



Convention on the Rights of the Child

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COMMITTEE ON THE RIGHTS OF THE CHILD

Fortieth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 12 (1) OF THE OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

Concluding observations: China (including the Macau Special Administrative Region)

1. The Committee considered the initial report of China, including the Macau Special Administrative Region (CRC/C/OPSA/CHN/1 and Part II), submitted on 11 May 2005, at its 1062nd to 1065th meetings (see CRC/C/SR.1062-1065), held on 19 and 20 September 2005, and adopted, at its 1080th meeting (CRC/C/SR.1080), held on 30 September 2005, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the State party's initial report covering the implementation of the Optional Protocol on the mainland and in the Macau Special Administrative Region (SAR). The Committee appreciates the frank and open dialogue held with the delegation.

B. Positive aspects

3. The Committee notes with appreciation the efforts made by the State party to submit its initial report in a timely manner so that it could be considered together with its second periodic report. Nevertheless, the Committee regrets that the application of the Optional Protocol has not been extended to the Hong Kong SAR.

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C. Principal areas of concern and recommendations

1. General measures of implementation

Coordination and evaluation of the implementation of the Optional Protocol

4. The Committee welcomes the heightened efforts of the State party to combat trafficking and sexual exploitation in mainland China and the information provided by the delegation that coordination between the mainland and the SARs is increasing, in particular with respect to the reunification of victims with their families. Nevertheless, it is concerned that on the mainland the issue is addressed primarily by the Ministry of Public Security with limited coordination with other ministries and insufficient attention paid to the socioeconomic aspects of human trafficking.

5. The Committee recommends that in mainland China the State party consider establishing a central coordinating body which includes relevant line ministries, affected children and youth, and non-governmental organizations, in particular those able to address the socioeconomic aspects of trafficking and sexual exploitation. The Committee also urges the State party to further coordinate activities between the mainland and the SARs with regard to assistance to victims and prevention and prosecution of offences.

National plans of action

6. While noting with appreciation the State party's signature of the Memorandum of Understanding against Human Trafficking in the Mekong Subregion in October of 2004, the Committee is concerned at the absence of a plan of action to combat trafficking and sexual exploitation applicable either to the mainland or the Macau SAR.

7. The Committee recommends that the State party elaborate and implement a plan of action applicable respectively to the mainland and the Macau SAR based on the Stockholm and Agenda for Action, the Yokohama Global Commitment and the provisions of the Optional Protocol.

Data collection

8. The Committee regrets the limited statistical data on sexual exploitation and cross-border trafficking included in the State party's report, both with regard to mainland China and the Macau SAR. It is further concerned that the data refer almost exclusively to the number of women and children rescued rather than those abducted, and that data often refer to different time periods, which hampers accurate assessment and monitoring of the situation regarding the sale of children, child prostitution and child pornography.

9. The Committee recommends that the State party strengthen its efforts to collect disaggregated data on the victims of trafficking, sale of children, child prostitution and child pornography, including data on the number of boys and girls affected, broken down by SAR, the mainland, the provinces and regions within the mainland, and, where applicable, neighbouring countries.

2. Prohibition of the sale of children, child pornography and child prostitution

Existing criminal or penal laws and regulations

10. While noting that the trafficking and sale of children are criminalized on the mainland through the 1997 Penal Code, the Committee is concerned that the Penal Code does not include all purposes and forms of sale of children included in article 3 (1) of the Optional Protocol.

11. The Committee recommends that the State party amend the 1997 Penal Code to prohibit the trafficking and sale of children for all purposes listed in article 3 (1) of the Optional Protocol, with special attention to sale and trafficking for the purpose of adoption.

3. Penal/criminal procedure

Extradition

12. The Committee is concerned that the requirement of double criminality, either for extradition or domestic prosecution of crimes allegedly committed abroad, hampers the prosecution of the offences outlined in articles 1, 2 and 3 of the Optional Protocol.

13. The Committee recommends that the State party amend its legislation in order to abolish the requirement of double criminality for extradition and/or prosecution within the mainland of offences committed abroad.

4. Protection of the rights of child victims

Measures adopted to protect the rights and interests of child victims of offences prohibited under the Optional Protocol

14. The Committee is concerned at the limited information provided about services to assist child victims with regard to reintegration and recovery on the mainland. It is also concerned about the absence of assistance programmes specifically designed for child victims of trafficking and sexual exploitation in the Macau SAR.

15. The Committee recommends that the State party expand the services provided to child victims of trafficking and sexual exploitation on the mainland and the Macau SAR to assist their recovery and reintegration, and ensure that they are specifically designed to address the needs of such victims.

5. Prevention of the sale of children, child prostitution and child pornography

Measures adopted to prevent offences referred to in the Optional Protocol

16. While the Committee notes the measures taken in mainland China to punish offences related to the sale of children, child prostitution and child pornography, the Committee is concerned that insufficient attention is paid to prevention of such offences. The Committee also takes note of the information provided by the delegates from the Macau SAR that efforts at prevention are being increased as gaming activities expand within the territory.

17. The Committee recommends that the State party pay increased attention to the prevention of the sale of children, child prostitution and child pornography, inter alia through measures to address the socioeconomic causes, public law awareness campaigns, and education for parents and children on preventing and reducing the risks of trafficking and sexual exploitation. The Committee also urges the State party to further enhance its efforts related to prevention in the Macau SAR and to provide additional information on these efforts in the next periodic report.

6. International assistance and cooperation

18. The Committee notes with appreciation the increased regional cooperation between the State party and neighbouring countries, such as Viet Nam. However, it is concerned about reports of increased cross-border trafficking of girls, both from and to the State party, apparently for the purposes of sexual exploitation and prostitution.

19. The Committee recommends that on the mainland, the State party:

(a) Conduct further research about the scale and nature of cross-border trafficking for the sale of children, child

prostitution, child pornography and sex tourism, in collaboration with international or regional organizations and agencies and neighbouring countries; and

(b) Expand its international cooperation through further multilateral, regional and bilateral arrangements for the prevention, detection and investigation of acts involving the sale of children, child prostitution, child pornography and child sex tourism and the prosecution and punishment of those responsible.

7. Follow-up and dissemination

Follow-up

20. The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, inter alia by transmitting them to the members of the State Council and the National People's Congress on the mainland and the Executive Council and Legislative Assembly in the Macau SAR , and to provincial and local authorities, when applicable, for appropriate consideration and further action.

Dissemination

21. The Committee recommends that the initial periodic report and written replies submitted by the State party and the related recommendations (concluding observations) it adopted be made widely available, including (but not exclusively) through the Internet to the public at large, civil society organizations, youth groups, professional groups and children in order to generate debate and awareness of the Convention, its implementation and monitoring.

8. Next report

22. In accordance with article 12, paragraph 2 of the Optional Protocol, the Committee requests the State party to include further information on the implementation of the Optional Protocol in its next (combined third and fourth) periodic report under the Convention on the Rights of the Child due, in accordance with article 44 of the Convention, on 31 March 2009.
