



**Submission**  
on the  
**Optional Protocol on the**  
**Involvement of Children in Armed Conflict**  
to the  
**United Nations Committee on the Rights of the Child**

October 2007

**The Children's Rights Alliance is a coalition of over 80 non-governmental organisations (NGOs) working to secure the rights and needs of children in Ireland, by campaigning for the full implementation of the UN Convention on the Rights of the Child. It aims to improve the lives of all children under 18, through securing the necessary changes in Ireland's laws, policies and services.**

### **Our Membership**

The Alliance was formally established in March 1995. Our membership, from which Board Members are elected at the Alliance's AGM, consists of a diverse range of groups, including child welfare agencies and service providers; child protection groups; academics; youth organisations; family support groups; human rights organisations; disability organisations; parent representative organisations; community groups and others interested in children's rights. The Alliance's policies, projects and activities are developed through ongoing collaboration and consultation with our member organisations.

### **Our Aims**

- Bringing about a shared vision that will realise and protect children's rights in Ireland
- Securing legislative and policy changes to give meaningful effect to the UN Convention on the Rights of the Child
- Securing the effective implementation of Government policies relating to children

### **Our Experience**

- The Alliance is recognised for its participation in the international monitoring and reporting process of the UN Convention on the Rights of the Child, including the publication of two shadow reports critically evaluating progress made by the Irish State to implement the Convention's provisions into domestic law, policies and services
- In 2006, the Alliance was the sole Irish NGO commentator reporting to the UN Committee on the Rights of the Child
- The Alliance is a designated Social Partner within the Community and Voluntary and Pillar
- The Alliance has played an important role in influencing the development of several key initiatives for children, including the publication of a National Children's Strategy; the establishment of the Office for the Ombudsman for Children.

The Alliance gratefully acknowledges the contribution made to the preparation of this submission by the staff, Board, member organisations and friends of the Alliance, as well as the input of other non-governmental organisations.

October 2007

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## Submission to the United Nations Committee on the Rights of the Child

### Submission to the United Nations Committee on the Rights of the Child on the First Report by the Irish State under the Optional Protocol to the United Nations Convention on the Rights of the Child on the Involvement of Children in Armed Conflict

1. The Children's Rights Alliance is grateful for the opportunity to offer its observations to the United Nations Committee on the Rights of the Child concerning the Irish State's First Report under the Optional Protocol to the United Nations Convention on the Rights of the Child on the involvement of children in armed conflict.<sup>1</sup>

#### Compilation of the State's Report

2. *Delay in Submitting the State's Report.* Article 8 (para. 1) of the Optional Protocol requires State Parties, within two years following the entry into force of the Protocol, to submit a report to the UN Committee on the Rights of the Child. Ireland ratified the Protocol on 18 November 2002, and hence the State's initial report was due by 18 December 2004. The State did not, however, submit its report until December 2006. The Alliance is disappointed that there has been a two-year delay by the State in meeting its reporting obligation.

3. *Consultation with Civil Society.* The Alliance welcomes the State's consultation with the Children's Rights Alliance and other representative groups from civil society. In particular, the Alliance, welcomes the inclusion of a summary of issues raised during this consultation in the appendix to the State's Report.<sup>2</sup>

#### ARTICLE 1 AND ARTICLE 3

##### Declaration under Article 3

4. The Alliance is disappointed that the State's declaration under Article 3 of the Protocol specifies that the minimum age of voluntary recruitment in Ireland is seventeen years, with a minimum age of sixteen years for apprentices.<sup>3</sup> Almost a quarter of recruits into the Permanent Defence Force in recent years have been under eighteen years of age upon entry.<sup>4</sup>

5. The Alliance calls for the State to withdraw its declaration under Article 3 of the Protocol and to raise the minimum age to eighteen years for recruitment into the armed forces.

##### Current Situation

6. The Defence Force Administrative Instructions set down the ages of recruitment to the Permanent and Reserve Defence Forces and preclude those under eighteen years from serving abroad. However, these Instructions are the policy of the Irish Defence Forces which can be revised by the Department of Defence, without the consent of the Oireachtas (national parliament).

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1 *Ireland's First Report on the Implementation of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict*, CRC/C/OPAC/IRL/1, 5 February 2007.

2 CRC/C/OPAC/IRL/1, p.9.

3 CRC/C/OPAC/IRL/1, p.5.

4 CRC/C/OPAC/IRL/1, p.6.

7. Article 15.6 of the Constitution of Ireland states that: “The right to raise and maintain military forces or armed forces is vested exclusively in the Oireachtas”.<sup>5</sup> There is no constitutional prohibition on the conscription, recruitment or deployment of young people under eighteen years in the armed forces.

8. Article 28 of the Constitution provides for the introduction of emergency powers, and Article 28.3.3 provides that legislation passed by the Oireachtas, or any other acts of Government in time of war or armed rebellion, are immune from constitutional challenge. This Article does not prohibit the use of those under eighteen years in the armed forces in an emergency situation. Furthermore, under Article 28.3.3, emergency powers can be invoked in situations where the State itself is not participating in a war, but where the Oireachtas has deemed the State’s ‘vital interests’ to be affected.

9. The Alliance recognises that the Constitution does not prohibit the introduction of legislative reform to prohibit the recruitment and conscription of those under eighteen years into the armed forces.<sup>6</sup> Ireland’s current regulations and practice cannot, and do not, guarantee that young people under eighteen years will not participate in hostilities, become a target of attack (for example, in the military providing ‘Aid to the Civil Power - assistance by the armed forces to the police in maintaining law and order’<sup>7</sup>) or be sent to serve aboard. The probability of such occurrences is irrelevant; the possibility exists and there is no barrier to a future policy change in times of national crisis or armed conflict.

10. Furthermore, all those who join the armed forces are subject to a military disciplinary authority. Consequently in relation to a breach of discipline under the codes of military law a sixteen or seventeen year old could be tried and imprisoned as an adult. This is in contravention of the Children Act 2001 in which all children, under eighteen years, within the criminal justice system are given additional protection on account of their age, such as reduced sentencing.

**11. The Alliance calls on the State to amend its declaration to the Optional Protocol to provide for a minimum age of military recruitment of eighteen years without exception or reservation, and to introduce constitutional or statutory measures to this effect.**

12. Several of the Alliance member organisations work directly with children under eighteen years who join the armed forces. In particular circumstances, joining the armed forces may be seen to be a positive step for the child as the armed forces offer a training and career opportunity that is culturally acceptable within their communities, where alternative opportunities do not exist. The armed forces may offer some children a stable and structured environment which they may perceive as an improvement upon difficult home or community life. Joining the armed forces also has the benefit that these children can earn a comparatively high wage (for their age) within a short period of time.

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5 *Bunreacht na hÉireann – Constitution of Ireland* (1937) Dublin: Stationery Office.

6 An amendment to the Constitution of Ireland requires the passage by public assent of a referendum, pursuant to Article 46 of the Constitution.

7 CRC/C/OPAC/IRL/1, p.4. This may include the provision of armed military back up by the Army to the Irish police on those occasions where the police are escorting cash en route to banks, or escorting certain categories of prisoner from prison to Court.

13. The prohibition against recruitment of children under eighteen years into the armed forces may thereby leave a gap for some children for whom there are no other culturally appropriate career and training opportunities, where they can simultaneously earn a good wage. The needs of this group of children must be addressed through a multi-dimensional approach, involving relevant departments such as education, employment and defence. A preparatory training course could be established whereby children of sixteen and seventeen years are introduced to the skills needed for the armed forces but without technically becoming part of the armed forces.

**14. The Alliance calls on the State to set up an interdepartmental working group with the aim of establishing alternative career and training opportunities to children of sixteen and seventeen years, with a link to the armed forces.**

#### **Office of the Ombudsman for Children**

15. The Office of the Ombudsman for Children is precluded from investigating any action which “relates to or affects national security or military activity.” This exclusion, under Section 11(1)(b) of the Ombudsman for Children Act, 2002, means that actions taken by the Defence Forces with respect to children under eighteen years of age lie outside the remit of the Ombudsman for Children. This provision should be removed, pending the constitutional or legislative reforms recommended above (see paragraph 15).

**16. The Alliance calls for the exclusion in relation to the Defence Forces in the Ombudsman for Children Act, 2002 to be examined with a view to its removal.**

#### **ARTICLE 6**

##### **Awareness of the Protocol**

17. In Ireland, awareness of the Optional Protocol is confined largely to specialists and NGOs working in the area of children’s rights. This reflects the wider problem of the limited awareness of the UN Convention on the Rights of the Child among policy makers, the general public and children.

**18. The Alliance calls on the State to provide periodic public awareness campaigns on the UN Convention on the Rights of the Child and on the Optional Protocols.**

**19. Furthermore, the Alliance calls on the State to ensure that comprehensive education on the provisions of the UN Convention and the Optional Protocol on armed conflict is integrated into all military training curricula.**

## ARTICLE 7

### Financial Assistance and Technical Cooperation

20. The Alliance welcomes the State's support of the United Nations Development Programme Disarmament, Demobilisation, Reintegration and Repatriation Trust Fund for Liberia; and of 'The Coalition to Stop the Use of Child Soldiers'.<sup>8</sup>

21. It is the understanding of the Alliance that it is not possible to obtain figures that isolate the percentage of the Irish State's overseas aid spent on children, and consequently on children affected by armed conflict.

**22. The Alliance calls on the State to make the recording of funds under the Irish Aid programme more specific so as to enable the aid expenditure on children, and children affected by armed conflict, to be analysed and tracked over time.**

### Former Child Soldiers Living in Ireland

23. There is no data on the number of asylum seeking, refugee or migrant children who have come to live in Ireland from areas affected by armed conflict. Furthermore, there is no official data on the number (or circumstances) of former child soldiers now living in Ireland. NGOs and mental health service providers in Ireland have, however, reported coming into contact with, and supporting, former child soldiers over the past number of years. Former child soldiers may now be adults.

24. Over 5,000 separated children have arrived in Ireland since 1999. Many of these children have come from countries such as the Democratic Republic of the Congo, Sierra Leone, Uganda, Angola, Liberia, Rwanda, Kenya, Guinea, Ethiopia, Eritrea, Somalia and Afghanistan, where armed conflicts have involved the forced recruitment of child soldiers.

25. *Identification, Rehabilitation and Social Reintegration.* There is no formal identification mechanism or referral service for former child soldiers who come to the attention of statutory agencies. Hence, this vulnerable group of children has not been documented, nor has a mechanism been put in place to ensure that they receive psychiatric services and counselling. Identification of former child soldiers may be difficult as they may be reluctant to disclose their past, given that they may have perpetrated crimes. Support is essential to assist these children to overcome the psychological after-effects of the traumas they have experienced, the crimes they have committed, and to rebuild a positive self image. The need for support to overcome such traumas may not present for some time and addressing the trauma requires skilled and often long-term intervention.

26. Although some specialised mental health services are provided for asylum seekers and refugees, the mainstream mental health services have received little or no training on how to deal with the specific traumas experienced by child soldiers nor training in intercultural communication. Furthermore, it should be noted that the Alliance has previously expressed its concern to the UN

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<sup>8</sup> The Coalition to Stop the Use of Child Soldiers works to prevent the recruitment and use of children as soldiers, to secure their demobilisation and to ensure their rehabilitation and reintegration into society. See <http://www.child-soldiers.org/>



Committee about the need for adequacy mental health services for children and adolescents in Ireland.<sup>9</sup>

**27. The Alliance calls for the systematic identification of former child soldiers and the provision of specialist supports and services to assist their psychological and physical recovery and integration into society.**

28. *Asylum Process.* Only a small and select number of decisions are published from the Irish refugee determination bodies – the Office of the Refugee Applications Commissioner (ORAC) and the Refugee Appeals Tribunal (RAT). As a result, it is not clear what the current approach is in relation to granting asylum to children fleeing situations where they have been conscripted into military forces, have voluntarily enlisted into armies while under the age of eighteen, or where young girls have been abducted to accompany soldiers.

**29. The Alliance calls for the full publication of refugee application decisions so as to enable developing case law in relation to former child soldiers to be monitored.**

**30. Furthermore, the Alliance calls for training and guidelines to ensure international best practice is followed in relation to claims for refugee status and subsidiary protection from former child soldiers and, in particular, the exemption for acts committed when the applicant was a child to be applied.<sup>10</sup> This should include the monitoring of asylum decisions in relation to children.**

31. In addition to the concerns expressed above, it should be noted that the Alliance has previously expressed its serious concern to the UN Committee about the inadequate and inequitable treatment of separated children in Ireland.<sup>11</sup>

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9 Children's Rights Alliance (2006) *From Rhetoric to Rights: Second Shadow Report to the United Nations Committee on the Rights of the Child*, Dublin: Children's Rights Alliance.

10 Article 1F of the Geneva Convention excludes, *inter alia*, people who have committed serious non-political crimes. In principle this exclusion can be applied to crimes committed when the applicant was a child, however, the UNHCR advocates for specific exemption for acts committed when the applicant was a child in relation to application of this article.

11 Children's Rights Alliance (2006) *From Rhetoric to Rights: Second Shadow Report to the United Nations Committee on the Rights of the Child*, Dublin: Children's Rights Alliance.

## Summary of Recommendations

### **Recommendations to the United Nations Committee on the Rights of the Child on the First Report by the Irish State under the Optional Protocol to the UN Convention on the Rights of the Child on the Involvement of Children in Armed Conflict**

- The Alliance calls on the State to amend its declaration to the Optional Protocol to provide for a minimum age of military recruitment of eighteen years without exception or reservation, and to introduce constitutional or statutory measures to this effect.
- The Alliance calls on the State to set up an interdepartmental working group with the aim of establishing alternative career and training opportunities to children of sixteen and seventeen years, with a link to the armed forces.
- The Alliance calls for the exclusion in relation to the Defence Forces in the Ombudsman for Children Act, 2002 to be examined with a view to its removal.
- The Alliance calls on the State to provide periodic public awareness campaigns on the UN Convention on the Rights of the Child and on the Optional Protocols.
- Furthermore, the Alliance calls on the State to ensure that comprehensive education on the provisions of the UN Convention and the Optional Protocol on armed conflict is integrated into all military training curricula.
- The Alliance calls on the State to make the recording of funds under the Irish Aid programme more specific so as to enable the aid expenditure on children, and children affected by armed conflict, to be analysed and tracked over time.
- The Alliance calls for the systematic identification of former child soldiers and the provision of specialist supports and services to assist their psychological and physical recovery and integration into society.
- The Alliance calls for the full publication of refugee application decisions so as to enable the developing case law in relation to former child soldiers to be monitored.
- Furthermore, the Alliance calls for training and guidelines to ensure international best practice is followed in relation to claims for refugee status and subsidiary protection from former child soldiers and, in particular, the exemption for acts committed when the applicant is a child to be applied.

**Presentation by the Children's Rights Alliance (Republic of Ireland)  
to the Pre-Sessional Working Group of the  
United Nations Committee on the Rights of the Child  
in relation to the  
Optional Protocol on the Involvement of Children in Armed Conflict**

**11 October 2007**

**Delegation**

Maria Corbett, Policy Director, Children's Rights Alliance

Roisin Webb, Legal Policy Officer, Children's Rights Alliance

**Introductory Remarks**

On behalf of the Children's Rights Alliance, I would like to thank the UN Committee for this opportunity to give an NGO perspective on the Irish State's progress in implementing the Optional Protocol to the UN Convention on the Rights of the Child on the Involvement of Children in Armed Conflict.

The Alliance brings together over 80 NGOs who either work directly with children or are concerned with issues that affect children. We consulted with our member organisations and others interested parties in putting together our submission to the Committee.

In my presentation this afternoon I will focus on a number of issues of concern to the Alliance, principally children within the Irish armed forces and the supports provided to former child soldiers living in Ireland.

I will begin by addressing the recruitment age for the armed forces.

**1. Age of Recruitment**

Ireland operates a system of voluntary recruitment to the armed forces; there is no provision for conscription. The minimum age of recruitment to the armed forces is seventeen years for both the Permanent and Reserve Defence Forces. The minimum age of recruitment for apprentices is set at sixteen years.

Almost a quarter of recruits into the Permanent Defence Force in recent years have been under the age of eighteen upon entry; with almost half of these completing their initial training before they reach the age of eighteen.

Children under eighteen years in the armed forces are subject to an adult regime involving intensive military training, including weapons training. They are subject to military disciplinary codes, thereby losing the protections contained within our youth justice legislation. They are required to sign a contractual agreement, and are also exempt from the remit of the Office of the Ombudsman for Children. Furthermore, there are insufficient safeguards to ensure that children under eighteen years are not exposed to armed conflict.

The Alliance calls on the State to amend its declaration to the Optional Protocol to provide for a minimum age of military recruitment of eighteen years without exception or reservation, and to introduce constitutional or statutory measures to this effect.

The Defence Force Administrative Instructions set the minimum age for recruitment. These policies can be revised by the Department of Defence, without going through the parliamentary process. There is no constitutional bar to the conscription, recruitment or deployment of young people under eighteen years in the armed forces. The Alliance believes that the minimum age for recruitment should be set at eighteen on a legislative or constitutional footing.

So would a ban on the recruitment of those under eighteen years into the armed forces be welcomed? It is difficult to fully answer this question as there has been no public debate on the issue.

However, we do know from our member organisations who work directly with children, that in particular circumstances, joining the armed forces may be seen as a positive step for the child as the armed forces offer a training and career opportunity that is culturally acceptable within their communities, where alternative opportunities do not exist.

The armed forces may offer some children a stable and structured environment which they may perceive as an improvement upon difficult home or community life. Joining the armed forces also has the benefit that these children can earn a comparatively high wage, for their age, within a short period of time.

A ban on the recruitment of those under eighteen years into the armed forces may thereby leave a gap for some children for whom there are no other culturally appropriate career or training opportunities, where they can simultaneously earn a good wage.

The realities facing this group of children need to be recognised. A multi-dimensional approach, involving relevant departments should examine the establishment of alternative career and training opportunities. These alternatives could have a link to the armed forces but without the individual technically becoming part of the armed forces.

I will move now to look at the issue of children within the armed forces being involved in armed conflict.

## **2. Exposure to Armed Conflict**

Ireland's current regulations and practice do not guarantee that children under eighteen years will not participate in hostilities, become a target of attack or be sent to serve aboard.

The fact that under current practice such situations may be unlikely to occur is irrelevant. There is no legislative or constitutional safeguard to ensure that children do not become involved in armed conflict as a result of a future policy change in times of national crisis or armed conflict.

## **3. Former Child Soldiers Living in Ireland**

There is no data on the number of asylum seeking, refugee or migrant children who have come to live in Ireland from areas affected by armed conflict. Furthermore, there is no official data on the number, or circumstances, of former child soldiers now living in Ireland. Former child soldiers may now be adults.

What we do know is that NGOs in Ireland have reported coming into contact with former child soldiers over the past number of years, in particular among separated children. Since 1998, over 5,000 separated children have arrived in Ireland. Many of these children have come from countries where armed conflicts have involved the forced recruitment of child soldiers, such as the Democratic Republic of the Congo, Sierra Leone, Uganda, Angola, Liberia, Rwanda, Somalia and Afghanistan.

The Alliance is concerned that there is no formal identification mechanism or referral service for former child soldiers who have come to the attention of statutory agencies. Much more needs to be done to ensure these children's needs are met.

Identification of former child soldiers may be difficult as they be reluctant to disclose their past, given that they may have perpetrated crimes. Support is essential to assist these children to overcome the psychological after-effects of the traumas they have experienced, the crimes they have committed, and to rebuild a positive self image. The need for support to overcome such traumas may not present for some time and addressing the trauma requires skilled and often long-term intervention.

Whilst there are some specialised mental health services provided for asylum seekers and refugees in theory, we are informed that in practice these services are inadequate. This is against the background of a history of underfunding of child and adolescent mental health services, which are extremely difficult to access in Ireland.

Little is known about the current approach to asylum decisions in Ireland as only a small and select number of asylum decisions are published from the refugee determination bodies. This means we do not know what approach is taken with children seeking asylum who have fled from a situation where they have been conscripted into military forces, have voluntarily enlisted into armies under the age of eighteen or have been abducted as girl children to accompany soldiers.

Many former child soldiers have been refused asylum and are awaiting a decision on 'humanitarian leave to remain'. There is concern that the asylum process is not alert to the true experiences of these children and young people; and in some circumstances children may be inappropriately returned to their home country.

In addition to the concerns expressed above, it should be noted that the Alliance has previously expressed its serious concern to the UN Committee about the inadequate and inequitable care and supports provided to separated children in Ireland.<sup>12</sup>

## **The Way Forward**

To conclude, the Alliance believes there are four key areas where the State can make changes to ensure further implementation of the Optional Protocol.

### **A. Involvement in armed conflict**

The Alliance believes the age of voluntary recruitment should be raised to eighteen years, and that this move should be accompanied by the establishment of alternative career and training opportunities to children of sixteen and seventeen years.

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12 Children's Rights Alliance (2006) *From Rhetoric to Rights: Second Shadow Report to the United Nations Committee on the Rights of the Child*, Dublin: Children's Rights Alliance.

A move to the age of recruitment of eighteen would address our concerns in relation to children under eighteen years being involved in armed conflict, and our concerns in relation to children being subject to an adult regime, military disciplinary codes, and from being excluded from the remit of the Office of the Ombudsman for Children.

#### **B. Awareness of the Protocol**

At present, awareness of the Optional Protocol on armed conflict is confined largely to specialists working in the area of children's rights. This reflects the wider problem of the limited awareness of the Convention among policy makers, the general public and children.

The Alliance believes that the State can, and should, do more to raise awareness of the Convention and its Optional Protocols, through public awareness campaigns and the integration of such education into all military training curricula.

#### **C. Financial Assistance and Technical Co-operation**

The Alliance welcomes the State's support of the UN Development Programme DRR Trust Fund for Liberia and 'The Coalition to Stop the Use of Child Soldiers.' The Alliance calls on the State to make the recording of funds under the Irish Aid programme specific enough to enable the aid expenditure on children, and children affected by armed conflict, to be calculated and analysed over time.

#### **D. Children soldiers in Ireland**

The Alliance calls for the systematic identification of former child soldiers and the provision of specialist supports and services to assist their physical and psychological recovery and social reintegration into society. The Alliance calls for the full publication of refugee application decisions so as to enable the developing case law in relation to former child soldiers to be monitored. Furthermore, the Alliance calls for training and guidelines to ensure international best practice is followed in relation to claims for refugee status and subsidiary protection for former child soldiers and, in particular, their exemption for acts committed when the applicant was a child.

#### **Conclusion**

Ireland is proud of its armed forces and, in particular, the participation of our armed forces in the United Nations peace keeping missions. Ireland is equally proud of its humanitarian and development aid programmes, many of which focus on assisting in the rebuilding of communities who have been affected by armed conflict.

The Alliance believes that this UN process affords Ireland an opportunity to reflect on whether our history of engagement in peace keeping and development work in areas affected by hostilities is compatible with our domestic policies and laws in relation to children and armed conflict and the supports given to former child soldiers now living in Ireland.

Finally, I would like to thank the Committee members for their time and attention. The Alliance and its member organisations are committed to assisting the Committee in its examination of Ireland's report and look forward to working with the Government to implement the Committee's Concluding Observations.

#### **Children's Rights Alliance**

The Children's Rights Alliance is a coalition of over 80 non-governmental organisations (NGOs) working to secure the rights and needs of children in Ireland, by campaigning for the full implementation of the UN Convention on the Rights of the Child. The Alliance aims to improve the lives of all children under 18 years, through securing the necessary changes in Ireland's laws, policies and services.

## Appendix II: Optional Protocol on the Involvement of Children in Armed Conflict

Optional Protocol to the Convention on the Rights of the Child  
on the involvement of children in armed conflict

Adopted and opened for signature, ratification and  
accession by General Assembly resolution  
A/RES/54/263 of 25 May 2000

entered into force on 12 February 2002

The States Parties to the present Protocol,

Encouraged by the overwhelming support for the Convention on the Rights of the Child, demonstrating the widespread commitment that exists to strive for the promotion and protection of the rights of the child,

Reaffirming that the rights of children require special protection, and calling for continuous improvement of the situation of children without distinction, as well as for their development and education in conditions of peace and security,

Disturbed by the harmful and widespread impact of armed conflict on children and the long-term consequences it has for durable peace, security and development,

Condemning the targeting of children in situations of armed conflict and direct attacks on objects protected under international law, including places that generally have a significant presence of children, such as schools and hospitals,

Noting the adoption of the Rome Statute of the International Criminal Court, in particular, the inclusion therein as a war crime, of conscripting or enlisting children under the age of 15 years or using them to participate actively in hostilities in both international and non-international armed conflicts,

Considering therefore that to strengthen further the implementation of rights recognized in the Convention on the Rights of the Child there is a need to increase the protection of children from involvement in armed conflict,

Noting that article 1 of the Convention on the Rights of the Child specifies that, for the purposes of that Convention, a child means every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier,

Convinced that an optional protocol to the Convention that raises the age of possible recruitment of persons into armed forces and their participation in hostilities will contribute effectively to the implementation of the principle that the best interests of the child are to be a primary consideration in all actions concerning children,

Noting that the twenty-sixth International Conference of the Red Cross and Red Crescent in December 1995 recommended, inter alia, that parties to conflict take every feasible step to ensure that children below the age of 18 years do not take part in hostilities,

Welcoming the unanimous adoption, in June 1999, of International Labour Organization Convention No. 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, which prohibits, inter alia, forced or compulsory recruitment of children for use in armed conflict,

Condemning with the gravest concern the recruitment, training and use within and across national borders of children in hostilities by armed groups distinct from the armed forces of a State, and recognizing the responsibility of those who recruit, train and use children in this regard,

Recalling the obligation of each party to an armed conflict to abide by the provisions of international humanitarian law,

Stressing that the present Protocol is without prejudice to the purposes and principles contained in the Charter of the United Nations, including Article 51, and relevant norms of humanitarian law,

Bearing in mind that conditions of peace and security based on full respect of the purposes and principles contained in the Charter and observance of applicable human rights instruments are indispensable for the full protection of children, in particular during armed conflicts and foreign occupation,

Recognizing the special needs of those children who are particularly vulnerable to recruitment or use in hostilities contrary to the present Protocol owing to their economic or social status or gender,

Mindful of the necessity of taking into consideration the economic, social and political root causes of the involvement of children in armed conflicts,

Convinced of the need to strengthen international cooperation in the implementation of the present Protocol, as well as the physical and psychosocial rehabilitation and social reintegration of children who are victims of armed conflict,

Encouraging the participation of the community and, in particular, children and child victims in the dissemination of informational and educational programmes concerning the implementation of the Protocol,

Have agreed as follows:

**Article 1**

States Parties shall take all feasible measures to ensure that members of their armed forces who have not attained the age of 18 years do not take a direct part in hostilities.

**Article 2**

States Parties shall ensure that persons who have not attained the age of 18 years are not compulsorily recruited into their armed forces.

**Article 3**

1. States Parties shall raise in years the minimum age for the voluntary recruitment of persons into their national armed forces from that set out in article 38, paragraph 3, of the Convention on the Rights of the Child, taking account of the principles contained in that article and recognizing that under the Convention persons under the age of 18 years are entitled to special protection.
2. Each State Party shall deposit a binding declaration upon ratification of or accession to the present Protocol that sets forth the minimum age at which it will permit voluntary recruitment into its national armed forces and a description of the safeguards it has adopted to ensure that such recruitment is not forced or coerced.
3. States Parties that permit voluntary recruitment into their national armed forces under the age of 18 years shall maintain safeguards to ensure, as a minimum, that:
  - a) Such recruitment is genuinely voluntary;
  - b) Such recruitment is carried out with the informed consent of the person's parents or legal guardians;



- c) Such persons are fully informed of the duties involved in such military service;
- d) Such persons provide reliable proof of age prior to acceptance into national military service.

4. Each State Party may strengthen its declaration at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall inform all States Parties. Such notification shall take effect on the date on which it is received by the Secretary-General.

5. The requirement to raise the age in paragraph 1 of the present article does not apply to schools operated by or under the control of the armed forces of the States Parties, in keeping with articles 28 and 29 of the Convention on the Rights of the Child.

#### **Article 4**

- 1. Armed groups that are distinct from the armed forces of a State should not, under any circumstances, recruit or use in hostilities persons under the age of 18 years.
- 2. States Parties shall take all feasible measures to prevent such recruitment and use, including the adoption of legal measures necessary to prohibit and criminalize such practices.
- 3. The application of the present article shall not affect the legal status of any party to an armed conflict.

#### **Article 5**

Nothing in the present Protocol shall be construed as precluding provisions in the law of a State Party or in international instruments and international humanitarian law that are more conducive to the realization of the rights of the child.

#### **Article 6**

- 1. Each State Party shall take all necessary legal, administrative and other measures to ensure the effective implementation and enforcement of the provisions of the present Protocol within its jurisdiction.
- 2. States Parties undertake to make the principles and provisions of the present Protocol widely known and promoted by appropriate means, to adults and children alike.
- 3. States Parties shall take all feasible measures to ensure that persons within their jurisdiction recruited or used in hostilities contrary to the present Protocol are demobilized or otherwise released from service. States Parties shall, when necessary, accord to such persons all appropriate assistance for their physical and psychological recovery and their social reintegration.

#### **Article 7**

- 1. States Parties shall cooperate in the implementation of the present Protocol, including in the prevention of any activity contrary thereto and in the rehabilitation and social reintegration of persons who are victims of acts contrary thereto, including through technical cooperation and financial assistance. Such assistance and cooperation will be undertaken in consultation with the States Parties concerned and the relevant international organizations.
- 2. States Parties in a position to do so shall provide such assistance through existing multilateral, bilateral or other programmes or, inter alia, through a voluntary fund established in accordance with the rules of the General Assembly.

### **Article 8**

1. Each State Party shall, within two years following the entry into force of the present Protocol for that State Party, submit a report to the Committee on the Rights of the Child providing comprehensive information on the measures it has taken to implement the provisions of the Protocol, including the measures taken to implement the provisions on participation and recruitment.
2. Following the submission of the comprehensive report, each State Party shall include in the reports it submits to the Committee on the Rights of the Child, in accordance with article 44 of the Convention, any further information with respect to the implementation of the Protocol. Other States Parties to the Protocol shall submit a report every five years.
3. The Committee on the Rights of the Child may request from States Parties further information relevant to the implementation of the present Protocol.

### **Article 9**

1. The present Protocol is open for signature by any State that is a party to the Convention or has signed it.
2. The present Protocol is subject to ratification and is open to accession by any State. Instruments of ratification or accession shall be deposited with the Secretary-General of the United Nations.
3. The Secretary-General, in his capacity as depositary of the Convention and the Protocol, shall inform all States Parties to the Convention and all States that have signed the Convention of each instrument of declaration pursuant to article 3.

### **Article 10**

1. The present Protocol shall enter into force three months after the deposit of the tenth instrument of ratification or accession.
2. For each State ratifying the present Protocol or acceding to it after its entry into force, the Protocol shall enter into force one month after the date of the deposit of its own instrument of ratification or accession.

### **Article 11**

1. Any State Party may denounce the present Protocol at any time by written notification to the Secretary-General of the United Nations, who shall thereafter inform the other States Parties to the Convention and all States that have signed the Convention. The denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General. If, however, on the expiry of that year the denouncing State Party is engaged in armed conflict, the denunciation shall not take effect before the end of the armed conflict.
2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under the present Protocol in regard to any act that occurs prior to the date on which the denunciation becomes effective. Nor shall such a denunciation prejudice in any way the continued consideration of any matter that is already under consideration by the Committee on the Rights of the Child prior to the date on which the denunciation becomes effective.

### **Article 12**

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.
2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly and accepted by a two-thirds majority of States Parties.
3. When an amendment enters into force, it shall be binding on those States Parties that have accepted it, other States Parties still being bound by the provisions of the present Protocol and any earlier amendments they have accepted.

### **Article 13**

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States Parties to the Convention and all States that have signed the Convention.

### Appendix III: Ireland – Declaration on Ratification

The Optional Protocol was adopted by resolution A/RES/54/263 of 25 May 2000 at the fifty-fourth session of the General Assembly of the United Nations.

It was signed by Ireland on 7 September 2000 and ratified on 18 November 2002.

#### Declarations and Reservations <sup>13</sup>

##### Ireland

Declaration:

"Pursuant to article 3, paragraph 2, of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts, Ireland declares:

In general, the minimum age for recruitment into the Irish armed forces is 17. An exception is made in the case of apprentices, who may be recruited at the age of 16. However, apprentices are not assigned to any military duties until they have completed up to four years apprenticeship trade training, by which time all would have attained the age of 18.

Ireland has adopted the following safeguards to ensure that recruitment of personnel under the age of 18 is not forced or coerced:

All recruitment to the Irish armed forces is voluntary. Ireland does not practice conscription and recruitment campaigns are informational in nature. Applicants must fill in an application and are selected on the basis of suitability. Applicants who are offered a position are under no obligation to accept that position.

All applicants are required to provide proof of age. All unmarried applicants who are under 18 must have the written consent of a parent or guardian. In Ireland a person attains full age or adulthood either on attaining the age of 18 or upon marriage if they marry before that age. Under Irish law a person who is under the age of 18 years may not enter into a valid marriage unless an exemption is granted by the Circuit or High Court."

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<sup>13</sup> [http://www.ohchr.org/english/countries/ratification/11\\_b.htm#reservations](http://www.ohchr.org/english/countries/ratification/11_b.htm#reservations)

