

**OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD
ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICT**

**LIST OF ISSUES TO BE TAKEN UP IN CONNECTION WITH THE CONSIDERATION OF
CANADA'S FIRST REPORT (CRC/C/OPAC/CAN/1)
BY THE UNITED NATIONS COMMITTEE ON THE RIGHTS OF THE CHILD**

RESPONSES OF CANADA

Question 1: Please provide information on the number of persons below 18 recruited over the years 2003-2005, disaggregated by ethnic/minority group.

Statistics regarding the ethnicity of members of the Canadian Forces are gathered by Canada's Department of National Defence (DND) on a voluntary, self-identification basis for the purpose of complying with Canada's *Employment Equity Act*, which aims to ensure that employers provide equal employment opportunities for persons belonging to four historically under-represented groups in Canada (women, Aboriginal persons, members of visible minority groups, and persons with disabilities). Statistics are available for the years 2004 and 2005.

In 2004, there were 255 members who were 16 years of age (none of whom reported they were Aboriginal, and fewer than five¹ of whom reported they were members of visible minorities), and 1,004 members who were 17 years of age (fewer than five of whom reported they were Aboriginal, and 11 of whom reported they were members of visible minorities), who enrolled in the Reserve Forces. There were 89 members who were 17 years of age (none of whom reported they were Aboriginal, and fewer than five of whom reported they were members of visible minorities) who enrolled in the Regular Forces.

In 2005, there were two members² who were 16 years of age, and 1,149 members who were 17 years of age (fewer than five of whom reported they were Aboriginal, and 12 of whom reported they were members of visible minorities) who enrolled in the Reserve Forces. There were 76 members who were 17 years of age (none of whom reported they were Aboriginal or members of visible minorities) who enrolled in the Regular Forces.

¹ The exact number has been excluded to avoid members being personally identified.

² Information regarding ethnicity has been excluded here to avoid members being personally identified.

Question 2: *Please clarify whether the "Action Plan on Child Protection" of the Canadian International Development Agency (CIDA) (§ 20 of the State party's report), or any other program or project, provides appropriate assistance for the psychological and physical recovery and social reintegration of immigrant or refugee children in Canada who may have been involved in or affected by armed conflicts.*

The Canadian International Development Agency's mandate involves supporting poverty reduction and sustainable development in developing countries and countries in transition. Providing support to immigrant and refugee children who have resettled in Canada is undertaken by the Department of Citizenship and Immigration Canada (CIC) and by provincial and territorial governments.

While there are no provincial and territorial programs specifically aimed at assisting in the psychological and physical recovery and social reintegration of immigrant or refugee children affected by armed conflicts, services would be provided to these children through appropriate pediatric and mental health units. Individuals would receive care through existing programs as a part of the spectrum of services offered by provincial and territorial governments. For example, New Brunswick is currently providing services to a family of two children who have experienced extreme post-traumatic stress disorder as a result of armed conflict.

The Resettlement Assistance Program

Canada notes that there has been an increase in the number of war-affected children resettled in Canada in recent years. As a result, CIC has identified some best practices and is now looking at ways to replicate essential services consistently across Canada.

CIC's Resettlement Assistance Program (RAP) provides income support for resettled children for up to three years, while incorporating the ability to pay the one time costs associated with guardianship for refugee children resettled in Canada.

Further, RAP has conducted an inventory of services that will shed light on what is currently available to address the specific needs of war-affected children and youth. CIC does not currently fund a national program for war-affected refugee children. The RAP inventory, however, does report a number of *ad hoc* attempts to address the needs of refugee children and youth who have experienced trauma. The dominant program appears to be art therapy. Other programs offered by refugee reception centres across Canada include childcare support to assist parents and recreational activities for children, such as games, crafts, songs, reading books, movies, etc.

Question 3: *Please inform the Committee on the rules and procedures with regard to the apprehension of persons below 18 during hostilities, particularly with respect to the Afghanistan theatre of hostilities.*

Generally speaking, the Canadian Forces' rules and procedures regarding the capture of persons under the age of 18 during hostilities is the same as those applicable to all

captured persons.³ All persons apprehended and detained in a theatre of hostilities are treated humanely and consistent with international legal standards. In cases where a captured person, suspected of being a juvenile, is unwilling or unable to reveal their date of birth, the person will be assumed to be a juvenile until more detailed checks can be made. Once captured, all juvenile detainees are segregated from adults and are treated with special respect in accordance with Canada's international obligations, *inter alia*, the Geneva Conventions, Additional Protocol I to the Geneva Conventions, the Convention on the Rights of the Child and its Optional Protocols.

The Canadian Forces' policy on the capture of persons in Afghanistan is the same for all individuals, including those persons under the age of 18. Detainees who are not released shortly after their capture are transferred to Afghan authorities as the Canadian Forces do not possess a long-term detention capability.

The Canadian Forces have signed an arrangement with the Government of the Islamic Republic of Afghanistan with respect to the transfer of detainees from the Canadian Forces in Afghanistan to Afghan authorities.⁴ This arrangement sets out the procedures and standard of treatment to be accorded to all detained individuals transferred from the Canadian Forces to the Islamic Republic of Afghanistan. While the arrangement does not include specific provisions for juvenile detainees, it recognizes the obligations pursuant to international law to assure that detainees continue to receive humane treatment and protections to the standards set out in the Third Geneva Convention, which includes the privileged treatment of persons by reason of age.

The arrangement regarding the transfer of detainees from the Canadian Forces in Afghanistan to Afghan authorities recognises a right of visit to the International Committee of the Red Cross (ICRC), and provides for notification of the transfer of detainees by the Canadian Forces. The ICRC is mandated to visit detainees and monitor their conditions of detention during an armed conflict. To date, the ICRC has not notified Canada of any abuse or other mistreatment of any of the individuals who have been transferred to other national authorities.

The Canadian Forces meet all legal requirements when transferring detainees. International law provides for the transfer of detainees to other national authorities as long as the detaining power is satisfied that the receiving national authority is willing and able to apply the appropriate legal standards.

Question 4: *Please inform the Committee on whether the forced recruitment of children in Canada is a crime and whether that also applies in case of: (a) forced recruitment outside Canada of a Canadian citizen under 18 years of age; (b) forced recruitment outside Canada of a person under 18 years of age by a Canadian citizen. If not, please inform the Committee on whether the State party considers introducing such provisions.*

³ These rules and procedures can be found at <http://www.cdcs.forces.gc.ca/jointDoc/docs/GJ1102%20PWDITOrd.pdf>.

⁴ The arrangement can be found at http://www.forces.gc.ca/site/operations/archer/agreement_e.asp.

All recruitment into the Canadian Forces is strictly voluntary, regardless of whether the person has attained the age of 18 years. The forced recruitment of children into the Canadian Forces, either inside or outside Canada, would be contrary to this policy, which has been in place since the end of the Second World War.

Apart from laws, regulations and policies that apply to the Canadian Forces, there are numerous laws and/or regulations in Canada prohibiting the employment of children under the age of 18 in certain activities or professions, and prohibiting or restricting the employment of children in work likely to be injurious to their life, health, education or welfare. Government inspectors and appropriate enforcement mechanisms exist in all jurisdictions.

In addition, various offences in Canada's *Criminal Code* may apply to anyone who recruits children or adults to force them to work. These measures were further strengthened in November 2005, when new trafficking in persons offences came into force. These offences criminalize, *inter alia*, recruiting a person for the purposes of exploiting that person or facilitating that exploitation. Exploitation is defined to include causing a person to provide labour or services by engaging in conduct that leads that person to reasonably fear for their safety or the safety of someone known to them, if they do not comply.

Canada generally does not extend its criminal jurisdiction extraterritorially unless required to do so by international law. The most common basis on which a state assumes criminal jurisdiction over an offence is the principle of territoriality: every state has the authority to establish jurisdiction over criminal acts that take place in its own territory. The assertion of extraterritorial jurisdiction is an exception to this principle and requires special justification, typically reflected in international consensus, such as in an international convention. No such justification exists in this case.

Question 5: Canada would also like to address a related issue that appears in the Committee's 2003 Concluding Observations on Canada's Second Report on the Convention on the Rights of the Child. It reads (at paragraph 49):

The Committee recommends that the State party, in its report on this Optional Protocol, expected next year, provide information on the measures taken to give priority in the process of voluntary recruitment to those who are the oldest, in light of article 38, paragraph 3, of the Convention, and on its efforts to limit recruitment to persons of 18 years and older (and to review legislation accordingly).

The Canadian Forces do not currently take any special measures to give priority in the recruitment process to those who are the oldest. As discussed in paragraphs 4 to 13 of Canada's First Report, the minimum age of enrolment into most of the Canadian Forces programs is 17. Individuals may be enrolled in the Regular Officer Training Program to attend Royal Military College or in the Reserve Forces beginning at the age of 16, with parental consent and on the basis of reliable proof of age. The Canadian Forces provide valuable education, training and employment opportunities to these young Canadians.

However, as provided by law in section 34 of Canada's *National Defence Act*, the Canadian Forces do not under any circumstances deploy persons under the age of 18 into areas where hostilities are taking place.