

(UNOFFICIAL TRANSLATION)

LAW OF THE REPUBLIC OF INDONESIA

NUMBER 9 OF 2012

ON

RATIFICATION OF *OPTIONAL PROTOCOL TO THE CONVENTION ON
THE RIGHTS OF THE CHILD ON THE INVOLVEMENT OF
CHILDREN IN ARMED CONFLICT*

WITH THE MERCY AND COMPASSION OF THE ONE ONLY GOD

THE PRESIDENT OF THE REPUBLIC OF INDONESIA

Considering:

- a. whereas the child has the right to grow and develop in healthy and natural way both physical and spiritual as well as social and intellectual, including in the circumstance of armed conflict;
- b. whereas the involvement of the child in armed conflict either the recruitment or the target of armed conflict is a violation of children's rights and it can have serious and long-term implications to the growth of the child;
- c. whereas in line with the wishes of the Indonesian nation to provide protection to the child, particularly their involvement in armed conflict which is a joint commitment of the international community, as embodied in, *Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict*;

- d. whereas based on the consideration set forth in points (a), (b), (c), *Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict* need ratification with a legislation

Referring to: 1. Article 5(1,) Article 11, Article 20, and Article 28B of the 1945 Constitution of the Republic of Indonesia

2. Law Number 24 of 2000 on International agreements (State Gazette of the Republic of Indonesia 2000, number 185, Supplementary State Gazette of the Republic of Indonesia, number 4012);

With the joint approval of
THE PEOPLE'S REPRESENTATIVE COUNCIL
OF THE REPUBLIC OF INDONESIA and THE PRESIDENT OF THE
REPUBLIC OF INDONESIA

DECIDES :

To establish: LAW CONCERNING RATIFICATION OF OPTIONAL
PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON
THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICT

CHAPTER I

(1) Ratification of *Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict* with the *Declaration* (Pernyataan) referred to in Article 3 (2) Protocol on minimum age for voluntary recruitment into national armed forces

(2) a copy of the original text of *Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict* with the *Declaration* referred to in Article 3 (2) Protocol on minimum age for voluntary recruitment into national armed forces in English and its translation in Indonesian as attached an integral part of this Law.

CHAPTER 2

This Ratification shall be effective from the date of its promulgation

In order to make it known to the public, it is ordered that this Ratification be placed in the State Gazette of the Republic of Indonesia.

Legalized in Jakarta

On 23 July 2012

PRESIDENT OF THE REPUBLIC OF
INDONESIA

Signed

DR. H. SUSILO BAMBANG YUDHOYONO

Promulgated in Jakarta

On 23 July 2012

MINISTER OF LAW AND HUMAN RIGHTS OF THE REPUBLIC OF INDONESIA

Signed

AMIR SYAMSUDIN

GOVERNMENT GAZETTE OF THE REPUBLIC OF INDONESIA 2012, No.

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SECRETARY OF STATE OF THE REPUBLIC OF INDONESIA

Assistant Deputy of Legal Affair, Suropto

THE EXPLANATION
OF
LAW OF THE REPUBLIC OF INDONESIA
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RATIFICATION OF *OPTIONAL PROTOCOL TO THE CONVENTION ON*
THE RIGHTS OF THE CHILD ON THE INVOLVEMENT OF CHILDREN IN
ARMED CONFLICT

I. GENERAL

Child, a trust and a gift of God Almighty, has rights or basic rights since they were born and have dignity as human beings. One of the basic rights of child is to grow and develop in healthy and natural way both physical and spiritual as well as social and intellectual, including in the circumstance of armed conflict.

Guarantee to the protection of the basic right is in accordance with the values of Pancasila and the national goals as stated in the preamble of the 1945 Constitution of The Republic of Indonesia. Of the life of the people and the nation, child is the future of the nation and the future generation of national ideals. A child has a strategic role and the characteristic as well as special feature that ensure the continued existence of the nation and the state in the future.

The presence of the child in armed conflict can have serious implications and long-term consequences for him/her. Warfare and armed conflict today have involved various parties, including children. Children are often subjected to torture and murder as part of a strategy of war. Child involvement in armed conflict is a violation of children's rights. Therefore, by considering a very detrimental effect to the child, the international community agreed to take measures which needed to protect the child, as embodied in *Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict* (Protokol Opsional Konvensi Hak-hak Anak mengenai Keterlibatan Anak dalam Konflik Bersenjata).

Indonesia as part of the international community should participate actively to prevent recruitment, military training, and arming of children in armed conflict. Every child without discrimination of any kind shall be protected and fulfilled their rights in an environment that respects their best interests, their views, and supports their survival.

Article 28B (2) of the 1945 Constitution of the Republic of Indonesia states that every child has the right to survive, grow, and develop as well as the right to protection from violence and discrimination. In implementing the provisions of the 1945 Constitution of the Republic of Indonesia. The Government of the Republic of Indonesia has signed *Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict* (Protokol Opsional Konvensi Hak-hak Anak mengenai Keterlibatan Anak dalam Konflik Bersenjata) on September 24, 2001 which is one of the integral part of *Convention on the Rights of the Child* (Konvensi

tentang Hak-hak Anak) as a result of the General Assembly of the United Nations received on November 20, 1989

To further strengthen Indonesian commitment to the attempt of protection of children involved in armed conflict, Indonesia should legitimate *Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict* (Protokol Opsional Konvensi Hak-hak Anak mengenai Keterlibatan Anak dalam Konflik Bersenjata) with a Law.

PRINCIPLES OF CONTENTS OPTIONAL PROTOCOL

1. Purpose

Optional Protocol aims to prevent and protect children from involvement in armed conflict.

2. Scope of the Optional Protocol

This protocol regulates the prevention of recruitment, training, and use of children in armed conflicts both within and between states.

3. Obligations of States Parties

In accordance with the provisions of the Optional Protocol, States Parties to the Optional Protocol has the following obligations:

- a. take all feasible measures to ensure that members of armed forces who have not attained the age of 18 years do not take a direct part in hostilities;
- b. raise the minimum age for the voluntary recruitment of persons into national armed forces by taking into account the principles of

the Convention on the Rights of the Child and the Optional Protocol;

- c. ensure that persons who have not attained the age of 18 years are not recruited into their armed forces;
- d. take measures to prevent, prohibit and criminalize the armed groups that are not part of the national armed forces under any circumstances for recruiting or using children under the age of 18 years to be involved in armed conflict
- e. take administrative measures and other actions to ensure the effective implementation and enforcement of the provisions set out in the Optional Protocol;
- f. take all feasible measures to ensure that persons within their jurisdiction recruited or used in hostilities contrary to the Optional Protocol to demobilized or released;
- g. cooperate among the States Parties including through technical cooperation and financial assistance in implementing the Optional Protocol, including the prevention of all the activities that are contrary to the Optional Protocol, as well as in the field of rehabilitation and social reintegration of victims
- h. submit within two years after the entry into force of the Optional Protocol, comprehensive information and actions taken to implement the Optional Protocol

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II. ARTICLE BY ARTICLE

Article 1

Verse (1).

Self Explanatory

Verse (2)

If there is any divergence of interpretation between the text translation in Indonesian of Optional Protocol and the original copy thereof in English, it then shall prevail is the copy of the original text in English.

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Article 2

Self Explanatory

GOVERNMENT GAZETTE OF THE REPUBLIC OF INDONESIA NUMBER

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