

OPTIONAL PROTOCOL ON CHILDREN IN ARMED CONFLICT

A working group of the UN Commission on Human Rights has met four times since 1994 to draft an Optional Protocol to the Convention on the Rights of the Child. The fourth session of this working group has taken place on February 2-10, 1998.

The Convention on the Rights of the Child provides that states parties shall take all feasible measures to ensure that persons who have not attained the age of 15 do not take a direct part in hostilities (combat) and that states parties shall refrain from recruiting into their armed forces any person who has not attained the age of 15 (article 38(2) and (3)). The same norm is found in the Geneva Conventions.

The main objectives of the Optional Protocol are to raise the age for participation in hostilities and the age of recruitment. Another objective is to prevent the recruitment and use of children by non-governmental armed groups.

In the negotiations, there are three principal outstanding issues:

- the minimum age for participation in hostilities -- the majority of states could support 18, except a handful of countries;
- the minimum age for voluntary recruitment -- the current draft text contains options ranging from 16 to 18; and
- whether there should be any exceptions to the minimum age for recruitment -- the current draft text could provide for exceptions for training.

The Working Group has agreed, *ad referendum*, that the minimum age for compulsory recruitment (conscription) should be 18. There is also broad support for a provision that would require parties to the Optional Protocol to take all feasible measures to prevent the recruitment of persons under the age of 18 by non-governmental armed groups.

Working groups of the Commission on Human Rights work on the basis of consensus. It has become clear that it will not be possible to reach a consensus that will satisfy many states participants seeking to preserve the status quo applicable to their armed forces on one or more of the above issues.