



# Convention on the Rights of the Child

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## Committee on the Rights of the Child

### List of issues in relation to the report submitted by Afghanistan 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\*

1. The State party is requested to submit in writing additional, updated information (10,700 words maximum), if possible before 15 June 2021. The Committee may take up all aspects of children's rights set out in the Optional Protocol during the dialogue with the State party.
2. Please provide information on the incorporation of the Optional Protocol into domestic law and whether its provisions can be directly invoked before the courts and applied by the national authorities.
3. Please provide information on the governmental entity having primary responsibility for the implementation of the Optional Protocol, on how it ensures coordination with the relevant regional and local authorities, as well as with civil society, including the media and academia, and on the policy document for the implementation of the Optional Protocol.
4. Please inform the Committee about the following:
  - (a) With regard to paragraph 39 of the State party report,<sup>1</sup> the number of cases considered by the judiciary related to children associated with anti-government armed groups and charged under the Juvenile Code (2005), the Penal Code (2017) and/or the law on the use of alternatives to imprisonment and juvenile detention (2018), the offences with which those children have been charged and the sentences imposed, during the past three years;
  - (b) The number of children detained with their mothers held on conflict-related charges and their conditions of detention;
  - (c) The number of children detained by the National Directorate for Security, the average time of detention and the detention facilities to which the children were transferred.
5. In relation to the military school run by the Ministry of Defence referred to in paragraph 46, please provide data on the number, sex and age of the students attending it. Please inform the Committee about their status as members or not of the armed forces; their military status in the event of mobilization; their right to leave the school at any time and not to pursue a military career; and whether independent complaints mechanisms are accessible for students. Please indicate what measures are in place to guarantee the right of children to be heard during the admission process and throughout their schooling.
6. Please provide details of the measures taken to prevent the recruitment and use of children by armed forces distinct from those of the State, including:

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\* Adopted by the pre-sessional working group on 11 February 2021.

<sup>1</sup> Unless otherwise indicated, paragraph numbers refer to the report of the State party (CRC/C/OPAC/AFG/1).



(a) An update on the status of negotiations between the State party and armed groups and whether the ongoing negotiations contemplate any form of amnesty for war crimes;

(b) Any written or oral commitment made by armed groups not to recruit and use children under the age of 18 years in hostilities;

(c) Measures adopted by the State party aimed at raising awareness among armed groups of the need to prevent the recruitment of children under the age of 18 years and of their legal obligations with regard to the minimum age set in the Optional Protocol for recruitment and participation in hostilities;

(d) Whether the State party cooperates with the International Committee of the Red Cross for the above-mentioned purpose;

(e) Measures to maintain access to child protection services during the lockdown imposed to minimize the spread of the coronavirus disease (COVID-19).

7. Please inform the Committee of the measures taken:

(a) To effectively stop the recruitment and use of children by the Afghan National Police, which has been listed since 2010 in annex I of the reports of the Secretary-General on children and armed conflict;

(b) To address the cases of sexual violence against children by the national security forces identified in the 2019 report of the Secretary-General on children and armed conflict in Afghanistan (S/2019/727);

(c) To implement effectively the Ministry of Defence policy on the protection of children in armed conflict, which prohibits the use for military purposes of school premises and health-care centres, and to address the use by the national security forces and pro-government forces for military purposes of seven schools and two medical facilities;

(d) To remove explosive items from places and surrounding areas generally well-frequented by children.

8. Please provide information on criminal legislation and regulations in force, including details of the exact provisions, covering and defining the acts enumerated in articles 1, 2 and 4 and of the Optional Protocol, including:

(a) The material elements of all such acts and offences, including the definition of the compulsory recruitment and use of children in hostilities and what constitutes direct participation;

(b) The minimum and maximum penalties that can be imposed for each of those offences;

(c) Data or information on the number of prosecutions and convictions for such offences;

(d) Guarantees in place to ensure that superior orders cannot be invoked to justify acts contrary to the Optional Protocol and whether any defence and any aggravating or attenuating circumstances can apply to such offences;

(e) The statutory limitations for each of those offences;

(f) The sentences applicable under the law of the State party for attempts to commit and for complicity or participation in the offences covered by the Optional Protocol;

(g) Whether provisions covering such crimes are being considered for inclusion in transitional justice measures, such as war crimes tribunals or truth commissions, as part of the peace process.

9. Please indicate any legislation currently in force or practices that the State party considers an obstacle to the implementation of the Optional Protocol, and whether there are plans to review such legislation or practices.

10. Please indicate what national legal provisions provide for the establishment of extraterritorial jurisdiction and for the extradition of persons allegedly involved in crimes under the Optional Protocol.

11. Please provide information on the measures taken to ensure legal, psychosocial or other training for those who work with child victims of the offences prohibited by the Optional Protocol, including police officers dealing with juveniles.

12. Please provide information on the collection and analysis of disaggregated data on children incorporated in demobilization and reintegration programmes. In addition, please describe existing demobilization programmes that provide child victims of recruitment and use with assistance, paying special attention to family reunification, physical and psychological recovery and social reintegration and including information on the following:

- (a) Budget allocations for such programmes;
- (b) The level of cooperation between public entities, international partners and civil society in that regard;
- (c) The degree of participation of children in the design and implementation of such programmes;
- (d) The extent to which such programmes are age-appropriate, gender-sensitive and multidisciplinary;
- (e) Existing remedies and reparations that may be sought by child victims of recruitment and use, including child victims of *bacha bazi* practices;
- (f) Legal assistance and social services available to child victims of offences under the Optional Protocol and when the providers of such services first contact the children, including children in detention facilities of the National Directorate for Security.

13. Please provide information on any programmes and policies aimed at preventing the radicalization of children by extremist groups, including through access to information and education. Please provide information on measures taken to address the root causes of children's recruitment and participation in armed conflict.

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