

# OPTIONAL PROTOCOLS

to the  
UN Convention on the Rights of the Child



## What is an Optional Protocol:

An 'Optional Protocol' to a United Nations treaty is an additional document added to an existing treaty that can include more detail about matters that were in the original treaty, or it can deal with issues that have come up since the treaty was written. The optional protocol can add rights and obligations and provide for procedures that were not in the original treaty. A protocol is 'optional' because it is not automatically binding to States that have ratified the original treaty; States must independently ratify or accede to a protocol.

## Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography

Around 1.2 million children are trafficked each year out of which 43% of victims are forced into prostitution. Latest figures estimate that the total number of prostituted children is as high as 10 million around the world. These glaring statistics prompted the United Nations to bolster the existing Convention on the Rights of the Child and introduced the Optional Protocol that criminalized the sale and trafficking of children around the world. Pakistan signed the Convention on September 26<sup>th</sup>, 2001 but officially ratified it on July 5<sup>th</sup>, 2011. The protocol aims to bolster existing child protection laws in the country.

### Main Points of the Protocol:

- ★ All State parties shall prohibit the sale of children, child prostitution and child pornography. (Article 1)

- ✦ Member states are required to ensure that activities such as sexual exploitation of children, sale of children's organs, coercion of children into forced labor and child prostitution be curbed by effective legislation and policies. States must also make such offences punishable by appropriate penalties that take into account their grave nature. (Article 3)
- ✦ Each State shall take effective measures against offenses either committed by the individual of the country or if the victim is a national of the country. (Article 4)
- ✦ Each State shall take measures to seize and confiscate materials, assets and proceeds used to commit mentioned offenses and cooperate with other States in taking action against such offenders. (Article 7)
- ✦ State Parties shall adapt procedures which recognize the vulnerability and special needs for children and provide support services. Keep them fully informed about cases against them and allow their views, needs and concerns in any proceedings which affect their personal interests. Moreover, they are to be provided with privacy and protection for themselves and their relatives. A child's best interests must be 'a primary consideration' of the criminal justice system and special training be provided to those who work with child victims. (Article 8)
- ✦ States shall take preventive measures against offences, including banning promotional advertising, and to disseminate information about the harmful effects of the offenses. They must also provide children with social rehabilitation and access to compensation procedures. (Article 9)
- ✦ States must take all necessary steps for effective cross-national collaboration to prevent, detect and punish those who are responsible for all offences. They should also address the root causes of the offences, such as poverty and underdevelopment. (Article 10)

## Optional Protocol on the Involvement of Children in Armed Conflict

Though it is hard to ascertain the exact number of child soldiers around the world, various human rights groups estimate that around 300,000 children are engaged in armed conflicts world over. Moreover, many are often forcibly recruited or abducted to join armies, some under the age of 10. In lieu of this omnipresent crisis, an Optional Protocol to the UNCRC was adopted to assuage this growing phenomenon. The Protocol was officially introduced on May 25<sup>th</sup>, 2000 and to date has been ratified by 147 countries. Pakistan signed the Protocol on September 26<sup>th</sup>, 2001 but has not yet ratified it.

### Main Points of the Protocol:

- ✦ States shall take feasible steps to ensure that members of their armed forces who have not reached the age of 18 years take direct part in hostilities. (Article 1)
- ✦ States shall ensure that persons who have not attained the age of 18 years are not compulsorily recruited in the armed forces. (Article 2)
- ✦ States shall take into account principles contained in Article 38 of the UNCRC and recognize that children under 18 years of age require special protection. States will also ensure that recruitment is voluntary, with the consent of the parent/guardian and inform recruits of their duty beforehand. (Article 3)
- ✦ States must take all feasible measures to prevent armed groups from recruiting persons less than 18 years of age and enact strict legal measures to prohibit and criminalize such actions. (Article 4)
- ✦ States shall take all necessary legal, administrative and other measures to ensure effective implementation and enforcement of the provisions of the Protocol. States must also provide all

appropriate assistance for the physical and psychological recovery of children in armed conflict and ensure proper social reintegration. (Article 6)

## **Optional Protocol to the Convention of the Rights of the Child on a Communications Procedure**

The UNCRC is the only core human rights instrument that lacks a communications procedure that will enable children to submit complaints and seek redress for human rights violations they have experienced. Under a communications procedure, the Committee will be able to focus on individual cases when considering the UNCRC. It will also guide States as to what is required from them in such cases which will in turn help them understand the meaning of the obligations they have undertaken by acceding to the UNCRC. The Optional Protocol was tabled on December 19<sup>th</sup>, 2011 and has so far been signed by 26 countries barring any ratification. Pakistan has yet to sign and ratify the Optional Protocol.

### **Main Points of the Protocol:**

- ✦ The Committee shall be guided by the principle of the best interests of the child. It shall also have regard for the rights and views of the child and be given due weight in accordance with the age and maturity of the child. (Article 2)
- ✦ The Committee shall include in its rules of procedure safeguards to prevent the manipulation of the child by those acting on his or her behalf and may decline to examine any communication that it considers not to be in the child's best interests. (Article 3)
- ✦ A State party shall take all appropriate steps to ensure that individuals under its jurisdiction are not subjected to any

human rights violation, ill-treatment or intimidation as a consequence of communications or cooperation with the Committee pursuant to the present Protocol. ( Article 4)

- ▶ Communications may be submitted by an individual or group of individuals claiming to be victims of a violation by that State party of any of the rights set forth in either the UNCRC or its Optional Protocols. ( Article 5)
- ▶ At any time after the receipt of a communication and before a determination on the merits has been reached, the Committee may transmit to the State party concerned for its urgent consideration a request that the State party take such interim measures as may be necessary in exceptional circumstances to avoid possible irreparable damage to the victim or victims of the alleged violations. (Article 6)
- ▶ The Committee shall consider a communication inadmissible if it is anonymous, not in writing, incompatible with the provisions of the UNCRC or if all domestic options have not been exhausted. (Article 7)



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