

United Kingdom

Child Soldiers International: Submission to the UN Universal Periodic Review

Second Cycle, 13th Session 2012

Key words: *Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OPAC), armed forces, children.*

1. Child Soldiers International is an international human rights research and advocacy organization which campaigns for the effective implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, a global ban on any form of military recruitment of boys and girls below the age of 18, and a definitive end to the military use of children in any capacity. The organization was previously known as the Coalition to Stop the Use of Child Soldiers.
2. In this submission, Child Soldiers International provides information relating to the recruitment and use of children by the British armed forces. In section 1, Child Soldiers International raises issues concerning national legislation, adherence to international human rights standards and implementation of the recommendations of the Working Group on the Universal Periodic Review. In section 2, we describe implementation of human rights obligations and commitments, including the Concluding Observations of the Committee on the Rights of the Child.
3. Recommendations are included in relation to each area of concern.

Child Soldiers International documents for further reference, available at www.child-soldiers.org:

- “Catch 16-22: Recruitment and retention of minors in the British armed forces”, (March 2011).
- “An assessment of the implementation of the recommendations of the UN Committee on the Rights of the Child on the UK’s compliance with the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OPAC)”, (November 2011).

Section 1: BACKGROUND AND FRAMEWORK

A. Scope of international obligations

4. The United Kingdom ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OPAC) in 2003. Upon signature (and confirmed upon ratification), the United Kingdom made a declaration detailing circumstances in which it would continue to deploy soldiers aged below 18 years to take direct part in hostilities. This declaration has the effect of a reservation, contrary to the object and purpose of OPAC, which prioritises perceived military necessity over the rights and welfare of the child. The declaration does not specify any minimum age below which no soldier would be deployed.
5. The United Kingdom accepted the recommendation of the Working Group on the Universal Periodic Review to “Consider removal of its reservations to the Convention on the Rights of the Child and the Optional Protocol on the involvement of children in armed conflict” but stated that the government’s declaration upon signature of OPAC was an “interpretive statement” rather than a reservation.¹ As the declaration limits the legal effect of article 2 of OPAC, it amounts in effect to a reservation.² The reservation / declaration has not been reviewed or removed following acceptance of this recommendation.
6. The Committee on the Rights of the Child and the United Kingdom’s parliamentary Joint Committee on Human Rights have also recommended that the United Kingdom’s declaration on OPAC be reviewed.³ These recommendations have not been implemented.

B. Constitutional and legislative framework

Recruitment age

7. The Armed Forces (Enlistment) Regulations 2009 establish the minimum recruitment age as 16 years. This is the lowest age permitted under OPAC and is contrary to other national legislation which prohibits persons aged below 18 years from signing legal contracts. The United Kingdom has not reviewed the minimum recruitment age since ratifying OPAC in 2003. The United Kingdom has the lowest recruitment age in Europe and is the only permanent member of the UN Security Council to recruit 16 year-olds.
8. Commenting on the United Kingdom’s progress in implementing the UPR recommendations, the Equalities and Human Rights Commission (Britain’s national

¹ See: Human Rights Council, *Report of the Working Group on the Universal Periodic Review - United Kingdom of Great Britain and Northern Ireland: Addendum, Views on the conclusions and/or recommendations, voluntary commitments and replies presented by the State under review*, A/HRC/8/25/Add.1, 25 August 2008, para.6.

² See: Vienna Convention on the Law of Treaties, Article 2.1.d: “reservation” means a unilateral statement, however phrased or named, made by a State, when signing, ratifying, accepting, approving or acceding to a treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that State.

³ See: Committee on the Rights of the Child, *Concluding Observations on the United Kingdom of Great Britain and Northern Ireland*, 17 October 2008, CRC/C/OPAC/GBR/CO/1, para.11; House of Commons/ House of Lords Joint Committee on Human Rights, *Children’s Rights*, 2009, para.143.

human rights institution) encouraged the United Kingdom to cease recruiting children into the armed forces.⁴

9. The Committee on the Rights of the Child, the United Kingdom's parliamentary Joint Committee on Human Rights, and the United Kingdom's parliamentary Defence Select Committee have all recommended that the minimum recruitment age be reconsidered with a view to raising it to 18 years, but these recommendations have not been implemented.⁵

Discriminatory terms of employment

10. Under the Army Terms of Service (Amendment etc.) Regulations 2008 child recruits entering the Army are legally committed to serve until they are at least 22 years old. This means that recruits enlisting aged 16 or 17 must serve a minimum of six or five years respectively. In contrast, recruits enlisting aged 18 or above only serve for a minimum of four years. Consequently, a 16-year-old recruit is bound by a minimum service period 50 per cent longer than an adult recruit. Similar discrepancies in minimum terms of service for child recruits in the Royal Air Force and Royal Navy were eliminated in 2001.
11. This disparity in Army terms of employment does not appear to be compliant with national legislation in the form of Article 39 of the Equality Act 2010, which prohibits discrimination (including on the grounds of age) in terms and conditions of employment.

C. Policy measures

12. The Ministry of Defence has issued administrative guidelines relating to deployment of soldiers aged below 18 years. These guidelines contain the same exceptions found in the United Kingdom's declaration upon signature of OPAC (above) and therefore do not constitute an absolute prohibition on the deployment of children into hostilities. The guidelines effectively reassert the United Kingdom's reservation against article 1 of OPAC.

Recommendations:

- The United Kingdom should immediately withdraw its declaration to OPAC and amend armed forces guidelines to implement an absolute prohibition on the deployment of children into hostilities, in all circumstances.
- The United Kingdom should immediately raise the armed forces minimum recruitment age to 18 years.
- The United Kingdom should immediately amend the Army Terms of Service (Amendment etc) Regulations 2008 to end unfavourable age discrimination in minimum service periods for child recruits.

⁴ See: Equality and Human Rights Commission, *UK Government UPR Mid-term Report: Report from the Equality and Human Rights Commission*.

⁵ See: Committee on the Rights of the Child, *Concluding Observations on the United Kingdom of Great Britain and Northern Ireland*, 17 October 2008, CRC/C/OPAC/GBR/CO/1, para.13; House of Commons/ House of Lords Joint Committee on Human Rights, *Children's Rights*, 2009, para.143; House of Commons Defence Committee, *Duty of Care*, 2005, para.14.

Section 2: PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

A. Implementation of international human rights obligations

Increased child recruitment

13. Since 2008 the United Kingdom has continued to recruit children into its armed forces in large numbers.

Recruitment intake		% of total recruitment intake aged 16	% of total recruitment intake aged 17	% of total recruitment intake aged below 18	Number of recruits aged 16	Number of recruits aged 17	Total number of recruits aged below 18
	Year						
All armed forces	2008/09	11	14.4	25.4	2,495	3,285	5,780
	2009/10	9.2	12.2	21.4	2,010	2,665	4,675
	2010/11	12.8	11.3	24.1	1,460	1,300	2,760
Army	2008/09	13.6	14.9	28.5	1,980	2,155	4,135
	2009/10	12.7	12.9	25.6	1,795	1,835	3,630
	2010/11	17.4	12.4	29.8	1,400	1,000	2,400
Navy / Marines	2008/09	7.8	13.8	21.6	315	550	865
	2009/10	3.7	10.5	14.2	155	435	590
	2010/11	2.4	9.9	12.3	60	220	280
Air Force	2008/09	4.7	13.6	18.3	200	580	780
	2009/10	1.7	11.4	13.1	60	395	455
	2010/11	1.1	6.6	7.7	10	80	90

(Source: www.dasa.mod.uk)

14. In 2010/11 the number of children recruited into the armed forces (as a percentage of overall recruitment intake) rose significantly for the first time on record. This was a dramatic reverse to the steady downward trend in child recruitment evident over the previous decade. The increase resulted from a four percent rise in the recruitment of 16 year-olds which meant that for the first time the United Kingdom recruited more 16 year-olds than 17 year-olds. This was in direct contravention of the recommendations of the Committee on the Rights of the Child that the United Kingdom should reconsider its policy of actively recruiting children, raise its minimum recruitment age to 18 years and, for as long as it continued to recruit children, prioritise recruitment of the oldest among child recruits.⁶

⁶ See: Committee on the Rights of the Child, *Concluding Observations on the United Kingdom of Great Britain and Northern Ireland*, 17 October 2008, CRC/C/OPAC/GBR/CO/1, paras.13 and 15.

15. Deliberate, increased targeting of children for recruitment into the armed forces is contrary to the spirit and intention of OPAC, to the explicit recommendations of the Committee on the Rights of the Child,⁷ and is in marked contrast to the positive international trend towards prohibiting all forms of child recruitment (more than 130 states now have an armed forces minimum recruitment age of 18 or above).

Deployment of children into hostilities

16. As a consequence of its high levels of child recruitment and failure to implement a total prohibition on deployment of soldiers aged below 18 years the United Kingdom has repeatedly exposed to children to the risk of participation in hostilities. Between 2003 and 2005 fifteen soldiers aged below 18 years were deployed to Afghanistan and Iraq. Five more underage soldiers were deployed between 2007 and 2010.⁸

Recommendations:

- The United Kingdom should immediately end its practice of actively targeting children for recruitment into the armed forces.
- The United Kingdom should raise the minimum age for recruitment into the armed forces to 18 years.
- The United Kingdom should implement and enforce an absolute prohibition on the deployment of children into hostilities, in all circumstances.

⁷ See: Committee on the Rights of the Child, *Concluding Observations on the United Kingdom of Great Britain and Northern Ireland*, 9 October 2002, CRC/C/15/Add.188, para. 54(b), “While it recruits persons who have attained the age of 16 years but who have not attained the age of 18 years, endeavour to give priority to those who are the oldest in light of article 38, para. 3 of the Convention and strengthen and increase its efforts to recruit persons of 18 years and above”.

⁸ See: Hansard, HC Deb: 1 February 2007, c508w; House of Lords / House of Commons Joint Committee on Human Rights, *Legislative Scrutiny: Armed Forces Bill Session 2010–11*, May 2011.