

India's Child Soldiers:

Government defends officially designated terror groups' record on the recruitment of child soldiers before the UN Committee on the Rights of the Child



ASIAN CENTRE FOR HUMAN RIGHTS



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on the Rights of the Child

A shadow report to the UN Committee on the Rights of the Child on the
Involvement of Children in Armed Conflict



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I. Abbreviations

ACHR	Asian Centre for Human Rights
AFSPA	Armed Forces Special Powers Act
AOGs	Armed Opposition Groups
CRC	Convention on the Rights of the Child
DGP	Director General of Police
ICRC	International Committee of the Red Cross
IED	Improvised Explosives Devices
LEW	Left Wing Extremists
MHA	Ministry of Home Affairs
MWCD	Ministry of Women and Child Development
NCPCR	National Commission for Protection of Child Rights
SPOs	Special Police Officers
UAPA	Unlawful Activities Prevention Act
JJ(C&PC) Act	Juvenile Justice (Care and Protection of Children) Act

II. Glossary

<i>Naxals</i>	Ultra left wing in surgents
<i>Bal Sangathan</i>	Children's organization of the Maoists
<i>Salwa Judum</i>	Counter insurgency armed movement against the Naxalites in Chhattisgarh

1. Preface

This report is the first comprehensive report on the recruitment and involvement of children in India's burgeoning internal armed conflicts which currently afflicts 197 out of 640 districts. It has been prepared for submission as a shadow report to the Periodic Report of the Government of India on the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict. India had submitted its Periodic Report in 2011 and the UN Committee on the Rights of the Child is scheduled to consider it during its *66th pre-sessional working group to be held in Geneva from 7-11 October 2013*.

Apart from the field research, this report has been prepared based on the "Technical Seminar on Preparation of the Shadow Report to the UN Committee on the Rights of the Child on the Involvement of Children in Armed Conflict" organised by Asian Centre for Human Rights on 23-24 March 2013 in New Delhi. The participants included mainly activists from the conflict affected areas and their names are being kept confidential as disclosure may put them at risk of reprisals from the armed opposition groups (AOGs) which have been recruiting children.

This report also includes India's periodic report, proceedings before the National Commission for Protection of Child Rights (NCPCR) on recruitment of children as boy orderlies under the Madhya Pradesh Police Regulation, India's surrender and rehabilitation policies on the AOGs, and finally, Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict for awareness raising in India.

Suhas Chakma
Director

2. Theatre of the absurd: Government defends officially designated terror groups' record on the recruitment of child soldiers before the UN Committee on the Rights of the Child

India faces insurgency to a considerable extent and as of March 2013, a total 197 out of 640 districts remain officially designated as “disturbed” under the Armed Forces Special Powers Act (AFSPA), 1958 and as Left Wing Extremism affected. Further, 35 armed opposition groups (AOGs) remained banned by the Government of India as terrorist organisations under the Unlawful Activities (Prevention) Act, 1967. The Ministry of Home Affairs (MHA) and the Ministry of Defence (MoD) of the Government of India recognize the insurgency problems faced by India and record the human costs of the conflicts in their Annual Reports.

The recruitment of child soldiers is rampant and hundreds of children remain involved in the conflicts. Both the government and the armed opposition groups have recruited children including for combat purposes since India signed the Optional Protocol on the Involvement of Children in Armed Conflict on 5 Nov 2004 and further ratified it on 30 November 2005.

In June 2005, the *Salwa Judum*, an anti-Naxalite campaign, was launched in Dantewada district of Chhattisgarh with the support of the State Government. Hundreds of members of the *Salwa Judum* campaign were given full military training as Special Police Officers (SPOs) and many of the SPOs were below 18 years as found by Asian Centre for Human Rights after field visit in March 2006. The *Salwa Judum* campaign has since been banned by the Supreme Court of India in a judgement dated 5 July 2011. However, recruitment of hundreds of SPOs with little regard for minimum age standards continues across the Naxal affected States.

Further, Section 60 of the Madhya Pradesh Police Regulation allows recruitment of children below 18 years as “boy orderlies” of the State Police. While hundreds of children below 18 years have been recruited as “boy orderlies” in Madhya Pradesh, the State government of Chhattisgarh on a complaint filed by Asian Centre for Human Rights (ACHR) before the National Commission for Protection of Child Rights (NCPCR) admitted that there are approximately 300 “Balarakshaks” employed in the state police force at present and seven of them were posted with 4th Battalion of Chhattisgarh Police at Mana in Raipur.¹ The armed battalions are engaged in counter insurgency.

There is no doubt that armed opposition groups (AOGs) have been more responsible for recruitment/involvement of children in armed conflicts than the State forces. While there

1.NCPCR complaint No. CG-11011/22675/10-11-Comp/6726 dated 21/07/2011

are no official estimates, it is believed that at least 3,000 children i.e. about 500 in the North East India and Jammu and Kashmir and about 2,500 in the Left Wing Extremism (LWE) affected areas are involved in the conflicts. This is excluding those who have become adult since their recruitment. All the insurgent groups irrespective of their ideology or origin and place of operation recruit children, not necessarily only for combat purposes.

Many of the child soldiers have surrendered before the highest authorities of the Government of India. These include surrender of about 568 cadres of the *United People's Democratic Solidarity* in front of Director General of Police (DGP) of Assam Shankar Barua, General Officer Commanding (GOC) 4 Corps of the Indian Army, Lt Gen Shakti Gurung and other officials on 14 December 2011 and about 1,695 members of various armed opposition groups surrendered before India's then Home Minister P Chidambaram and Assam Chief Minister Tarun Gogoi in Guwahati, Assam on 24 January 2012. The photographs taken during the surrender ceremony as shown in this report establish the recruitment of children by the AOGs beyond any reasonable doubt.

Despite such evidence, the Government India, in its periodic report relating to Article 4 of the Optional Protocol on the recruitment of child soldiers by the armed groups, states that "*India does not face either international or non-international armed conflict situations*". The Government of India provides no information about the recruitment of child soldiers by the AOGs and virtually absolved the recruitment of child soldiers by the AOGs, which are otherwise officially designated as terrorist organizations, from the scrutiny of the UN Committee on the Rights of the Child.

Nothing could be more absurd!

3. Commentary on India's periodic report

3.1 India's denial on existence of armed conflict is a lie

In 2011, the Government of India submitted its first Periodic Report on the status of implementation of the Optional Protocol to the Convention on the Rights of the Child (CRC) on the Involvement of Children in Armed Conflict. The report prepared by the Ministry of Women and Child Development has failed to provide factual information on the involvement of children in armed conflict. The Government of India totally denied the existence of any armed conflict in India and therefore the involvement of children in it. The Government of India has stated, *“Even though India does not face armed conflict, there are legislative provisions that prevent involvement of children in armed conflict and provide care and protection to children affected by armed conflict.”*

The statement of India is untrue and contrary to the official position at home especially when the Ministry of Home Affairs recognise that India's security forces are engaged in “battle” with the armed opposition groups as given below.

First, the existence of armed conflicts is acknowledged in the Annual Reports of the Ministry of Home Affairs. In the latest Annual Report for the year 2011-12, the MHA has stated, *“The operations against the Left Wing Extremists continued. The security forces achieved some notable successes in arresting/neutralizing elements of the top leadership. However, this is a long drawn out battle and needs to be persevered with both in terms of operations against the armed elements as well as the all round development of LWE affected areas.”*² As per the MHA, a total of 13,846 civilians and 4,807 security force personnel have been killed in Jammu and Kashmir (upto 31.12.2011) since inception of militancy in the state.³ In the North East, 219 Security forces personnel and 1392 civilians have been killed in the conflicts during 2007-2011.⁴ Further, at least 3,240 persons have been killed in the conflict with the Naxalites during 2008-2011 in more than nine states namely Andhra Pradesh, Bihar, Chhattisgarh, Jharkhand, Madhya Pradesh, Maharashtra, Odisha, Uttar Pradesh, West Bengal, etc.⁵

The Ministry of Defence, Government of India in its latest 2011-2012 Annual Report states the following on armed conflicts:

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2. Ministry of Home Affairs, Annual Report 2011-2012, P 6, available at [http://www.mha.nic.in/pdfs/AR\(E\)1112.pdf](http://www.mha.nic.in/pdfs/AR(E)1112.pdf)
 3. Ministry of Home Affairs, Government of India, Annual Report 2011-2012, P 7, available at [http://www.mha.nic.in/pdfs/AR\(E\)1112.pdf](http://www.mha.nic.in/pdfs/AR(E)1112.pdf)
 4. These include 93 Security Forces (SFs) and 755 civilians in Assam; 11 SFs and 29 civilians in Meghalaya; 12 SFs and 35 civilians in Tripura; 5 SFs and 26 civilians in Arunachal Pradesh; 4 SFs and 137 civilians in Nagaland; 4 SFs and 3 civilians in Mizoram; and 90 SFs and 407 civilians in Manipur. Figures available at Ministry of Home Affairs, Annual Report 2011-12, pp 349-350, available at [http://www.mha.nic.in/pdfs/AR\(E\)1112.pdf](http://www.mha.nic.in/pdfs/AR(E)1112.pdf)
 5. Ministry of Home Affairs, Annual Report 2011-12, p 30, available at [http://www.mha.nic.in/pdfs/AR\(E\)1112.pdf](http://www.mha.nic.in/pdfs/AR(E)1112.pdf)

“Internal Security Challenges

1.27 India has been facing multifaceted internal security challenges which have included left wing extremism, an ongoing proxy war in Kashmir and militancy in some Northeast states.

1.28 Attempts at infiltration into Jammu and Kashmir by terrorists from Pakistan and Pak occupied Kashmir (POK) are continuing cause for concern, although such attempts are being effectively tackled by the Security Forces. The security situation in the North-Eastern States has continued to improve. The activities of certain militant groups who continue to be engaged in building up capabilities are being closely monitored. In view of the external linkages of some of these insurgent groups, it will be necessary to remain alert and prepared to tackle the problem of militancy in the region.”⁶

Second, there are 197 districts in India which are officially notified as affected by internal armed conflicts. These 197 districts notified as conflict affected include: 71 districts notified as “disturbed” under the Armed Forces Special Powers Act (AFSPA) in Assam⁷, Arunachal Pradesh⁸, Manipur⁹, Meghalaya¹⁰, Nagaland¹¹ and Tripura¹² in the north east India and 20 out of 22 districts in Jammu and Kashmir; and 106 districts declared as Left Wing Extremism affected in nine states of Andhra Pradesh, Bihar, Chhattisgarh, Jharkhand, Madhya Pradesh, Maharashtra, Orissa, Uttar Pradesh and West Bengal.

Third, India has invited the International Committee for Red Cross (ICRC) to monitor the situation in Jammu and Kashmir. The mandate of the ICRC delegates is to “visit people arrested in connection with the situation in Jammu and Kashmir, who are held both within the state and in other parts of India, to monitor their treatment and living conditions”.

As India denied the existence of armed conflicts, there is no question of India promoting and implementing the provisions of the Optional Protocol to the CRC on the involvement of children in armed conflict. The periodic report of India should not be treated seriously by the UN Committee on the Rights of the Child.

6. Ministry of Defence Annual Report 2011-12, p 30, available at <http://mod.nic.in/reports/welcome.html>

7. Entire state of Assam with 27 districts is notified as disturbed

8. Three districts are notified as disturbed in Arunachal Pradesh while eight districts share border with Assam.

9. Entire state of Manipur with nine districts, except Imphal Municipality area, is notified as disturbed

10. As per the notification of the Ministry of Home Affairs, ‘Disturbed Area’ under the AFSPA includes areas that fall within a 20-km belt in Arunachal Pradesh and Meghalaya along their border with Assam. Five districts of Meghalaya share border with Assam.

11. Entire state of Nagaland with 11 districts is notified as disturbed

12. In Tripura, 34 out of 70 police Stations in eight districts are notified as fully disturbed and six police stations as partially disturbed

3.2. Non-implementation of the Optional Protocol to the CRC

Article 1: India's recruitment of child soldiers

Article 1 States that "States Parties shall take all feasible measures to ensure that members of their armed forces who have not attained the age of 18 years do not take a direct part in hostilities."

i. Report of the Government of India

In its periodic report to the UN Committee on the Rights of the Child, India stated:

"5. The minimum age for recruitment of prospective officers into the Armed Forces of India (Army, Air Force and Navy) is 16½ years. However, after enrolment, the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict recruits undergo training. They are sent to the operational areas only after attaining 18 years of age. The minimum age for recruitment to Central Paramilitary Forces (CPF) is 18 years. Both the Ministry of Home Affairs (MHA) and the Ministry of Defence have stated that no soldier below 18 years of age is deployed. The provisions of Fundamental Rights, as enjoined into the Constitution of India, are adequate safeguards to prevent the State from coercing the citizens to join the Armed Forces".

ii. The reality on the ground

The periodic report of the Government of India is economical with the truth. Across the armed conflict afflicted areas, it is not only the Central Government (Ministry of Home Affairs and the Ministry of Defence) which recruits the security forces. Law and order being a "state subject" under the Constitution of India, the State Governments also recruit soldiers including for Armed Police and State Police Commandos. The State Governments have been recruiting child soldiers.

In March 2006, Asian Centre for Human Rights was the first organization to expose the recruitment of child soldiers by the State Government of Chhattisgarh in its report, *The Adivasis of Chhattisgarh Victims of the Naxalite movement and Salwa Judum campaign*.¹³ The children were recruited as Special Police Officers (SPOs). With respect to a petition filed against the *Salwa Judum* campaign, on 5 July 2011, the Supreme Court of India held as under:¹⁴

"75. We order that:

(i) The State of Chattisgarh immediately cease and desist from using SPOs in any manner or form in any activities, directly or indirectly, aimed at controlling,

13. Asian Centre for Human Rights, "The Adivasis of Chhattisgarh Victims of the Naxalite movement and Salwa Judum campaign", 17 March 2006, P 42, available at <http://www.achrweb.org/reports/india/Chattis0106.pdf>

14. "NANDINI SUNDAR & ORS. VERSUS STATE OF CHATTISGARH", The full Supreme Court order is available at <http://supremecourtindia.nic.in/outtoday/wc25007.pdf>

countering, mitigating or otherwise eliminating Maoist/Naxalite activities in the State of Chattisgarh;

(ii) The Union of India to cease and desist, forthwith, from using any of its funds in supporting, directly or indirectly the recruitment of SPOs for the purposes of engaging in any form of counterinsurgency activities against Maoist/Naxalite groups;

(iii) The State of Chattisgarh shall forthwith make every effort to recall all firearms issued to any of the SPOs, whether current or former, along with any and all accoutrements and accessories issued to use such firearms. The word firearm as used shall include any and all forms of guns, rifles, launchers etc., of whatever caliber;

(iv) The State of Chattisgarh shall forthwith make arrangements to provide appropriate security, and undertake such measures as are necessary, and within bounds of constitutional permissibility, to protect the lives of those who had been employed as SPOs previously, or who had been given any initial orders of selection or appointment, from any and all forces, including but not limited to Maoists/Naxalites; and

(v) The State of Chattisgarh shall take all appropriate measures to prevent the operation of any group, including but not limited to Salwa Judum and Koya Commandos, that in any manner or form seek to take law into private hands, act unconstitutionally or otherwise violate the human rights of any person. The measures to be taken by the State of Chattisgarh shall include, but not be limited to, investigation of all previously inappropriately or incompletely investigated instances of alleged criminal activities of Salwa Judum, or those popularly known as Koya Commandos, filing of appropriate FIR's and diligent prosecution.”

After the Supreme Court declared the appointment of the SPOs in Chhattisgarh as “illegal and unconstitutional”, the Chhattisgarh State government responded by inducting the SPOs into regular police force retroactively without any training and consideration of educational qualification. The State Government of Orissa announced that Special police officers appointed in Orissa would be inducted as police constables after completing three years of service. Chief Secretary B K Patnaik stated that altogether 4,500 youths had been appointed as SPOs in Orissa by August 2011 and the government was not adverse to recruiting more under the scheme.¹⁵ The Government of India also sanctioned the Jharkhand government's proposal on further recruitment of nearly 3,500 SPOs in rural areas to assist the state police forces.¹⁶ Similarly, the State of West Bengal also issued a

15. Orissa for giving permanent jobs to SPOs, Zeenews, 10 August 2011 available at http://zeenews.india.com/news/odisha/orissa-for-giving-permanent-jobs-to-spos_725428.html

16. Jharkhand's Special Police Officers' recruitment stalled, 3 August 2011 available at http://www.business-standard.com/article/economy-policy/jharkhand-s-special-police-officers-recruitment-stalled-111080300075_1.html

notification in September 2011 for recruitment of 5,000 youths as special police constables to counter the Naxalites in Junglemahal area.¹⁷

While the State has every right to recruit, the age of the recruited ones is usually written as 18 years without verification. In some instances, no school certificates were taken as the authorities claims that the scheme is being conducted for the welfare of the tribals.

Article 2 and Article 3: Compulsory recruitment into armed forces

Article 2 of the Optional Protocol to the CRC provides that “States Parties shall ensure that persons who have not attained the age of 18 years are not compulsorily recruited into their armed forces.” Article 3 of the Optional Protocol to the CRC further provides that the minimum age for the voluntary recruitment of persons into their national armed forces from shall be 18 years.

i. Report of the Government of India

The Government of India in its periodic report flatly denied the applicability of Article 2 while affirming that the age for voluntary recruitment into the armed forces is 18 years. The Government of India stated as under:

“6. There is no forced and coerced recruitment into the Armed Forces of India. Hence, Article 2 of the OP does not apply to India.....

7. Recruitment to the Armed Forces in India is purely voluntary and a person below 18 years of age cannot be inducted directly into the Armed Forces and hence, does not take direct part in hostilities. Recruitment of jawans in the Army is carried out through open recruitment rallies and those in the age group of 18-42 years are eligible to apply.”

ii. The reality on the ground

The assertions of the Government of India are not correct. Once again, the Government of India failed to report about the practices by the State Governments.

As per the Madhya Pradesh Police Regulation, children below 18 years can be employed as “boy orderlies” of the Police. Section 60 of the Regulation states,

“60. Boy-orderlies – A certain number of appointments as constables may be given by Superintendents to boys under the ages of 18. They are known as “boy-orderlies”, and receive half the pay of an ordinary constable. In making these appointments preference should always be given to sons or relatives of police officers, or of men who have rendered good service to Government. As soon as a boy-orderly satisfies the conditions laid down in Regulation 53, he should be given a preferential claim to appointment in the first vacancy that occurs.”

17. Cop-hiring drive a hit in Junglemahal, The Indian Express, 2 January 2012 available at <http://www.indianexpress.com/news/cophiring-drive-a-hit-in-junglemahal/894683>

The Chhattisgarh Government which has similar regulation has been employing children as “Balarakshaks” (child policeman) in the State’s Police Department in blatant violation of Child Labour Act, 1986, the Right of Children to Free and Compulsory Education Act, 2009 and the United Nations Convention on the Rights of the Child. On 6 April 2011, Asian Centre for Human Rights (ACHR) filed a complaint before the National Commission for Protection of Child Rights (NCPCR) against the employment of children as “Balarakshaks” in the police department. On 29 June 2011, the Home Department of the Government of Chhattisgarh informed the NCPCR that there are approximately 300 “Balarakshaks” employed in the state police force. The reply stated that seven of them were posted with 4th Battalion of Chhattisgarh Police at Mana in Raipur. The reply further stated that the “Balarakshaks” are appointed on compassionate ground at the demise of their parents, who served in the state police department, either due to illness or in attacks by Maoists or criminals. It was further stated that their conditions of service, including their entitlements, are governed by the Police Regulations which Chhattisgarh inherited from its parent state of Madhya Pradesh. The Balarakshaks are called on duty only for three days in a week and that too after their school timing and their duty is primarily to carry files from one to table to another. The fact remains that the Balarakshak are compulsorily required to report for duties three days a week and they have to skip classes for three days a week which affect their education heavily. Chhattisgarh’s Additional Director General of Police Giridhari Nayak admitted that *“It is mandatory for the kids to report for duty three days a week. They are mostly asked to do soft jobs like carrying files from one table to another, but it surely affects their schooling”*.¹⁸

Regrettably, the NCPCR is yet to adjudicate on the complaint.

The proceedings before the NCPCR are enclosed in this report.

Article 4: Recruitment of child soldiers by the armed opposition groups

Article 4 of the optional Protocol states that armed opposition groups should not, under any circumstances, recruit or use in hostilities persons under the age of 18 years and the States Parties shall take all feasible measures to prevent such recruitment and use, including the adoption of legal measures necessary to prohibit and criminalize such practices.

i. Report of the Government of India:

The Government of India, among others, stated:

“15. India does not face either international or non-international armed conflict situations.

17. Even though India does not face armed conflict, there are legislative provisions that prevent involvement of children in armed conflict and provide care and protection to children affected by armed conflict.”

18. NCPCR complaint No. CG-11011/22675/10-11-Comp/6726 dated 21/07/2011

ii. Reality on the ground

The above statement of the Government of India is bizarre and it appears that the Government of India is actually defending the records of the AOGs, officially designated 'terror groups', on recruitment of child soldiers before the UN Committee on the Rights of the Child.

Armed conflicts in India are rampant and according to the Ministry of Home Affairs the following arms and ammunition were recovered from the insurgents in 2011-2012:

“8.5.2 In its fight against militancy from 01.04.2011 to 31.12.2011, Assam Rifles killed five insurgents in various encounters, apprehended 729 militants and induced surrender of 305 militants apart from effecting recovery of 657 arms.....

8.8.3 Major achievement of the Central Reserve Police Force states wise for the current year (01.04.2011 to 31.12.2011) are given below:-

(i) Chhattisgarh : Killed 09 Naxalites/ Extremists and recovered 08 Arms, 07 rounds of ammunition and 03 bombs.

(ii) Jharkhand : Killed 14 Naxalites/Extremists and recovered 01 Arms, 07 rounds of ammunition, 01 Wireless set, 10 detonators and 15 Nos IEDs.

(iii) Maharastra : Killed 06 Naxalites/Extremists and recovered 03 Arms, and 44 rounds of ammunition.

(iv) West Bengal : Killed 03 Naxalites/Extremists and recovered 05 Arms and 88 rounds of ammunition.

(v) Assam : Killed 07 Naxalites/Extremists and recovered 07 Arms, 158 rounds of ammunition, 01 Wireless set, 04 detonators, 03 hand grenades and 08 Mobile Phones.

(vi) Meghalaya : Killed 03 Naxalites/Extremists and recovered 03 Arms, 145 rounds of ammunition, 04 Wireless set, 01 IED and 02 hand grenades.

(vii) Jammu & Kashmir : Killed 29 Militants and recovered 32 Arms and 1,038 rounds of ammunition”.¹⁹

Across the country, Indian security forces have been displaying “child soldiers” recruited by the armed opposition groups as trophies to expose violations by the armed opposition groups.

19. Ministry of Home Affairs, Annual Report 2011-2012, P 6, available at [http://www.mha.nic.in/pdfs/AR\(E\)1112.pdf](http://www.mha.nic.in/pdfs/AR(E)1112.pdf)

A. India's armed opposition groups

India faces serious armed conflicts and there are a number of armed groups active in India. As on 29 March 2012, a total of 35 Indian organisations remained banned under the Unlawful Activities Prevention Act (UAPA), India's anti-terror law as given below:

S.No.	Organisation
1.	Babbar Khalsa International
2.	Khalistan Commando Force
3.	Khalistan Zindabad Force
4.	International Sikh Youth Federation
5.	Lashkar-e-Taiba/Pasban-e-Ahle Hadis
6.	Jaish-e-Mohammad/Tahrik-e-Furqan
7.	Harkat-ul-Mujahideen/Harkat-ul-Ansar/Harkat-ul-Jehad-e-Islami
8.	Hizb-ul-Mujahideen/ Hizb-ul-Mujahideen Pir Panjal Regiment
9.	Al-Umar-Mujahideen
10.	Jammu and Kashmir Islamic Front
11.	United Liberation Front of Assam (ULFA)
12.	National Democratic Front of Bodoland (NDFB)
13.	People's Liberation Army (PLA)
14.	United National Liberation Front (UNLF)
15.	People's Revolutionary Party of Kangleipak (PREPAK)
16.	Kangleipak Communist Party (KCP)
17.	Kanglei Yaol Kanba Lup (KYKL)
18.	Manipur People's Liberation Front (MPLF)
19.	All Tripura Tiger Force
20.	National Liberation Front of Tripura
21.	Liberation Tigers of Tamil Eelam (LTTE)
22.	Students Islamic Movement of India
23.	Deendar Anjuman
24.	Communist Party of India (Marxist-Leninist) -- People's War, All its formations and front organizations
25.	Maoist Communist Centre (MCC), All its formations and Front Organisations
26.	Al Badr
27.	Jamiat-ul-Mujahideen
28.	Al-Qaida



UPDS cadres surrendering at Diphu Assam on 11 December 2011 (Photo: Gitika Talukdar)

29. Dukhtaran-e-Millat (DEM)
30. Tamil Nadu Liberation Army (TNLA)
31. Tamil National Retrieval Troops (TNRT)
32. Akhil Bharat Nepali Ekta Samaj (ABNES)
34. Communist Party of India (Maoist) all its formations and front organisations
35. Indian Mujahideen and all its formations and front organisations

The details of the banned organizations are available in the website of the MHA at: http://www.mha.nic.in/uniquepage.asp?Id_Pk=292

B. Recruitment of child soldiers by the armed opposition groups

The recruitment of child soldiers is rampant in India. While there are no official estimates, it is believed that at least 3,000 i.e. about 500 in the North East India and Jammu and Kashmir and about 2,500 in the Left Wing Extremism affected areas are involved in conflict. This is excluding those who have become adult since their recruitment. All the insurgent groups irrespective of their ideology or origin and place of operation recruit children, not necessarily only for combat purposes.

The recruitment of child soldiers is known to the Government of India as child soldiers surrendered in front of none other than India's Home Minister P Chidambaram, among others.



An armed cadre recruited as child soldier surrenders before Assam Chief Minister Tarun Gogoi (l) and India's then Home Minister P Chidambaram (R) during mass surrender on 24 January 2012 (Photo: Gitika Talukdar)

On 14 December 2011, about 568 cadres of the *United People's Democratic Solidarity* formally laid down their arms in front of Director General of Police (DGP) of Assam Police, Shankar Barua, General Officer Commanding (GOC) 4 Corps of Indian Army, Lt Gen Shakti Gurung, Assam Police Additional DGP Khagen Sharma, Major Gen R N Nair of the GOC 21 Mountain Division of the Indian Army and many other officials of the state police and security agencies pursuant to an agreement signed with the Government of India and the State Government of Assam.²⁰ As the photographs show, many of those appeared to be 18 years or above but recruited when they were children.

On 24 January 2012, about 1,695 members of the armed opposition groups surrendered before India's then Home Minister P Chidambaram and Assam Chief Minister Tarun Gogoi in Guwahati, Assam. The break-up of cadres from the armed opposition groups were Birsa Commando Force (557), Adivasi Cobra Military of Assam (453), Adivasi People's Army (70), All Adivasi National Liberation Army (90), Santhal Tiger Force (134), Kuki Liberation Army (83), Kuki Revolutionary Army (138), United Kuki Defence Army (120) and Hmar People's Convention (50). Once again, as the photographs show many of those surrendered were below 18 years or turned 18 years but recruited earlier.²¹

20. UPDS bids farewell to arms, The Times of India, 15 December 2011 available at http://articles.timesofindia.indiatimes.com/2011-12-15/guwahati/30520036_1_karbi-anglong-sports-association-upds-general-secretary-arms

21. 1,695 Assam militants surrender Belong to 9 outfits, submit separate charters of demands to Chidambaram, The Tribune, Chandigarh, 25 January 2012 available at <http://www.tribuneindia.com/2012/20120125/nation.htm#1>



An armed cadre recruited as child soldier surrenders before Assam Chief Minister Tarun Gogoi and India's then Home Minister P Chidambaram (Not seen in the picture) during mass surrender on 24 January 2012 (Photo: Gitika Talukdar)

As the photographs show, many of those appeared to be 18 years or above but recruited when they were children.

Recruitment of child soldiers in North East India:

In May 2012, the National Commission for Protection of Child Rights (NCPCR) termed the matter of child soldiers being used by militant outfits in Meghalaya and Manipur as “serious”.²² In Meghalaya, children are being used as child soldiers by armed opposition groups such as the Garo National Liberation Army (GNLA). On 8 January 2013, the NCPCR informed that the State government of Meghalaya has agreed to institute a ‘high-level-inquiry’ by an Inspector General of Police to investigate the recruitment and use of children as “child soldiers” by militant groups, and “Goondas” by coal barons.²³

Kidnapping of children for recruitment continues to be reported especially from Manipur.

22. Meghalaya Times, “NCPCR concerned over child soldiers in Manipur, Meghalaya”, 20 May 2012, available at <http://meghalayatimes.info/index.php/28-archive/front-page/may-2012/1281-ncpr-concerned-over-child-soldiers-in-manipur-meghalaya>

23. Meghalaya Times, “High level inquiry to probe ‘child soldier’ reports: NCPCR”, 9 January 2013, available at <http://meghalayatimes.info/index.php/10-front-page/front-page/17581-high-level-inquiry-to-probe-child-soldier-reports-ncpr>



An armed cadre recruited as child soldier surrenders before Assam Chief Minister Tarun Gogoi and India's then Home Minister P Chidambaram (not seen in the picture) during mass surrender on 24 January 2012 (Photo: Gitika Talukdar)

Case 1: Recruitment of teenage boys identified as Chanam Ajoynao (15 years), Sorai-sham Naothoibi (15 years) and Sapam Suran (15 years)

In April 2012, three teenage boys identified as Chanam Ajoynao alias Shantikumar (15 years) s/o Manglemjao; Sorai-sham Naothoibi (15 years) s/o Shamungou; both belonging to Sairemkhul Polang- shoi Maning Leikai and Sapam Suran (15 years) s/o Naoba of Sairemkhul Kangdabi under Lamsang police station of Imphal West district, Manipur were kidnapped by suspected cadres of an underground group. The boys went out from their homes on the morning of April 7 and thereafter went missing. Parents of the missing boys filed a missing report at Lamsang police station. However, they could not be traced till date.²⁴

Case 2: Recruitment of Aheibam Johnson (16 years)

In April 2012, the Police arrested three suspected member of the People's Revolutionary Party of Kangleipak (PREPAK) among others for recruiting one Aheibam Johnson, 16 years, son of Late A Ebochou of Takyel Kolom Leikai, Manipur and handing him over to an armed group for training.²⁵ On April 8, a person identified as Yumnam Kanahi

24. UG suspects take away three teens, The Sangai Express, 18 April 2012 and Manipur ultra groups recruiting child soldiers, The Sentinel, 19 April 2012

25. 3 Underground suspects arrested, The Imphal Free Press, 18 April 2012



Another child soldier (right) leading the march during mass surrender before Assam Chief Minister Tarun Gogoi (l) and India's then Home Minister P Chidambaram (not seen in the picture) during mass surrender on 24 January 2012 (Photo: Gitika Talukdar)

had come early in the morning and woken up Master Johnson and left in a huff. But within a short time, Johnson also left the house and never returned. When the parents quizzed Kanhai, he took the parents to the house of another person. Both these persons reportedly led the parents from pillar to post all the time promising them to hand over the boy. But they failed to do so. After a few days, some persons asked the parents to wait for some more days. Later on, the parents were told not to go to the press or police. Eventually they were informed that the boy had gone to a far off place. After this, there had been no further contact. The police had arrested Kanhai but failed to rescue the child.²⁶

Case 3: Recruitment of Moirangthem Rakesh (13 years) and Asem Rishikanta (13 years)

In January 2013, two class VI students from Ningthoukhong Kha, Leikai under the Bishnupur Police Station in Manipur identified as Moirangthem Rakesh (13 years) son of M Ranjit and Asem Rishikanta (13 years) son of A Tomba, both students of Sadar Patel High School were allegedly recruited to an underground outfit by some unidentified persons. They went missing on 20 January. In the meantime, the Bishnupur police arrested an individual regarding the missing boys. The individual disclosed that he had lured the two young boys by buying eatables and sandals on January 15/16. He further

26. Manipur militant groups recruit child soldiers, The Sentinel, 21 April 2012



Glorified child soldier or a child dressed as a soldier at UPDS surrender at Dipu, Assam on 11 December 2001 (Photo: Gitika Talukdar)

promised the boys to get them jobs at a Singjamei Super Market shop and on January 17th morning, he took the two boys in a van and left them with a man at Kyamgei. The same day, the two boys reached Moreh near Burma border. The police believe that the two boys might have been handed over to the Kangleipak Communist Party.²⁷

Case 4: Recruitment of Sanahanbi Konjengbam (15 years) and Rita Pukhrambam (17 years)

In February 2013, two personnels from the Village Defence Force, the counter insurgency group created by the State Government of Manipur were arrested by the police in Thoubal district. The police intercepted one van on 4th February 2013 while it was returning from Moreh. On interrogating the two passengers and the driver, it was learnt that they had dropped two girls who were recruited to Kanglei Yawol Kunna Lup (KYKL), a banned underground organization. They confessed to being the linkmen of the outfit. Using the van bearing registration number MN04A- 8968, they had taken the girls Sanahanbi Konjengbam (15 years) and Rita Pukhrambam (17 years), to Moreh to hand over to the insurgents.²⁸

27. Child recruitment, The Imphal Free Press, 24 January 2013

28. Two village defence force personnel arrested, The Sentinel, 6 February 2013



Four ULEA cadres including a 17 year old child soldier surrender to Indian Army at Kamalpur, Assam on 20 December 2007 (Photo: Gitika Talukdar)

Case 5: Recruitment of Alice Kamei (14 years) and Sanahanbi Khaidem (15 years)

On 10 March 2013, Alice Kamei (14 years) and Sanahanbi Khaidem (15 years) were abducted by insurgents who identified themselves as members of the Revolutionary People's Front (RPF) from their school premises. Both the girls were students of Grace English Academy, Hinyanglam. The Zeliagnong tribal organizations have submitted a memorandum to Home Minister G Gaikhangam and others to help find the missing girls. The parents, who came to know about it from the school authority said that they had received several phone calls from some persons who identified themselves as insurgents. They stated that the girls were in their custody and warned them not to go to police and press.²⁹

Recruitment of child soldiers by the Naxalites:

The recruitment of child soldiers by the Communist Party of India (Maoists) are rampant across the Naxal afflicted areas in the States of Andhra Pradesh, Bihar, Chhattisgarh, Jharkhand, Madhya Pradesh, Maharashtra, Odisha, Uttar Pradesh and West Bengal. The Maoists, also known as the Naxals, has its children's wing, *Bal Sangathan*, and regularly recruits children. The Maoists follow the policy of forcibly recruiting one cadre from each Adivasi family. This has compelled many families to send the female members with the Naxals if there is no male member in the family. Those who refuse to give their kids for arms training face severe consequences.

²⁹. School girls untraceable, The Sentinel, 18 March 2013



*ULEA cadres including child soldiers surrender to Indian Army at Kamalpur, Assam on 24 January 2008
(Photo: Gitika Talukdar)*

It has been reported that children of different age groups are trained and assigned different roles. The new entrants, aged from six to 12, are initially used as spies and couriers. They are also trained in basic drills and armed with .303 rifles. Children above 12 are used as fighters. They are trained to make and plant landmines and bombs, gather intelligence and for sentry duty. Young girls participate in the same drills as the boys. They are trained to lead operations from the front.³⁰

Contrary to the periodic report before the UN Committee on the Rights of the Child, the security forces in India often demonstrate the surrender of the child soldiers as trophies in order to expose the armed opposition groups.

Case 1: Capture of child soldiers in Chattisgarh

The Naxalites have been forcibly recruiting children, among others, in the Wala village in the forests of Abujmarh near Chhattisgarh and Maharashtra border. On 12 December 2012, the police launched an operation code-named 12/12/12 with 250 policemen entering the forests of Abujmarh and destroying a Naxal camp being held somewhere between the villages of Wala and Sitram on the morning of 13 December. In the process, police claimed that eight Naxals were killed while nine were arrested.³¹

30. India Today, "Naxals increasingly using child soldiers to swell its ranks", 8 May 2011, available at <http://indiatoday.intoday.in/story/child-soldiers-now-swell-naxal-ranks/1/137474.html>

31. EXCLUSIVE: The Truth Behind the 12/12/12 Abujmarh Encounter available at <http://tehelka.com/exclusive-the-truth-behind-the-121212-abujmarh-encounter/>

Most of those arrested are less than 15 year old and have been sent to juvenile detention centre. Six of the nine arrested are from Sitram village and four of them, Shanti Nureti, Mukeshri Yadav, Raje Kawasi and Sachin Mandawi, are not more than 13-14 year old. Sunita Mandavi says her son Sachin Mandawi, a Class VIII student, who was arrested at the campsite, was the only earning member of the family, after his father died few years back.³²

Chaituram Nareti, a 16-year-old boy, who was also undergoing training with Naxals, but managed to escape from the police. He told *The Tehelka*, a news magazine, "I was sent to nearby Konge village to get more young people for training. I wasn't there in the camp when the police raid happened." He confirmed that there were six Naxals present in the village. Four held SLRs while two young women had no weapons. Chaituram said that the kids were being given physical training on the morning of the incident.³³



(From L to R) Masuram Usendi; Chaituram Nareti; Rukani and Simari Metami (Courtesy Tehelka)

Rukani (eight years) and Simari Metami (10 years) were both part of the training camp but were unable to describe what the training was about. However, they claimed that when police raided, the Naxals ran away and the police opened fire.³⁴

Case 2: Alleged recruitment and surrender of Ms Jamba Nachika, 18 years, and Ms Tarai Madingi, 16 years

On 30 August 2011, two women members of the Maoists laid down their arms in Koraput, Orissa. They were identified as Ms Jamba Nachika, 18 years, and Ms Tarai Madingi, 16 years. They were from Narayanpatna area of Koraput and were active members of the

32. EXCLUSIVE: The Truth Behind the 12/12/12 Abujmarh Encounter available at <http://tehelka.com/exclusive-the-truth-behind-the-121212-abujmarh-encounter/>

33. EXCLUSIVE: The Truth Behind the 12/12/12 Abujmarh Encounter available at <http://tehelka.com/exclusive-the-truth-behind-the-121212-abujmarh-encounter/>

34. EXCLUSIVE: The Truth Behind the 12/12/12 Abujmarh Encounter available at <http://tehelka.com/exclusive-the-truth-behind-the-121212-abujmarh-encounter/>

local unit of Jana Natya Mandali, a cultural wing of the CPI (Maoist).³⁵ Nachika was allegedly a Maoist cadre for the last three year while Madingi had joined the rebels only three months ago. Their surrender ceremony has been uploaded in the Youtube and is available at: <http://www.youtube.com/watch?v=VNEzOm6e9GY> under the heading “*Two women Maoists surrender in Orissa*”.

Case 3: Alleged recruitment and surrender of five girls

On 06 Jan 2011, five teen aged alleged Maoist girls have laid down their arms in front of top police officials, including one Yashwant Jethwa, the Deputy Inspector General (D.I.G.) of police in Keonjhar District of Odisha and Ashis Kumar Singh, Superintendent of Police Keonjhar. They were active since 2008 in armed Naxalite squads. They were identified as (1) Ms Shanti Soy, aged 14, daughter of Dambaru Soy, Raighati village, Ghasipur police station; (2) Ms Sumitra Chatar, aged 17, Asanbahali viilage under Ghasipura police station; (3) Basanti alias Sumita, aged 16, daughter of Basu Taisa, Asanbahali viilage under Ghasipura police station; (4) Ms Raima alias Radha, aged 16, daughter of Mochiram Pingua, Asanbahali viilage under Ghasipura police station; and (5) Ms Sudra Goya alias Nirmal Mansingh, aged 16 years.

Ms Shanti Soy, one of the Maoists who surrendered, was also known to be closest to the secretary of one of the Maoist outfits stated, the following: “I have been involved with the Maoist group from the age of 12 in 2008. I was trained there to hold the gun and we’re also trained to run and attack. They then sent us to the field to fight our battles. I was involved in the attacks of Bansapal, Pallaspal, Daitary burn case and Telkoi attack.”³⁶

The video on their surrender under the heading Five teenage maoist girls surrender is available at: <http://www.youtube.com/watch?v=GJnutYBmAfI>

Case 4: Alleged recruitment and surrender of Ms Rajni Motamajji (12 years)

On 28 December 2010, a 12 year old alleged Maoist surrendered before the Superintendent of Police of Raygada District, Orissa Anup Krishna. After her surrender, Superintendent of Police Anup Krishna and his colleagues organised a press conference in the police head quarter of the district on 28 December 2010 and provided information regarding the surrender. As per the media reports, the child soldier was Ms Rajni Motamajhi, aged 12 years. She is a resident of village Gotagarh under Adaba Police station of Gajapati District, Orissa.³⁷

35. Exploited women rebels surrender, The Telegraph, 31 August 2011

36. Complaint of Global Human Rights Communications to the Principal Secretary, Home Department, Government of Odisha dated 10 January 2011.

37. Complaint of Global Human Rights Communications to the National Commission for Protection of Child Rights dated 13 January 2011

Case 5: Alleged recruitment and surrender of Bela Purty alias Sunita (19 years), Ladar Jamda (20 years) and Lengera Tiria (18 years)

On 19 July 2011, three Maoists identified as Bela Purty alias Sunita (19 years), Ladar Jamda (20 years) and Lengera Tiria (18 years) of nearby villages laid down arms before police authorities in Keonjhar district of Orissa. According to police authorities, they had joined the Maoists two years ago clearly indicating that they were recruited as child soldiers. A press conference was addressed by Deputy Inspector General of Police, Jaswant Jetwa. The video under the heading Three Maoists surrender in Keonjhar is available at : <http://www.youtube.com/watch?v=s5rnQ6onQpc>

Case 6: Alleged recruitment and surrender of Master Sadhu Mahkan alias Baaji and Mahendra alias Subah

On 5 March 2011, one Maoist cadre identified as Sanjeet Pradhan surrendered with two child soldiers before Yashwant Jethwa, the Deputy inspector General and Ashish Singh, the Superintendent of Police of Keonjhar. The child soldiers were identified as Master Sadhu Mahkan alias Baaji and Mahendra alias Subah. The video of their surrender is available under the heading “Three Maoists surrender in Orissa” is available at: <http://www.youtube.com/watch?v=Y4XcKEGG4mo>

Article 6: No measures to ensure the effective implementation and enforcement of the Protocol

Article 6 of the optional Protocol provides that:

- 1. Each State Party shall take all necessary legal, administrative and other measures to ensure the effective implementation and enforcement of the provisions of this Protocol within its jurisdiction.*
- 2. States Parties undertake to make the principles and provisions of the present Protocol widely known and promoted by appropriate means, to adults and children alike.*
- 3. States Parties shall take all feasible measures to ensure that persons within their jurisdiction recruited or used in hostilities contrary to this Protocol are demobilized or otherwise released from service. States Parties shall, when necessary, accord to these persons all appropriate assistance for their physical and psychological recovery and their social reintegration.*

India in its Periodic Report has denied existence of any “armed conflict situations”, whether international or non-international. Therefore, there is no question of India promoting and respecting the provisions of the Optional Protocol to the CRC on the involvement of children in armed conflict.

Nonetheless, the Government of India cited the Juvenile Justice (Care and Protection of Children) Act of 2000 (as amended in 2006), and the Juvenile Justice (Care and protection

of Children) Rules of 2007 to bolster its claim of protecting the rights of the children affected by the armed conflict. But, the Juvenile Justice (Care and Protection of Children) Act of 2000 does not deal with involvement of children in armed conflicts including recruitment as child soldiers.

Article 7: No rehabilitation and social reintegration programme

Article 7 of the optional Protocol requires the States Parties to provide “rehabilitation and social reintegration of persons who are victims of acts contrary to this Protocol”.

In India, surrender-cum-rehabilitation policies are in place in disturbed areas of Jammu and Kashmir, North Eastern States and Naxal affected states. These State governments have their own surrender and rehabilitation policies. The surrender and rehabilitation policies aimed at providing gainful employment and entrepreneurial opportunities to the surrendered militants/extremists/Naxalites so that they are encouraged to join the mainstream and do not return to the fold of militant/extremist/Naxal activities. The surrender and rehabilitation policies *inter alia* provides for an immediate grant of Rs.1.5 lakh, a stipend of Rs. 2000 for three years, vocational training and incentives for surrender of weapons.

However, none of the surrender policies is focused on the children recruited by the armed opposition groups.

i. Surrender and rehabilitation policies violate Juvenile Justice Act

The surrender and rehabilitation policies are adult-centric. This is despite the fact that minors have been recruited by armed opposition groups including the Naxals. These policies are not framed from the perspective of child rights. It is well-documented that many of the AOG cadres who surrendered were minors at the time when they joined/or forcibly recruited by the armed opposition groups. As per the Juvenile Justice (Care and Protection of Children) Act, 2000, if a person who has committed an offence is below the age of 18 years on the date of commission of offence is given protection or treatment under the Juvenile Justice Act. There are no special provisions for the minors who joined/forcibly recruited by AOGs but subsequently become adults.

A. Open parading of surrendered persons

Section 21 of the Juvenile Justice (Care and Protection of Children) Act, 2000 states as under:

“...Prohibition of publication of name, etc., of juvenile involved in any proceeding under the Act.-

(1) No report in any newspaper, magazine, news-sheet or visual media of any inquiry regarding a juvenile in conflict with law under this Act shall disclose the name, address or school or any other particulars calculated to lead to the identification of the juvenile nor shall any picture of any such juvenile be published:

Provided that for reasons to be recorded in writing the authority holding the inquiry may permit such disclosure, if in its opinion such disclosure is in interest of the juvenile.

The surrender and rehabilitation policies require a surrendered person to be paraded before the media making a public statement/confession of his voluntary surrender. For example, one of the eligibility criteria under the “Revised Scheme for Surrender and Rehabilitation of Left Wing Extremists” of the State Government of Odisha states that every surrendered extremist, to become eligible for assistance for rehabilitation, among others, have to “make a public statement/confession of his voluntary surrender through the media.” This provision of the policy is not in the interest of the minors who have surrendered and violates the Juvenile Justice (Care and Protection of Children) Act. Similarly, this also includes those who had surrendered persons who have joined/or forcibly recruited by the AOGs as minors but subsequently become adult.

B. Non-implementation/misuse of surrender and rehabilitation policies

The basic principle of the surrender and rehabilitation policies is social reintegration and rehabilitation of the cadres of the armed opposition groups. However, the surrender and rehabilitation policies have not been properly implemented and grossly misused. These policies actually put children involved in armed conflicts at risk.

Concern 1: Surrendered cadres used for counter-insurgency/informers etc

The “Guidelines for surrender-cum-rehabilitation of Naxalites in the Naxal affected States” of the Ministry of Home Affairs, Government of India states *“the solution should aim at providing gainful employment and entrepreneurial opportunities to the surrendered naxalites so that they are encouraged to join the mainstream and do not return to the fold of naxal movement.”*

However, the surrendered AOG cadres, including minors, are not provided with gainful employment and entrepreneurial opportunities. It is well-documented that the surrendered cadres are used for counter-insurgency, informers of the security forces, etc. Many of these surrendered cadres are those who either joined or were forcibly recruited by the armed opposition groups including the Maoists as minors but turned adult subsequently.

In Chhattisgarh, surrendered Naxals are recruited as Assistant Constables of the Chhattisgarh Police. The Additional Superintendent of Police, Rajnandgaon Y. P. Singh confirmed and stated, “Yes, we are recruiting the surrendered Naxals as assistant constables under the state government policy. But there is nothing new about it.”³⁸

38. Khaki's lure leads Naxals to surrender in C'garh, The Indian Express, 11 March 2013, available at: <http://www.indianexpress.com/news/khaki-s-lure-leads-naxals-to-surrender-in-c-garh/1086164>

There is possibility that minor surrendered Naxals were also recruited as Assistant Constables. Further the role of these Assistant Constables is questionable. It is suspected that they were being used as informers, further risking their safety and security.

Those who surrender are neither trusted by the Police nor the Naxalites and they remain vulnerable to attacks from both sides. Recognising the same, the Supreme Court of India on 7 July 2011 directed the State of Chattisgarh to “*forthwith make arrangements to provide appropriate security, and undertake such measures as are necessary, and within bounds of constitutional permissibility, to protect the lives of those who had been employed as SPOs previously, or who had been given any initial orders of selection or appointment, from any and all forces, including but not limited to Maoists/Naxalites*”.³⁹

Concern 2: Surrendered cadres kept in camps for months

The surrendered cadres, including the minors, are kept in camps for months without being given money, jobs and other opportunities as per the surrender and rehabilitation policies. For example, the MHA “Guidelines for surrender-cum-rehabilitation of Naxalites in the Naxal affected States” states under:

“The officer receiving the surrenderee will provide immediate security to the surrenderee and after getting necessary details for filling up the requisite proforma, send him to the transit camp to be maintained by the S&R Officer. The decision about the acceptance or otherwise, of the surrenderee should be taken within 15 days.”

However, the surrendered cadres, including the minors, of AOGs are kept for months and years in the so-called transit camps. No decisions are taken within the 15 days period. In Assam, some surrendered cadres of AOGs were kept in camp for more than one month for surrender in Sonitpur district in 2011. For instance Adivasi Cobra insurgents have been kept in designated camps in Assam with no rations, lack of amenities, etc.

ii. The incentive given for surrender with arms act as deterrent for surrender

As per the surrender policy, any member of the AOGs can surrender with or without arms. However, this provision is only on paper. Unofficially, the surrendered persons are required to surrender with arms/weapons.

This acts as a deterrent to surrender, in particular for the minors who joined the AOGs or forcibly recruited. They were not immediately given arms by the AOGs.

39. “NANDINI SUNDAR & ORS. VERSUS STATE OF CHATTISGARH”, The full Supreme Court order is available at <http://supremecourtindia.nic.in/outtoday/wc25007.pdf>

4. Recommendations

Asian Centre for Human Rights recommends to the UN Committee on the Rights of the Child to consider the following recommendations to the Government of India to:

- acknowledge recruitment and use of child soldiers in the armed conflicts in India;
- ensure repeal of the Madhya Pradesh Police Regulation and other such analogous regulations which allow recruitment of children as *Boy-orderlies* but financial benefits accrued must continue to be provided without taking the services of the children as *Boy-orderlies*;
- ensure proper verification to ensure that no person below 18 years is recruited as Special Police Officer, Assistant Police Constables etc;
- criminalise the recruitment of children by the armed opposition groups;
- organize public awareness against recruitment of child soldiers;
- revise the surrender and rehabilitation policies to provide for disarmament, demobilization and reintegration of the child soldiers; and
- ensure respect for Section 21 of the Juvenile Justice (Care and Protection of Children) Act, 200 with respect to surrender of the children recruited by the armed opposition groups.

Annexure I: List of 197 districts notified as conflict affected in India

A total of 197 districts remain notified as conflict affected as on March 2013. These include 91 districts notified as “disturbed” under the Armed Forces Special Powers Act (AFSPA) in Assam, Arunachal Pradesh, Manipur, Meghalaya, Nagaland and Tripura and Jammu and Kashmir; and 106 districts declared as Left Wing Extremism affected in nine states of Andhra Pradesh, Bihar, Chhattisgarh, Jharkhand, Madhya Pradesh, Maharashtra, Orissa, Uttar Pradesh and West Bengal.

ASSAM		22	Nagaon
1	Baksa	23	Nalbari
2	Barpeta	24	Sivasagar
3	Bongaigaon	25	Sonitpur
4	Cachar	26	Tinsukia
5	Chirang	27	Udalguri
6	Darrang	ARUNACHAL PRADESH	
7	Dhemaji	28	Changlang
8	Dhubri	29	Longding
9	Dibrugarh	30	Tirap
10	Dima Hasao	31	West Kameng
11	Goalpara	32	East Kameng
12	Golaghat	33	Papumpare
13	Hailakandi	34	Lower Subansuri
14	Jorhat	35	West Siang
15	Kamrup Rural	36	East Siang
16	Kamrup Metropolitan	37	Lower Dibang Valley
17	Karbi Anglong	38	Lohit
18	Karimganj	MANIPUR	
19	Kokrajhar	39	Bishnupur
20	Lakhimpur	40	Chandel
21	Morigaon	41	Churachandpur

42	Imphal East
43	Imphal West
44	Senapati
45	Tamenglong
46	Thoubal
47	Ukhrul
NAGALAND	
53	Dimapur
54	Kiphire
55	Kohima
56	Longleng
57	Mokokchung
58	Mon
59	Peren
60	Phek
61	Tuensang
62	Wokha
63	Zunheboto
TRIPURA	
64	Dhalai
65	North Tripura
66	South Tripura
67	West Tripura
68	Khowai
69	Gomati
70	Unakoti
71	Shipahijala
JAMMU & KASHMIR	
72	Anantnag
73	Bandipora

74	Baramulla
75	Budgam
76	Doda
77	Ganderbal
78	Jammu
79	Kathua
80	Kulgam
81	Kupwara
82	Kishtwar
83	Poonch
84	Pulwama
85	Ramban
86	Rajouri
87	Reasi
88	Samba
89	Shopian
90	Srinagar
91	Udhampur
LWE DISTRICTS IN NINE STATES	
Andhra pradesh	
92	Anantapur
93	Adilabad
94	East Godavari
95	Guntur
96	Karimnagar
97	Khammam
98	Kurnool
99	Medak
100	Mehboobnagar
101	Nalgonda

102	Prakasam
103	Srikakulam
104	Visakhapatnam
105	Vizianagaram
106	Warangal
107	Nizamabad
Bihar	
108	Arwal
109	Aurangabad
110	Bhojpur
111	East Champaran
112	Gaya
113	Jamui
114	Jehanabad
115	Kaimur
116	Munger
117	Nalanda
118	Nawada
119	Patna
120	Rohtas
121	Sitamarhi
122	West Champaran
123	Muzaffarpur
124	Sheohar
125	Vaishali
126	Banka
127	Lakhisarai
128	Begusarai
129	Khagaria
Chhattisgarh	

130	Bastar
131	Bijapur
132	Dantewada
133	Jashpur
134	Kanker
135	Korea (Baikunthpur)
136	Narayanpur
137	Rajnandgaon
138	Sarguja
139	Dhamtari
140	Mahasamund
141	Gariyaband
142	Balod
143	Sukma
144	Kondagaon
145	Balrampur
Jharkhand	
146	Bokaro
147	Chatra
148	Dhanbad
149	East Singhbhum
150	Garhwa
151	Giridih
152	Gumla
153	Hazaribagh
154	Koderma
155	Latehar
156	Lohardagga
157	Palamu
158	Ranchi

159	Simdega
160	Saraikela-Kharaswan
161	West Singhbhum
162	Khunti
163	Ramgarh
164	Dumka
165	Deoghar
166	Pakur
Madhya Pradesh	
167	Balaghat
	Maharashtra
168	Chandrapur
169	Gadchiroli
170	Gondia
171	Aheri
Orissa	
172	Gajapati
173	Ganjam
174	Keonjhar
175	Koraput
176	Malkangiri
177	Mayurbhanj

178	Navrangpur
179	Rayagada
180	Sambhalpur
181	Sundargarh
182	Nayagarh
183	Kandhamal
184	Deogarh
185	Jajpur
186	Dhenkanal
187	Kalahandi
188	Nuapada
189	Bargarh
190	Bolangir
Uttar Pradesh	
191	Chandauli
192	Mirzapur
193	Sonebhadra
West Bengal	
194	Bankura
195	West Midnapore
196	Purulia
197	Birbhum

Annexure II: Proceedings before the NCPCR on the recruitment of children as boy orderlies by the State Police in Madhya Pradesh and Chhattisgarh



ASIAN CENTRE FOR HUMAN RIGHTS

C-3/441-C (2nd Floor), Janakpuri, New Delhi - 110058, INDIA
Tel/fax: +91-11-25620583, 25503624; Email: director@achrweb.org; Website: www.achrweb.org

ACHR has Special Consultative Status with the United Nations Economic and Social Council (ECOSOC)

By Hand Delivery

24 August 2011

Mr. Lov Verma
Member Secretary
National Commission for Protection of Child Rights
5th Floor, Chanderlok Building
36, Janpath, New Delhi-110001
Fax: 23724026



ACHR Ref. No: FC-16/01/JJ-82

NCPCR Ref: File No. CG-11011/22675/10-11/Comp/6726 dated 21/07/2011

Subject: Submission of comments on the Reply/Report from the Home Department, Government of Chhattisgarh on employment of child orderlies known as Balarakshaks in the police department of the state

Sir,

This refers to the abovementioned letter of the National Commission for Protection of Child Rights (NCPCR) asking Asian Centre for Human Rights to submit comments on the reply/report from the Home Department, Government of Chhattisgarh on employment of child orderlies known as Balarakshaks in the police department of the state.

ACHR perused the report and submits the following:

According to the report of the Home Department of the Government of Chhattisgarh, approximately 300 Balarakshaks (child policeman) are employed across the state. The reply stated that 7 of them are posted with 4th Battalion of Chhattisgarh Police at Mana in Raipur. The reply further stated that the Balarakshaks are appointed on compassionate ground at the demise of their parents who served in the state police department and died while on service either due to illness or in attacks by Maoists or criminals. It was further stated that their conditions of service, including their entitlements, are governed by the Police Regulations which Chhattisgarh inherited from its parent state of Madhya Pradesh. It was further stated that the Balarakshaks are called on duty only for 3 days in a week and that too after their school timing and their duty is primarily to carrying

files from one to table to another and therefore, their education is not at all disturbed by their 3 days in a week duty.

However, in fact the Balarakshaks are compulsorily required to report for duties 3 days a week and they have to skip classes for three days a week which affect their education heavily. Chhattisgarh's Additional Director General of Police Giridhari Nayak admitted that *'It is mandatory for the kids to report for duty three days a week. They are mostly asked to do soft jobs like carrying files from one table to another, but it surely affects their schooling'* (marked as **Annexure A**).

The employment of the Balarakshaks and depriving them of proper schooling is contrary to the Right of Children to Free and Compulsory Education Act of 2009. Section 3 of the provides that every child of the age of six to fourteen years shall have a right to compulsory education in a neighbourhood school till completion of elementary education. Under section 8 of the Act, the State Governments of Chhattisgarh and Madhya Pradesh are duty bound to provide free and compulsory education to every child of the age of six to fourteen years and **ensure compulsory admission, attendance and completion of elementary education by every child of the age of six to fourteen years**. Under Section 10, the Act also requires parents to compulsorily admit or cause to admit their child/ward to elementary education in a neighbourhood school.

Further, the employment of the Balarakshaks and depriving them from proper schooling to them is contrary to the Right of Children to United Nation Convention on the Rights of the Child (CRC) to which India is a party. The relevant provisions of the CRC states,

“Article 31

- 1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.*
- 2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.*

Article 32

- 1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.*

2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:

(a) Provide for a minimum age or minimum ages for admission to employment;

(b) Provide for appropriate regulation of the hours and conditions of employment;

(c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article”.

Paragraph 1 of Article 31 of the CRC requires that the States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts while Paragraph 2 provides that States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity. However, during 3 days of duties in a week, the Balarakshaks are deprived not only from schooling but also from the right to rest and leisure, to engage in play and recreational activities appropriate to their age of the child and to participate freely in cultural life and the arts. During the course of their 3 days duty in a week the Balaraksakhs are deprived of the normal environment because of their duty to which they are virtually forced to do at such a young age of 5 years onwards. Putting them on duty deviating from normal childhood certainly adversely affects their personal development and thereby stagnate their future all round development.

Further, Paragraph 1 of Article 32 provides that the States Parties recognize the right of the child to be protected from economic exploitation and **from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.** Paragraph 2 of the same Article requires the States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article, **among others, by providing for a minimum age or minimum age for admission to employment.**

The Chhattisgarh and Madhya Pradesh Police Regulation under which the Balarakshaks are employed and deprived of proper education/schooling are contradictory to the provisions of the Right of Children to Free and Compulsory Education Act of 2009 and the United Nations Convention on the Rights of the

Child. Right to free and compulsory education (education) is a fundamental right conferred by way of 86th Constitution Amendment Act in 2002 and being implemented through Right of Children to Free and Compulsory Education Act of 2009. Hence, Chhattisgarh and Madhya Pradesh Police Regulation are *ultra-vires* to the extent they employ children as Balarakshaks and deprive them of proper/regular schooling besides interfering with the health or physical, mental, spiritual, moral or social development of the Balarakshaks.

Therefore, the Asian Centre of Human Rights requests the National Commission for Protection of Child Rights to:

1. Direct the State Government of Chhattisgarh and Madhya Pradesh to permanently waive the requirement of doing duty by the Balarakshaks with immediate effect while all necessary financial and other entitlement to them and their families shall continue;
2. Direct the State Government of Chhattisgarh and Madhya Pradesh to suitably amend their respective Police Regulation to permanently stop the requirement of doing duty by the Balarakshaks but without affecting all necessary financial and other entitlement to them and their families under the scheme; and
3. Take any other measure(s) that the NCPCR deems fit and proper.

With regards,

Yours sincerely,



Suhas Chakma
Director

Encl: As above



भारत सरकार
GOVERNMENT OF INDIA
राष्ट्रीय बालक अधिकार संरक्षण आयोग
NATIONAL COMMISSION FOR PROTECTION OF CHILD RIGHTS
नई दिल्ली-110 001
NEW DELHI - 110 001

To
Mr. Suhas Chakma,
Director,
Asian Centre For Human Rights,
C-3/441- C (2ND FLR),
Janakpuri,,
New Delhi-58

File No: CG-11011/22675/10-11/comp/6726

Dated: 21/07/2011

Subject :Employment of children as Balrakshaks in the Police Department of Chhattisgarh

Mr. Chakma,

Please refer to your complaint dated 06/04/2011, on the subject cited . The Commission received an Action Taken Report from Office of Addl. Secretary, Ministry of Home, Govt. of Chhattisgarh, about the said case (copy enclosed).

Kindly send your comments about the report within 30 days of issue of this letter, or else the matter will be considered close at the Commission.

Yours faithfully



(Lov Verma)

Member Secretary

NCPCR Confidential

पांचवा तल, चन्द्रलोक भवन, 36, जनपथ, नई दिल्ली-110 001
दूरभाष/Ph.: 011-23724027 - 28 - 29 फैक्स/Fax: 011-23724026
5th Floor, Chanderlok Building, 36, Janpath, New Delhi - 110 001

स्पीड-पोस्ट

छत्तीसगढ़ शासन
गृह विभाग, सी-अनुभाग
मंत्रालय, दाऊ कल्याण सिंह भवन, रायपुर

-0-

कमांक/2078/176/गृह-सी/2011
प्रति,

रायपुर, दिनांक 29 जून, 2011

✓ श्री लव वर्मा (सदस्य सचिव)

भारत सरकार,

राष्ट्रीय बालक अधिकार संरक्षण आयोग,
पांचवा तल, चंद्रलोक बिल्डिंग, जनपथ,
नई दिल्ली-110001.

CL (UCB)

13/7/2011

विषय :- छत्तीसगढ़ के पुलिस विभाग में बालरक्षक के रूप में बच्चों के रोजगार के संबंध में।

संदर्भ :- प्रकरण क्र0-CG-11011/22675/2010-11/COMP/6074, दिनांक: 15-6-2011

विषयान्तर्गत संदर्भित पत्र का कृपया अवलोकन करे। बाल आरक्षकों की नियुक्ति पुलिस रेग्युलेशन की पैरा 50 (छायाप्रति संलग्न) एवं उसके उपबंधों के अनुसार की जाती है। यह नीति मध्यप्रदेश के गठन के पश्चात् से चली आ रही है। इसके उपबंधों के अनुसार 5 वर्ष से 18 वर्ष के आयु वाले बालकों को नियुक्ति प्रदान की जाती है, जिनको 18 वर्ष की आयु पूर्ण करने के पश्चात् पुलिस रेग्युलेशन की पैरा 53 के अनुसार आरक्षक के पद पर, आरक्षक पद की आर्हता पूर्ण करने पर संविलियन हो जात है। यह योजना दिवंगत शासकीय कर्मचारियों के परिवार के कल्याण से संबंधित है। इन प्रावधानों के तहत बाल आरक्षक के रूप में नियुक्ति किये जाने से कई अन्य सुविधा जो उन्हें प्राप्त नहीं होती, की पात्रता बन जाती है- जैसे शासकीय आवास की पात्रता, पेंशन के अतिरिक्त 50 प्रतिशत अतिरिक्त वेतन, परिवार को मानसिक संतोष आदि।

किसी भी शासकीय कर्मचारी के दिवंगत होने के पश्चात् उनके परिवार के आश्रित सदस्य के द्वारा अनुकंपा नियुक्ति हेतु सहमति दिये जाने पर दिवंगत शासकीय सेवक के (1) दिवंगत शासकीय सेवक की विधवा अथवा (2) पत्नी अथवा (3) अविवाहित पुत्री (दत्तक पुत्र/पुत्रियाँ शामिल रहेंगे) को नियुक्ति की पात्रता बनती है। शासकीय सेवक की विधवा द्वारा अपने पुत्र/पुत्री को बाल आरक्षक के पद पर सहमति दिये जाने के पश्चात् ही बाल आरक्षक के पद पर नियुक्ति की जाती है तथा पुलिस परिवार के द्वारा यह सुनिश्चित किया जाता है कि उनसकी शिक्षा-दीक्षा में किसी भी प्रकार का अंतर न पड़े।

पुलिस मुख्यालय, छत्तीसगढ़
सिविल लाईन्स, रायपुर 492001

पुलिस निर्देश क्र.-01/08

क्रमांक- पुमु/स्था/अनुकंपा/ एम-3830
प्रति,

/2008 रायपुर दिनांक:- 27/6/08

समस्त इकाई प्रमुख
छत्तीसगढ़

विषय:- बाल आरक्षकों को प्रदाय की जाने वाली सुविधाएं एवं वातावरण।

पुलिस रेग्यूलेशन की कंडिका 60 के तहत एवं कतिपय प्रकरणों में अनुकंपा नियुक्ति के अंतर्गत विभिन्न इकाईयों में बाल आरक्षक होकर कार्यरत है। बाल आरक्षकों के विकास एवं उन्हें अच्छा वातावरण प्रदाय करने के लिए निम्नानुसार निर्देशों का पालन किया जावे :-

- 1 बाल आरक्षकों को अध्ययन हेतु पर्याप्त समय दिया जावे एवं उनसे ऐसा कोई कार्य नहीं लिया जावे जिससे उनकी नियमित शिक्षा बाधित हो।
- 2 बाल आरक्षकों को कदाचित भी कार्यालयीन समय के अतिरिक्त ड्यूटी हेतु न बुलाया जावे।
- 3 बाल आरक्षकों को अपराधिक प्रवृत्तियों के व्यक्तियों तथा आरोपियों के संपर्क में न आने दिया जावे।
- 4 बाल आरक्षकों के परिवार को कल्याणकारी गतिविधियों में सम्मिलित करने हेतु प्राथमिकता दी जावे।
- 5 बाल आरक्षक के परिवार के सदस्यों को नियमानुसार समुचित चिकित्सा सुविधा उपलब्ध कराई जावे।
- 6 बाल आरक्षकों को प्रत्येक वर्ष निम्नानुसार सुविधाएं प्रदाय की जावे :-
अ- स्कूल यूनिफार्म भत्ता-
5वीं कक्षा तक रु. 250/- एवं 6वीं से 10वीं कक्षा तक रु.500/- केवल
ब- टयूशन फीस भत्ता-
5वीं कक्षा तक रु. 250/- एवं 6वीं से 10वीं कक्षा तक रु.500/- केवल
स- पठन-सामग्री भत्ता-
5वीं कक्षा तक रु. 250/- एवं 6वीं से 10वीं कक्षा तक रु.500/- केवल
उपरोक्त व्यय पुलिस इकाईयों द्वारा अपनी इकाई की कल्याण निधि से किया जाकर इसकी प्रतिपूर्ति केन्द्रीय कल्याण निधि से (प्रतिवर्ष) कर ली जावे। परन्तु यदि कोई बाल आरक्षक किसी कक्षा में अनुत्तीर्ण घोषित किया जाता है तो उसे उस कक्षा के लिए उक्त भत्ते पुनः नहीं दिये जावेंगे।
- 7 इकाई स्तर पर अतिरिक्त पुलिस अधीक्षक/ उपसेनानी की अध्यक्षता में एक समिति गठित की जावे जिसमें एक सदस्य इकाई मुख्यालय में पदस्थ वरिष्ठतम महिला पुलिस अधिकारी एवं एक अन्य सदस्य महिला एवं बाल विकास विभाग की जिला इकाई से नामांकित होगा। यह समिति वर्ष में दो बार बैठक कर इकाई प्रमुख को अपनी अनुशंसाएं प्रस्तुत करेगी जिसमें बाल आरक्षकों के समग्र विकास के मुद्दे सम्मिलित होंगे।
- 8 बाल आरक्षकों के लिए रक्षित केन्द्र में उचित खेल सामग्री उपलब्ध कराई जावे।
- 9 पुलिस महानिरीक्षक इकाईयों के निरीक्षण के दौरान बाल आरक्षकों से आवश्यक रूप से संवाद करेगे। इकाई प्रमुख समय-समय पर बाल आरक्षकों से सीधा संवाद करेंगे ताकि उपरोक्त निर्देशों का पालन सुनिश्चित हो सके।

छत्तीसगढ शासन
गृह(पुलिस) विभाग
मंत्रालय,
दाऊ कल्याण सिंह भवन, रायपुर

क्रमांक-एफ 3-36/दो/गृह/04

रायपुर दिनांक 4.12.04

प्रति,

पुलिस महानिदेशक
छत्तीसगढ, रायपुर।

विषय :- बाल आरक्षकों की संख्या में वृद्धि/ पद निर्माण बावत् ।

सन्दर्भ :- आपका ज्ञाप क्रमांक -

- (1) पुमु/अनु.नियु./जी-744/04 दिनांक 23.4.04
- (2) अर्डर शास. पत्र क्र. जी-1460 दिनांक 2.8.04

राज्य शासन एतद् द्वारा पुलिस मुख्यालय के प्रस्तावानुसार प्रदेश की प्रत्येक इकाई में स्वीकृत आरक्षक पदों के विरुद्ध निम्नानुसार बाल आरक्षक के पद निर्माण की प्रशासकीय स्वीकृति प्रदान करता है :-

1	600 से कम वाले इकाई में 4 आरक्षक के स्वीकृत पदों के विरुद्ध	06 बाल आरक्षक
2	600 से 1000 के बीच वाले बड़ी इकाईयों में 6 बाल आरक्षक के स्वीकृत पदों के विरुद्ध	08 बाल आरक्षक
3	1000 से अधिक संख्या वाले इकाईयों में 8 आरक्षकों के स्वीकृत पदों के विरुद्ध	10 बाल आरक्षक

उपरोक्त व्यय मांग संख्या -03-2055-पुलिस-104-विशेष-पुलिस- 4492 सामान्य व्यय (विशेष पुलिस) एवं 4491 सामान्य व्यय (जिला स्थापना) के अंतर्गत विकल्पनीय होगा ।

वित्त विभाग के यू.ओ. क्रमांक /12/2554/बी-1/चार/04 दिनांक 30.11.04 के अंतर्गत इस स्वीकृति हेतु सहमति प्रदान की गई है।

छत्तीसगढ के राज्यपाल के नाम से तथा
आदेशानुसार

हस्ता /-
(एन.एन.एकका)
अंबर सचिव

छत्तीसगढ शासन, गृह विभाग
रायपुर दि.4.12.04



भारत सरकार

राष्ट्रीय बालक अधिकार संरक्षण आयोग

पांचवा तल, चंद्रलोक बिल्डिंग, जनपथ, नई दिल्ली - 110 001

दूरभाष : 011 23724027/28/29, फ़ैक्स नंबर : 011 23724026/23731684

वेबसाइट : www.ncpcr.gov.in, ई-मेल : complaints.ncpcr@gmail.com

मिसिल संख्या: CG-11011/22675/2010-11/COMP/5192

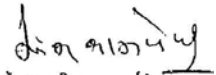
दिनांक: 19/4/2011

सेवा में,
श्री/श्रीमती Tejang Chakma
Asian Centre for Human Rights
C-3/441-C(2nd Floor)
Janakpuri,
- 110059

संदर्भ: आपका शिकायती पत्र दिनांक 06/04/2011 के सम्बन्ध में | **Employment of children as Balarakshaks in the Police Department of Chhatisgarh.**

महोदय,

आपका उपरोक्त संदर्भ में प्राप्त शिकायती पत्र को केस संख्या CG-11011/22675/2010-11/COMP में पंजीकृत कर लिया गया है। इस सन्दर्भ में मुझे आपको यह सूचित करने का आदेश प्राप्त हुआ है कि आयोग इस पर उचित कार्यवाही कर रहा है।


(डॉ. यू. सी. बाजपाई)
परामर्शदाता



ASIAN CENTRE FOR HUMAN RIGHTS

C-3/441-C (2nd Floor), Janakpuri, New Delhi - 110058, INDIA
Tel/fax: +91-11-25620583, 25503624; Email: suhaschakma@achrweb.org; Website: www.achrweb.org

Dedicated to promotion and protection of human rights in Asia

By Fax & Speed Post

6 April 2011

Dr. Shanta Sinha
Chairperson
National Commission for Protection of Child Rights
5th Floor, Chanderlok Building
36, Janpath
New Delhi- 110001
Fax: 23724026

ACHR Ref: FC-16/01/JJ-82

Subject: Complaint against the employment of children as “Balarakshaks” in the Police Department of Chhattisgarh in blatant violation of the Child Labour Act, 1986 and Right to Education Act, 2009.

Dear Dr. Sinha,

I am writing to seek the urgent intervention of the National Commission for Protection of Child Rights (NCPCR) against the employment of children as “Balarakshaks” in the Chhattisgarh Police Department in blatant violation of Child Labour Act, 1986 and Right to Education Act, 2009.

The Chhattisgarh Government has been employing children as “Balarakshaks” in the State’s Police Department in the name of welfare of the family of policemen who died while in service. As per the State Government Policy, if a member of the State Police dies due to an illness or in attacks by Maoists and criminals, his or her children (aged five and above) can be appointed to the Police Department.

There are about 100 children, both boys and girls, who are working as “Balarakshaks” in the Fourth Battalion of Chhattisgarh Police based in Mana on the outskirts of state capital Raipur.

The “Balarakshaks” get a monthly amount of Rs 5,000 before they are given a regular job in the police department when they turn 18 and complete matriculation. Further, it is mandatory for these children to report for duty three days a week. The “Balarakshaks” are mostly posted at the offices of the Superintendent of Police of their respective areas and report to duty in police uniform which is given to them free of cost. They are mostly asked to do jobs like carrying files from one table to another.

This has seriously affected the education of these children. As it is mandatory to report to duty for three days, these children are deprived of education as they have to skip classes.

The State Government Policy to employ the children of the deceased policemen instead of ensuring the rights of the children further abuse the tender age of the children by entering into a vocation unsuited to their age or strength.

Therefore, the Asian Centre of Human Rights requests the National Commission for Protection of Child Rights to:

- Direct the state government of Chhattisgarh to revoke its policy of recruiting the minor children of the deceased policemen and ensure that the minor children of the deceased policemen enjoy their right to education;
- Direct the state government of Chhattisgarh to provide jobs to other family members of these children or provide financial benefits to support the family so that the children are not deprived of education; and
- Take any other measures that the NCPCR deems fit and proper.

With regards,

Yours sincerely,



Tejang Chakma
Complaints Coordinator

Annexure III: Guidelines of the Government of India on surrender cum rehabilitation of left wing extremists in affected States

GUIDELINES FOR SURRENDER-CUM-REHABILITATION SCHEME OF LEFT WING EXTREMISTS IN THE AFFECTED STATES

1. **Introduction:** The Surrender and Rehabilitation policy has been framed keeping in mind the specific geographical and social landscape to help those Left Wing Extremists (LWEs) who want to abjure violence, surrender and join the mainstream. It is part of a multi-pronged conflict management and resolution strategy and is required to be implemented alongwith firm legal action by the police against those who follow the path of violence. The Scheme will aim at providing gainful employment and entrepreneurial opportunities to the surrendered LWEs so that they are encouraged to join the mainstream and do not return to the fold of the LWE movement.

2. **Objectives:** The objectives of these Guidelines for surrender-cum-rehabilitation of LWEs in the affected States are:

- (a) to wean away the hardcore LWE cadres who have strayed into the fold of LWE movement and now find themselves trapped in that net.
- (b) to ensure that the LWE cadres who surrender do not find it attractive to join the LWE movement again.

Note: Tactical surrenders by those elements attempting to utilise the benefits extended by the Government to further their vested interests should not be permitted under the Scheme.

3. **Eligibility Criteria:**

- (a) These guidelines are applicable to those LWE cadres who surrender with or without arms.
- (b) The eligibility of such LWE cadres for assistance under the scheme would be scrutinized by a Screening-cum-Rehabilitation Committee constituted by the State Government concerned.
- (c) The benefits of the scheme shall not be available to a surrenderee who has already surrendered and benefited under the existing surrender / rehabilitation scheme of any of the LWE affected States. Hence, the Screening-cum-Rehabilitation Committee should consult other LWE affected States before finalising their cases.

4. **Benefits under the Scheme:**

- (a) An immediate grant of Rs. 2.5. lakh for higher ranked LWE cadres like (i) State Committee Members (ii) Regional Committee Members (iii) Central Committee Members (iv) Politbureau Members, and Rs. 1.5 lakh for middle/lower ranked LWE cadres like (i) Area Commanders (ii) Sub-zonal Commanders (iii) Zonal Commanders (iv) Any hardcore LWE Cadre identified by the State Screening-cum-Rehabilitation Committee, shall be kept in a bank in the name of the surrenderee as a fixed deposit which

may be withdrawn by the surrenderee after completion of 3 years, subject to good behaviour certified by the authorities designated for this purpose by the States concerned. This money can also be utilized as collateral security/margin money against loans to be availed of by the surrenderee from any bank for self-employment.

- (b) The following additional incentives are included for surrendered weapons/ammunition:

S. No.	Weapons	Incentive
(i)	LMG/GPMG/Pika/RPG/Sniper Rifle/Rocket Launcher/Similar Weapons	Rs. 35,000 per weapon
(ii)	AK 47/56/74 Rifle	Rs. 25,000 per weapon
(iii)	Pistol/Revolver/SLR/Carbine/Sten Gun/ 303	Rs. 10,000 per weapon
(iv)	Rockets	Rs. 1,000 per rocket
(v)	Grenade /hand Grenade/stick grenade	Rs. 500 per grenade
(vi)	Remote Control Device	Rs. 3,000 each device
(vii)	Ammunition of all types	Rs. 3 per round
(viii)	IED	Rs. 1,000 each
(ix)	Mines	Rs. 3,000
(x)	Explosive material	Rs.1, 000 per kg.
(xi)	Wireless Set (a) Short Range (b) Long Range	Rs. 1,000 per each set Rs. 5,000 per each set
(xii)	Satellite Phone	Rs. 10,000
(xiii)	VHF/HF Communication sets	Rs.5,000
(xiv)	Electronic Detonators Other Detonators	Rs. 50 Rs. 10

Note: The incentive given for the surrender of the aforesaid arms shall be deposited in the form of a Fixed Deposit in the name of surrenderee which may be withdrawn by the surrenderee after completion of 3 years, subject to good behaviour certified by the authorities designated for this purpose by the States concerned.

- (c) The persons eligible under the scheme will be initially lodged in a rehabilitation camp where they will be imparted training in a trade/vocation of their liking or befitting their aptitude. They shall be paid a monthly stipend of Rs.4000/- each for a maximum period of 36 months. However, if the surrenderee secures any employment in the Government, the monthly stipend will be discontinued.

5. **Handling of weapons:** The States should develop a mechanism for safe storage of weapons and ammunitions surrendered by the naxalites.

6. Procedure for screening/identification and rehabilitation of naxalites:

6.1 The Screening-cum-Rehabilitation Committee consisting of the following will be involved in the process of identification and rehabilitation of surrendered LWE Cadre:-

- (i) ADG/IG(Int./Special Branch/CID) will act as the 'Surrender and Rehabilitation Officer (S&R Officer)' under the Scheme.
- (ii) Representative of State Home Department.
- (iii) Representative of State Police.
- (iv) Representative of Central Armed Police Forces.

6.2 A LWE cadre shall be free to surrender before any unit of the CAPFs, the District Magistrate, the District SP, the Range DIG, the IG(Ops), the IG(Special Branch), the DIG (Special Branch), the SP(Special Branch), the SDM, the Sub-Divisional Police Officer and other notified officers. The officers for this purpose shall be notified by the State Governments. A LWE cadre may also surrender before any unit of the Army or the CAPFs outside the State. The officer receiving the surrenderee shall send the details as informed by the surrenderee filled up in prescribed proforma to the S&R officer. The S & R officer will get the antecedents of the LWE cadre verified from authorities/ organisations concerned.

6.3 The officer receiving the surrenderee will provide immediate security to the surrenderee and after getting necessary details for filling up the requisite proforma, send him to the transit camp to be maintained by the S&R Officer. The decision about the acceptance or otherwise, of the surrenderee should be taken within 15 days.

6.4 Parameters for Screening procedure:

- (a) The LWE cadre who surrenders should be a bona-fide LWE cadre as defined at para 4 (a) and should surrender in accordance with the comprehensive surrender and rehabilitation policy being implemented by the State Government concerned.
- (b) The S&R authority designated by the State Government concerned for the purpose should ensure that the surrenderee is a genuine LWE cadre. The surrendered LWE cadre should make a clear confession of all the criminal acts committed by him/ her including names of planners and other participants, names of financiers, harbourers, couriers, details of the LWE organizations, arms/ammunition and the property looted/distributed/ disposed of, by the LWE cadre and the organization to which the LWE cadre belongs.

6.5 On receipt of verification reports from the authorities/organizations concerned regarding the activities of the surrendered LWE cadre, the Screening Committee headed by the S&R Officer would formally consider the surrender of LWE cadre and if accepted, transfer him/her to the rehabilitation camp.

Annexure IV: India's Periodic Report on the Involvement of Children in Armed Conflict, 2011



Optional Protocol to the
Convention on the Rights of the Child
on the
Involvement of Children
in
Armed Conflict
2011



Ministry of Women and Child Development
Government of India

Abbreviations

CBSE	Central Board of Secondary Education
CPF	Central Paramilitary Forces
CRC	Convention on the Rights of the Child
CWC	Child Welfare Committee
DAVP	Directorate of Advertising and Visual Publicity
ICPS	Integrated Child Protection Scheme
IMA	Indian Military Academy
JJ Act, 2000	Juvenile Justice (Care and Protection of Children) Act, 2000
JJ (Amendment) Act, 2006	Juvenile Justice (Care and Protection of Children) Amendment Act, 2006
JJ Rules, 2007	Juvenile Justice (Care and Protection of Children) Rules, 2007
MHA	Ministry of Home Affairs
MWCD	Ministry of Women and Child Development
NCG	National Coordination Group
NCPCR	National Commission for Protection of Child Rights
NDA	National Defence Academy
NGO	Non-Governmental Organisation
NHRC	National Human Rights Commission
OP	Optional Protocol
OTA	Officers Training Academy
PT	Physical Training
RIMC	Rashtriya Indian Military College
SCPCR	State Commission for Protection of Child Rights
SHRC	State Human Rights Commission
SJPU	Special Juvenile Police Unit

SSB	Service Selection Board
SSC	Short Service Commission
UPSC	Union Public Service Commission
Glossary	
Jawans	Soldier
Rozgar	Samachar Employment News

Introduction

The Optional 1. Protocol (OP) on the Rights of the Child on the Involvement of Children in Armed Conflict was ratified by India on November 30, 2005, and is in effect since December 30, 2005. This is the first report by India on the status of implementation of the OP to the Convention on the Rights of the Child (CRC) on the Involvement of Children in Armed Conflict. The nodal ministry, the Ministry of Women and Child Development (MWCD), has prepared the report in consultation with other concerned ministries and agencies, following the general guidelines issued by the Committee on the CRC.

A High Powered Committee, comprising representatives of the different Government Ministries, 18 State Governments and representatives of Non-Governmental Organisations (NGOs), academic institutions and international agencies, was constituted by the MWCD in December 2006, to guide the preparation of the CRC report and the reports on the two OPs. The High Powered Committee met in February 2007 to discuss the process of preparation of these reports. The collection of information for this OP was done simultaneously with the process of CRC report preparation, as the Government had taken the decision to submit the OP reports along with India: Third and Fourth Combined Periodic Report on the CRC.

Guidelines to the State Governments and relevant Central Government Ministries and Departments dealing with issues related to children were sent for submission of their inputs to the national report on the CRC and its two OPs.

Five regional-level consultations were held between July and October 2007, to obtain information from the States on CRC implementation for preparation of India: Third and Fourth Combined Periodic Report on the CRC and its OPs.

Article 1

Please provide information on all measures taken, including of a legislative, administrative or other nature, to ensure that members of the armed forces who have not attained the age of 18 years do not take a direct part in hostilities. In this respect, please provide information notably on:

- The meaning of “direct participation” in the legislation and practice of the State concerned.
- The measures taken to avoid that a member of the armed forces who has not attained the age of 18 years is deployed or maintained in an area where hostilities are taking place and the obstacles encountered in applying these measures.
- When relevant, disaggregated data on members of the armed forces below the age of 18 years who were made prisoners, whereas they did not directly participate in hostilities.

The minimum age for recruitment of prospective officers into the Armed Forces of India (Army, Air Force and Navy) is 16½ years. However, after enrolment, the recruits undergo training. They are sent to the operational areas only after attaining 18 years of age. The minimum age for recruitment to Central Paramilitary Forces (CPF) is 18 years. Both the Ministry of Home Affairs (MHA) and the Ministry of Defence have stated that no soldier below 18 years of age is deployed. The provisions of Fundamental Rights, as enjoined into the Constitution of India, are adequate safeguards to prevent the State from coercing the citizens to join the Armed Forces.

Article 2

Please indicate all the measures taken including of a legislative, administrative or other nature, to ensure that persons who have not attained the age of 18 years are not compulsorily recruited into the armed forces. In this regard, reports should indicate among others:

- Detailed information on the process of compulsory recruitment (i.e. from registration up to the physical integration into the armed forces) indicating the minimum age linked to each step, and at what time in that process, recruits become members of the armed forces.
- The reliable documents to verify age, which are required prior to acceptance into compulsory military service (birth certificate, affidavit, etc.).
- Any legal provision enabling the age of conscription to be lowered in exceptional circumstances (e.g. state of emergency). In this respect, please provide information on the age it can be lowered to, the process and the conditions for that change.
- For State Parties where compulsory military service has been suspended but not abolished, the minimum age of recruitment set up in the previous regime and how, and under what conditions, this previous system can be re-installed.

There is no forced and coerced recruitment into the Armed Forces of India. Hence, Article 2 of the OP does not apply to India.³

Article 3

Para 1

Reports should notably indicate:

- The minimum age set out for voluntary recruitment into the armed forces, in accordance with the declaration submitted upon ratification or accession or any change thereafter.
- When relevant, disaggregated data on children below the age of 18 years voluntarily recruited into the national armed forces (e.g. by gender, age, region, rural/urban areas and social and ethnic origin, and military ranks).

- When relevant, pursuant to Article 38, paragraph 3 of the CRC, the measures taken to ensure that in recruiting those persons who have attained the minimum age set out for voluntary recruitment but who have not attained the age of 18 years, priority is given to those who are the oldest. In this respect, please provide information on the measures of special protection adopted for recruits under 18 years.

Recruitment to the Armed Forces in India is purely voluntary and a person below 18 years of age cannot be inducted directly into the Armed Forces and hence, does not take direct part in hostilities. Recruitment of jawans in the Army is carried out through open recruitment rallies and those in the age group of 18-42 years are eligible to apply.

Paras 2 and 4

Reports should notably provide information on:

- The debate which has taken place in the State concerned prior to the adoption of the binding declaration and the people involved in that debate.
- When relevant, the national (or regional, local, etc.) debates, initiatives or any campaign aiming at strengthening the declaration if it sets out a minimum age lower than 18 years.

There was internal debate held besides inter-ministerial consultations prior to the adoption of the OP.

Para 3

With regard to the minimum safeguards that States Parties shall maintain concerning voluntary recruitment, reports should provide information on the implementation of these safeguards and indicate among others:

- A detailed description of the procedure used for such recruitment from the expression of intention to volunteer until the physical integration into the armed forces.
- Medical examination foreseen before recruitment of volunteers.
- The reliable documentation used to verify the age of volunteers (birth certificate, affidavit, etc.).
- Information that is made available to the volunteers, and to their parents or legal guardians allowing them to formulate their own opinion and to make them aware of the duties involved in the military service. A copy of any materials used for this information to be annexed to the report.
- The effective minimum service time and the conditions for early discharge; the use of military justice or discipline to under-18-years-old recruits; disaggregated data

on the number of such recruits, under trial or in detention; and the minimum and maximum sanctions foreseen in case of desertion.

The incentives used by the national armed forces for encouraging volunteers to join the ranks (scholarships, advertising, meetings at schools, games, etc.).

A person can join the Armed Forces either on a Permanent Commission or a Short Service Commission (SSC). Recruitment of general troops is done through recruitment rallies. (See para 7 for details.)

- i. Permanent Commission means a career in the Army till one retires. For a Permanent Commission, one needs to join the National Defence Academy (NDA) or the Indian Military Academy (IMA). One can take the NDA entrance exam right after class XI. After clearing the exam and a five-day Service Selection Board (SSB) interview and passing through medical tests, recruits are inducted into the NDA. There are four main entries to get into the IMA. In the final year of graduation, one needs to pass the Combined Defence Services Examination, be medically fit and join IMA as a direct entry if one comes in the merit list. The other entries are 10+2 Technical Entry, wherein one can apply after class XII examinations, and University Entry Scheme for those, who wish to apply for the Army in Pre-Final/Final Year of Engineering. The selection procedure is same as for IMA (Direct Entry), except that there are no written exams. The duration of training is 1½ years for IMA, five years (one year at IMA and four years at Cadet Training Wings) for 10+2 Technical Entry (including one year after commissioning) and one year for all other entries.
- ii. Under the SSC, one has the option of joining the Army and serving as a Commissioned Officer for 10 years. At the end of this period, the person has two options. He can either opt for a Permanent Commission or opt out. Those not selected for Permanent Commission have the option of a four years extension. They can resign at any time during this period. Once selected for SSC, one goes to the Officers Training Academy (OTA) at Chennai. The selection process is a written examination, followed by the SSB interview and medicals. For Technical (Engineering) graduates, it is direct SSB interview and medicals. If one has done National Cadet Corps Senior Division (Army) and obtained 'C' certificate with minimum 'B' grade, one can apply through the National Cadet Corps Branch Headquarter/Zonal Headquarter to the Recruiting Directorate for a direct SSB interview. SSB-qualified candidates undergo a medical examination. The duration of training is 49 weeks. Women officers receive training at OTA, Chennai. After the written exam, there is the SSB interview followed by a medical examination.

The medical examination conducted before the recruitment of volunteers checks that: a candidate has robust physique and good mental health; has chest developed, with minimum 5-cm expansion; has normal hearing with each ear and good binocular vision in both eyes; is able to read 6/6 in a distant-vision chart with each eye; has colour vision of CP-III; recognises red and green colours; has sufficient number of natural healthy gum and teeth

i.e. minimum 14 dental points; and does not suffer from diseases such as deformity of bones, hydrocele and varicocele or piles.

The birth certificate, as in high school/school pass-out certificate, is used to verify the age of the volunteers.

The Ministry of Defence releases advertisements through the Directorate of Advertising and Visual Publicity (DAVP) in the Rozgar Samachar and in newspapers in different languages for various entries such as NDA, Combined Defence Services Examination, Technical Graduate Course, SSC (Technical & Non-Technical), etc. Advertisements are also placed in journals/magazines of educational institutions. Hoardings are erected adjacent to engineering colleges all over the country to attract technical talents into the Army. DAVP approves the sites and thereafter, hoardings giving detailed information are installed and maintained by them. Information folders, leaflets, brochures, data cards, posters and blow-ups, prepared through DAVP and private professional agencies, are widely distributed. Each year, at the Defence pavilion at the India International Trade Fair, New Delhi, a stall is established, where recruitment information is provided to visitors. This is also done in other career fairs for students.

Para 5

Reports should indicate, among others, information on:

- The minimum age of entry into schools operated by or under the control of the armed forces.
- Disaggregated data on schools operated by or under the control of the armed forces, including numbers, type of education provided, proportion between academic education and military training in the curricula; length of this education; academic/military personnel involved, educational facilities, etc.
- The inclusion in the school curricula of human rights and humanitarian principles, including in areas relevant to the realisation of the rights of the child.
- Disaggregated data on the students in these schools (for example, by gender, age, region, rural/urban areas and social and ethnic origin); their status (members or not of the armed forces); their military status in the case of a mobilisation or of an armed conflict, a genuine military need or any other emergency situation; their right to leave such schools at any time and not to pursue a military career.
- All appropriate measures taken to ensure that school discipline is administered in a manner consistent with the child's human dignity and any complaint mechanisms available in this regard.

There are 28 training institutes operated by Armed Forces in the country. (See Annexure I for details on list of training institutes in the country.) A description of some of these is given below:

- i. Sainik Schools operate under the overall governance of Sainik Schools Society. At present, there are 22 Sainik Schools located in various parts of the country. These Schools prepare boys academically, physically and mentally to join the Armed Forces through the NDA. However, it is not mandatory for students to join the Armed Forces after passing out from a Sainik School. Sainik Schools admit boys into classes VI and IX. They should be in the age group of 10-11 years for class VI and 13-14 years for class IX. These Schools are affiliated to the Central Board of Secondary Education (CBSE) and follow the 10+2 pattern in science stream only.
- ii. The Rashtriya Military Schools (earlier known as Military Schools), affiliated to CBSE, are residential School for boys studying in class VI to XII, and are located at four places in the country. These Schools admit boys into class VI, based on the results of an all India entrance examination. The Schools prepare the cadets for All India Senior School Certificate Examination and for joining the Armed Forces as officers. The medium of instruction is English, while Hindi is a compulsory subject for students studying in class VI to X. Just as in Sainik Schools, joining the Armed Forces is not a logical outcome for students of the Rashtriya Military Schools.
- iii. The NDA is an inter-service training institution. On conclusion of this training, the cadets proceed to their respective Service Academies for further training, before being commissioned as officers into the Armed Forces. All the cadets joining the NDA after their 10+2 examination are trained in the Academy for three years, culminating into graduation, with a Bachelor of Arts (BA)/ Bachelor of Science (BSc) or BSc in Computer Science. Apart from academic training, the cadets are also trained in outdoor skills, like drill, physical training (PT) and games. The academic curriculum consists of three categories of courses – the Compulsory Course, the Optional Course and the Foundation Course. The Foundation Course consists of two components, namely, Military Studies and General Studies. In Military Studies, topics such as Military History, Military Geography, Weapons and Armaments etc. are taught. General Studies covers subjects like Environmental Sciences, Geopolitics, Human Rights, Law of Armed Conflict etc. NDA has infrastructure for all-round training of cadets and a vast array of facilities like spacious and well-maintained classrooms, well-equipped laboratories, two Olympic-size swimming pools, a gymnasium, 32 football grounds, polo grounds, a cricket stadium and a number of squash and tennis courts.
- iv. The Rashtriya Indian Military College (RIMC) serves as a feeder institute to the NDA. The intake in the College is at class VIII level, for boys in the age group of 11-13. The College is administered by the Union Ministry of Defence, through the Directorate General of Military Training, Army. The College offers only the science stream at the +2 level. However, to prepare cadets for the Union Public Service Commission (UPSC) examination for entry into NDA, social sciences are also taught. The curriculum requirements are exacting, yet exciting in their variety. Every activity is objective-based and precisely timed to mould future leaders.

- v. The IMA, Dehradun, aims at the fullest development of intellectual, moral and physical qualities of persons joining the Army as officers. Entry into IMA is through various modes such as graduation from NDA, graduation from Army Cadet College, through 10+2 Technical Entry Scheme, etc. PT, drill, weapon training, leadership training and practice is given the maximum thrust in the training curriculum. A young cadet learns important lessons in theory and practice of military leadership from the qualified instructors posted to the Academy. The curriculum aims at progressively exploring higher challenges for the cadets, as they move from junior terms to senior terms. Thus, they learn to cope with high levels of stress and strain through the rigours of training. The Academy endeavours to constantly upgrade the curriculum by assimilating latest trends and techniques in military training to suit the emerging trends in soldiering. By the time a cadet completes the training cycle, he is confident enough to deal with any kind of situation. In addition to nurturing training in leadership, the Academy aims at grooming cadets in personal qualities, so that he possesses strong moral and ethical fibre that helps him to rise above pettiness, uphold his self-dignity and not be swayed by emotional considerations.

Most of the schools operated by the Armed Forces follow the CBSE pattern of education and in order to sensitise students on human rights issues, CBSE will be starting a course on the subject.

Article 4

Please provide information on, inter alia:

- The armed groups operating on/from the territory of the State concerned or with sanctuary on that territory.
- Update on the status of the negotiations of the State Party with armed groups.
- Disaggregated data on children who have been recruited and used in hostilities by the armed groups, and on those who have been arrested by the State concerned (e.g. by gender, age, region, rural/urban areas and social and ethnic origin, time spent in the armed groups, and time spent in hostilities).
- Any written or oral commitment made by armed groups aiming at not recruiting and using children below the age of 18 years in hostilities.
- Measures adopted by the State concerned aiming at raising awareness amongst armed groups and within the communities of the need to prevent recruitment of children below the age of 18 years and of their legal duties with regard to the minimum age set up in the OP for recruitment and use in hostilities.
- The adoption of legal measures which aim at prohibiting and criminalising the recruitment and use in hostilities of children under the age of 18 years by such armed groups and the judicial decisions applying to this issue.

- The programmes to prevent notably children who are at highest risk of recruitment or use by such armed groups, such as refugee and internally displaced children, street children, orphans (e.g. birth registration campaigns) from being recruited or used by armed groups.

India does not face either international or non-international armed conflict situations.

However, India had created a protection mandate for children much before ratifying the OP on the Rights of the Child on the Involvement of Children in Armed Conflict. Article 21 of the Constitution says that no person shall be deprived of his life or personal liberty except according to the procedure established by law. Article 39(e) directs the State to ensure that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity, and that they are protected against exploitation and against moral and material abandonment. Article 47 imposes on the State the primary responsibility of ensuring that all the needs of children are met and that their basic rights are fully protected.

Even though India does not face armed conflict, there are legislative provisions that prevent involvement of children in armed conflict and provide care and protection to children affected by armed conflict.

A child affected by armed conflict has been already defined by the Juvenile Justice (Care and Protection of Children) Act (JJ Act), 2000, as a child in need of care and protection. Therefore, all the measures available under this Act are available for such children, which have a standard component of minimum standards to be adhered to. The Act was amended in 2006, making it more responsive to the emerging needs of juvenile justice.

The Integrated Child Protection Scheme (ICPS), launched by the MWCD in 2009, is a centrally-sponsored scheme that provides a safe and secure environment for overall development of children in need of care and protection, including children in difficult circumstances, such as children affected by, or involved in armed conflict. The objective of the Scheme is to contribute to the improvement in the wellbeing of children in difficult circumstances, and to the reduction of vulnerabilities to situations and actions that lead to abuse, neglect, exploitation, abandonment and separation of children. These will be achieved by:

- i. Improved access to, and quality of, child protection services.
- ii. Increased public awareness about the reality of child rights, situation and protection in India.
- iii. Clearly-articulated responsibilities and enforced accountability for child protection.
- iv. Established and functioning structures at all Government levels for delivery of statutory and support services to children in difficult circumstances.
- v. Introduction of operational-evidence-based monitoring and evaluation.

Article 5

Please indicate any provision of the national legislation and of international instruments and international humanitarian law applicable in the State concerned, which are more conducive to the realisation of the rights of the child. Reports should also provide information on the status of ratification by the State concerned of the main international instruments concerning children in armed conflict and on other commitments undertaken by that State concerning this issue.

The OP to the Rights of the Child on the Involvement of Children in Armed Conflict was ratified by India in 2005. Since then, the country has initiated the process of implementation of the various Articles of the Convention.

Article 6

Paras 1 and 2

Please indicate the measures adopted to ensure the effective implementation and enforcement of the provisions of the OP within the jurisdiction of the State Party, including information on:

- Any review of domestic legislation and amendments introduced into it.
- The legal status of the OP in national law and its applicability before domestic jurisdictions, as well as when relevant, the intention of the State Party to withdraw existing reservations made to this Protocol.
- The competent governmental departments or bodies responsible for the implementation of the OP and their coordination with regional and local authorities as well as with civil society.
- The mechanisms and means used for monitoring and periodically evaluating the implementation of the OP.
- Measures adopted to ensure the relevant training of peacekeeping personnel on the rights of the child, including the provisions of the OP.
- The dissemination in all relevant languages of the OP to all children and adults, notably those responsible for military recruitment, and the appropriate training offered to all professional groups working with and for children.

The OP on the Rights of the Child on the Involvement of Children in Armed Conflict holds similar status as other international covenants and treaties such as the CRC.

The Ministry of Women and Child Development, in collaboration with the Ministry of Home Affairs and the Ministry of Defence, is responsible for the implementation of the OP. At the decentralised level, the State Departments are responsible for the implementation.

A National Coordination Group (NCG) was constituted on April 8, 2005, under the chairpersonship of the Secretary, MWCD. The NCG was strengthened and re-constituted,

with expanded scope of work, on October 12, 2007. Its terms of reference include: coordination of CRC implementation and its two OPs with other concerned Ministries, Departments, State Governments and NGOs.

At the national level, National Commission for Protection of Child Rights (NCPCR) and National Human Rights Commission (NHRC) are two autonomous bodies that monitor the violation of human and child rights. At the State level, State Human Rights Commissions (SHRCs) are functioning in 187 States. Similarly State Commissions for the Protection of Child Rights (SCPCRs) have been set up in eight States (Goa, Sikkim, Delhi, Maharashtra, Karnataka, Assam, Madhya Pradesh and Rajasthan) and other States are in the process of setting up these Commissions.

Para 3

When relevant, please indicate all measures adopted with regard to disarmament, demobilisation (or release from service) and to the provision of appropriate assistance for the physical and psychological recovery and social re-integration of children, taking due account of the specific situation of girls, including information on:

- Disaggregated data on children involved in that proceeding, on their participation in such programmes, and on their status with regard to the armed forces and armed groups (e.g. when do they stop to be members of the armed forces or groups?).
- The budget allocated to these programmes, the personnel involved and their training, the organisations concerned, cooperation among them, and participation of civil society, local communities, families, etc.
- The various measures adopted to ensure the social re-integration of children, e.g. interim care, access to education and vocational training, re-integration in the family and community, relevant judicial measures, while taking into account the specific needs of children concerned depending notably on their age and sex.
- The measures adopted to ensure confidentiality and protection of children involved in such programmes from media exposure and exploitation.
- The legal provisions adopted for criminalising the recruitment of children and the inclusion of that crime in the competence of any specific justice seeking mechanisms established in the context of conflict (e.g. war crimes tribunal, truth and reconciliation bodies). The safeguards adopted to ensure that the rights of the child as a victim and as a witness are respected in these mechanisms in light of the CRC.
- The criminal liability of children for crimes they may have committed during their stay with armed forces or groups and the judicial procedure applicable, as well as safeguards to ensure that the rights of the child are respected.

- When relevant, the provisions of peace agreements dealing with the disarmament, demobilisation and/or physical and psychological recovery, and social re-integration of child combatants.

The 'child protection' component of the budget set aside for children by the MWCD every year covers all children in need of care and protection. Though this component has increased from 0.027% in 2001-02 to 0.053% in 2007-08, the increase is marginal. If we take into account the huge population of children who are exposed to various kinds of risks and deserve protection by the State, the Central Government spending on child protection is small.

The social re-integration of children such as interim care, access to education and vocational training, re-integration in the family and community, etc. is provided under the Juvenile Justice (Care and Protection of Children) Amendment Act (JJ Amendment Act), 2006, by adopting child-friendly approach in the adjudication and disposition of matters in the best interest of children and for their ultimate rehabilitation.

The JJ (Amendment) Act, 2006, and the Juvenile Justice (Care and protection of Children) Rules (JJ Rules), 2007, seek to promote child-friendly measures, i.e. any process, interpretation, environment and treatment that is humane and considerate and in the best interest of the child/juvenile. The Special Juvenile Police Units (SJPU) function as a watchdog for ensuring legal protection against cruelty, abuse and exploitation of juveniles. Though alternatives to institutionalisation have been provided under the JJ Act, 2000, the progress in promoting these non-institutional rehabilitative options has been rather slow, except for few States, where it is reported that the judges have given decisions in favour of probation and community based service/rehabilitation. Some States have taken initiatives for improving probation and other alternatives to institutionalisation with the support of local NGOs and community.

The JJ Rules, 2007, recommend that proceedings should be closed, and conducted in an informal and friendly manner. For instance, the board shall not sit on a raised platform, and there shall be no witness box. Acknowledging the principle of 'right to be heard', it promotes active involvement of children in all matters and decisions affecting their interest. Besides, the JJ Act, 2000, protects the privacy rights and prevents stigmatisation, and the JJ (Amendment) Act, 2006, prohibits media from disclosing the name, address or school or any other particulars, or publishing a picture that may lead to the identification of the child.

The JJ Act, 2000, ensures that the rights of the child as a victim and as a witness are respected. The Act provides for proper care, protection and treatment by catering to the development needs and by adopting a child-friendly approach in the adjudication and disposition of matters in the best interest of children and for their ultimate rehabilitation.

Article 7

Reports should provide information on cooperation in the implementation of the OP, including through technical cooperation and financial assistance. In this regard, reports should provide information, inter alia, on the extent of the technical cooperation or financial assistance, which the State Party has requested or offered. Please indicate, if the State Party is in a position of providing financial assistance, the existing multilateral, bilateral or other programmes that have been undertaken for that assistance.

Not Applicable

List of Training Institutes

S.No.	Institute
1.	Sainik Schools
2.	Military Schools
3.	Rashtriya Indian Military College (RIMC), Dehradun
4.	National Defence Academy (NDA), Khadakwasla
5.	Indian Military Academy (IMA), Dehradun
6.	Army Cadet College (ACC), Dehradun
7.	Officers Training Academy (OTA), Chennai
8.	College of Combat, Mhow
9.	Junior Leaders Wing, Belgaum
10.	Junior Leaders Academy (JLA), Bareilly
11.	Junior Leaders Academy (JLA), Ramgarh
12.	Defence Service Staff College, Wellington
13.	High Altitude Warfare School
14.	Counter Insurgency and Jungle Warfare School
15.	Infantry School
16.	Battle School
17.	College of Defence Management
18.	College of Materials Management
19.	National Defence College

20.	Army Air Defence College
21.	School of Artillery
22.	ASC Centre and College
23.	Army Education Corps
24.	Military Music Wing
25.	Remount and Vet
26.	Army School of Physical Training
27.	Army Sports Institute and Army Sports Nodes
28.	Training of Foreign Armed Force Personnel
Source: Recruitment and Training, Ministry of Defence, GoI, see http://mod.nic.in/rec&training/welcome.html	

Annexure V: Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict

The States Parties to the present Protocol,

Encouraged by the overwhelming support for the Convention on the Rights of the Child, demonstrating the widespread commitment that exists to strive for the promotion and protection of the rights of the child,

Reaffirming that the rights of children require special protection, and calling for continuous improvement of the situation of children without distinction, as well as for their development and education in conditions of peace and security,

Disturbed by the harmful and widespread impact of armed conflict on children and the long-term consequences this has for durable peace, security and development,

Condemning the targeting of children in situations of armed conflict and direct attacks on objects protected under international law, including places generally having a significant presence of children, such as schools and hospitals,

Noting the adoption of the Statute of the International Criminal Court and, in particular, its inclusion as a war crime of conscripting or enlisting children under the age of 15 years or using them to participate actively in hostilities in both international and non-international armed conflicts,

Considering, therefore, that to strengthen further the implementation of rights recognized in the Convention on the Rights of the Child there is a need to increase the protection of children from involvement in armed conflict,

Noting that article 1 of the Convention on the Rights of the Child specifies that, for the purposes of that Convention, a child means every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier,

Convinced that an optional protocol to the Convention raising the age of possible recruitment of persons into armed forces and their participation in hostilities will contribute effectively to the implementation of the principle that the best interests of the child are to be a primary consideration in all actions concerning children,

Noting that the twenty-sixth international Conference of the Red Cross and Red Crescent in December 1995 recommended, inter alia, that parties to conflict take every feasible step to ensure that children under the age of 18 years do not take part in hostilities,

Welcoming the unanimous adoption, in June 1999, of International Labour Organization Convention No. 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, which prohibits, inter alia, forced or compulsory recruitment of children for use in armed conflict,

Condemning with the gravest concern the recruitment, training and use within and across national borders of children in hostilities by armed groups distinct from the armed forces of a State, and recognizing the responsibility of those who recruit, train and use children in this regard,

Recalling the obligation of each party to an armed conflict to abide by the provisions of international humanitarian law,

Stressing that this Protocol is without prejudice to the purposes and principles contained in the Charter of the United Nations, including Article 51, and relevant norms of humanitarian law,

Bearing in mind that conditions of peace and security based on full respect of the purposes and principles contained in the Charter and observance of applicable human rights instruments are indispensable for the full protection of children, in particular during armed conflicts and foreign occupation,

Recognizing the special needs of those children who are particularly vulnerable to recruitment or use in hostilities contrary to this Protocol owing to their economic or social status or gender,

Mindful of the necessity of taking into consideration the economic, social and political root causes of the involvement of children in armed conflicts,

Convinced of the need to strengthen international cooperation in the implementation of this Protocol, as well as the physical and psychosocial rehabilitation and social reintegration of children who are victims of armed conflict,

Encouraging the participation of the community and, in particular, children and child victims in the dissemination of informational and educational programmes concerning the implementation of the Protocol,

Have agreed as follows:

Article 1

States Parties shall take all feasible measures to ensure that members of their armed forces who have not attained the age of 18 years do not take a direct part in hostilities.

Article 2

States Parties shall ensure that persons who have not attained the age of 18 years are not compulsorily recruited into their armed forces.

Article 3

1. States Parties shall raise the minimum age for the voluntary recruitment of persons into their national armed forces from that set out in article 38, paragraph 3, of the Convention on the Rights of the Child, taking account of the principles contained in that article and recognizing that under the Convention persons under 18 are entitled to special protection.
2. Each State Party shall deposit a binding declaration upon ratification of or accession to this Protocol that sets forth the minimum age at which it will permit voluntary recruitment into its national armed forces and a description of the safeguards that it has adopted to ensure that such recruitment is not forced or coerced.
3. States Parties that permit voluntary recruitment into their national armed forces under the age of 18 shall maintain safeguards to ensure, as a minimum, that:
 - (a) Such recruitment is genuinely voluntary;
 - (b) Such recruitment is done with the informed consent of the person=s parents or legal guardians;
 - (c) Such persons are fully informed of the duties involved in such military service;
 - (d) Such persons provide reliable proof of age prior to acceptance into national military service.
4. Each State Party may strengthen its declaration at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall inform all States Parties. Such notification shall take effect on the date on which it is received by the Secretary-General.
5. The requirement to raise the age in paragraph 1 of the present article does not apply to schools operated by or under the control of the armed forces of the States Parties, in keeping with articles 28 and 29 of the Convention on the Rights of the Child.

Article 4

1. Armed groups that are distinct from the armed forces of a State should not, under any circumstances, recruit or use in hostilities persons under the age of 18 years.
2. States Parties shall take all feasible measures to prevent such recruitment and use, including the adoption of legal measures necessary to prohibit and criminalize such practices.
3. The application of the present article under this Protocol shall not affect the legal status of any party to an armed conflict.

Article 5

Nothing in the present Protocol shall be construed as precluding provisions in the law of a State Party or in international instruments and international humanitarian law that are more conducive to the realization of the rights of the child.

Article 6

1. Each State Party shall take all necessary legal, administrative and other measures to ensure the effective implementation and enforcement of the provisions of this Protocol within its jurisdiction.
2. States Parties undertake to make the principles and provisions of the present Protocol widely known and promoted by appropriate means, to adults and children alike.
3. States Parties shall take all feasible measures to ensure that persons within their jurisdiction recruited or used in hostilities contrary to this Protocol are demobilized or otherwise released from service. States Parties shall, when necessary, accord to these persons all appropriate assistance for their physical and psychological recovery and their social re-integration.

Article 7

1. States Parties shall cooperate in the implementation of the present Protocol, including in the prevention of any activity contrary to the Protocol and in the rehabilitation and social reintegration of persons who are victims of acts contrary to this Protocol, including through technical cooperation and financial assistance. Such assistance and cooperation will be undertaken in consultation with concerned States Parties and relevant international organizations.
2. States Parties in a position to do so shall provide such assistance through existing multilateral, bilateral or other programmes, or, inter alia, through a voluntary fund established in accordance with the rules of the General Assembly.

Article 8

1. Each State Party shall submit, within two years following the entry into force of the Protocol for that State Party, a report to the Committee on the Rights of the Child providing comprehensive information on the measures it has taken to implement the provisions of the Protocol, including the measures taken to implement the provisions on participation and recruitment.
2. Following the submission of the comprehensive report, each State Party shall include in the reports they submit to the Committee on the Rights of the Child, in accordance with article 44 of the Convention, any further information with respect to the implementation of the Protocol. Other States Parties to the Protocol shall submit a report every five years.
3. The Committee on the Rights of the Child may request from States Parties further information relevant to the implementation of this Protocol.

Article 9

1. The present Protocol is open for signature by any State that is a party to the Convention or has signed it.
2. The present Protocol is subject to ratification and is open to accession by any State. Instruments of ratification or accession shall be deposited with the Secretary-General of the United Nations.
3. The Secretary-General, in his capacity as depositary of the Convention and the Protocol, shall inform all States Parties to the Convention and all States that have signed the Convention of each instrument of declaration pursuant to article 13.

Article 10

1. The present Protocol shall enter into force three months after the deposit of the tenth instrument of ratification or accession.
2. For each State ratifying the present Protocol or acceding to it after its entry into force, the present Protocol shall enter into force one month after the date of the deposit of its own instrument of ratification or accession.

Article 11

1. Any State Party may denounce the present Protocol at any time by written notification to the Secretary-General of the United Nations, who shall thereafter inform the other States Parties to the Convention and all States that have signed the Convention. The denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General. If, however, on the expiry of that year the denouncing State Party is engaged in armed conflict, the denunciation shall not take effect before the end of the armed conflict.
2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under the present Protocol in regard to any act that occurs prior to the date on which the denunciation becomes effective. Nor shall such a denunciation prejudice in any way the continued consideration of any matter that is already under consideration by the Committee prior to the date on which the denunciation becomes effective.

Article 12

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties, with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly for approval.

2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of States Parties.
3. When an amendment enters into force, it shall be binding on those States Parties that have accepted it, other States Parties still being bound by the provisions of the present Protocol and any earlier amendments that they have accepted.

Article 13

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States Parties to the Convention and all States that have signed the Convention.

Asian Centre for Human Rights is dedicated to promotion and protection of human rights and fundamental freedoms in the Asian region by:

- providing accurate and timely information and complaints to the National Human Rights Institutions, the United Nations bodies and mechanisms as appropriate;
- conducting investigation, research, campaigning and lobbying on country situations or individual cases;
- increasing the capacity of human rights defenders and civil society groups through relevant trainings on the use of national and international human rights procedures;
- providing input into international standard setting processes on human rights;
- providing legal, political and practical advice according to the needs of human rights defenders and civil society groups; and
- by securing the economic, social and cultural rights through rights-based approaches to development.



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