



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

Initial reports of States parties due in 2006

REPUBLIC OF KOREA

[1 April 2007]

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I. INTRODUCTION

1. The Republic of Korea signed the Convention on the Rights of the Child on 25 September 1990 and deposited an instrument of ratification on 20 November 1991, under the condition that certain paragraphs in conflict with related domestic laws would be reserved accordingly. The Convention came into force in Korea on 20 December 1991. The Korean Government has since pursued innovations and reforms in various sectors of society to promote the rights of the child, and these national efforts have been and continue to be in line with the spirit of the Convention on the Rights of the Child and the Optional Protocol to the Convention.
2. This report is the initial report that the Republic of Korea submitted to the Committee on the Rights of the Child concerning the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict. This report contains compiled data on legal and institutional measures as well as policy data related to the implementation of the Optional Protocol, which was signed on 6 September 2000 and came into effect on 24 October 2004.
3. The Republic of Korea is a State party to the International Convention on Human Rights, which reaffirms a deep conviction in the necessity of basic human rights, human dignity and worth for all people. The Convention, in accordance with article 6, Provision 1 of the Constitution of the Republic of Korea, has the same effect as that of related domestic laws. Therefore, most of the contents of the Optional Protocol are reflected in related domestic laws and regulations. The Korean Government continues to strive for the faithful implementation of the Protocol to ensure, protect and promote the rights of the child based on appropriate administrative and legislative measures.
4. The Republic of Korea remains committed to protecting children from involvement in armed conflict by respecting the principles of the Convention on the Rights of the Child and the Protocol, including those principles related to non-discrimination, the best interests of the child, survival and development, and guarantee to safety, as well as freedom of participation and expression. Major national measures taken to implement the Optional Protocol are as follows:
 - (a) The minimum age for voluntary enlistment for active service in the armed forces was raised from 17 to 18 years by amending the related provision of the Military Service Act;
 - (b) An amendment was made to a specific provision in the Air Force Regulations that had formerly stipulated that any person under the age of 18 among students at the Air Force Aerial Science High School would perform basic wartime duties in times of war. This amendment effectively prevents any person under the age of 18 from being involved in armed conflict under any circumstance.

5. The Republic of Korea, in the implementation of domestic laws and administrative and institutional measures, complies with the provisions of the Optional Protocol. Currently, there is no case of any violation of the Protocol. In the future, the Korean Government will continue to improve the enforcement of this Protocol by redressing any inadequacies in close coordination among related government ministries.

II. INFORMATION RELATING TO ARTICLES 1 TO 7 OF THE OPTIONAL PROTOCOL

Article 1

Measures to ensure that children do not take part in hostilities

6. Article 39, paragraph 1, of the Constitution of the Republic of Korea stipulates that all citizens shall bear the duty of national defence under such conditions as prescribed by law. The duties of military service are governed by the Military Service Act. Under this Act, types of military service are divided into active service, reserve service, selective service, first militia service and second militia service. Every male national of the Republic of Korea shall be enlisted into the first militia service on the year he attains 18 years of age and women are excluded from conscription (Military Service Act, art. 3 (para. 1), art. 8, and art. 5 (para. 1 (4))).

7. The Military Service Act clearly states that no male national under the age of 18 may be enlisted for active or reserve service.

Table 1
Persons subject to military service by age

18 years	Entry into the first militia service (survey of persons subject to conscription examination is be conducted)					
	Conscription examination					
19 years	Pass			Fail		
	Grade 1-4			Grade 5	Grade 6	Grade 7
20 years	Postponement of enlistment	Fulfilment of obligation for the military service		Reserve service 8 years	Second militia service - persons subject to a call-up for wartime labour	To be exempted from military service
22 years						
24 years			4-year university			
26 years			Graduate school, college of oriental medicine, medical department and dental department			
27 years			Medical college, dental college and oriental medical college			
28 years						
30 years		Persons who avoided military service and persons who are not in Korea				Final decision is to be made within one year after physical re-examination
35 years						
45 years		The extension of service in wartime				

Table 2

Definition of military service by type

Active service	Persons enlisted in the armed forces by conscription or application, and officers, warrant officers, non-commissioned officers, and military cadets appointed to active services under the Military Service Act or the Military Personnel Management Act.
Reserve service	Persons who have completed active service, and persons who are transferred to reserve services under the Military Service Act.
Selective service	Persons who are judged capable of being in active service as a result of the conscription examination but not determined to be enlisted in active service due to the supply and demand of the military personnel; persons who are in service or compulsory engagement as public-interest service personnel, public-health doctors, doctors in exclusive charge of conscription examination, international cooperation doctors, public-service judge advocates, industrial technicians or professional research personnel, and other persons who have completed such service or compulsory engagement; and persons transferred to selective services under the Military Service Act.
First militia service	Persons who are under obligation to serve in the military, but are not in the active, reserve, selective or second militia service under the Military Service Act.
Second militia service	Persons who are judged incapable of being in active or selective service as a result of conscription examination or the physical examination, but determined capable of military support tasks by call-up for wartime labour, and persons who are transferred to the second militia service under the Military Service Act.

Table 3

Age distribution by type of military service

Type \ Age	Total	Under 18	18-19	20-24	Over 25
Total	960 899	-	519 543	357 007	84 349
First militia service	768 635	-	502 793	228 052	37 790
Second militia service	81 122	-	6 423	40 697	34 002
Selective service	111 142	-	10 327	88 258	12 557

Article 2

Compulsory recruitment

8. In the Republic of Korea, compulsory recruitment into the armed forces of persons under the age of 18 is prohibited by law. The related provisions of the law are as follows:

(a) Every male national of the Republic of Korea shall be enlisted into the first militia service when he attains 18 years of age;

(b) Every male national obliged to serve in the military shall undergo the conscription examination in the year that he attains 19 years of age;

(c) Persons are enlisted into active service at the age of 19 or 20 (articles 8, 9 and 16 of the Military Service Act);

(d) Only a person aged 18 or older can be enlisted into active service by voluntary application (article 20 of the Military Service Act).

9. In calculating the age for the performance of military service obligation of a person who has such obligation, the Military Service Act, under article 2, paragraph 2, stipulates that the term “from ... years of age” means “from the 1st of January in the year in which the person attains that age”, and the term “to ... years of age” means “until the 31st of December in the year in which the person attains that age”.

10. The process of enlistment into active service is as follows:

(a) Every male national of the Republic of Korea shall be enlisted into the first militia service when he attains 18 years of age in order to fulfil compulsory military service. That is when such persons may start to voluntarily apply for enlistment;

(b) Every male national shall undergo a conscription examination in the year that he turns 19. Types of military service (active service, selective service, second militia service, or military service exemption) are then determined taking the classification received in the examination (grade 1-7) into account;

(c) A person shall be enlisted into the active service in the year he receives the conscription examination or the year thereafter (the year he turns 20).

11. Those who will not be enlisted in active service as a result of the conscription examination are called into the selective service (article 5 of the Military Service Act) to serve as “public-interest service personnel”. In cases of “special case for military service”, those who are subject to active service may work in designated professional fields for a certain period of time in accordance with the qualification standards acknowledged by the Government, instead of the military services. As for the selective services and special cases for military service, no person under the age of 18 shall be enlisted into the armed forces.

12. Article 83 of the Military Service Act stipulates that special measures may be taken in exceptional cases, such as during wartime or emergencies, or in the event that an order of military mobilization is issued. However, there is no provision that provides for an exception to adjust the enlistment age to under 18.

Article 3

Voluntary recruitment

13. Under article 14, paragraph 1, of the Military Service Act, any person of the age of 18 or older may voluntarily apply for active services in the armed forces. This provision was amended on 31 December 2004 to adjust the minimum age for voluntary enlistment from 17 to 18, in order to comply with the provisions of the Protocol.

Table 4

Current status of the voluntary enlistment into the army in 2006

18	19	20	21	22	23	24	25	Over 26	Total
3 419	31 674	30 088	6 852	1 819	772	417	226	178	75 445
(4.5)	(42.0)	(39.9)	(9.1)	(2.4)	(1.0)	(0.6)	(0.3)	(0.2)	(100.0%)

14. The process of application, recruitment, and enlistment for active service for each armed forces is as follows:

- (a) Filling out the application form on the Internet;
- (b) Of applicants, the first round of selections for technical and administrative servicemen shall be made in consideration of the individual's qualifications, licences, and/or majors as stated in the application;
- (c) The final selection shall be made based on the screening procedure, including interviews and aptitude tests. Notices of enlistment shall then be issued to those who are admitted;
- (d) The persons selected for active service shall be enlisted in the armed forces on a fixed date (article 20 of the Military Service Act).

15. The posting of advertisements on Internet portal sites and other websites, distribution of related informational booklets and the streetside display of posters are all employed as measures to encourage voluntary enlistment.

16. Military service of officers, warrant officers and non-commissioned officers shall be performed on the voluntary application basis. The minimum age for appointment of non-commissioned officers is 18, while the minimum age for appointment of warrant officers and officers is 20 (article 15, paragraph 1, of the Military Personnel Act).

17. In order to provide the requisite education for those who seek to become commissioned officers in the army, the navy and the air force, each branch of the armed forces operates its own national military academy. Additionally, there are the Army Nursing Academy, which trains nursing officers, and the Korea Third Military Academy, which has a two-year curriculum for army officers.

Table 5
Curriculum of Korea Military Academy

Category		Discipline																	Credit		
		Liberal Art								Science and Engineering											
Majors		Military history	Korean history	Command psychology	English	Second foreign language	International relations	Economics	Business administration	Law	Information science	Operational analysis	Inorganic engineering	Electronic engineering	Chemical engineering	Civil engineering	Construction engineering	Environmental science	Applied physics	Applied chemistry	30
Department options		Logic (3), Sociology (3), Foreign language (3), Education (3), Methodology (3), International relations (3)								Differential equation (3), Measurement physics (3), Material chemistry (3), Environmental sciences (3), Mechanics (3), Engineering mathematics (3)									6		
		Two courses per department																			
Mandatory courses	Military studies	Military thoughts (3), World/Korean War history (5), National security theory (2), North Korean studies (3), Military ethics (3), Command theory (2), Topography/meteorology (3), Information electronic warfare (2), Weapons system (5), Virtual game (2), Military structures (2)																	32		
	Elective courses	English (12), Computing (8), Writing/conversation (5), Philosophy (2), Korean/World history (6), Economics/business administration (5), Foreign language (2), Law (3), Psychology (3), Mathematics (9), Chemistry (5), Physics (6), Electronic engineering (3), Mechanical engineering (3), Civil engineering (3)																	75		
	Physical education	Martial art and other seven subjects																	7		
Total																			150		

Table 6
Curriculum of Air Force Academy

Classification				Subject/credit		Majors (11 fields)	
				Liberal art	Science/ engineering		
General education 96~97 credits	Culture 96~97 credits	Required	General culture	19/43	20/46	(B.A.)	
			Military culture	8/24		Foreign language	
			Military culture-related	1/2~3		International relations	
		Selective	Liberal art-related	4/12	3/9	Management administration	
			Basic science-related	2/6	3/9	National defence	
			Applied science-related	3/9	2/6	(B.S.)	
	Major 39 credits	Required		7~10/21~30		Weapons science	
		Selective		3~6/9~18		Computer science	
	Optional (α)				(Extra credits)		(B.E.)
	Physical education (10)				4/10+ α		Aeronautical engineering
Military science (10)				8/10		Space engineering	
Total				62/155~156+ α		Mechanical engineering	
Credits required for graduation: more than 155 credits							
General education: more than 135 credits							
Physical education: 10 credits							
Military science: 10 credits							
Electronic engineering							
Industrial engineering							

18. The portion of subjects related to military studies at military academies is 26 per cent of the overall curriculum at the Korea Military Academy, 7 per cent at the Air Force Academy, and 29.5 per cent at the Naval Academy. With the aim of strengthening cadets' knowledge, spirit and character, all national military academies provide their cadets with a rigorous education that will enable them to fulfil their duties and will ensure their continued self-development as military officers.

19. Under the Act on Establishment of Military Academies and the Act on Establishment of Nursing Military Academies, persons admitted into a military academy must be older than 17 and younger than 21. To be admitted into the Korea Third Military Academy, persons must be 19 or older.

20. The Air Force operates the Air Force Aerial Science High School to duly educate those who plan to become Air Force non-commissioned officers specializing in aerial science. In the past, when training may not be performed during wartime, even the trainees at the school under the age of 18 were made to perform basic wartime duties, such as base patrols. In order to comply with the Protocol, Air Force Regulation 15-1 (provision on the operation of wartime education) was amended on 1 April 2005 to delete the provision providing for the performance of such duties. Accordingly, no person under the age of 18 may be involved in armed conflict under any circumstance.

Article 4

Rules relating to non-governmental armed forces

21. Assuming that North Korea (the Democratic People's Republic of Korea) is to be classified as an independent nation according to the current international legal order in which both South (the Republic of Korea) and North Korea are member countries of the United Nations, no issue has arisen over the implementation of rules relating to non-governmental armed forces, since an independent armed group other than the national armed forces of each country does not exist within the territory of the Republic of Korea.

22. Even if the National Security Act was interpreted to regard North Korea as an armed group, i.e. an anti-State organization, as in the case of the ruling of the Supreme Court of the Republic of Korea (Supreme Court Ruling No. 92-1148 on 24 July 1992), it would be impossible to take any step or to implement a related provision of the Protocol since no actual control of the Republic of Korea can be asserted in the area north of the military demarcation line. These circumstances would be regarded as an impediment to the implementation of the Protocol, and no additional measure or execution may be taken.

Article 5

National legislation and international humanitarian law

23. The Republic of Korea is a signatory to numerous international conventions on human rights and humanitarian laws, including the Convention on the Rights of the Child. Through international cooperation, the Korean Government is making active efforts to contribute to the prevention of activities that conflict with the Protocol and its implementation. Moreover, the country plays its due role in international peacekeeping activities and various international humanitarian efforts by promoting technical cooperation and financial assistance with the aim of realizing the rehabilitation of victimized children and social integration in places beset by armed conflict. Major international conventions to which the Republic of Korea is a signatory are as follows:

(a) The Convention on the Rights of the Child which came into force on 20 November 1989 and was ratified on 20 November 1991;

(b) The International Covenant on Economic, Social and Cultural Rights, which came into force on 16 December 1966 and was ratified on 10 April 1990;

(c) The International Covenant on Civil and Political Rights, which came into force on 16 December 1966 and was ratified on 10 April 1990;

(d) The Optional Protocol to the International Covenant on Civil and Political Rights, which came into force on 16 December 1966 and was ratified on 10 April 1990;

(e) The Convention on the Elimination of All Forms of Discrimination against Women, which came into force on 18 December 1979 and was ratified on 27 December 1984;

(f) The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which came into force on 10 December 1984 and was ratified on 9 January 1995;

(g) The Rome Statute of the International Criminal Court, which came into force on 17 July 1998 and was ratified on 13 November 2002.

Article 6

Implementation and compliance with the provisions of the Optional Protocol

24. At present, there is no situation in the Republic of Korea that would call for the implementation of measures to protect or support Korean children who were demobilized from previous military service. However, in line with the continuing military standoff with North Korea, legislative and administrative measures have been put in place to prevent children from becoming involved in armed conflict. Moreover, consistent efforts are being made to strengthen public awareness campaigns on international laws relating to the promotion of the rights of the child, including the contents of the Protocol.

25. The Republic of Korea has been promoting the Convention on the Rights of the Child and the Protocol by implementing other international agreements related to children and by conducting evaluations of such implementations. The Korean Government will continue to improve public awareness of children's rights as relating to their involvement in armed conflict. Additionally, as part of efforts to prevent children from any direct or indirect harm from armed conflict and to promote their rights, practical training and education germane to children's rights and international humanitarian law will be provided to parties involved in the international peacekeeping process, including relevant civilians, military personnel, and policemen.

Article 7

International cooperation

26. The Republic of Korea takes part in international efforts aimed at preventing the involvement of children in armed conflict. Accordingly, the Korean Government actively supports the Security Council initiatives and related resolutions on protecting civilians and children within areas witnessing armed conflict and supports the General Assembly resolutions on the protection of children.

27. Furthermore, the Republic of Korea has been voluntarily contributing funds worth US\$ 2.1 million annually to a variety of projects aimed at preventing the involvement of children in armed conflict, including a UNICEF project to protect children in areas beset by armed hostilities such as in Afghanistan, Sudan, and the Democratic Republic of the Congo. As an executive board member of UNICEF for a three-year period beginning in 2006, the Republic of Korea plans to provide more active support to UNICEF activities related to preventing children's involvement in hostilities.

28. In addition to numerous multilateral efforts, the Korean Government has also pursued bilateral-level action with the intent of preventing children's involvement in armed conflict. For a three-year period spanning from 2004 to 2006, the Republic of Korea provided a total of US\$ 2.3 million to areas in the West Bank and the Gaza Strip for building schools, purchasing computers for classes, and providing vitamins to students at elementary, middle, and high schools. Such assistance is believed to have contributed to preventing children's involvement in armed conflict at the source and helping to educate children on the negative effects of violence.
