



Submission to the Committee on the Rights of the Child: 75th Session (Pre-sessional Working Group)

June 2016

## **The United States of America: Compliance with the Optional Protocol on the involvement of children in armed conflict (OPAC)**

*The following submission includes a list of questions and suggested recommendations for the Committee.*

### **On enlistment age**

#### **Questions:**

1. Since the previous reporting session, what reviews have taken place concerning minimum enlistment age policy?
2. OPAC Annex 2 of the State Party's report shows that **6.6 per cent** of new recruits to the US armed forces were aged under 18 in 2015. What steps are being taken to reduce child recruitment?
3. How does the proportion of children enlisting in the armed forces in 2015 compare with their representation in the general population and in the civilian workforce?
4. What is the minimum age at which a child may make their initial application to enlist? Please clarify whether a child can submit an application before their 17<sup>th</sup> birthday.

#### **Recommendations:**

5. Raise the current voluntary recruitment age into the armed forces to 18 years in order to promote and strengthen the protection of children through an overall higher legal standard. (CRC/C/OPAC/USA/CO/2 p.21; CRC/C/OPAC/USA/CO/1 p.16).
6. Ensure that armed forces' recruitment campaigns are not actively targeted at children.

### **On safeguards and consent**

#### **Questions:**

7. Are parents/guardians obliged to meet with recruiters and/or attend selection events with their child?
8. How are parents'/guardians' signatures of consent verified?
9. How many times and at what stage(s) in the recruitment process are parents/guardians required to provide consent?
10. At what stage in the recruitment process are parents/guardians and children provided with written documentation containing full details of the risks, duties and legal obligations involved in military service, the terms and conditions of service, rights of discharge and how to claim them? Has this documentation been independently reviewed by educationalists to establish its readability? Please provide a copy of the documentation given to children and their parents.
11. What is the minimum literacy level required to enlist and how is this assessed? Please provide disaggregated data on recruits' assessed literacy levels for the past five years.

12. What is the minimum educational qualification required for enlistment?
13. How do recruiters verify that children and their parents/guardians have fully understood the duties and obligations entailed by enlistment?
14. With reference to the State Party's report (OPAC Annex 4), please provide disaggregated data to show the nature of the recruiter irregularities alleged and the sanctions imposed in cases of wrongdoing.
15. Please clarify whether child recruits are required actively to re-confirm their decision to enlist upon reaching 18?
16. Do children have an absolute right of discharge on request up until the age of 18?
17. Do parents/guardians have the right to withdraw consent after enlistment, if the child is still below the age of 18?
18. Please provide data on the number of children discharged from the armed forces before the age of 18 and the grounds for discharge in each case, for the past five years. Please also provide data on the number of refused requests for discharge by recruits under the age of 18 for each of the past five years, including the grounds for the request and the grounds for refusal.
19. What is the minimum period of service for which a child can enlist? How does this compare to the minimum period of service for adult recruits?
20. Please specify in detail what rights of discharge children have, and how and when these can be sought.
21. What measures are in place to prevent disproportionate targeting of children from disadvantaged backgrounds or particular ethnic/racial groups for recruitment? In particular, please comment on the ethnic and racial breakdown of child recruits compared to their representation in the general population?
22. Please provide disaggregated data by sex, sexual orientation, age, and ethnic origin on recorded allegations of bullying, harassment and assaults, including sexual assaults, in the military for each of the past five years.

**Recommendations:**

23. Abolish the recruiter quota system (CRC/C/OPAC/USA/CO/2 p.21(a)).
24. Ensure that parents/guardians are involved throughout the enlistment process and are required to meet with recruiters in person on at least one occasion.
25. Ensure children and their parents receive fully comprehensive documentation detailing the legal rights and obligations entailing from enlistment at the earliest possible stage of recruitment, in a format and language which are accessible to them. Children and their parents/guardians should have the opportunity to discuss the content and any questions they have in confidence with an independent advisor who is not part of the recruitment team.
26. Ensure, through changes to legislation if necessary, that all armed forces personnel under the age of 18 have an absolute right of discharge on request, without penalty. Ensure that parents/guardians have a legal right to withdraw consent to enlistment and have their child discharged, without penalty, at any stage prior to the age of 18.
27. Strengthen monitoring and oversight of recruiter irregularities and misconduct by effective investigation, imposition of sanctions and when necessary prosecution of recruiter misconduct. (CRC/C/OPAC/USA/CO/2 p.21(b)).

**On participation in hostilities**

**Questions:**

28. Please confirm that no children have been deployed to 'hazardous duty pay' or 'imminent danger pay' areas in the past five years.

29. What procedures are in place prevent children from being deployed with their units to areas where they are at risk of exposure to hostilities?

**Recommendations:**

30. Prohibit the deployment of children to areas where HDP and IDP have been granted. (CRC/C/OPAC/USA/CO/2 p.23).
31. Withdraw the “understanding” lodged at the time of ratification, which amounts to a reservation to article 1 of the Optional Protocol, in the interest of improving the protection of children in situations of armed conflict. (CRC/C/OPAC/USA/CO/2 p.12; CRC/C/OPAC/USA/CO/1 p.7).

## **On recruitment in schools**

**Questions:**

32. Please provide disaggregated data by sex, age, and ethnic origin on children enrolled in the Junior Reserve Officer Training Corps (JROTC) for each of the past five years.
33. Please provide disaggregated data by sex, age, and ethnic origin on children withdrawing from the JROTC for each of the past five years.
34. Please provide data on the number and location of schools operating the JROTC course for each of the past five years.
35. Please provide disaggregated data by sex, age, and ethnic origin on children who participated in the JROTC and subsequently enlisted into the armed forces, for each of the past five years.
36. Please clarify whether the use of firearms may be required for a student to complete the JROTC curriculum.

**Recommendations:**

37. Prohibit military-type training including the use of firearms for children. (CRC/C/OPAC/USA/CO/2 p.25(c)).
38. Reconsider recruitment policies and practices, by inter alia amending the No Child Left Behind Act, and ensure that recruitment practices do not actively target persons under the age of 18. (CRC/C/OPAC/USA/CO/2 p.21(a)).
39. Abolish the recruiter quota system and ensure that military recruiters’ access to school grounds be limited. (CRC/C/OPAC/USA/CO/2 p.21(a)).
40. Prohibit disclosure of information on students without prior parental consent and ensure that recruitment policies and practices are brought into line with the respect for privacy and integrity of children. (CRC/C/OPAC/USA/CO/2 p.21(b)).
41. Ensure that schools, parents and pupils are made aware of the voluntary nature of the Armed Services Vocational Aptitude Battery (ASVAB) and JROTC programmes before they are asked to consent to participate. (CRC/C/OPAC/USA/CO/2 p.21(c) and 25(a)).
42. What percentage of parents notified school districts that they wished to opt out of disclosing information to military recruiters?

## **On criminalisation**

**Recommendation:**

43. Amend the 2008 Child Soldiers Accountability Act to criminalise recruitment and use of children in armed conflict up to the age of 18 years. (CRC/C/OPAC/USA/CO/2 p.10 and 29(a)).

## **On protection, recovery and reintegration**

### **Questions:**

44. Please provide details of the policies and procedure in place to address the particular needs of children captured and/or detained by US armed forces.
45. Please provide details of any children detained by US armed forces who were transferred to the custody of Afghan authorities (pursuant to the US-Afghan Bilateral Security Agreement). What measures were taken by US authorities to ensure that these children were treated in line with international legal obligations?
46. What measures are US authorities taking in its current “Train, advise and assist” mission to Afghanistan to ensure that the rights of children involved in, or suspected of involvement in, armed conflict are protected and that they are treated in accordance with international law?

## **On arms exports and military assistance**

### **Observation:**

47. The definition of the term “child soldier” in the Child Soldier Prevention Act is “consistent with the provisions of the Optional Protocol to the Convention of the Rights of the Child [OPAC]”. Under OPAC, state “armed forces” include all forces that are regularly constituted under national law: not only the air force, army and navy, but also police and other paramilitary organisations. This has been confirmed by the Committee on the Rights of the Child, which has expressed concerns about practices of child recruitment and use by state forces other than national armies, for example:
  - a. Committee on the Rights of the Child, Sudan, concluding observations on OPAC, UN Doc. CRC/C/OPAC/SDN/CO/1, 8 October 2010, [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fOPAC%2fSDN%2fCO%2f1&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fOPAC%2fSDN%2fCO%2f1&Lang=en);
  - b. Committee on the Rights of the Child, Thailand, concluding observations on OPAC, UN Doc. CRC/C/OPAC/THA/CO/1, 21 February 2012, [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fOPAC%2fTHA%2fCO%2f1&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fOPAC%2fTHA%2fCO%2f1&Lang=en)

### **Questions:**

48. In light of the preceding paragraph, please explain why the Afghan National Police and Afghan Local Police have not been included in the annual trafficking in persons report under the Child Soldier Prevention Act as governmental armed forces or government-supported armed groups that recruit and use child soldiers.

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