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The Right to Health of Children Affected by Armed Conflict under the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict

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ABSTRACT

Armed conflict threatens children's physical and mental health, particularly through recruitment and use in hostilities. This study examines the adequacy of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict in protecting the right to health of affected children. This study employs a doctrinal legal research method, analyzing the Optional Protocol alongside the Convention on the Rights of the Child and relevant principles of international humanitarian and international criminal law. Although the Protocol strengthens protection against child recruitment and provides for physical and psychological recovery and social reintegration, differentiated legal standards and implementation challenges limit its effectiveness. Moreover, its provisions do not comprehensively address the healthcare needs of affected children. Effective protection requires stronger implementation of international obligations, improved access to healthcare and rehabilitation, and enhanced national and international cooperation to safeguard children's physical and mental health during and after armed conflict.

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Introduction

Armed conflicts pose serious threats to children's lives, physical and mental health, and overall development. Children affected by armed conflict are particularly vulnerable to death, physical injury, psychological trauma, forced displacement, malnutrition, infectious diseases, and the disruption of essential healthcare services. Recruitment and use in hostilities further expose them to violence, exploitation, and life-threatening conditions, while often depriving them of education, family support, and access to adequate medical care. These consequences may persist long after hostilities have ended, adversely affecting children's physical, psychological, and social development. Protecting children in armed conflict must therefore extend beyond preventing

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their participation in hostilities to safeguarding their fundamental rights, particularly their right to health. The Convention on the Rights of the Child (1989) establishes the principal international legal framework for protecting children's rights. Articles 6, 19, and 24 address the rights to survival and development, protection from violence, and the highest attainable standard of health, respectively. Article 38 specifically addresses the protection of children in armed conflict. However, the age thresholds established under Article 38 for recruitment and participation in hostilities provided a less protective standard than the general under-eighteen definition of childhood under the Convention. These limitations contributed to the adoption of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict in 2000. The Optional Protocol strengthens international protection through specific obligations concerning children's direct participation in hostilities, compulsory recruitment into State armed forces, voluntary recruitment, and recruitment and use by non-State armed groups. It also requires States Parties to adopt implementation measures and take feasible steps to ensure the release of children recruited or used contrary to its provisions. Furthermore, it addresses assistance for their physical and psychological recovery and social reintegration and promotes international cooperation in implementing its protective framework. Despite these developments, significant legal and practical challenges remain. The Protocol establishes different standards for various forms of recruitment and military involvement, meaning that its provisions must be interpreted according to their respective scope and requirements. Its effectiveness also depends on domestic legislation, enforcement mechanisms, institutional capacity, and international cooperation. Although Article 6 expressly recognizes the importance of physical and psychological recovery and social reintegration, the Protocol does not comprehensively specify the healthcare services required by affected children or the practical arrangements necessary to ensure their continued access to treatment and rehabilitation.

These limitations are particularly important from the perspective of the right to health. The consequences of recruitment and participation in hostilities are not confined to immediate physical injuries; they may also include psychological trauma, disability, sexual and reproductive health problems, and long-term developmental difficulties. Effective protection therefore requires a coordinated approach that combines prevention and legal accountability with accessible healthcare, psychological support, rehabilitation, and social reintegration. The relevant provisions of the Convention on the Rights of the Child must consequently be considered alongside the Protocol and applicable rules of international humanitarian and international criminal law, while maintaining the distinction between State obligations and individual criminal responsibility. Against this background, the present study examines the extent to which the Optional Protocol provides an adequate legal framework for protecting the right to health of children affected by armed conflict. It adopts a doctrinal legal research method, analyzing the Protocol's substantive provisions and implementation obligations in conjunction with the Convention on the Rights of the Child and relevant rules of international law. Particular attention is given to the legal standards governing recruitment and participation in hostilities, the obligations of States Parties to prevent violations, and the measures required to support the physical and psychological recovery of affected children.

The central argument is that, although the Optional Protocol represents a significant advance in protecting children against recruitment and use in armed conflict, its contribution to realizing their right to health depends on effective implementation and the integration of preventive, medical, psychological, and reintegration measures. By identifying the strengths and limitations of the existing legal framework, this study seeks to clarify how international legal obligations can be more effectively implemented to protect children's health during and after armed conflict.

1. Legal Foundations of Protecting Children's Right to Health in Armed Conflict

The protection of children in armed conflict is grounded in the principle that children, in addition

to enjoying all fundamental human rights, are entitled to special protection in light of their age, physical and psychological development, and particular vulnerability. Such protection does not place children outside the general framework of international human rights law. Rather, it reflects the need for legislative, administrative, and protective measures tailored to their specific circumstances and developmental needs. In situations of armed conflict, where ordinary systems of social protection, healthcare, and legal assistance are frequently weakened or disrupted, the need for such measures becomes particularly acute. Effective protection therefore requires the concurrent application of international human rights law and international humanitarian law, together with measures that preserve children's access to essential services and support their physical and psychological well-being (1). The Convention on the Rights of the Child, adopted in 1989, establishes the principal treaty framework for the international protection of children's rights. Under Article 1, a child is generally defined as every human being below the age of eighteen years, unless, under the law applicable to the child, majority is attained earlier. This definition establishes the general personal scope of the Convention's protections. Nevertheless, when examining provisions concerning armed conflict, it is necessary to distinguish the general definition of a child from the specific age thresholds established under other instruments for particular prohibitions or forms of legal responsibility (2). In particular, the eighteen-year threshold used in international child protection should not automatically be equated with the age thresholds applicable to specific offenses under international criminal law without examining the elements and conditions of the relevant rules. Among the Convention's fundamental principles, the best interests of the child, set out in Article 3, occupy a central position. Under this provision, the best interests of the child must be a primary consideration in all actions concerning children undertaken by public or private social welfare institutions, courts of law, administrative authorities, or legislative bodies. In armed conflict, this principle is particularly important when decisions concern recruitment, continued service, release, rehabilitation, and social reintegration. Such decisions cannot be assessed exclusively by reference to military, security, or administrative considerations; their implications for the child's rights, individual circumstances, development, and health must also be taken into account. However, the best-interests principle should not be treated as a substitute for specific legal rules prohibiting recruitment or participation in hostilities. Its function is to guide the interpretation and implementation of applicable obligations and strengthen the protection afforded to children within the existing legal framework, rather than authorize departures from treaty provisions or the legal elements of specific prohibitions (3). Articles 6, 19, 24, 28, and 38 of the Convention are also relevant to establishing the legal framework for protecting children in armed conflict. Article 6 recognizes every child's inherent right to life and requires States Parties to ensure, to the maximum extent possible, the survival and development of the child. Article 19 requires protection against all forms of physical or mental violence, injury, abuse, neglect, maltreatment, and exploitation. Article 24 recognizes the child's right to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. Article 28 recognizes the right to education, while Article 38 specifically addresses the protection of children in armed conflict (3).

Read together, these provisions demonstrate that protecting children during armed conflict cannot be confined to preventing death or immediate physical injury. It must also be understood in relation to interconnected rights, including health, education, personal security, survival, and development consistent with the child's age and circumstances. Recruitment and use in armed structures may interfere with several of these rights simultaneously. Children may be exposed to physical violence, psychological trauma, inadequate nutrition, sexual exploitation, infectious diseases, and the interruption of essential medical treatment. They may also lose access to family support, education, and community-based services necessary for their recovery. From a health-law perspective, the relationship between recruitment and the right to

health is especially significant. The right to health encompasses more than access to medical treatment after an injury or illness has occurred. It also concerns the conditions necessary to preserve physical and mental well-being and to support healthy development. When recruitment exposes children to foreseeable risks of violence, deprivation, coercion, or psychological trauma, the resulting harm may affect both their immediate health and their long-term developmental prospects. Consequently, the protection of children against recruitment and use in armed conflict should be assessed alongside the obligations to prevent health-related harm, provide appropriate healthcare, and facilitate recovery after exposure to violence. Article 38 of the Convention provides a direct link between the general international law of children's rights and the specific rules of international humanitarian law. It requires States Parties to respect and ensure respect for applicable rules of international humanitarian law relevant to children. Paragraphs 2 and 3 also establish standards concerning children's direct participation in hostilities and recruitment into armed forces. However, the fifteen-year age threshold reflected in these paragraphs provides a lower level of age-based protection than the general definition of a child under Article 1. This difference was one of the principal considerations underlying the subsequent development of additional protection through the Optional Protocol adopted in 2000 (4). From an analytical perspective, it is therefore necessary to distinguish between the recognition of children as independent holders of fundamental rights, the identification of States' protective obligations, and the determination of the age threshold applicable to a specific prohibition. These dimensions serve different legal functions and produce distinct consequences. The general recognition of children's rights establishes the foundation for protection, while specific treaty provisions define the content and scope of particular obligations. The right to health, in turn, provides an important basis for assessing the consequences of recruitment and the measures necessary to address resulting physical and psychological harm. The principle of special protection must also be understood in conjunction with international humanitarian law. By establishing restrictions on the means and methods of warfare and protecting persons who do not participate, or who are no longer participating, in hostilities, international humanitarian law provides a complementary framework for safeguarding children. A child's legal position cannot, however, be determined solely by physical presence on a battlefield. The applicable analysis must take account of the conduct in question, the child's legal status, the type of armed conflict, and the particular rule governing the circumstances. The legal protection of children in armed conflict thus emerges from the interaction between general human rights obligations and the specific provisions of international humanitarian law. The assessment of any alleged violation must be based on the relevant rules considered together, without disregarding their distinct legal scope or requirements. Accordingly, the legal foundations of protecting children in armed conflict rest on three interrelated principles: Recognition of the child as an independent holder of fundamental rights; acknowledgment of the need for special protection appropriate to the child's age, development, and vulnerability; and the obligation of States to respect and implement the specific rules governing armed conflict (5). These principles provide the theoretical and legal foundation for examining the Optional Protocol, which seeks to strengthen restrictions on the recruitment and military involvement of persons under eighteen and thereby reduce the gap between general standards of child protection and the specific rules governing armed conflict. The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict was adopted by the United Nations General Assembly on 25 May 2000 pursuant to Resolution 54/263 and entered into force on 12 February 2002. It was developed in response to the need to strengthen protection against the recruitment and military use of children. By establishing additional obligations for States Parties, the Protocol expanded the protective framework established by the Convention on the Rights of the Child. Its legal significance lies in its treatment of children's involvement in armed conflict as a subject requiring specific and enforceable treaty

obligations concerning direct participation, compulsory recruitment, voluntary recruitment, and the prevention of recruitment and use by non-State armed groups (6). From the perspective of treaty law, the Optional Protocol is a separate treaty instrument in terms of the consent required for a State to become bound by its specific obligations, although it remains directly connected to the Convention in subject matter and function. The term *optional* indicates that States must express their consent to be bound by the Protocol through the applicable treaty procedures, including ratification following signature or accession. It does not mean that compliance with its provisions becomes discretionary once the Protocol has entered into force for the State concerned.

Accordingly, once a State becomes a party to the Protocol, its implementation of the provisions is governed by the principle of *pacta sunt servanda* and the general rules of treaty law. A State cannot avoid its accepted obligations merely by referring to the Protocol's supplementary or optional character. Its provisions must therefore be interpreted and implemented in good faith and in accordance with the applicable rules of international law. The Protocol's position within the international legal system must be assessed in light of its relationship with the Convention and other relevant instruments (7). The Convention establishes the general framework of children's rights and protection; the Optional Protocol introduces more specific rules concerning involvement in armed conflict; and international humanitarian law provides complementary rules governing the protection of children and the conduct of parties to armed conflict, depending on the type of conflict and the status of the persons concerned. International criminal law, meanwhile, criminalizes certain forms of recruitment and use of children where the elements and conditions of the relevant offenses are satisfied. This substantive overlap does not mean that these legal regimes are identical. Rather, it reflects the existence of several interconnected normative frameworks, each of which has its own addressees, scope of application, legal requirements, and consequences. For the purposes of the right to health, these frameworks must be considered together while preserving their respective legal characteristics. One of the most significant features of the Optional Protocol is its strengthening of age-based protection in comparison with Article 38 of the Convention on the Rights of the Child (8). This development, however, did not take the form of a single, uniform prohibition applicable to every situation. Article 1 requires States Parties to take all feasible measures to ensure that members of their armed forces under eighteen do not take a direct part in hostilities. Article 2 prohibits compulsory recruitment of persons under eighteen into State armed forces. Article 3 establishes a higher minimum age for voluntary recruitment than the threshold provided under Article 38(3) of the Convention and requires compliance with specified safeguards. Article 4, by contrast, absolutely prohibits non-State armed groups from recruiting or using persons under eighteen in hostilities and requires States Parties to take all feasible measures to prevent such practices. This differentiated structure is a defining feature of the Protocol and one of the principal grounds for critically assessing its protective adequacy (9). The distinctions among the applicable rules have consequences not only for the scope of recruitment prohibitions but also for the measures necessary to prevent children's exposure to the physical and psychological harms associated with military involvement. Article 5 of the Protocol is also particularly important in determining its legal position. It provides that nothing in the Protocol shall be construed as precluding provisions in the law of a State Party, international instruments, or international humanitarian law that are more conducive to the realization of the rights of the child. This provision reflects the Protocol's protective orientation. It indicates that the Protocol establishes additional standards of protection and must not be interpreted as an instrument for reducing protections available under other applicable legal rules (10). Article 5 should therefore be interpreted consistently with the principle that more protective standards must not be undermined and that relevant sources of international law should be applied in a mutually supportive manner. From the perspective of the right to health, this principle is particularly important where domestic law or other applicable

international instruments provide more extensive protection concerning access to healthcare, rehabilitation, or safeguards against recruitment and exploitation.

Nevertheless, the Protocol's enhancement of age-based protection does not mean that all age thresholds in international law have become identical. Article 8 of the Rome Statute of the International Criminal Court, for example, identifies the conscription or enlistment of children under fifteen into national armed forces or armed groups, or their use to participate actively in hostilities, as war crimes where the applicable elements and conditions are met. This threshold differs from the broader protective standards concerning persons under eighteen established by the Optional Protocol. It would therefore be incorrect to infer from this difference that every violation of the Protocol involving a person under eighteen necessarily constitutes a war crime under the Rome Statute. Equally, the absence of the elements required for a war crime does not, in itself, establish that no treaty obligation or other applicable international rule has been violated. Distinguishing these legal levels is essential to accurately identifying the scope of protection and the legal consequences of unlawful conduct (11) .Articles 6 and 7 complement the Protocol's substantive provisions by addressing implementation and international cooperation. Article 6 requires States Parties to adopt all necessary legal, administrative, and other measures to ensure the effective implementation of the Protocol. It also requires them to take all feasible measures to ensure that persons recruited or used in hostilities contrary to the Protocol are demobilized or otherwise released from service and, where necessary, provided with appropriate assistance for their physical and psychological recovery and social reintegration (12). Article 7 addresses international cooperation, including technical cooperation and financial assistance, in implementing the Protocol and supporting affected children. Read together, these provisions establish three interrelated dimensions of protection: Substantive rules prohibiting or restricting specified conduct; domestic implementation obligations designed to give practical effect to those rules; and international cooperation aimed at prevention, recovery, and the remediation of the consequences of violations.

From a health-law perspective, the provisions concerning physical and psychological recovery and social reintegration are especially important. They demonstrate that the Protocol's protective framework is not confined to preventing unlawful recruitment. It also recognizes the need for assistance after children have been released from armed structures. Nevertheless, the existence of these obligations does not, by itself, guarantee that children will have effective access to suitable medical treatment, mental health services, or long-term rehabilitation. Their practical implementation depends on domestic capacity, available resources, institutional coordination, and the ability to deliver services in circumstances often characterized by insecurity and damaged infrastructure. The legal significance of the Optional Protocol therefore cannot be assessed solely by reference to the age thresholds it establishes or the prohibitions it introduces. Its broader importance lies in the connection it creates between substantive protection of children, States' implementation obligations, and international cooperation. At the same time, determining whether it provides adequate protection requires an examination of whether its differentiated rules, the scope of its obligations, and the mechanisms available for implementation collectively ensure effective protection for children in different situations of armed conflict.

This question provides the basis for a critical examination of the Protocol's substantive provisions and its relationship with other applicable rules of international law, particularly those relevant to children's physical and mental health. A legal assessment of the protection of children in armed conflict would be incomplete without examining the interaction between the Optional Protocol, international humanitarian law, and international criminal law (13). Although these three legal frameworks share the objective of strengthening protection against the recruitment and use of children in armed conflict, they differ in their legal foundations, addressees, scope of application, and consequences. The Optional Protocol primarily establishes treaty obligations for States Parties concerning the prevention of

children's involvement in hostilities and the protection of affected children. International humanitarian law regulates the conduct of parties to armed conflict under the applicable rules governing the conflict. International criminal law, in turn, establishes the individual criminal responsibility of natural persons when the elements and conditions of specified international crimes are satisfied. Their relationship should therefore be understood as complementary and interactive, rather than as one in which the rules of one legal regime wholly replace those of another.

First, international humanitarian law provides a framework for protecting children by establishing special protections and restricting the conduct of parties to armed conflict. Article 38 of the Convention on the Rights of the Child also requires States Parties to respect and ensure respect for applicable rules of international humanitarian law relevant to children. The Optional Protocol strengthens this framework by introducing more specific obligations concerning recruitment and direct participation in hostilities. Nevertheless, identifying the applicable rule in a particular situation requires an examination of the type of armed conflict, the status of the person concerned, the nature of the conduct, and the personal and material scope of the relevant instrument. The concepts of *direct participation in hostilities*, *recruitment*, *enlistment*, and *use in hostilities* should not be treated as interchangeable without regard to the wording and legal context of each instrument. This distinction also matters for the protection of health. A child's exposure to physical or psychological harm may be relevant to several legal regimes, but the existence of such harm does not, by itself, determine whether the elements of a particular recruitment prohibition, humanitarian law violation, or international crime have been satisfied. The applicable legal assessment must distinguish the harmful consequences of conduct from the legal elements of the rule governing that conduct. Second, international criminal law adds an individual accountability dimension by criminalizing specified forms of recruitment and use of children (14). Article 8 of the Rome Statute identifies the conscription or enlistment of children under fifteen into national armed forces or armed groups, or their use to participate actively in hostilities, as war crimes under the conditions specified for international and non-international armed conflicts. This provision does not establish fifteen years as the general or final age threshold for protecting children throughout international law. Rather, it defines an age-related element of particular offenses under the Rome Statute. By contrast, the Optional Protocol applies the eighteen-year threshold in several of its protective provisions. The difference between these thresholds should therefore be understood as a distinction between the scope and legal consequences of the respective rules, rather than as a conflict that can be resolved without further analysis.

Third, the distinction between States' international obligations and the criminal responsibility of natural persons is essential when assessing the legal consequences of violations affecting children. State responsibility may arise where conduct attributable to a State constitutes a breach of an international obligation binding upon that State and the other relevant legal conditions are satisfied (15). Individual criminal responsibility, by contrast, requires proof of the material and mental elements of the applicable offense, together with satisfaction of the relevant jurisdictional and procedural requirements. Consequently, recruitment by a non-State armed group is not automatically attributable to a State merely because the recruitment occurred within its territory. Nevertheless, depending on the applicable obligation and the circumstances, a State may incur international responsibility for its own failure to take required preventive measures or for other conduct attributable to it. Likewise, the establishment of individual criminal responsibility does not eliminate the need to assess independently whether the State has complied with its international obligations. This distinction is particularly important where recruitment exposes children to serious health risks. The responsibility of a State for failing to implement a preventive obligation must be assessed separately from the criminal responsibility of individual recruiters or commanders. Similarly, the existence of an

individual criminal offense does not, by itself, establish that every obligation concerning healthcare, rehabilitation, or reintegration has been fulfilled or breached. Each obligation must be examined according to its own legal basis and conditions.

Fourth, the interaction among these legal frameworks must be assessed in light of the protective orientation of children's rights and Article 5 of the Optional Protocol. Article 5 provides that the Protocol must not prevent the application of more favorable provisions for realizing children's rights under domestic law, international instruments, or international humanitarian law. Its purpose is to prevent the Protocol from undermining protections available under other applicable rules. This principle is particularly relevant where different instruments establish standards with distinct age thresholds or scopes of application (16). However, applying it requires the precise identification of the relevant rules and their respective fields of application. The mere existence of differences between two instruments does not, by itself, establish a legal conflict or determine which rule takes precedence in a particular case. The interaction between the Optional Protocol, international humanitarian law, and international criminal law ultimately demonstrates that effective protection depends on the coordinated implementation of several categories of obligations. The Protocol establishes specific standards concerning recruitment and children's involvement in hostilities; international humanitarian law regulates the conduct of parties to armed conflict; and international criminal law provides for the criminal accountability of natural persons where the relevant conditions are met. Nevertheless, coordination must not erase the conceptual and legal distinctions among these frameworks. Accurate identification of the applicable rules, the addressee of each obligation, and the conditions for establishing responsibility is necessary to determine the scope of legal protection and to make effective use of the mechanisms available under international law to prevent the recruitment and use of children in armed conflict (17). From the perspective of the right to health, the practical implication is that preventing recruitment, holding responsible persons accountable, and ensuring access to appropriate healthcare and rehabilitation are related but distinct tasks. The fulfillment of one does not automatically guarantee the fulfillment of the others. A comprehensive protective framework must therefore combine compliance with recruitment-related obligations with measures that address the health consequences of armed conflict and facilitate children's recovery and reintegration.

2. Substantive Obligations under the Optional Protocol: Recruitment, Participation in Hostilities, and the Right to Health

Article 1 of the Optional Protocol requires States Parties to take all feasible measures to ensure that members of their armed forces who are under eighteen years of age do not take a direct part in hostilities. This provision strengthens the protection established under Article 38 of the Convention on the Rights of the Child, although it does not establish an absolute prohibition on every form of military involvement by persons under eighteen.

The expression *all feasible measures* requires States Parties to adopt measures that are practicable and appropriate in the circumstances to prevent direct participation. Its implementation may involve legislative safeguards, effective recruitment procedures, military training regulations, supervision, and mechanisms for identifying and removing children from situations in which they may be exposed to hostilities.

From the perspective of the right to health, preventing children's direct participation is essential to reducing their exposure to death, physical injury, psychological trauma, sexual violence, and other threats to their well-being. Nevertheless, Article 1 does not expressly establish a comprehensive healthcare framework. Its contribution to protecting health is primarily preventive and must be considered alongside the Convention's provisions on health, protection from violence, survival, and development. Article 2 prohibits States Parties from compulsorily recruiting persons under eighteen into their armed forces. Unlike Article 1, which addresses direct participation in hostilities, Article 2 focuses specifically on compulsory recruitment.

The prohibition protects children against forced military service and the associated risks of violence, coercion, exploitation, and separation from their families. Compulsory recruitment may also deprive children of access to education, healthcare, adequate nutrition, and the social support necessary for healthy development.

The prohibition must be distinguished from the rules governing voluntary recruitment under Article 3. These provisions establish separate legal standards and should not be interpreted as interchangeable. From a health-law perspective, Article 2 contributes to protecting children's physical and mental integrity by preventing their involuntary incorporation into military structures. Article 3 strengthens the safeguards applicable to voluntary recruitment into national armed forces. It requires States Parties to raise the minimum age for voluntary recruitment above the age established in Article 38(3) of the Convention and to deposit a binding declaration specifying the minimum age permitted under their domestic law. The article also establishes safeguards concerning the voluntary nature of recruitment, informed consent, parental or guardian involvement where applicable, and reliable verification of age.

These safeguards seek to reduce the risk that apparent consent conceals coercion, manipulation, or inadequate understanding of the consequences of military service. However, voluntary recruitment remains legally distinct from compulsory recruitment, and the precise requirements must be assessed in accordance with Article 3 and the declaration made by the State concerned.

From the perspective of the right to health, the safeguards are relevant because recruitment may expose children to physical danger, psychological distress, and conditions that interfere with their development. Nevertheless, compliance with recruitment procedures does not eliminate the State's broader obligations concerning children's health and protection. Article 4 provides that armed groups distinct from the armed forces of a State should not, under any circumstances, recruit or use persons under eighteen in hostilities. It also requires States Parties to take all feasible measures to prevent such recruitment and use, including the adoption of necessary legal measures.

This provision establishes a more categorical prohibition concerning non-State armed groups than the rules governing voluntary recruitment into State armed forces. Its scope must therefore be distinguished from the differentiated standards established under Articles 1-3. Children recruited or used by non-State armed groups may face severe physical and psychological harm, including exposure to combat, forced labour, sexual violence, deprivation of food and medical care, and prolonged separation from family and community. Article 4's preventive purpose is consequently closely connected to protecting children's health and development. The State's obligation to take all feasible preventive measures must, however, be assessed in light of the applicable legal standard and the circumstances. Recruitment by a non-State armed group does not automatically establish State responsibility. Such responsibility depends on whether the State has breached an international obligation binding upon it and whether the relevant conditions for responsibility are satisfied. Article 5 provides that nothing in the Optional Protocol shall be interpreted as precluding provisions in the law of a State Party, international instruments, or international humanitarian law that are more conducive to the realization of children's rights. This provision safeguards the application of more protective legal standards and prevents the Protocol from being used to diminish rights recognized under other applicable rules. Its interpretation requires consideration of the relevant provisions and their respective scopes of application.

In relation to the right to health, Article 5 supports the application of more protective standards concerning children's access to medical treatment, psychological care, rehabilitation, and protection from recruitment and exploitation, where such standards are established by applicable law. Taken together, Articles 1-5 establish a differentiated framework governing children's direct participation in hostilities, compulsory recruitment, voluntary recruitment, recruitment by non-State armed groups, and the preservation of more protective standards. Although these

provisions contribute substantially to preventing health-related harm, their effectiveness depends on implementation, prevention, accountability, and appropriate support for affected children.

3. State Implementation Obligations and International Monitoring Mechanisms for Protecting Children's Right to Health

Article 6 of the Optional Protocol requires States Parties to adopt all necessary legal, administrative, and other measures to ensure its effective implementation. It also requires them to take all feasible measures to ensure that children recruited or used in hostilities contrary to the Protocol are demobilized or otherwise released from service and, where necessary, receive appropriate assistance for their physical and psychological recovery and social reintegration (18.) These obligations demonstrate that the Protocol's protective purpose extends beyond preventing unlawful recruitment. It also requires measures to address the consequences of violations and support affected children's recovery. From a right-to-health perspective, this obligation is particularly significant because armed conflict may expose children to physical injuries, disabilities, psychological trauma, sexual violence, malnutrition, and interruptions in essential healthcare.

Article 6 should therefore be interpreted alongside Articles 24 and 39 of the Convention on the Rights of the Child, which address children's right to health and their physical and psychological recovery and social reintegration (19). Together, these provisions support an approach that combines prevention with medical treatment, psychological support, rehabilitation, and continuing social assistance. Nevertheless, the Protocol does not establish a comprehensive healthcare system or specify detailed standards for the duration, accessibility, and continuity of treatment. Its practical effectiveness depends on domestic implementation, available resources, and coordination between healthcare providers and child-protection institutions. Formal legislation alone cannot ensure meaningful protection if affected children cannot access appropriate services.

Article 7 complements these obligations by addressing international cooperation, including technical cooperation and financial assistance (20). Such cooperation is particularly important where armed conflict has damaged healthcare infrastructure, displaced populations, or weakened national child-protection systems. It can support medical services, specialized rehabilitation programmes, and the training of professionals working with affected children.

International cooperation should, however, complement rather than replace States Parties' own obligations. Its effectiveness depends on adequate coordination, appropriate resource allocation, and attention to the specific needs of affected children. Article 8 requires States Parties to submit an initial report to the Committee on the Rights of the Child within two years of the Protocol's entry into force for the State concerned. Subsequent information must be included in reports submitted under the Convention. The reporting mechanism enables the Committee to assess implementation measures, identify deficiencies, and recommend improvements (21).

From a right-to-health perspective, monitoring should consider not only whether appropriate laws have been adopted but also whether affected children can access medical treatment, mental health services, rehabilitation, and social reintegration programmes.

However, Article 8 does not establish a separate monitoring mechanism devoted exclusively to children's health, nor does reporting itself guarantee immediate access to treatment for individual children. Its effectiveness depends on the accuracy of State reports, the availability of reliable information, the Committee's assessment, and the implementation of its recommendations.
Monitoring should therefore distinguish between formal compliance and substantive outcomes. The adoption of legislation or establishment of rehabilitation programmes does not necessarily demonstrate that children can access those services in practice. Where relevant and feasible, evaluation should consider service availability, accessibility, continuity of care, and coordination between healthcare and child-protection

institutions, while safeguarding children's privacy and security. Despite the Protocol's implementation and monitoring provisions, significant challenges may undermine its effectiveness. These include inadequate domestic legislation, weak enforcement, insufficient funding, limited access to conflict-affected areas, unreliable data, and fragmented coordination among relevant institutions (22). These challenges are particularly serious for children who have experienced repeated displacement, prolonged exposure to violence, or separation from their families. In such circumstances, insecurity, damaged infrastructure, financial barriers, discrimination, and shortages of specialized personnel may prevent access to appropriate healthcare. The consequences may persist even after a child has been released from an armed force or group. Nevertheless, not every deficiency in healthcare automatically constitutes a violation of the Optional Protocol. The relevant conduct must be assessed against the specific treaty obligation and the applicable rules of international law, including the broader obligations arising under the Convention on the Rights of the Child. Similarly, recruitment by a non-State armed group does not automatically establish State responsibility. Such responsibility depends on whether the State has breached an international obligation binding upon it and whether the applicable conditions for responsibility are satisfied. This distinction clarifies the legal basis for assessing failures of protection without diminishing the importance of preventive action (23) .The central challenge is therefore the gap between formal legal commitments and their practical implementation. Closing this gap requires effective domestic measures, adequate institutional capacity, reliable monitoring, and coordinated international cooperation. A more effective implementation framework should connect the Protocol's recruitment-related obligations with the broader protection of children's health.

First, States Parties should ensure that domestic law establishes effective safeguards against prohibited recruitment and provides procedures for identifying and releasing affected children. Second, recovery programmes should address both immediate and long-term needs. Depending on each child's circumstances, these may include medical assessment, treatment of injuries, psychological support, rehabilitation, and referral to appropriate social services. Third, healthcare providers and child-protection institutions should coordinate their activities to ensure continuity of care. Reintegration should not be regarded as complete merely because a child has left an armed force or group; sustainable recovery may require continuing healthcare, education, family support, and protection against renewed recruitment or exploitation. Fourth, monitoring and reporting should assess practical implementation, rather than focusing exclusively on legislative compliance. Reliable information about service availability and access can help identify deficiencies and improve policy, provided that data collection does not expose children to further harm. Finally, international cooperation should prioritize contexts in which domestic capacity is insufficient to meet children's needs. Technical assistance, financial support, and institutional cooperation can contribute to strengthening healthcare infrastructure and specialized rehabilitation services (24) .These recommendations are intended to strengthen the implementation of existing obligations and complement the broader international framework for children's rights; they should not be understood as requirements expressly specified in every provision of the Optional Protocol. In conclusion, Articles 6-8 establish an important framework for implementation, recovery, cooperation, and monitoring. However, their effectiveness depends on translating formal obligations into practical protection. From a right-to-health perspective, preventing recruitment is indispensable but insufficient: Children affected by armed conflict must also be able to access the healthcare, rehabilitation, and sustained support necessary for their recovery and development.

4. Critical Assessment of the Protocol's Protective Adequacy and Prospects for Strengthening Health-Related Protection

The Optional Protocol has strengthened the international legal framework for protecting children against recruitment and involvement in armed conflict. By raising the minimum age for

compulsory recruitment into State armed forces to eighteen, restricting direct participation in hostilities, establishing safeguards for voluntary recruitment, and prohibiting the recruitment and use of persons under eighteen by non-State armed groups, it has advanced the protection established by the Convention on the Rights of the Child. Nevertheless, the Protocol does not establish a uniform prohibition applicable to every form of military involvement by persons under eighteen. Its provisions distinguish between direct participation, compulsory recruitment, voluntary recruitment, and recruitment by non-State armed groups. These distinctions reflect the structure of the treaty but also create differences in the scope of protection.

From the perspective of the right to health, the Protocol's principal strength lies in preventing exposure to the conditions that threaten children's physical and psychological well-being. Its limitation is that it does not comprehensively regulate the healthcare needs of children affected by armed conflict. Although Article 6 addresses physical and psychological recovery and social reintegration, the Protocol provides limited detail on the standards, continuity, and practical accessibility of such services. Children recruited or used in armed conflict may experience physical injuries, disability, malnutrition, infectious diseases, sexual violence, and psychological trauma. Their exposure to violence and coercion may also have lasting consequences for cognitive development, emotional well-being, and social relationships. The Convention on the Rights of the Child, particularly Article 24, provides a broader legal foundation for protecting children's right to health. Read alongside Articles 6 and 19 of the Convention and Articles 6 and 7 of the Optional Protocol, it supports an approach that combines prevention with healthcare, rehabilitation, and reintegration. However, the existence of these provisions does not mean that every health-related obligation is expressly or exhaustively specified in the Protocol. A more effective protective framework requires States to incorporate the relevant obligations into domestic law and develop accessible services that address both immediate medical needs and longer-term physical and psychological recovery.

A further limitation concerns the gap between formal treaty obligations and their practical implementation. Weak enforcement, insufficient resources, limited monitoring capacity, and difficulties accessing conflict-affected populations may prevent children from receiving effective protection. States Parties are required to take the measures specified in the Protocol, including feasible preventive action against recruitment by non-State armed groups. Whether a State has breached an international obligation depends on the applicable rule, the circumstances, and the measures reasonably required under that obligation. Recruitment by a non-State armed group does not, by itself, establish State responsibility. It is also necessary to distinguish State responsibility from individual criminal responsibility. A State's failure to implement an international obligation and an individual's commission of a war crime are legally distinct matters, each requiring assessment under its own applicable rules. Effective protection requires appropriate preventive measures, accountability where legally warranted, and assistance for affected children. Several measures could strengthen the implementation of the Protocol from a right-to-health perspective:

1. Strengthening domestic legislation: States should establish clear legal prohibitions and effective safeguards against unlawful recruitment and use of children, consistent with their international obligations.

2. Improving access to healthcare: Children released from armed forces or armed groups should have access to appropriate medical assessment, treatment, rehabilitation, and mental health support.

3. Integrating health and reintegration services: Healthcare providers, child-protection institutions, educational authorities, and social services should coordinate their work to support children's recovery and return to family and community life.

4. Enhancing monitoring and reporting: States should improve the collection of reliable information on recruitment, release, rehabilitation, and access to relevant services, while protecting children's privacy and safety.

5. Strengthening international cooperation: Technical assistance, financial support, and cooperation with relevant international organizations can help address shortages in healthcare infrastructure and child-protection capacity in conflict-affected settings.

These recommendations should be implemented in accordance with applicable international law and the specific circumstances of affected children. Their purpose is to complement the Protocol's existing obligations, not to suggest that every proposed measure is expressly required by a particular provision of the Protocol.

Conclusion

The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict represents a significant advancement in the international legal protection of children against recruitment and use in hostilities. By strengthening age-related safeguards, prohibiting compulsory recruitment of persons under eighteen into State armed forces, restricting their direct participation in hostilities, and prohibiting recruitment and use by non-State armed groups, the Protocol reinforces the protective framework established by the Convention on the Rights of the Child. Nevertheless, the existence of these legal standards does not, by itself, guarantee effective protection for children affected by armed conflict.

This study demonstrates that the Protocol's contribution to protecting children's right to health must be assessed in relation to both prevention and recovery. Preventing recruitment and participation in hostilities reduces children's exposure to violence, physical injury, psychological trauma, and other threats to their well-being. However, children who have already been recruited or exposed to armed conflict may require sustained medical treatment, mental health services, rehabilitation, and social reintegration. Although Article 6 addresses physical and psychological recovery and reintegration, the Protocol does not comprehensively specify the healthcare arrangements necessary to meet these needs. Its effectiveness therefore depends on its implementation alongside the broader obligations established under the Convention on the Rights of the Child, particularly Article 24 on the right to health.

A further challenge arises from the differentiated standards governing compulsory recruitment, voluntary recruitment, direct participation in hostilities, and recruitment by non-State armed groups. These distinctions must be preserved when interpreting the Protocol, but they also demonstrate the importance of coordinated implementation across the relevant legal frameworks. The Protocol, international humanitarian law, and international criminal law serve complementary but distinct functions. Similarly, State responsibility for breaches of international obligations must be distinguished from the individual criminal responsibility of persons who commit internationally recognized offenses.

The principal conclusion is that effective protection of children's right to health in armed conflict requires more than prohibiting recruitment: It demands the practical realization of children's rights to healthcare, psychological recovery, rehabilitation, and social reintegration. States Parties should therefore strengthen domestic implementation, establish effective referral and support systems for affected children, improve coordination between healthcare and child-protection institutions, and ensure that recovery services are accessible and responsive to children's individual needs. International cooperation and effective monitoring are also essential, particularly where conflict has weakened healthcare infrastructure and national protection systems.

Ultimately, the Optional Protocol should be understood as a central component of a broader legal framework for protecting children in armed conflict, rather than as a comprehensive instrument governing every aspect of their health and recovery. Its full protective potential can be realized only when its recruitment-related obligations are translated into coordinated preventive and remedial measures. Integrating the implementation of the Protocol with the broader framework of children's rights would help bridge the gap between formal legal protection and

practical access to healthcare, thereby strengthening the protection of children's physical and mental health during and after armed conflict.

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References

1. Al-Dawoody A, Murphy V. International humanitarian law, Islamic law and the protection of children in armed conflict. International Review of the Red Cross. 2020. Available from: https://www.cambridge.org/core/journals/international-review-of-the-red-cross/article/international-humanitarian-law-islamic-law-and-the-protection-of-children-in-armed-conflict/C32752BBB60636727FDCB4B13B5F5678

2. Arumbinang MH, Gunawan Y, Salim AA. Prohibition of child recruitment as soldiers: An international regulatory discourse. Jurnal Media Hukum. 2023; 30(1).

3. Bameka CM. Narrowing the gap in the access to justice for child victims in postconflict societies: An analysis stemming from the construction of child soldiers in international law and policy. International Journal of Transitional Justice. 2023; 17(1): 141-156.

4. Beber B, Blattman C. The logic of child soldiering and coercion. International Organization. 2013. Available from: https://www.cambridge.org/core/journals/international-organization/article/logic-of-child-soldiering-and-coercion/EB8CC2FE13CC49C2846EEDE4FFD432FE

5. Bongard P, Heffes E. Engaging armed non-State actors on the prohibition of recruiting and using children in hostilities: Some reflections from Geneva Call's experience. International Review of the Red Cross. 2019; 101(911): 603-621.

6. Coomaraswamy R. The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict: Towards universal ratification. The International Journal of Children's Rights. 2010; 18(4): 535-549.

7. European Parliament, Council of the European Union. Regulation (EU) 2022/2065 on a Single Market for Digital Services (Digital Services Act). Off J Eur Union. 2022; L277: 1-102.

8. European Parliament, Council of the European Union. Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data. Off J Eur Union. 2016; L119: 1-88.

9. Frisso GM. Child soldiers in the armed conflict in Sierra Leone: Human rights, international humanitarian law and/or international criminal law. Brazilian Journal of International Law. 2012; 9(2): 93-91.

10. Garayová L. Optional Protocol on the Involvement of Children in Armed Conflict. Edited by Benyusz M, Raisz A. In: International Children's Rights. Miskolc/ Budapest: Central European Academic Publishing; 2024. p.209-239.

11. Grover S. Child soldiers as victims of 'genocidal forcible transfer': Darfur and Syria as case examples. The International Journal of Human Rights. 2013; 17(3): 411-427.

12. Happold M. Child soldiers in international law: The legal regulation of children's participation in hostilities. Netherlands International Law Review. 2000; 47(1): 27-52.

13. Happold M. The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict. Yearbook of International Humanitarian Law. 2000; 3: 226-244.

14. Khdir RR. Child recruitment and use during armed conflicts by Muslims between international law and Islamic law. European Scientific Journal. 2022; 18(26): 108.

15. Macfarlane K. Protection gaps: Child soldier rehabilitation and militarized governance in Sri Lanka. International Affairs. 2024; 100(3): 1131-1147.

16. Mustafaeva MM. The recruitment and use of child soldiers as a serious violation of international humanitarian law. RUDN Journal of Law. 2013; 2: 256-264.

17. Oosterveld V. The Special Court for Sierra Leone, child soldiers, and forced marriage: Providing clarity or confusion? Canadian Yearbook of International Law/ Annuaire Canadien de Droit International. 2008; 45: 131-172.

18. Østby G, Rustad SA, Haer R, Arasmith A. Children at risk of being recruited for armed conflict, 1990-2020. Children & Society. 2023; 37(2): 524-543.

19. Provost R. L'attaque directe d'enfants-soldats en droit international humanitaire. Canadian Yearbook of International Law/ Annuaire canadien de droit international. 2018; 1-26.

20. Quénivet N. Does and should international law prohibit the prosecution of children for war crimes? European Journal of International Law. 2017; 28(2): 433-455.

21. Rasakandan S, Moslemzadeh Tehrani P. Protection of children from recruitment and use in armed conflict: Role of international legal framework. Journal of Politics and Law. 2022; 15(4): 230.

22. Cuni E, Lamce J. The right to protect children under international law: The case of child soldiers. Academic Journal of Interdisciplinary Studies. 2013; 2(8): 670.

23. United Nations Committee on the Rights of the Child. General comment No.25 (2021) on children's rights in relation to the digital environment. Geneva: United Nations; 2021. Report No.CRC/C/GC/25. Available from: https://digitallibrary.un.org/record/3906061

24. United Nations Human Rights Council. Guiding principles on business and human rights: Implementing the United Nations "Protect, Respect and Remedy" framework. New York and Geneva: United Nations; 2011. Available from: https://digitallibrary.un.org/record/720245

25. United Nations. Convention on the Rights of the Child. New York: United Nations; 1989. Available from: https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child

26. Zaid ZA, Aljasmi NA. Electronic recruitment of children in armed conflict: A legal analysis under international humanitarian law. Journal of Law and Sustainable Development. 2024; 12(4): e3534.