nd</sup> meeting, held on 6 June 2008, the following concluding observations.

**A. Introduction**

2. The Committee welcomes the submission of the State party's initial report under the Optional Protocol, as well as the submission of the written replies to its list of issues (CRC/C/OPAC/KOR/Q/1/Add.1), which provide additional information on the legislative, administrative and other measures applicable in the Republic of Korea in respect of the rights guaranteed by the Optional Protocol. However, the Committee regrets that the delegation of the State party lacked some information necessary for a constructive dialogue.
3. The Committee reminds the State party that these concluding observations should be read in conjunction with its previous concluding observations adopted on the State party's second periodic report on 15 January 2003 (CRC/C/15/Add.197) and the concluding observations adopted on the initial report under the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/OPSC/KOR/CO/1) on 6 June 2008.

**B. Positive aspects**

4. The Committee notes with appreciation:

- a) The State party's declaration made upon the ratification of the Optional Protocol that the minimum age for voluntary recruitment into the Korean national armed forces is 18 years;
  - b) The amendment made in December 2004 to article 14, paragraph 1 of the Military Service Act which raised the minimum age for voluntary enlistment for active service in the armed forces from 17 to 18;
  - c) The amendment to the Air Force Regulations which removed the provision allowing for the involvement of persons under 18 in armed conflict; and
  - d) The establishment of the Child Rights Monitoring Center, in 2006.
5. The Committee welcomes the ratification or accession by the State party of:
- a) The Optional Protocol on the sale of children, child prostitution and child pornography, in September 2004;
  - b) The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, in October 2006;
  - c) The Rome Statute of the International Criminal Court in November 2002.
6. Furthermore, the Committee notes with appreciation the State party's activities in the area of international cooperation, including the provision of financial support for action to protect children involved in armed conflict.

## **I. General measures of implementation**

### **Dissemination and training**

7. The Committee, while welcoming various initiatives taken by the National Human Rights Commission of Korea (NHRCK) to promote human rights education in the school curricula and to the public at large, regrets that no information with respect to dissemination of information and training related to the issues covered by the Optional Protocol, including in the curricula of military schools and in the pre-deployment training programmes for peace-keeping personnel, has been provided by the State party.
8. **The Committee recommends that the State party, in the light of article 6, paragraph 2, ensure that the principles and provisions of the Optional Protocol are included in the curricula of military schools and widely disseminated to the general public and State officials, as well as military and peace-keeping personnel, by appropriate means, including the media.**
9. **It also recommends that the State party develop systematic awareness raising, education and training programmes on the provisions of the Optional Protocol for all relevant professional groups working with and for children, including those working with asylum-seeking and refugee children coming from countries affected by armed conflict, such as health personnel, social workers, teachers, lawyers, judges and immigration officials.**

### **Independent national human rights institution**

10. The Committee welcomes the decision of the State party taken on 20 February 2008 to maintain the independence of the National Human Rights Commission of Korea (NHRCK), and notes with appreciation that the NHRCK has competence to monitor violations of individual rights of children by state agents, including the military. However, the Committee regrets the lack of a child right division within the NHRCK that allows for adequate monitoring and promotion of the Optional Protocol.
11. **The Committee, reiterating what it previously stated in its concluding observations upon the State party's second periodic report (CRC/C/15/Add.197, para. 18), recommends that the State party continue to ensure that the NHRCK is provided with the necessary human and financial resources that would enable the Commission to establish a child rights division in order to adequately monitor and promote the Optional Protocol and undertake awareness raising measures with a view to achieving increased visibility and accessibility for children.**

## **II. Prohibition and related matters**

### **Legislation**

12. The Committee welcomes that the amendment, in December 2004, to article 14, paragraph 1 of the Military Act which adjusted the minimum age for voluntary enlistment from 17 to 18. However, the Committee remains concerned that there are no specific provisions criminalizing the compulsory recruitment or involving in hostilities of a person under the age of 18.
13. **The Committee recommends the State party to**
  - a) **explicitly prohibit by law the violation of the provisions of the Optional Protocol regarding the recruitment and involvement of children in hostilities;**
  - b) **Ensure that all legislation are fully harmonised with the provisions of the Optional Protocol; and**
  - c) **Ensure that all military codes, manuals and other military directives are in accordance with the provisions and the spirit of the Optional Protocol.**

### **Jurisdiction**

14. The Committee welcomes that the domestic legislation of the State party provides for the exercise of extraterritorial jurisdiction over recruitment of children under the age of 15 years into armed forces or groups.
15. **In order to further strengthen international measures for the prevention of the recruitment of children for armed forces or armed groups and their use in hostilities, the Committee recommends that the State party consider extending extraterritorial jurisdiction for crimes of recruitment**

**and involvement of children in hostilities by, *inter alia*, entering into bilateral or multilateral agreements.**

### **III. Protection, recovery and reintegration**

#### **Measures adopted to protect the rights of child victims**

16. While noting the position of the State party that children coming from the Democratic People's Republic of Korea (DPRK) are not considered as asylum-seeking children, and that no case of unaccompanied children arriving in the State party has yet been reported by the State party, the Committee remains concerned about the absence of an identification mechanism for asylum-seeking and refugee children who may have been recruited or used in hostilities, and regrets the lack a specific strategy for their physical and psychological recovery and social reintegration. The Committee also notes with concern the extremely low rate of asylum recognition by the State party, including those of asylum-seeking children coming from conflict areas.
17. **The Committee recommends that the State Party:**
  - a) **introduce a mechanism that allows for systematic identification at the earliest possible stage of refugee and asylum-seeking children entering the Republic of Korea who may have been recruited or used in hostilities abroad;**
  - b) **carefully assess the situation of these children and provide them with immediate, culturally sensitive and multidisciplinary assistance for their physical and psychological recovery and their social reintegration in accordance with article 6(3) of the Optional Protocol;**
  - c) **systematically collect data on refugee and asylum-seeking children within its jurisdiction who may have been recruited or used in hostilities in their home country; and**
  - d) **include information on measures adopted in this regard in its next report.**
18. **The Committee further recommends that the State party consider the particular vulnerabilities of children coming from the Democratic People's Republic of Korea (DPRK) who may have been recruited or used in hostilities, and grant them special protection and assistance measures, taking into account article 6(3) of the Optional Protocol and the Committee's General Comment No. 6 on treatment of unaccompanied and separated children outside their country of origin (CRC/GC/2005/6). The Committee also urges the State party to take all necessary measures to ensure that children coming from the DPRK, who may have been recruited or used in hostilities, who seek the protection of the State party are not re-fouled.**

### **IV. International assistance and cooperation**

#### **International cooperation**

19. The Committee commends the State party for its financial support to multi- and bilateral activities aimed at protecting and supporting children who have been involved in armed conflict.
20. **The Committee encourages the State party to continue its activities in the area of international cooperation, including the provision of financial support, for action to protect children in armed conflict. The Committee also recommends the State party to consider disaggregating the financial data relating to the assistance provided by the Korea International Development Agency (KOICA) to allow for an assessment and monitoring of the aid expenditure on children, and in particular, children involved in armed conflict.**

#### **Arms export and military assistance**

21. While the Committee welcomes the State party's legislation and programmes to control the export of small arms and munitions, it is concerned about the lack of specific legislation prohibiting the export to countries where persons who have not attained the age of 18 take a direct part in hostilities as members of their armed forces or armed groups that are distinct from the armed forces of a State.
22. **The Committee recommends that the State party to enact relevant legislation to prohibit trade of small arms and light weapons to countries with current or recent armed conflict that may involve children as participants. In this respect, the Committee recommends that the State party indicate, in its next periodic report, what changes to the domestic law have been made and how the implementation of these changes has contributed to halting sales of small arms to those countries.**

#### **V. Follow-up and dissemination**

23. **The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, *inter alia*, by transmitting them to the relevant Government ministries, members of the National Assembly, the State Council, the Defence Ministry and to provincial authorities, where applicable, for appropriate consideration and further action.**
24. **Additionally, in light of article 6, paragraph 2, of the Optional Protocol, the Committee recommends that the initial report submitted by the State Party and concluding observations adopted by the Committee be made widely available to the public at large in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.**
25. **In accordance with article 8, paragraph 2, of the Optional Protocol, the Committee requests the State party to include further information on the implementation of the Optional Protocol in its consolidated third and fourth periodic report under the Convention on the Rights of the Child, in accordance with article 44 of the Convention, due on 19 December 2008.**