



# **Convention on the Rights of the Child**

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## **Committee on the Rights of the Child**

### **Consideration of reports submitted by States parties under article 8, paragraph 1, of the Optional Protocol to the Convention on the involvement of children in armed conflict**

**Initial reports of States parties due in 2007**

**India\***

[29 August 2011]

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\* In accordance with the information transmitted to State parties regarding the processing of their reports, the present document was not edited.

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## Abbreviations

|                             |   |
|-----------------------------|---|
| CBSE                        | Central Board of Secondary Education                                      |
| CPF                         | Central Paramilitary Forces   |
| CWC                         | Child Welfare Committee   |
| DAVP                        | Directorate of Advertising and Visual Publicity                           |
| ICPS                        | Integrated Child Protection Scheme  |
| IMA                         | Indian Military Academy   |
| JJ Act, 2000                | Juvenile Justice (Care and Protection of Children) Act, 2000              |
| JJ (Amendment)<br>Act, 2006 | Juvenile Justice (Care and Protection of Children) Amendment Act,<br>2006 |
| JJ Rules, 2007              | Juvenile Justice (Care and Protection of Children) Rules, 2007            |
| MHA                         | Ministry of Home Affairs  |
| MWCD                        | Ministry of Women and Child Development                                   |
| NCG                         | National Coordination Group   |
| NCPCR                       | National Commission for Protection of Child Rights                        |
| NDA                         | National Defence Academy  |
| NGO                         | Non-governmental organization   |
| NHRC                        | National Human Rights Commission  |
| OP                          | Optional Protocol   |
| OTA                         | Officers Training Academy   |
| PT                          | Physical Training   |
| RIMC                        | Rashtriya Indian Military College   |
| SCPCR                       | State Commission for Protection of Child Rights                           |
| SHRC                        | State Human Rights Commission   |
| SJPU                        | Special Juvenile Police Unit  |
| SSB                         | Service Selection Board   |
| SSC                         | Short Service Commission  |
| UPSC                        | Union Public Service Commission   |

## **Glossary**

Jawans

Soldier

Rozgar Samachar

Employment News

## I. Introduction

1. The Optional Protocol on the Rights of the Child on the involvement of children in armed conflict was ratified by India on 30 November 2005, and is in effect since 30 December 2005. This is the first report by India on the status of implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. The nodal ministry, the Ministry of Women and Child Development (MWCD), has prepared the report in consultation with other concerned ministries and agencies, following the general guidelines issued by the Committee on the Rights of the Child.

2. A High Powered Committee, comprising representatives of the different Government Ministries, 18 State Governments and representatives of non-governmental organizations (NGOs), academic institutions and international agencies, was constituted by the MWCD in December 2006, to guide the preparation of the report under the Convention and the reports on the two Optional Protocols. The High Powered Committee met in February 2007 to discuss the process of preparation of these reports. The collection of information for this Optional Protocol was done simultaneously with the process of preparation, of the report as the Government had taken the decision to submit the reports under the Optional Protocols along with India's third and fourth combined periodic reports under the Convention.

3. Guidelines to the State Governments and relevant Central Government Ministries and Departments dealing with issues related to children were sent for submission of their inputs to the national report on the Convention and its two Optional Protocols.

4. Five regional-level consultations were held between July and October 2007, to obtain information from the States on the implementation of the Convention for preparation of India's third and fourth combined periodic report under the Convention and its Optional Protocols.

## II. Information relating to articles 1-7 of the Convention

### **Revised guidelines for the preparation of reports by State parties (HRI/GEN/2/Rev.6, chap. VIII)**

#### **Article 1**

5. The minimum age for recruitment of prospective officers into the Armed Forces of India (Army, Air Force and Navy) is 16 and half years. However, after enrolment, the recruits undergo training. They are sent to the operational areas only after attaining 18 years of age. The minimum age for recruitment to Central Paramilitary Forces (CPF) is 18 years. Both the Ministry of Home Affairs (MHA) and the Ministry of Defence have stated that no soldier below 18 years of age is deployed.<sup>1</sup>The provisions of Fundamental Rights, as enjoined into the Constitution of India, are adequate safeguards to prevent the State from coercing the citizens to join the Armed Forces.<sup>2</sup>

<sup>1</sup> F.No. 21-2/2000 CW, Ministry of Human Resource Development, Department of Women and Child Development, GoI.

<sup>2</sup> Ministry of Defence, GoI through letter dated 19 October 2005, D.O. No. 199/D (Coord)/2001.

## Article 2

6. There is no forced and coerced recruitment into the Armed Forces of India. Hence, article 2 of the Optional Protocol does not apply to India.<sup>3</sup>

## Article 3

### Paragraph 1

7. Recruitment to the Armed Forces in India is purely voluntary and a person below 18 years of age cannot be inducted directly into the Armed Forces and hence, does not take direct part in hostilities. Recruitment of *jawans* in the Army is carried out through open recruitment rallies and those in the age group of 18-42 years are eligible to apply.

### Paragraphs 2 and 4

8. There was internal debate held besides inter-ministerial consultations prior to the adoption of the Optional Protocol

### Paragraph 3

9. A person can join the Armed Forces either on a Permanent Commission or a Short Service Commission (SSC). Recruitment of general troops is done through recruitment rallies. (See paragraph 7 for details.)

10. Permanent Commission means a career in the Army till one retires. For a Permanent Commission, one needs to join the National Defence Academy (NDA) or the Indian Military Academy (IMA). One can take the NDA entrance exam right after class XI. After clearing the exam and a five-day Service Selection Board (SSB) interview and passing through medical tests, recruits are inducted into the NDA. There are four main entries to get into the IMA. In the final year of graduation, one needs to pass the Combined Defence Services Examination, be medically fit and join IMA as a direct entry if one comes in the merit list. The other entries are 10+2 Technical Entry, wherein one can apply after class XII examinations, and University Entry Scheme for those, who wish to apply for the Army in Pre-Final/Final Year of Engineering. The selection procedure is same as for IMA (Direct Entry), except that there are no written exams. The duration of training is 1 and a half years for IMA, five years (one year at IMA and four years at Cadet Training Wings) for 10+2 Technical Entry (including one year after commissioning) and one year for all other entries.

11. Under the SSC, one has the option of joining the Army and serving as a Commissioned Officer for 10 years. At the end of this period, the person has two options. He can either opt for a Permanent Commission or opt out. Those not selected for Permanent Commission have the option of a four years extension. They can resign at any time during this period. Once selected for SSC, one goes to the Officers Training Academy (OTA) at Chennai. The selection process is a written examination, followed by the SSB interview and medicals. For Technical (Engineering) graduates, it is direct SSB interview and medicals. If one has done National Cadet Corps Senior Division (Army) and obtained 'C' certificate with minimum 'B' grade, one can apply through the National Cadet Corps Branch

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<sup>3</sup> Ibid.

Headquarter/Zonal Headquarter to the Recruiting Directorate for a direct SSB interview. SSB-qualified candidates undergo a medical examination. The duration of training is 49 weeks. Women officers receive training at OTA, Chennai. After the written exam, there is the SSB interview followed by a medical examination.

12. The medical examination conducted before the recruitment of volunteers checks that: a candidate has robust physique and good mental health; has chest developed, with minimum 5-cm expansion; has normal hearing with each ear and good binocular vision in both eyes; is able to read 6/6 in a distant-vision chart with each eye; has colour vision of CP-III; recognizes red and green colours; has sufficient number of natural healthy gum and teeth i.e. minimum 14 dental points; and does not suffer from diseases such as deformity of bones, hydrocele and varicocele or piles.

13. The birth certificate, as in high school/school pass-out certificate, is used to verify the age of the volunteers.

14. The Ministry of Defence releases advertisements through the Directorate of Advertising and Visual Publicity (DAVP) in the *Rozgar Samachar* and in newspapers in different languages for various entries such as NDA, Combined Defence Services Examination, Technical Graduate Course, SSC (Technical & Non-Technical), etc. Advertisements are also placed in journals/magazines of educational institutions. Hoardings are erected adjacent to engineering colleges all over the country to attract technical talents into the Army. DAVP approves the sites and thereafter, hoardings giving detailed information are installed and maintained by them. Information folders, leaflets, brochures, data cards, posters and blow-ups, prepared through DAVP and private professional agencies, are widely distributed.<sup>4</sup> Each year, at the Defence pavilion at the India International Trade Fair, New Delhi, a stall is established, where recruitment information is provided to visitors. This is also done in other career fairs for students.<sup>5</sup>

## Paragraph 5

15. There are 28 training institutes operated by Armed Forces in the country. (See annex for details on list of training institutes in the country.) A description of some of these is given below<sup>6</sup>:

(a) Sainik Schools operate under the overall governance of Sainik Schools Society. At present, there are 22 Sainik Schools located in various parts of the country. These Schools prepare boys academically, physically and mentally to join the Armed Forces through the NDA. However, it is not mandatory for students to join the Armed Forces after passing out from a Sainik School. Sainik Schools admit boys into classes VI and IX. They should be in the age group of 10-11 years for class VI and 13-14 years for class IX. These Schools are affiliated to the Central Board of Secondary Education (CBSE) and follow the 10+2 pattern in science stream only;

(b) The Rashtriya Military Schools (earlier known as Military Schools), affiliated to CBSE, are residential School for boys studying in class VI to XII, and are located at four places in the country. These Schools admit boys into class VI, based on the results of an all India entrance examination. The Schools prepare the cadets for All India Senior School Certificate Examination and for joining the Armed Forces as officers. The medium of instruction is English, while Hindi is a compulsory subject for students studying in class VI

<sup>4</sup> Recruitment and Training, Ministry of Defence, GoI, <http://mod.nic.in/rec&training/welcome.html>.

<sup>5</sup> Ibid.

<sup>6</sup> Annual Report (2007-08), Ministry of Defence, GoI, Chapter 10.

to X. Just as in Sainik Schools, joining the Armed Forces is not a logical outcome for students of the Rashtriya Military Schools;

(c) The NDA is an inter-service training institution. On conclusion of this training, the cadets proceed to their respective Service Academies for further training, before being commissioned as officers into the Armed Forces. All the cadets joining the NDA after their 10+2 examination are trained in the Academy for three years, culminating into graduation, with a Bachelor of Arts (BA)/Bachelor of Science (BSc) or BSc in Computer Science. Apart from academic training, the cadets are also trained in outdoor skills, like drill, physical training (PT) and games. The academic curriculum consists of three categories of courses – the Compulsory Course, the Optional Course and the Foundation Course. The Foundation Course consists of two components, namely, Military Studies and General Studies. In Military Studies, topics such as Military History, Military Geography, Weapons and Armaments etc. are taught. General Studies covers subjects like Environmental Sciences, Geopolitics, Human Rights, Law of Armed Conflict etc. NDA has infrastructure for all-round training of cadets and a vast array of facilities like spacious and well-maintained classrooms, well-equipped laboratories, two Olympic-size swimming pools, a gymnasium, 32 football grounds, polo grounds, a cricket stadium and a number of squash and tennis courts;

(d) The Rashtriya Indian Military College (RIMC) serves as a feeder institute to the NDA. The intake in the College is at class VIII level, for boys in the age group of 11-13. The College is administered by the Union Ministry of Defence, through the Directorate General of Military Training, Army. The College offers only the science stream at the +2 level. However, to prepare cadets for the Union Public Service Commission (UPSC) examination for entry into NDA, social sciences are also taught. The curriculum requirements are exacting, yet exciting in their variety. Every activity is objective-based and precisely timed to mould future leaders;

(e) The IMA, Dehradun, aims at the fullest development of intellectual, moral and physical qualities of persons joining the Army as officers. Entry into IMA is through various modes such as graduation from NDA, graduation from Army Cadet College, through 10+2 Technical Entry Scheme, etc. PT, drill, weapon training, leadership training and practice is given the maximum thrust in the training curriculum. A young cadet learns important lessons in theory and practice of military leadership from the qualified instructors posted to the Academy. The curriculum aims at progressively exploring higher challenges for the cadets, as they move from junior terms to senior terms. Thus, they learn to cope with high levels of stress and strain through the rigours of training. The Academy endeavours to constantly upgrade the curriculum by assimilating latest trends and techniques in military training to suit the emerging trends in soldiering. By the time a cadet completes the training cycle, he is confident enough to deal with any kind of situation. In addition to nurturing training in leadership, the Academy aims at grooming cadets in personal qualities, so that he possesses strong moral and ethical fibre that helps him to rise above pettiness, uphold his self-dignity and not be swayed by emotional considerations.

16. Most of the schools operated by the Armed Forces follow the CBSE pattern of education and in order to sensitize students on human rights issues, CBSE will be starting a course on the subject.

#### **Article 4**

17. India does not face either international or non-international armed conflict situations. However, it had created a protection mandate for children much before ratifying the Optional Protocol on the Rights of the Child on the involvement of children in armed conflict. Article 21 of the Constitution says that no person shall be deprived of his life or

personal liberty except according to the procedure established by law. Article 39(e) directs the State to ensure that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity, and that they are protected against exploitation and against moral and material abandonment. Article 47 imposes on the State the primary responsibility of ensuring that all the needs of children are met and that their basic rights are fully protected.

18. Even though India does not face armed conflict, there are legislative provisions that prevent involvement of children in armed conflict and provide care and protection to children affected by armed conflict.

19. A child affected by armed conflict has been already defined by the Juvenile Justice (Care and Protection of Children) Act (JJ Act), 2000, as a child in need of care and protection. Therefore, all the measures available under this Act are available for such children, which have a standard component of minimum standards to be adhered to. The Act was amended in 2006, making it more responsive to the emerging needs of juvenile justice.

20. The Integrated Child Protection Scheme (ICPS), launched by the MWCD in 2009, is a centrally-sponsored scheme that provides a safe and secure environment for overall development of children in need of care and protection, including children in difficult circumstances, such as children affected by, or involved in armed conflict. The objective of the Scheme is to contribute to the improvement in the well-being of children in difficult circumstances, and to the reduction of vulnerabilities to situations and actions that lead to abuse, neglect, exploitation, abandonment and separation of children. These will be achieved by:

- (a) Improved access to, and quality of, child protection services;
- (2) Increased public awareness about the reality of child rights, situation and protection in India;
- (3) Clearly articulated responsibilities and enforced accountability for child protection;
- (4) Established and functioning structures at all Government levels for delivery of statutory and support services to children in difficult circumstances;
- (6) Introduction of operational-evidence-based monitoring and evaluation.

## **Article 5**

21. The Optional Protocol on the involvement of children in armed conflict was ratified by India in 2005. Since then, the country has initiated the process of implementation of the various articles of the Convention.

## **Article 6**

### **Paragraphs 1 and 2**

22. The Optional Protocol on the involvement of children in armed conflict holds similar status as other international covenants and treaties such as the Convention on the Rights of the Child.

23. The Ministry of Women and Child Development, in collaboration with the Ministry of Home Affairs and the Ministry of Defence, is responsible for the implementation of the

Optional Protocol. At the decentralized level, the State Departments are responsible for the implementation.

24. A National Coordination Group (NCG) was constituted on 8 April 2005, under the chairpersonship of the Secretary, MWCD. The NCG was strengthened and re-constituted, with expanded scope of work, on 12 October 2007. Its terms of reference include: coordination of the implementation of the Convention and its two Optional Protocols with other concerned Ministries, Departments, State Governments and NGOs.

25. At the national level, National Commission for Protection of Child Rights (NCPCR) and National Human Rights Commission (NHRC) are two autonomous bodies that monitor the violation of human and child rights. At the State level, State Human Rights Commissions (SHRCs) are functioning in 18<sup>7</sup> States. Similarly State Commissions for the Protection of Child Rights (SCPCRs) have been set up in eight States (Goa, Sikkim, Delhi, Maharashtra, Karnataka, Assam, Madhya Pradesh and Rajasthan) and other States are in the process of setting up these Commissions

### Paragraph 3

26. The 'child protection' component of the budget set aside for children by the MWCD every year covers all children in need of care and protection. Though this component has increased from 0.027 per cent in 2001-02 to 0.053 per cent in 2007-08, the increase is marginal. If we take into account the huge population of children who are exposed to various kinds of risks and deserve protection by the State, the Central Government spending on child protection is small.<sup>8</sup>

27. The social re-integration of children such as interim care, access to education and vocational training, re-integration in the family and community, etc. is provided under the Juvenile Justice (Care and Protection of Children) Amendment Act (JJ Amendment Act), 2006, by adopting child-friendly approach in the adjudication and disposition of matters in the best interest of children and for their ultimate rehabilitation.<sup>9</sup>

28. The JJ (Amendment) Act, 2006, and the Juvenile Justice (Care and protection of Children) Rules (JJ Rules), 2007, seek to promote child-friendly measures, i.e. any process, interpretation, environment and treatment that is humane and considerate and in the best interest of the child/juvenile.<sup>10</sup> The Special Juvenile Police Units (SJPU) function as a watchdog for ensuring legal protection against cruelty, abuse and exploitation of juveniles. Though alternatives to institutionalization have been provided under the JJ Act, 2000, the progress in promoting these non-institutional rehabilitative options has been rather slow, except for few States, where it is reported that the judges have given decisions in favour of probation and community based service/rehabilitation. Some States have taken initiatives for improving probation and other alternatives to institutionalization with the support of local NGOs and community.

29. The JJ Rules, 2007, recommend that proceedings should be closed, and conducted in an informal and friendly manner. For instance, the board shall not sit on a raised platform, and there shall be no witness box. Acknowledging the principle of 'right to be heard', it

<sup>7</sup> State Human Rights Commissions are in the States of Andhra Pradesh, Assam, Himachal Pradesh, Jammu & Kashmir, Kerala, Karnataka, Madhya Pradesh, Maharashtra, Manipur, Orissa, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh, West Bengal, Chhattisgarh, Gujarat and Bihar

<sup>8</sup> Annual Report (2007-08), Ministry of Women and Child Development, GoI, pp. 126-134.

<sup>9</sup> 11th Five Year Plan (2007-12), Volume II, Social Sector, Planning Commission, GoI, p. 203.

<sup>10</sup> JJ Rules, 2007, Gazette of India: Extraordinary, p.134.

promotes active involvement of children in all matters and decisions affecting their interest. Besides, the JJ Act, 2000, protects the privacy rights and prevents stigmatization, and the JJ (Amendment) Act, 2006, prohibits media from disclosing the name, address or school or any other particulars, or publishing a picture that may lead to the identification of the child.<sup>11</sup>

30. The JJ Act, 2000, ensures that the rights of the child as a victim and as a witness are respected. The Act provides for proper care, protection and treatment by catering to the development needs and by adopting a child-friendly approach in the adjudication and disposition of matters in the best interest of children and for their ultimate rehabilitation.

## **Article 7**

31. Not applicable

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<sup>11</sup> Section 21, Juvenile Justice (Care and Protection of Children) Amendment Act, 2006.

## Annex

### List of training institutes

| <i>S.No.</i> | <i>Institute</i>                                   |
|--------------|--|
| 1.           | Sainik Schools                                     |
| 2.           | Military Schools                                   |
| 3.           | Rashtriya Indian Military College (RIMC), Dehradun |
| 4.           | National Defence Academy (NDA), Khadakwasla        |
| 5.           | Indian Military Academy (IMA), Dehradun            |
| 6.           | Army Cadet College (ACC), Dehradun                 |
| 7.           | Officers Training Academy (OTA), Chennai           |
| 8.           | College of Combat, Mhow                            |
| 9.           | Junior Leaders Wing, Belgaum                       |
| 10.          | Junior Leaders Academy (JLA), Bareilly             |
| 11.          | Junior Leaders Academy (JLA), Ramgarh              |
| 12.          | Defence Service Staff College, Wellington          |
| 13.          | High Altitude Warfare School                       |
| 14.          | Counter Insurgency and Jungle Warfare School       |
| 15.          | Infantry School                                    |
| 16.          | Battle School                                      |
| 17.          | College of Defence Management                      |
| 18.          | College of Materials Management                    |
| 19.          | National Defence College                           |
| 20.          | Army Air Defence College                           |
| 21.          | School of Artillery                                |
| 22.          | ASC Centre and College                             |
| 23.          | Army Education Corps                               |
| 24.          | Military Music Wing                                |
| 25.          | Remount and Vet                                    |
| 26.          | Army School of Physical Training                   |
| 27.          | Army Sports Institute and Army Sports Nodes        |