Statement to the U.N. Committee on the Rights of the Child
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Honorable Chairperson and Distinguished Members of the Committee:

Thank you for the invitation to present to you the “Alternative Report on New York State Measures Giving Effect to the Optional Protocol” prepared by the Children’s Studies Center. I am Gertrud Lenzer. I am the Founding Director of the Children’s Studies Center for Research, Policy and Public Service and the Founding Director of the interdisciplinary Children and Youth Studies Program at Brooklyn College of The City University of New York. ¹

**Focus on the Optional Protocol at State level:** Although we have worked for two decades both nationally and internationally on matters concerning the U.N. Convention on the Rights of the Child, the singular strategic importance and potential efficacy of focusing our efforts at the State level became clear to us in order to help achieve the realization of the human rights of children in the U.S.. In the context of a federal system such as the United States of America, the enforcement and implementation of the Optional Protocol is mainly the responsibility of each State.

**Report a Supplement to Periodic Report of the United States:** It is for this reason that we set about to examine and inventory New York State legislation and regulations with regard to the Optional Protocol in order to determine the extent to which they already serve to implement the Protocol and to identify lacunae for future legislative and administrative initiatives and actions. It is also for this reason that we consider our report a **supplement** to the Periodic Report of the United States of America (USG) of January 22, 2010 and not an alternative report.² We hope that our Report on “New York State Measures Giving Effect to the Optional Protocol” will provide a first step in the direction for similar undertakings in all the other States.³

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¹ The human rights of children perspective and the U.N. Convention on the Rights of the Child have provided an overarching framework for the Children’s Studies pedagogy, policy research and initiatives since its inception in 1991. Within this human rights context, we added in early 2009 “Violence against Children” as a general focus which also provides a powerful conceptual vehicle for the integration of the policy research and public service of the Children’s Studies Center since its inception in 1997.
² The officials in the U.S. Department of State, who prepared the Periodic Report were aware of our report, which we started to prepare in 2009. They wrote “More recently the Center has assembled a full-text compilation of New York statutes relevant to the obligations of the Optional Protocol” (G/103, p.23). However, since January 2010, we have updated all the information for our Report, submitted on May 12, 2012.
³ Moreover, we are fully aware that the establishment of statutes and regulations relevant to the Optional Protocol represents only first steps. They also must be translated into transformative action in order to make the provisions of the Optional Protocol a reality for all children.
My statement today, however, focuses on seven additional concerns and recommendations regarding the *Periodic Report of the United States of America, January 22, 2010*. (Important concerns and recommendations in the two other NGO Alternative Reports not addressed here.)

1. **Enforcement and Implementation of the Protocol at State level:** As stressed in the *Concluding Observations: United States of America* of your Committee (CRC/C/OPSC/USA/CO) of June 25, 2008, the enforcement and implementation of the OPSC at the level of each State represents a major challenge for the United States of America. Given the sovereignty of States when it comes to the introduction of many statutes, procedures and regulations, the federal government needs to develop pro-active policies, monitoring mechanisms and active information channels on a continuing basis for the purpose of enforcing and implementing the treaty at State and local levels as well as to encourage individual States to coordinate efforts with all relevant federal agencies toward implementation of the Optional Protocol.⁴ Such communication channels need to be put in place.

2. **Need for State Plans of Action:** In addition to the U.S. National Plan of Action, “aimed at addressing comprehensively all the issues covered by the Optional Protocol,” the State party also needs to encourage the development of Plans of Action at the State level for the implementation of the OPSC.

3. **Coordination Among Different Agencies at State level:** The federal government should also encourage individual States to develop coordination among different agencies and departments concerning areas covered by the Protocol and provide adequate human and financial resources to fulfill these functions.

4. **Child Ombudsman Offices at Federal and State Levels:** Also in line with the *Concluding Observations*, federal and state governments need to be encouraged to establish such human rights institutions as independent offices of the child ombudsman to monitor the implementation of the Optional Protocol (III/18) as is customary in many other countries such as Norway, which first instituted its Children Ombudsman in 1981. In the United States, the term “Office of the Child Advocate” is generally used for such independent offices rather than the term “Child Ombudsman.” Please note the failure in New York State to establish the independent Office of the Child Advocate, as described below.⁵

⁴ We are aware of the “Memorandum for State Governors,” by the United States Department of State of January 20, 2010, providing information on “several human rights treaties to which the United States is party, and which are implemented through existing laws at all levels of government (federal, state, insular and local).” This memorandum also included information about the OPSC.

⁵ Although the U.S. government periodic report of January 22, 2010 makes reference to the Child Advocate Offices in individual states, there are indeed only very few. Independent Offices of the Child Advocate exist in the states of Connecticut, Delaware, Georgia, Massachusetts, Oregon, Rhode Island, Michigan and Missouri. Other states have ombudsman offices with varying degrees of independence and focus which “operate within state government divisions of children and family services,” Periodic Report, G98-100, p. 23.

The history of the New York State legislation to establish an Independent N.Y.S. Office of the State Child Advocate sheds light on the difficulty of establishing such offices. It was first introduced in the New York State Assembly in 2004. From 2005 onward it passed the N.Y.S. Assembly every year and was finally passed both by the New York State Senate and Assembly in June 2010. However, it was vetoed by Governor Paterson in 2010. It is important to note that year after year, the major and adamant opposition to this legislation came from child
5. **Root Causes of Poverty and Marginalization of Vulnerable Children in the United States**: The *Periodic Report of the United States of America* (USG), January 22, 2010, does not sufficiently address the “root causes such as poverty and marginalization, contributing to the vulnerability of children to the sale of children, child prostitution, child pornography and child sex tourism.” (Concluding Observations IV/21) Given the prevalence and high incidence of child and family poverty in the United States, what is needed are federal and state legislation, programs and assistance to reduce and alleviate the root causes and prevalent conditions of poverty and marginalization of children and their families in the United States. 

6. **Systematic Training and Public Awareness Measures at State level**: Another major concern has to do with the lack of systematic training and education on the provisions of the Optional Protocol, the dissemination of its provisions among the population, especially children and parents, and with providing awareness in the public at large at the State level. In fact, the various federal agencies should prepare the necessary materials which could also serve individual States as models and for their guidance.

7. **Optional Protocol as part of U.N. Violence against Children initiative**: Last but not least, it appears to us that the United States would greatly benefit from addressing the Optional Protocol in the wider context of the Violence against Children initiative of the U.N. Secretary-General and the Special Representative of the U.N. Secretary General on Violence against Children, Marta Santos Pais, whose mandate also includes the promotion of the ratification by State parties of the Optional Protocols and of their implementation worldwide.

On behalf of the Children’s Studies Center of The City University of New York, I would like to thank the Members of the Committee for your time and interest.

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protective services, primarily from the NYS Office of Children and Family Services, the New York City Administration of Children Services, and from non-profit organizations which provide services to children in foster care and juvenile justice under contract with state and county agencies. In addition, legislation for the Office of the Child Advocate failed in the states of Pennsylvania and South Carolina. The fully established Office of the Child Advocate in the State of New Jersey was abolished in 2010. (After publication of US Periodic Report, 2010).


6 These root causes are only addressed twice in the USG, identified in “U.S. Response IV/21” as Section IV.B. and VII.B. Whereas Section IV.B. lists programs which are aimed at assisting such vulnerable populations, it is not clear how such programs address the root causes of poverty and marginalization in the United States. They only list measures that alleviate outcomes of these root causes. Section VII.B. of the U.S. Periodic Report, “International cooperation to address root causes, in particular poverty and underdevelopment” addresses mainly U.S. development assistance aid to developing and least developed countries.