

A HUMAN RIGHTS ANALYSIS OF THE DRAFT LAW ON CHILD PROTECTION

Prepared by the Office of the United Nations
High Commissioner for Human Rights in Cambodia

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Introduction

The present analysis was prepared by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Cambodia as a contribution to the consideration of the draft Law on Child Protection.

Legal framework

To help the Royal Government of Cambodia abide by the international obligations binding on Cambodia, OHCHR has reviewed the compatibility of the draft with the applicable international human rights law, particularly the Convention on the Rights of the Child (CRC)¹ and the Committee's jurisprudence.

General Comments

OHCHR welcomes the drafting of a comprehensive Law on Child Protection, in line with the recommendation made by the Committee on the Rights of the Child in the concluding observations from Cambodia's last review by the Committee.²

OHCHR recommends including in the draft law the civil rights and freedoms provided for under the CRC, mainly the child's right to freedom of expression (Article 13); freedom of thought (Article 14), conscience and religion (Article 14); privacy (Article 16); and access to appropriate information (Article 17).

With regard to children deprived of a family environment, OHCHR recommends that States phase out institutionalization and facilitate family-based care for children wherever possible.³ In this regard, the draft law could include standards on family-based alternative care for children (possibly between the current Sections III and IV of the draft), and clearly indicate that the

¹ Convention on the Rights of the Child (CRC), <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

² CRC/C/KHM/CO/2-3, para.9;

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fKHM%2fCO%2f2&Lang=en.

³ CRC, Article 20 (2) and (3), which emphasises family based arrangements and only "if necessary placement in suitable institutions for the care of children". In its *General Comment No. 9 on 'The rights of children with disabilities'* the Committee on the Rights of the Child "urges States parties to use the placement in institutions only as a measure of 'last resort', when it is absolutely necessary and in the best interests of the child." (CRC/C/GC/9, 27 February 2007

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f9&Lang=en).

The *United Nations Guidelines for the Alternative Care of Children* recommends to use institutional care only when it is the most appropriate option (para. 20) and to provide alternative care for young children, especially those under three years, in family-based settings (para. 21) (A/RES/64/142, 24 February 2010, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N09/470/35/pdf/N0947035.pdf?OpenElement>).

provisions on residential care should be seen as a transitional arrangement while the State moves towards deinstitutionalization.

In this regard, the draft law could include transitional arrangements at the end of the law for measures that cannot be implemented immediately (for instance the establishment of a family court) and for measures that should only be implemented temporarily (residential care).

Comments on specific provisions

Article 5: Basic principles

In reaching any decision relating to a child under this law, all public or private social welfare institutions, police, Courts and administrative bodies shall be guided by the following principles

- (1) the best interests of the child shall be the paramount consideration.*
- (2) a child who is capable of forming his or her own views shall have the right to express those views freely in all matters affecting him or her and to have those views given due weight in accordance with their age and understanding.*
- (3) A child shall be provided with the opportunity to be heard in any judicial and administrative proceedings affecting him or her, either directly, or through a representative of an appropriate body in a manner consistent with the procedural rules of the Family Court or other relevant court.*
- (4) There shall be no discrimination on the grounds of the child's or of his parent's or legal guardian's gender, race, colour, language, political or other opinion, age, religion, marital status, disability, health status, including HIV- status, custom, ethnic origin, rural or urban background, birth, socio- economic status, being a refugee or on the grounds of other status.*

Comment: OHCHR recommends adding “national origin” to the list of prohibited grounds for discrimination, in line with Article 2 of the CRC.

Article 6: Right to an identity

- (1) Every child shall be registered after birth in accordance with the Civil Code and shall have the right to a name.*
- (2) Every child shall have the right to a birth certificate upon registration which shall include the child's given name, his or her family name, date of birth and nationality.*
- (3) A birth certificate or any other official document produced in accordance with the law shall be evidence of the child's identity and date of birth.*
- (4) Where a child's birth has, for whatever reason, not been registered, the child and his or her parent, guardian or carer shall be provided with assistance to enable registration and the establishment of identity.*

Comment: OHCHR recommends adding the word “immediately” in line with Article 7 of the CRC, so it reads as follows: “(1) Every child shall be registered *immediately* after birth in accordance with the Civil Code and shall have the right to a name.” OHCHR recommends including a provision on the right of the child to preserve his or her identity, including nationality, name and family relations, in line with Article 8 of the CRC. This includes the right to access to information regarding their identity or biological origins if they were adopted or born via anonymous birth, assisted reproduction technology or surrogacy arrangements; and the right to speedily re-establish their identity if some or all of its elements have been lost.

Article 7: Right to nationality

- (1) The right of the child to Khmer nationality shall be determined by Law*
- (2) A child born to non-Khmer parent or parents shall be granted Cambodian nationality if the child is born in Cambodia and it is not possible for the child to acquire another nationality from birth.*

(3) A child shall have the right to acquire Cambodian nationality if the child would otherwise be stateless.

Comment: OHCHR recommends adding a provision for children of a Khmer parent who is born abroad to acquire nationality.⁴

Article 11: Age of marriage

Marriage of a child under the age of 18, except pursuant to the Civil Code, shall be prohibited and any marriage carried out in contravention of the prohibition shall be void.

Comment: OHCHR recommends deleting “except pursuant to the Civil Code”. All child marriages should be prohibited without exception.⁵

Article 14: Right to Health

(1) A child has a right to the enjoyment of the highest attainable standard of health and the Ministry of Health and other relevant government bodies shall take all necessary measures to:

- (a) reduce maternal and child mortality;*
 - (b) provide appropriate antenatal, perinatal and postpartum health care for mothers to ensure their own health and that of the child;*
 - (c) ensure that parents and children have access to information about child health and nutrition and the benefits of breast feeding;*
 - (d) provide free and accessible primary health care for children, including immunization;*
 - (e) support the school health system to play its full role in providing preventive and counselling services; and protecting children from the harms of smoking, alcohol, narcotic substances that affect the mental and healthy growth, in coordination with the relevant authorities.*
 - (f) ban all kinds of custom or traditional practices prejudicial to the health of the child;*
 - (g) ensure that hospitals have adequate child-friendly services and facilities;*
 - (h) progressively establish specialized, free secondary and tertiary health services for children and ensure accessibility.*
- (2) Every parent, guardian or carer of a child shall ensure that the child is provided with immunization as required.*
- (3) A parent shall ensure a child's right to health by seeking medical treatment for the child as necessary.*

Comment: OHCHR recommends adding: “No child shall be deprived of his or her right to access to health care services” in line with Article 24(1) of the CRC. OHCHR recommends adding provisions for children’s access to mental health services, as well as sexual and reproductive health services, in line with CRC’s general comment No. 15 (2016) on the right of the child to the enjoyment of the highest attainable standard of health (art. 24).⁶ OHCHR

⁴ CRC, Article 7. The provision provides for a child’s right to nationality. While there is no obligation for states to provide the parent’s nationality when born abroad, it is best practice for states to take an inclusive approach with a view to avoiding statelessness. See, e.g., the practice of neighboring countries such as Thailand (Section 7 of the Thailand Nationality Act: “any person who is a child of a mother or a father who possesses Thai nationality is a Thai national at birth”) and Vietnam (Law on Vietnamese nationality, Article 15: A child born inside or outside the Vietnamese territory, whose parents, at the time of his/her birth, are both Vietnamese citizens has Vietnamese nationality”).

⁵ Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), Article 16(2), in conjunction with CRC, Article 1, which defines a child as a person 'below the age of eighteen unless under the law applicable to the child, majority is attained earlier; Committee on the Rights of the Child, *General Comment No. 4 (2003) on 'Adolescent Health and Development in the Context of the Convention on the Rights of the Child*, CRC/GC/2003/4 , para. 20, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fGC%2f2003%2f4&Lang=en.

⁶ United Nations Committee on the Rights of the Child, *General Comment No. 15 (2013) on 'The right of the child to the enjoyment of the highest attainable standard of health'* (art. 24), 17 April 2014;

further recommends amending subparagraph (f) to read as follows “...prejudicial to the physical and mental health of the child”. OHCHR also recommends eliminating paragraph (2), as the responsibility for ensuring the availability and access of vaccination is part of the State’s obligation to guarantee the right to health.

Article 15: Right to education

(1) Every child shall have a right to suitable, quality education. (2) The right to education shall include the right to:

(a) free and compulsory primary education;

(b) available and accessible secondary education, including technical and vocational education and training;

(c) equal access to higher education on the basis of capacity with free tuition for those unable to afford the fees charged.

(3) The content of education shall be relevant, non-discriminatory and culturally appropriate.

(4) The Ministry of Education shall ensure:

(a) that there are an adequate number of professional teachers to provide education in the schools;

(b) that each school has in place and implements a child safeguarding policy;

(c) that all measures are taken to ensure that parents enrol their children in education at the appropriate time and to minimize the number of children failing to complete compulsory education.

(5) The Ministry of Education shall provide information and training to schools and other educational facilities on the use of positive discipline consistent with a child’s dignity.

Comment: OHCHR recommends including, perhaps as part of subsection (3), a provision on the aims of education in line with Article 29 of the CRC and general comment No. 1 (2001) on the aims of education.⁷ In particular, the education of the child shall be directed to the development of the child’s personality, talents and mental and physical abilities to their fullest potential, as well as the child’s dignity and self-esteem. Education should also be aimed at the development of respect for human rights and fundamental freedoms (human rights education).

OHCHR recommends making it clear that “positive discipline” referred to under paragraph 5 excludes any kind of violence, in line with the CRC’s prohibition of all forms of violence, injury or abuse⁸ (see also our comments under Article 49) and with Article 13 of the draft law.

Article 16: Parental duty to enrol a child in education

(1) A parent, guardian or carer shall ensure that every child is able to access suitable education by enrolling a child of compulsory school age at a school or other appropriate educational establishment suitable to their educational needs.

(2) It shall be an offence not to enrol a child of compulsory school age.

3. A child shall not be denied access to education on the basis of his or her status as a migrant.

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f15&Lang=en.

⁷ United Nations Committee on the Rights of the Child, *General Comment No. 1 on ‘The aims of education’* (2001), 17 April 2001;

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f2001%2f1&Lang=en.

⁸ CRC, Article 19. Corporal punishment should be explicitly prohibited at home as well as outside the home, including schools, centers of detention and alternative care settings: United Nations Committee on the Rights of the Child, *General Comment No. 8 (2006) on ‘The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment’* (arts. 19; 28, para. 2; and 37, inter alia), 2 March 2007, CRC/C/GC/8,

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f8&Lang=en.

Comment: It may be counterproductive to punish parents for not enrolling children in education, as there may be many complex circumstances around situations of this nature. Making it an offence can lead to very serious situations, also for the children themselves, most likely affecting the poorer and most disadvantaged families. It should be the responsibility of the State to ensure that parents are aware of the importance of enrolling children in schools and measures to this end should be taken by the State, including campaigns, etc. Therefore, OHCHR recommends removing paragraph (2) and including a paragraph indicating that the Ministry of Education will carry out awareness raising campaigns among parents on the importance of enrolling children in school.⁹

Article 17: Early childhood development

(1) The Ministry of Women's Affairs shall:

(a) encourage early childhood development through the provision of information on developmentally appropriate practices for parents and care givers;

(b) progressively provide and improve access to quality, child-centred, early childhood care and education services:

(i) Early childhood programmes;

(ii) Early childhood care;

(ii) early childhood education.

(2) All early childhood care and education settings shall be subject to regular inspection and monitoring.

Comment: OHCHR recommends revising paragraph 1 to read as follows: The Ministry of Women's Affairs, in collaboration with the Ministry of Education and the Ministry of Social Affairs, Veterans and Youth Rehabilitation shall", to ensure appropriate coordination among the relevant ministries for all care and education settings.

Article 19: Right to protection from economic exploitation

A child shall be protected from all forms of prejudicial to any aspect of the child's education or welfare

Comment: OHCHR recommends revising the translation of Article 19 of the draft law, as the English text is missing some words.

Article 43: Age determination:

1. Where a person appearing before the Court in a criminal matter claims to be a child and this is a matter of dispute, the Court shall cause due inquiries to be made into the person's age and make a determination of age.

2. In making a determination of age in accordance with sub-Article (1) the Court may rely upon:

(a) the child's birth certificate;

(b) such medical evidence as is necessary to provide proof of birth whether it is of a documentary nature or otherwise;

(c) information from primary school attended by the child as to the child's date of birth;

(d) a primary school leaving certificate or equivalent certificates; and

(e) any other relevant credible information or document.

⁹ CRC, Article 28, paragraph (e) ("take measures to encourage regular attendance at schools and the reduction of drop-out rates."); United Nations Committee on the Rights of the Child, *General Comment No 7 (2006) on 'Implementing child rights in early childhood'*, CRC/C/GC/7/Rev.1; 20 September 2006, para. 41, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f7%2fRev.1&Lang=en.

3. A birth certificate shall be presumed to provide conclusive proof of the age of the child unless rebutted.
4. Where the documents in sub-Article (2) are not available or do not determine the age of the child, the Court may take into account the following evidence:
 - (a) immunisation or medical records;
 - (b) a medical examination of the child to determine age, save that skeletal X-ray shall not be used as a means of determining age without the leave of the Court and such leave shall only be given in exceptional circumstances;
 - (c) a report by a social worker to assist in determining the child's age.
5. A DNA test may be ordered to determine identity.
6. Where the enquiry is inconclusive on the matter of age, but there is cause to believe that the person may be a child, it shall be presumed that the person is a child under the age of 18 and shall be treated as such unless the contrary is proved.
7. If the Court finds in criminal or civil proceedings that a person whose age is in dispute is a child, and proceeds on that basis, a decision, order or judgment of the Court shall not be invalidated or re-opened as a result of any subsequent finding or proof that the age of the person was not correctly decided by the Court.
8. In criminal cases where the age of the child victim or witness is in dispute and proof of age is required, the Court may rely upon any of the documents specified in sub- Articles (2) and 5 of this Article.

Comment: On paragraph (4), OHCHR recommends broadening the scope of documentation that can prove a child’s age to include, for example, baptismal or equivalent documents; interviews with or testimony by parents, teachers, or religious or community leaders; and assessment of the child’s physical and psychological development conducted by specialist pediatricians or other skilled professionals (see paras. 33-34 of the CRC’s general comment No. 24 (2019) on children’s rights in the child justice system).¹⁰

Article 49: A child in need of care and protection

1. A child shall be regarded as being in need of care and protection if he is suffering serious harm or is likely to suffer serious harm, as a result of -
 - (a) physical, emotional or sexual abuse; or
 - (b) a parent, guardian, relative or care-giver refusing or neglecting to provide the child with food, shelter, the right to play or leisure, clothing, medical care or education; or
 - (c) being engaged in exploitative child labour; or
 - (d) being lost, abandoned or excluded from home; or
 - (e) without parental care.
2. Harm shall be regarded as serious where it is not minor or trivial and may reasonably be expected to cause a substantial, negative impact on the child’s safety, welfare or wellbeing.

Comment:

Paragraph 1(a): OHCHR recommends using the wording of Article 19 of the CRC: “all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse”.

Paragraph 2: OHCHR highlights that the CRC prohibits all forms of violence, injury or abuse; “minor or trivial” harm would fall under the category of violence or abuse that is prohibited. The CRC’s general comment No. 13 (2011) on the right of the child to freedom from all forms of violence¹¹ highlights, for example, that “all forms of violence against children, however light,

¹⁰ United Nations Committee on the Rights of the Child, *General Comment No. 24 (2019) on ‘children’s rights in the child justice system’*, 18 September 2019
https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f24&Lang=en.

¹¹ United Nations Committee on the Rights of the Child, *General Comment No. 13 (2011), The right of the child to freedom from all forms of violence*, 18 April 2011;

are unacceptable. ‘All forms of physical or mental violence’ does not leave room for any level of legalized violence against children. Frequency, severity of harm and intent to harm are not prerequisites for the definitions of violence” (para. 17).

Article 68: Placement of a child

1. DOSWSA shall accommodate a child under its care and protection in an appropriate placement.
2. In determining the appropriate placement for a child DOSWSA shall consider the following options –
 - a. placement with a relative, friend or person connected with the family;
 - b. placement with a foster parent;
 - c. adoption; or
 - d. as a matter of last resort, placement in an approved residential care institution.
3. DOSWSA shall not place a child under its care and protection in any accommodation provided for the purpose of restricting liberty unless the Court orders such a placement.
4. In making a placement, DOSWSA shall –
 - a. give preference to a placement falling within sub-Article 2(a) of this Article over placements falling within other paragraphs of sub- Article 2.b, 2.c or 2.d of this Article; and
 - b. ensure that wherever practicable –
 - i. it allows the child to live near his former home;
 - ii. it does not disrupt the child’s education or training;
 - iii. that the child is not separated from his siblings; and
 - iv. if the child is disabled, the accommodation provided is suitable to the child’s particular needs
5. DOSWSA shall provide such support, including financial, material and psycho-social support as may be necessary to enable and sustain a placement under this Article.
6. MoSVY shall develop Regulations on placement of children in the care and protection of DOSWSA.

Comment: OHCHR suggests replacing the language in subparagraph (2)(d) with “placement in family-based alternative care arrangement” and make the current subparagraph (d) the new subparagraph (e), which will read “as a matter of last resort, placement in an approved residential care institution”.

Article 93: Admission of children to a residential home

1. A child shall only be admitted into a residential care institution where –
 - (a) he or she is in the care and protection of DOSWSA with parental consent; or
 - (b) DOSWSA have obtained an order from the court placing the child in its care and protection; or
 - (c) the child is admitted on an emergency basis; and
 - (d) DOSWSA have requested that the child be admitted; and
 - (e) a placement in a family setting, with kinship carers or foster carers cannot be found or is not in the child’s best interests.
2. Where the child is placed in a residential care home on an emergency basis, DOSWSA shall undertake an assessment of the child within 72 hours to determine whether the placement is in the child’s best interests.
3. A child shall not remain in a residential care institution on an emergency basis for longer than fourteen (14) days.

Comment: OHCHR suggests setting a minimum age limit for admission to a residential home and instead encouraging family based care. Note that, in some countries, the placement of

children under the age of three years in residential homes is forbidden (e.g. Croatia, Romania and Serbia).¹²

Article 108: Order to rectify infringement of a child's rights

1. DOSWSA, a parent or an interested person or body may make an application for an order to prevent the infringement of a child's rights.

2. The court may -

(a) order that DOSWSA or any other appropriate person carry out an investigation into the circumstances of the child and provide a written report on such issues as may be specified by the court;

(b) order a medical practitioner, psychologist, developmental or educational practitioner to assess the child who is the subject of the proceedings and provide the court with a written report on such issues as may be specified by the court.

3. The court may, in the exercise of its powers may make any order or determine any issue in respect of infringement of the child's rights including, but not limited to –

(a) orders to restrain publicity;

(b) orders to prevent an undesirable association;

(c) orders relating to medical treatment, including the obtaining of a DNA test;

(d) orders relating to education;

(e) an order that a child's passport be given to a named individual or the Court;

(f) orders to protect abducted or trafficked children;

(g) orders for the return of children to and from another country; and

(h) an order that DOSWSA undertake an initial investigation to determine whether the child is suffering or is at risk of suffering serious harm.

4. In exercising its powers under this Article, the Court may order that parental powers be vested in DOSWSA and the parents' exercise of their parental rights shall be restricted to the extent that the court deems necessary to protect the child.

5. Parental power shall remain vested in DOSWSA unless and until the court discharges the order.

6. Where DOSWSA has parental power as a result of an order under this Article the child shall not be removed from the agreed place of residence without the consent of the court.

Comment: OHCHR recommends defining the term “undesirable association” in subparagraph (b). Its vagueness gives rise to concerns about how the court would define it and whether it could restrict associations that are in the best interest of the child.

Article 114: Age of the child (under IX: child employment)

1. An employer shall satisfy himself as to the age of the child, and in the absence of a document proving age, shall rely on school records.

2. A child who is present in a workplace shall be presumed to be working there unless contrary evidence is proved.

Comment: OHCHR recommends adding additional documentation for determining the age of a child in the absence of a document proving age and school records, such as the documents listed in Article 43, sub-articles two and four, in case of children seeking employment who do not have either document.

Article 118: Involvement of children in armed conflict

1. No child shall be recruited into or permitted to join Government armed forces under the age of 18.

¹² The *United Nations Guidelines for the Alternative Care of Children* recommends to use institutional care only when it is the most appropriate option (para. 20) and to provide alternative care for young children, especially those under three years, in family-based settings (para. 21). See also: UNICEF, *Children under the age of three in formal care in Eastern Europe and Central Asia – a rights-based regional situation analysis*, 2012, p.91.

2. *It shall be an offence for any person to recruit or conscript any child under the age of 18 into any military or paramilitary service or permit such recruitment or conscription by an armed force or an armed group whether to take part in armed combat or to provide direct support.*
3. *Direct support for the purposes of paragraph two of this Article shall include, but shall not be limited to scouts, spies, cooks, porters or messengers, or for sexual purposes or forced marriage.*

Comment: It is welcome that this provision takes into account the provisions of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of children in armed conflict.¹³ To ensure full implementation of the proposed provision, OHCHR recommends the text also include a prohibition of children’s entry into military schools and training in the use of weapons.¹⁴ OHCHR further recommends including support for the physical and psychosocial recovery, rehabilitation and social reintegration of children who were involved in armed conflict.¹⁵

Article 120: Assistance for victims of online sexual exploitation and abuse

The competent authorities shall provide assistance and protection to assist with physical and psycho-social recovery of child victims.

Comment: OHCHR recommends placing this provision after Article 122.

Article 122: prohibited acts

1. *The following acts shall be prohibited:*

- (a) *producing child sexual abuse materials for the purpose of its electronic distribution;*
- (b) *offering or making available child sexual abuse materials through electronic means or systems*
- (c) *distributing or transmitting child sexual abuse materials through electronic means or systems;*
- (d) *procuring child sexual abuse materials electronically for oneself or for another person;*
- (e) *possession of electronic child sexual abuse materials either in a computer system or on a computer-data storage medium.*
- (f) *Employing, using, persuading, inducing, enticing or coercing a child to make, view or distribute child sexual abuse materials.*

2. *It shall be a crime to attempt or to aid and abet the commission of an offence under Article 122 of this Law.*

Comment: In para 1(e), OHCHR recommends broadening to “possession of electronic child sexual abuse materials on any type of electronic device” and not just to a computer system or computer-data storage medium.

OHCHR recommends including among the prohibited acts “advertisements that promote the sexual exploitation of children”, in line with Article 9, para. 5 of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child

¹³ Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, adopted and opened for signature, ratification and accession by General Assembly resolution A/RES/54/263 of 25 May 2000, entry into force 12 February 2002; <https://www.ohchr.org/en/professionalinterest/pages/opacrc.aspx>.

¹⁴ See, e.g., Committee on the Rights of the Child, *Concluding observations on the sixth periodic report of Hungary*, CRC/C/HUN/CO/6, 3 March 2020, para. 43(b), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fHUN%2fCO%2f6&Lang=en

¹⁵ Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, Article 7.

pornography¹⁶, which also prohibits the production and dissemination of material advertising the offences described in the Protocol. This includes, for example, the criminalization of any insertion of an online or offline medium, such as an advertisement or a commercial, that promotes the sexual exploitation of children (please see also the CRC's guidelines regarding the implementation of the OPSC).¹⁷

Article 120: Assistance for victims of online sexual exploitation and abuse

The competent authorities shall provide assistance and protection to assist with physical and psycho-social recovery of child victims.

Comment: OHCHR recommends moving this provision to this location and including redress for child victims, in order to provide compensation for the harm suffered in line with Article 9 of the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (OPSC)¹⁸ and section IX of the CRC's guidelines regarding the implementation of the OPSC).¹⁹

¹⁶ Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, adopted and opened for signature, ratification and accession by General Assembly resolution A/RES/54/263 of 25 May 2000, entered into force on 18 January 2002, <https://www.ohchr.org/en/professionalinterest/pages/opsccrc.aspx>.

¹⁷ Guidelines regarding the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, 10 September 2019; https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC/C/156&Lang=en

¹⁸ Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, Adopted and opened for signature, ratification and accession by General Assembly resolution A/RES/54/263 of 25 May 2000, entered into force on 18 January 2002; <https://www.ohchr.org/en/professionalinterest/pages/opsccrc.aspx>

¹⁹ Guidelines regarding the implementation of the Optional Protocol to the Convention on the Rights of the Child, on the sale of children, child prostitution and child pornography, 10 September 2019; https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC/C/156&Lang=en