



**Convention on the
Rights of the Child**

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COMMITTEE ON THE RIGHTS OF THE CHILD
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**WRITTEN REPLIES BY THE GOVERNMENT OF THE REPUBLIC OF
KOREA CONCERNING THE LIST OF ISSUES (CRC/C/OPAC/KOR/Q/1) TO
BE TAKEN UP IN CONNECTION WITH THE CONSIDERATION OF THE
INITIAL REPORT OF THE REPUBLIC OF KOREA UNDER ARTICLE 8 (1)
OF THE OPTIONAL PROTOCOL TO THE CONVENTION ON THE
RIGHTS OF THE CHILD ON THE INVOLVEMENT OF CHILDREN IN
ARMED CONFLICT (CRC/C/OPAC/KOR/1)**

[Replies received on 23 April 2008]

Question 1: The State party report (CRC/C/OPAC/KOR/1) states: “most of the contents of the Optional Protocol are reflected in related domestic laws and regulations” (paragraph 3). Please elaborate, indicating all the relevant legislation in relation to the provisions of the Optional Protocol.

1. Domestic legislation in relation to the provisions of the Optional Protocol is as follows:

Table 1

Domestic legislation relevant to the provisions of the Optional Protocol

Articles	Relevant domestic legislation
Article 1	Article 8 of the Military Service Act: Every man who is a national of the Republic of Korea shall be enlisted into the first militia service when he reaches eighteen years of age
Article 2	Article 20(1) of the Military Service Act: The Commissioner of the Military Manpower Administration or the Chief of General Staff of each of the armed forces may select any person who is of the age of 18 or above and signs up to serve in the military to be in active service in the Army, the Navy or the Air Force after having him/her undergo a physical examination conducted by the Commissioner of the Military Manpower Administration or the Chief of General Staff of each of the armed forces under the conditions prescribed by Presidential Decree.
Article 3	<p>Article 3(1) of the Military Service Act: Any man who is a national of the Republic of Korea shall perform faithfully his military service under the conditions prescribed by the Constitution of the Republic of Korea and this Act. Women may only perform active service by application.</p> <p>Article 9 of the Military Service Act:</p> <p>(1) The Minister of Government Administration and Home Affairs shall furnish the Commissioner of the Military Manpower Administration every year with the resident registration electronic data necessary to survey men who turn 18 and are subject to conscription in the first militia service.</p> <p>(2) Every year, The Commissioner of the Military Manpower Administration may ask the Minister of Court Administration for the electronic data pertaining to the family registrations of men who turn 18 in order to survey men who are not entered in resident registration but are subject to the conscription in the first militia service.</p> <p>(3) Matters necessary for the scope and procedures of furnishing the resident registration electronic data under paragraph (1) and survey on persons who are subject to the conscription in the first militia service but not entered in resident registration cards on the grounds they were born abroad shall be prescribed by Presidential Decree.</p> <p>(4) Matters necessary for the survey of those enlisted in the first militia</p>

	<p>service as referred to in paragraph (1) shall be determined by the Commissioner of the Military Manpower Administration.</p> <p>Article 20(1) of the Military Service Act : The Commissioner of the Military Manpower Administration or the Chief of General Staff of each of the armed forces may select any person who is of the age of 18 or above and signs up to serve in the military to be in active service in the Army, the Navy or the Air Force after having him/her undergo the physical examination conducted by the Commissioner of the Military Manpower Administration or the Chief of General Staff of each armed force under the conditions prescribed by Presidential Decree.</p>
Article 4	Article 1 of the National Security Act: The purpose of this Act is to ensure the security of the State and the subsistence and freedom of nationals, by regulating any anticipated activities compromising the safety of the State.
Article 5	Not relevant.
Article 6	<p>Article 4(2) of the Child Welfare Act:</p> <p>(1) A child policy coordinating committee (hereinafter referred to as the Committee) shall be established under the control of the Prime Minister to formulate an overall policy for children, conduct an adjustment of opinions on such policy among related ministries and agencies, and supervise and appraise the performance of the child policy, for the purposes of promoting the rights, the healthy birth and growth of children.</p> <p>(2) The Committee shall deliberate on and coordinate the following matters:</p> <ul style="list-style-type: none"> (i) Matters relating to the basic direction of a child policy and the promotion of children's rights; (ii) Matters relating to the improvement of the child policy and the support of the budget; (iii) Matters relating to mutual cooperation among related ministries and agencies concerning the child policy; (iv) Matters relating to the implementation of international treaties concerning children, and the appraisal and adjustment of the implementation; (v) Other matters referred by the chairman to the Committee. <p>Article 19(7) of the National Human Rights Commission Act : Research and recommendation with respect to the conclusion of any international treaty on human rights and the implementation of said treaty, or presentation of opinions thereon;</p>
Article 7	Not relevant

Question 2: Please provide information on the authority in charge of the implementation of the Optional Protocol. Please also indicate whether there is any mechanism available for monitoring and periodically evaluating its implementation.

2. The Child Policy Coordinating Committee was established through a revision of the Child Welfare Act in 2004. The Committee, chaired by the Prime Minister, is comprised of 12 government officials and 12 private experts. Of those government officials, nine ministers including the Health and Welfare Minister, the Justice Minister and the Education Minister are regular committee members, and three others - the Commerce and Industry Minister, the Construction and Transportation Minister and the Head of the Office of Government Policy Coordination - are appointed committee members. The private group is made up of 12 experts including representatives of child-related organizations and academic experts. The term of committee members shall be two years, and extension of the term can be granted. The Committee monitors compliance with international treaties on children for the realization of children's rights, as well as coordinating national policies concerning children. For the effective operation of the Committee, a Working Committee on Child Policy is also in place. Deliberative activities of the Committee have greatly contributed to national policies on children's rights.

3. The Child Policy Working Committee was established for the preliminary examination of the agenda of the Child Policy Coordinating Committee and the coordination of opinions from relevant ministries. The Child Policy Working Committee, chaired by the Deputy Minister of Health and Welfare, is comprised of 17 director-level officials of government agencies and 7 private experts who have ample experience and academic backgrounds on children's issues. The Working Committee, as necessary, may establish sub-committees on the rights of the child, child safety and child poverty.

4. The Child Rights Monitoring Centre was established in October 2006 to monitor compliance with the Convention on the Rights of the Child and the Optional Protocol, and to actively pursue the realization of the rights of the child. By commissioning 30 ombudspersons for the rights of the child including 20 adults and 10 children, the Government seeks to strengthen the monitoring of compliance with the Convention on the Rights of the Child. The adult group is comprised of monitoring experts from fields such as children's rights, education, law and health care. The 10 children were chosen from various backgrounds, including children living at shelters, children with disabilities and children receiving basic living assistance. The said Centre and the ombudsperson system will be operated as pilot projects until 2008 and a new operations plan will be introduced through policy coordination thereafter. For this purpose, the Government plans to provide legal grounds for the Child Rights Monitoring Centre and the ombudsperson system through a revision of the relevant law.

5. In addition, the Ministry of National Defence has established a human rights team that includes legal officers in charge of international human rights issues. It is currently monitoring and evaluating the Ministry's compliance with the Convention on the Rights of the Child and the Optional Protocol.

Question 3: Please indicate whether there is any legal provision criminalizing forced recruitment or involvement in hostilities of a person under the age of 18.

6. Since no person under the age of 18 may be enlisted into the armed forces under the Military Service Act, children cannot take part in hostilities. Therefore, it is unnecessary to have provisions criminalizing forced recruitment or involvement in hostilities of a person under the age of 18.

Question 4: Please provide information on how Korean legislation would provide protection against the involvement/recruitment of children in situations of armed conflict by armed groups, including, inter alia, armed groups that are recruiting from across borders.

7. The Government strictly prohibits the activities of armed groups. In addition, since borders are being protected by soldiers under rigid Government control, it is not possible for armed groups to exist under any circumstances. It is, therefore, not possible for children to be recruited or involved in armed conflicts by armed groups. Even if the National Security Act were interpreted in such way as to consider North Korea (the Democratic People's Republic of Korea) as an armed group, i.e., an anti-State organization, as in the case of the ruling of the Supreme Court of the Republic of Korea (Supreme Court Ruling Number 92-1148 on July 24, 1992), no issue has arisen over the implementation of the Optional Protocol, since the actual control of the Republic of Korea cannot be asserted in the area north of the military demarcation line. Particularly, assuming that North Korea is classified as an independent nation according to the current international legal order in which both South (the Republic of Korea) and North Korea (the Democratic People's Republic of Korea) are member countries of the United Nations, no issue has arisen over the implementation of provisions since there are no independent armed groups other than the national armed forces within the territory of the Republic of Korea.

Question 5: Please provide detailed information as to whether the State party assumes extraterritorial jurisdiction over the war crime of conscripting or enlisting children under the age of 15 into the armed forces or using them to participate actively in hostilities. Also in relation to extraterritorial jurisdiction, please indicate whether the courts system of the Republic of Korea have jurisdiction in case of compulsory recruitment or involvement in hostilities of a person under 18 if committed outside the Republic of Korea, by or against a Korean citizen. Please also clarify whether, in case of such extraterritorial jurisdiction being assumed, there is a requirement of double criminality for such offences.

8. According to the territorial principle, the Criminal Act of the Republic of Korea applies to both Korean nationals and aliens who commit crimes within the territory of the Republic of Korea. (article 2 of the Criminal Act) This act also applies to all Korean nationals who commit crimes outside the territory of the Republic of Korea, according to the nationality principle (article 3 of the Criminal Act). Furthermore, if aliens commit crimes outside the territory of the Republic of Korea against the Republic of Korea or Korean nationals, the Criminal Act applies under the principle of dual criminality. On the basis of the above provisions, it is prohibited for Korean nationals (both within and outside the territory of the Republic of Korea) to compulsorily recruit children under the age of 18 or to use them to participate actively in hostilities.

Question 6: Please indicate whether the military studies at military academies mentioned in paragraph 18 of the report include weapons training. And if so, please provide details. Also, indicate whether children attending military academies have adequate access to independent complaints and investigation mechanisms.

9. Weapons training is part of military studies at military academies. Military training for freshmen of the Military Academy consists of basic military training, general military training during the academic terms and summer military training.
10. The basic military training lasts five weeks and consists of three parts: survival and marksmanship (sentry training, CBR drill and personal weapons marksmanship drill), combat skill (individual combat and bayonet drill) and physical training (gymnastics, running and marching). The personal weapons marksmanship drill aims to help cadets understand personal weapon manipulation and the principle of marksmanship, and pass initial shooting tests. The bayonet drill aims to cultivate students' soldierly spirit and hand-to-hand combat tactics through teaching nine basic bayonet movements. Besides, students also go through a CBR drill, map reading and individual combat courses.
11. General military training sessions are conducted twice a year, one for each academic term, and put emphasis on individual personal weapons marksmanship, individual combat, obstacles, map reading and CBR drills.
12. Summer military training lasts six weeks and mainly focuses on weapons training in personal weapon manipulation, marksmanship and hand grenades. Additional training sessions include laying and clearing landmines, training on manipulating and setting up the B.T, and manipulating other weapons such as K-201, PZF-III and K3. Along with these, cadets go through training on individual combat, CBR, map reading, obstacles, guard duty, first aid and communication equipment.
13. The annual military training for freshmen of the Naval Academy consists of four parts: pre-entrance military training, marching training, combat swim and ground warfare training. Actual weapons training is conducted during the pre-entrance military training and the ground warfare training. The pre-entrance military training lasts seven weeks and includes trainings on bayonet drills and marksmanship. The ground warfare training lasts two weeks and includes rifle drills (K-2/5), hand grenade drills and crew-served weapons drills (K-4, 9mm R/R, 81/60mm, mortar, K-201, K-3)
14. Weapons training for freshmen of the Air Force Academy includes bayonet drills and rifle drills (K-2).
15. Since an individual admitted into a military academy must be 18 years old or older, there are no children enrolled in national military academies. It is, therefore, unnecessary to install an independent investigation mechanism for this purpose.
16. The Military Academy has a counselling (complaint) mechanism to address problems between cadets and to cultivate sound characteristics. The Cadet Regulations stipulate that cadets have the right to receive life counselling. Different types of counselling service are available at the Military Academy, and include counselling with a general counsellor, with an academic advisor and with a professor in charge of cadet discipline matters. There are no time constraints for counselling and no limit on the scope and extent of counselling. In addition, the content of counselling is strictly confidential and an online complaints mechanism is in operation to improve communication with cadets

17. Cadets at the Naval Academy can seek advice about their concerns and ask for a consultation from a humanity education counsellor, a leadership education counsellor, academic advisors, chaplains, military surgeons and discipline officers. Counselling can be sought through telephone, email, the Naval General Information System and personal visits to the offices.

18. The complaint mechanism of the Air Force Academy is accessible to cadets through the honour system, discipline officers and counselling advisors to help cadets address problems arising during cadet life.

Question 7: Please provide disaggregated data (including by sex, age and country of origin) covering the years 2005, 2006 and 2007 on the number of unaccompanied asylum-seeking, refugee and migrant children coming to the Republic of Korea from areas affected by armed conflict. In this respect, please provide information on measures adopted with regard to identification; physical and psychological recovery; and social reintegration of refugee and asylum-seeking children entering the Republic of Korea who may have been recruited or used in hostilities abroad.

19. There is no data currently available on the number of unaccompanied asylum-seeking, refugee, and migrant children covering the years 2005, 2006 and 2007. However, the number of asylum applications filed by accompanied children was nine in 2005 (three males and six females), eight in 2006 (four males and four females), eight in 2006 (four males and four females) and 13 in 2007 (seven males and six females). Among the children who filed asylum applications, the majority originated from areas affected by armed conflicts. The Republic of Korea joined the Convention relating to the Status of Refugees in 1992 and as a State party to the Convention, it is making every effort to fulfil its obligations. If a person is recognized as a refugee, a three-year residence permit is granted (initially) and can be extended. In addition, refugees may freely seek employment and obtain refugee travel certificates for the purpose of travelling outside the territory. They are also exempt from having to apply for re-entry permits. A refugee family receives basic living assistance under the National Basic Living Security Act. Four families are currently receiving assistance under this Act.

Table 2

Asylum applications filed by accompanied children (under the age of 18)*

Country of origin	Total	2005		2006		2007	
		M	F	M	F	M	F
	30	3	6	4	4	7	6
Côte d'Ivoire	4	2	1	-	-	-	1
Republic of the Congo	8	-	3	3	1	1	-
Myanmar	7	-	1	-	2	4	-
Uganda	1	-	1	-	-	-	-
Viet Nam	2	1	-	-	-	-	1
Sri Lanka	3	-	-	1	1-	1	
Nigeria	2	-	-	-	-	1	1

Nepal	1	-	-	-	-	-	1
Russia	1	-	-	-	-	-	1
Bangladesh	1	-	-	-	-	-	1

* Decision status: refugee status granted (6), humanitarian status granted (2), refused (3), voluntarily withdrawn (1), pending (18)

Source: Ministry of Justice
