



Convention on the Rights of the Child

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COMMITTEE ON THE RIGHTS OF THE CHILD**Forty-second 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: Canada**

1. The Committee considered the initial report of Canada (CRC/C/OPAC/CAN/1) at its 1218th meeting (see CRC/C/SR.1218), held on 17 May 2006, without the presence of a delegation of the State party which, in accordance with the Committee's decision No. 8 adopted during the thirty-ninth session, opted for a technical review of the report. The Committee adopted, at the 1157th meeting held on 2 June 2006, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the State party's initial report and the written replies to the list of issues which give detailed information on the legislative, administrative, judicial and other measures applicable in Canada with respect of the rights guaranteed by the Optional Protocol.

3. The Committee reminds the State parties that these concluding observations should be read in conjunction with its previous concluding observations adopted on the State party's second periodic report on 3 October 2003 contained in CRC/C/15/Add.215.

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B. Positive aspects

4. The Committee welcomes:

(a) The amendment to the National Defence Act (NDA), which came into effect in 2000, entrenching into law the pre-existing policy of the Canadian Forces of precluding persons under the age of 18 years from being deployed into areas where hostilities are taking place or armed combat is a possibility;

(b) The support of the Canadian International Development Agency (CIDA) to a number of research initiatives through the Child Protection Research Fund (CPRF) as well as the appointment of a Special Advisor on War-Affected Children to CIDA and to the Minister for International Cooperation;

(c) The creation of a Child Protection Unit within CIDA.

C. Principle areas of concern and recommendations**1. General measures of implementation****National Plan of Action**

5. The Committee welcomes the launching, in 2001, of the CIDA's Action Plan on Child Protection which promotes the rights of children in need of special protection and identifies children affected by armed conflict as one of the areas of strategic focus for the plan. The Committee further welcomes that in the 2004 National Plan of Action "A Canada fit for children", there is continuous support to address the needs of children affected by armed conflict and to prevent the military recruitment of children.

6. The Committee recommends that the State party provide further information on the impact and/or results of these action plans when submitting information with respect to the implementation of the Protocol in its next periodic report prepared in accordance with article 44 of the Convention (see paragraph 18 below).

Legislation

7. The Committee welcomes the enactment in 2000 of the Crimes Against Humanity and War Crimes Act implementing the Rome Statute by which authors of genocide, crimes against humanity and war crimes (including that of “conscripting or enlisting children under the age of 15 years or using them to participate actively in hostilities”) may be prosecuted for that offence if present in Canada after the time the offence is alleged to have been committed. In order to strengthen the national and 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:

(a) Establish extraterritorial jurisdiction for the violation of the provisions of the Optional Protocol regarding the recruitment and involving of children in hostilities when they are committed by or against a person who is a citizen of or has other links with the State party; and

(b) Ensure, through legislation, that military personnel not undertake any act that violates the rights enshrined in the Optional Protocol, regardless of any military order to that effect.

2. Recruitment of children

Voluntary recruitment

8. The Committee notes with appreciation that section 20 (3) of the National Defence Act makes it mandatory to have the consent of one of the parents or the guardian of a person between 16 and 18 years before such person is enrolled in the Canadian Reserve or Regular Forces, in accordance with article 3 (b) of the Protocol. However, the Committee is concerned that, in light of article 38, paragraph 3, of the Convention, no measures have been taken to give priority in the recruitment process to those who are the oldest.

9. The Committee recommends that the State party give priority, in the process of voluntary recruitment, to those who are oldest and consider increasing the age of voluntary recruitment.

Military schools

10. The Committee invites the State party to provide further information on the status of children attending the Royal Military College, particularly as to whether they are considered as just civilian students of a military college or already as military recruits.

3. Involvement of children in hostilities

Prisoners of war

11. The Committee notes that the Canadian Forces’ rules and procedures regarding the capture of persons under the age of 18 during hostilities are the same as those applicable to all captured persons and that all juvenile detainees are segregated from adults and treated with special respect in accordance with the State party’s international obligations. However, the Committee is concerned at the lack of information about measures taken to ensure that captured persons below 18 are treated in accordance with international standards of human rights and humanitarian law when transferred to other national authorities.

12. The Committee recommends that the State party ensure that - when detained persons under the age of 18 captured in areas of armed conflict are transferred to other national authorities - this transfer occurs only as long as there is a reason to believe that their human rights will be respected and as long as the State party is satisfied that the receiving State is willing and able to apply the Geneva Conventions. The State party should also provide specific information in this respect in its next report.

4. Measures adopted with regard to disarmament, demobilization and social reintegration

Assistance for physical and psychological recovery

13. While the Committee welcomes the information that psychological and physical recovery and social reintegration of immigrant and refugee children affected by armed conflict is provided through appropriate services existing at provincial and territorial levels. The Committee encourages the State party to continue, and strengthen where necessary, the above-mentioned services and to provide concrete information on the children who benefited from these services in its next report.

5. International assistance and cooperation

Protection of victims

14. While acknowledging that the State party is a consistent advocate of improved and restrictive controls on the transfer of small arms and light weapons and that it has been active in proposing common principles to promote their responsible transfer, the Committee also notes that small arms and light weapons are exported from the State party. In this respect, the Committee recommends that the State party ensure that its domestic legislation and practice prohibit in any case the trade of small arms and light weapons to countries where persons who have not attained the age of 18 may 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. The Committee also invites the State party to provide specific information on this issue in its next report.

Financial and other assistance

15. The Committee commends the State party's financial support to numerous United Nations agencies and international organizations having programmes for children affected by war, including UNICEF, the United Nations Development Programme (UNDP), the World Bank and the International Committee of the Red Cross (ICRC). It also welcomes the State party's support to the Office of the Special Representative of the Secretary-General for Children and Armed Conflict and to various non-governmental organizations.

16. The Committee recommends that the State party continue its cooperation for a full implementation of the Optional Protocol, including in the prevention of any activity contrary thereto and in the physical and psychological recovery and social reintegration of persons who are victims of acts contrary thereto.

6. Follow-up and dissemination

17. While the Committee notes that the Optional Protocol is disseminated through the Department of Canadian Heritage's website and that it is distributed to any interested person upon request, it recommends that the State party strengthen education and training in all domestic languages on the provisions of the Optional Protocol for all relevant

professional groups, in particular military personnel. It recommends that the State party make the Optional Protocol widely known to the public at large and in particular to children and their parents, through, inter alia, school curricula in a child-friendly version.

18. In the light of article 2, 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.

D. Next report

19. In accordance with article 8, paragraph 2, the Committee requests the State party to include further information on the implementation of the Optional Protocol in its combined third and fourth periodic reports under the Convention on the Rights of the Child, in accordance with article 44 of the Convention, which are due on 11 January 2009.
