



Convention on the Rights of the Child

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Committee on the Rights of the Child Fifty-ninth session

Summary record of the 1676th meeting

Held at the Palais Wilson, Geneva, on Thursday, 19 January 2012, at 3 p.m.

Chairperson: Mr. Zermatten

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The meeting was called to order at 3.05 p.m.

Consideration of reports of States parties (continued)

Combined third and fourth periodic reports of Myanmar (continued)
(CRC/C/MMR/3-4; CRC/C/MMR/Q/3-4 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Myanmar took places at the Committee table.*
2. **Ms. Sandberg** said that there had been reports of serious human rights violations at the Myanmar-Thailand border concerning migrant children being deported to Myanmar from Thailand. She asked whether such violations were still occurring and, if that was the case, what steps the State party was taking to stop them.
3. **Mr. Koompraphant** asked what legislative, administrative, social and educational measures were in place to support families, especially those that had lived for years with armed conflict. He also wished to know what measures were being taken to monitor and prevent the sale and trafficking of children, including for the purposes of labour and sexual exploitation. He asked if there was a victim protection programme for children and what resources were available to assist child victims in legal proceedings. What measures were taken to minimize any negative effects of such proceedings on child victims and what psychosocial support was available to them?
4. **Ms. Aidoo** asked how the State party was ensuring that the country's entire population expanded its knowledge of human rights principles, including those enshrined in the Convention. Was human rights education taking place at all levels of education, including post-secondary education? Were there organizations that provided human rights education, or were capable of doing so, and, if so, what was the nature of their relationship with the Government?
5. Regarding the standard of living, she noted that the Government was emphasizing rural development and poverty alleviation and had adopted a poverty alleviation plan. She asked what budgetary resources would be allocated to the plan, and whether it included strategies to ensure equitable reduction of poverty, given that the degree of poverty varied among the country's states and divisions. She noted that the most recent multiple indicator cluster survey by the United Nations Children's Fund (UNICEF) had excluded some categories of children and expressed the hope that future data collection would include all children. She asked whether national budgeting included specific programmes to improve the living standards of poor children, as required by article 27 of the Convention.
6. **Mr. Madi**, referring to the discussion on birth registration at the previous meeting, asked how the State party was tackling the issue of children whose births had not been registered. In particular, he would like to know if there was a mechanism for establishing the age of children lacking birth certificates who were recruited into the armed forces. He also wished to know the legal status of Rohingya children.
7. **Mr. Kotrane** noted that the State party had not ratified the International Labour Organization (ILO) Minimum Age Convention, 1973 (No. 138) or the ILO Worst Forms of Child Labour Convention, 1999 (No. 182). Furthermore, ILO, in examining the reports of States parties on implementation of its Forced Labour Convention, 1930 (No. 29), had noted that some children in Myanmar were subjected to forced labour, including in military camps. He asked what policies the State party was implementing to prevent all forms of forced labour and related exploitation of children.
8. **Ms. Thein Thein Htay** (Myanmar) said that her country was working to achieve, by 2015, the Millennium Development Goals relating to infant, under-five and maternal mortality, but that because of limited in-country resources and development assistance,

progress had been very slow. In addition to using existing resources as effectively as possible, Myanmar was striving to lay the groundwork for effective use of outside aid. In the most recent multiple indicator cluster survey, her Government had tried to cover the whole country by using the methodology advocated by UNICEF, but some areas might have been omitted.

9. While more than 90 per cent of infants were breastfed to some extent, only about half were exclusively breastfed up to the age of six months. The Government was conducting an awareness campaign with the help of UNICEF and a national NGO.

10. Child diarrhoea was a leading cause of death among children under the age of 5 and the Government was conducting information campaigns and had begun providing zinc sulphate to mothers. The standard procedure for treating childhood tuberculosis was made available to all paediatricians and to medical officials at the township and district levels. As malaria was endemic in Myanmar, the country had had a national malaria programme since 1951, and data on malaria morbidity and mortality for pregnant women and children under the age of 5 had been collected since the 1970s.

11. Myanmar had a national strategic plan on adolescent health and development, which included reproductive health. While the Government provided limited health services specifically for adolescents, such services were also provided by various national and international NGOs.

12. The proportion of pregnant women receiving prenatal care remained low and the rate of home deliveries was high. Obstetrical emergencies would be the main focus of a new five-year programme. All health facilities were required to include an equipped, staffed labour and delivery room. The Government's nutrition strategy for children had been expanded to include pregnant women, as improving their nutrition could help to reduce premature births, low birth weight and the under-five mortality rate.

13. **The Chairperson** said that there seemed to have been some positive developments on the health front in Myanmar. He asked for information regarding HIV/AIDS, including mother-to-child transmission. He also requested details on reproductive health care and wished to know to what extent adolescents had access to such care.

14. **Ms. Thein Thein Htay** (Myanmar) said that family planning services had been introduced in 1991 and health-care providers were instructed not to deny people such services because of their age or marital status. Efforts to prevent mother-to-child transmission of HIV/AIDS were either institution-based (centred on hospitals) or community-based (in rural areas). Prevention efforts included four elements: primary prevention activities for people of reproductive age; prevention of unwanted pregnancy in HIV-positive women; voluntary, confidential counselling, testing and prophylaxis; and care and support.

15. **The Chairperson** noted that Myanmar had a shortage of doctors and asked how the country could keep health-care professionals from emigrating abroad.

16. **Ms. Thein Thein Htay** (Myanmar) said that her Government was working to keep various types of qualified medical professionals from moving abroad, and a national strategy for health workers was being developed.

17. **Ms. Aidoo** asked whether health and social workers were provided with adequate equipment and, where appropriate, whether they received help with housing and incentives to work in remote areas.

18. **Ms. Thein Thein Htay** (Myanmar) said that the State party endeavoured to provide health workers with housing and transport assistance. Those working in far-flung areas received higher wages.

19. **Mr. Aung Tun Khaing** (Myanmar) said that a workshop on overhauling the Child Law, held in December 2011 in Yangon with the support of UNICEF, had recommended that the age of majority in the State party should be raised to 18 years, and the age of criminal responsibility increased from 7 to 12 years. Recommendations on amending provisions in the Child Law on corporal punishment had also been made. Another workshop would be held in late January 2012. As a result, a range of articles in the Child Law, including the definition of a child, would be amended.
20. **The Chairperson** said that the Child Law had been under review since 2001. Workshops were not enough: legislative amendments were required.
21. **Mr. Nyan Naing Win** (Myanmar) said that amendments would be introduced shortly. As for corporal punishment, the process might take longer.
22. **Ms. Lee** asked whether the Criminal Code would be amended along with the Child Law to include a prohibition on the use of corporal punishment.
23. **Ms. Varmah** asked whether the State party was considering amending the age for marriage for both males and females and whether any decisions would be taken on the age at which a child could be heard in court.
24. **Mr. Aung Tun Khaing** (Myanmar) said that decisions on those issues could only be taken after the January workshop.
25. **The Chairperson**, noting that no amendments had yet been made to the Child Law, said that the Criminal Code would also require commensurate amendments.
26. **Mr. Nyan Naing Win** (Myanmar) said that the State party was doing its utmost to comply with the Convention in good faith through the application of ministerial guidelines. Judicious use of such guidelines might obviate the need for a full review of legislation.
27. **Mr. Cardona Llorens** said that the Committee's mandate was to ensure that the rights of the child were guaranteed. In a State in which the rule of law was paramount, only clear laws counted. The Committee could not content itself with a State party's stated intention to implement the Convention in good faith or with guidelines establishing that certain articles of the law were not to be applied.
28. **Ms. Maw Maw** (Myanmar) said that the ministries concerned had already agreed to proposals to amend the Child Law and Criminal Code, and to prohibit corporal punishment. Now that the State party had a parliamentary system, those reforms would be discussed in Parliament and the appropriate changes would be made thereafter. In the interim, the old laws were still in force.
29. **Mr. Nyan Naing Win** (Myanmar) said that, under the current law, a child could not be sentenced to death, transportation for life or whipping.
30. **The Chairperson** said that, although there was a moratorium in the State party on the application of the death penalty to children, it was still provided for under the law. Compliance with the Convention required that the law be changed. According to information before the Committee, a 16-year-old had in fact recently been sentenced to death. The Committee would like to have more detailed information on that case.
31. **Mr. Maung Wai** (Myanmar) said that the delegation would have to report to the Committee on that case at a later date.
32. **Mr. Nyan Naing Win** (Myanmar) said that the process of legislative change was complex. After the initial review, proposed amendments needed to be prepared and discussed by a committee, submitted to Cabinet by the appropriate ministries and thereafter forwarded to Parliament. The age of criminal responsibility would be increased in the Child Law and the Criminal Code.

33. **The Chairperson** asked how the juvenile courts of Yangon and Mandalay functioned, whether children held in detention were kept separately from adults, whether child victims and witnesses were afforded special status or protection and what procedures were in place to protect children obliged to face the perpetrators of crimes against them in court.

34. **Mr. Aung Tun Khaing** (Myanmar) said that several ministries were represented on an inter-agency working group on juvenile justice that met regularly. The Yangon and Mandalay juvenile courts were supported by UNICEF and equipped with closed-circuit television. Judges and police officers received training in juvenile court procedure and the provisions of the Convention. As much attention was paid to aiding victims and witnesses as to punishing perpetrators.

35. **The Chairperson** said that the Committee was concerned by the fact that a child as young as 7 years of age, or 10 years under proposed legislative amendments, could be punished for anti-social acts that did not constitute criminal offences.

36. **Mr. Kotrane** said that street children were frequently treated like criminals and sometimes held in detention to keep them off the streets, especially during visits by senior officials. He asked what measures were being contemplated to ensure that street children were not subjected to such treatment.

37. **The Chairperson** asked why the authorities tended to hold street children or those accused of anti-social behaviour in detention rather than providing them with shelter and protection.

38. **Mr. Aung Tun Khaing** (Myanmar) said that military police collected street children from their habitual haunts, such as markets, railway stations and riverbank areas. They were not held in detention, but sent to temporary care centres. Efforts were made thereafter to return them to their parents or guardians. Orphans were sent to training schools run by the Department of Social Welfare. They were subsequently sent to regular schools or vocational training institutions.

39. **Mr. Maung Wai** (Myanmar) said that the local authorities had on occasion been overzealous in their approach to the issue of street children. The Department of Social Welfare would ensure that such incidents did not recur.

40. **The Chairperson** said that he would like to know how adoption was regulated in the State party. Was it true that only Buddhist nationals of the State party had the right to adopt? Did the State party intend to ratify the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption?

41. **Mr. Nyan Naing Win** (Myanmar) said that the right of children to be adopted was set forth in chapter 5, paragraph 17, of the Child Law. Paragraph 17 (c) stipulated that adoptive parents must ensure that adopted children were not abducted to a foreign country or sold, and that they did not fall victim to trafficking, unlawful exploitation or employment, ill-treatment or other illegal acts. In compliance with article 21 of the Convention, intercountry adoption was permitted.

42. **Ms. Varmah** asked whether non-Buddhists had the right to adopt children, including Buddhist children, and which institutions were responsible for adoption.

43. **Ms. Maw Maw** (Myanmar) said that there was no discrimination in the State party against persons of any creed wishing to adopt a child, and that non-Buddhists could adopt Buddhist children.

44. **Mr. Gorán** asked whether everybody was required to apply for full adoption, known as *kittima*, or whether other forms of adoption were permissible. He pointed out that

the Hague Convention provided useful standard-setting guidance not only for intercountry adoption but also for adoption within Myanmar.

45. **The Chairperson** said that there seemed to be two sets of laws: the Child Law, which laid down the general conditions governing adoption; and customary law based on legislation enacted in 1939, which offered a choice between *kittima*, which was equivalent to full adoption, and *apatittha*, which involved a more casual relationship and did not create substantial rights and obligations between parent and child. He enquired about the status of the two sets of law and the links between them.

46. **Mr. Nyan Naing Win** (Myanmar) said that both *kittima* and *apatittha* adoption formed part of customary law. There were many religions in Myanmar, each of which had their own customs. Christians made provision for inheritance in a last will and testament. Buddhists tended to follow customary law. Both approaches were tolerated. The Kittima Adoption Act regulated the question of inheritance, but children had no right to inherit under the *apatittha* system. In all cases, however, children who committed hostile acts against their parents were barred from inheriting.

47. **Mr. Aung Tun Khaing** (Myanmar) said that adoption was being discussed in the context of the Child Law review and amendment process.

48. **The Chairperson** noted that similar problems arose in the case of marriage, since different minimum ages were applicable under the Child Law and customary law.

The meeting was suspended at 4.30 p.m. and resumed at 4.50 p.m.

49. **Mr. Nyan Naing Win** (Myanmar) said that human rights formed part of the curriculum of the basic education sector. The courses were divided into five sections: familiarity with rights; development of individual values and attitudes conducive to respect for rights; civic responsibilities; the legal framework; and peace education. The first section covered the rights enshrined in the Convention on the Rights of the Child, the Universal Declaration of Human Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the International Covenant on Economic, Social and Cultural Rights, and the Child Law. The second section covered codes of conduct for teachers, students and parents, and interpersonal relations. The third section was based on the concept of good citizenship, which required people to cherish, defend and serve the nation. The fourth section focused on basic human rights, legislative protection of human dignity by law, and organizations and departments that afforded legal protection. Lastly, peace education highlighted the benefits of cooperation and coordination, the importance of fair and just decision-making, peaceful resolution of disputes, forgiveness and tolerance. Students enjoyed the right to freedom of opinion and expression.

50. Turning to the question of awareness of the Child Law and the Convention on the Rights of the Child, he said that an education programme on the subject had been broadcast on Myanmar Radio and Television 4 (MRTV-4) in 2011. In addition, the following material had been distributed since 2009: 52,000 brochures on the main clusters of children's rights; 60,000 Child Rights Working Group pamphlets; 1,700 calendars for 2012 containing descriptions of children's rights; 8,000 booklets on children's rights in child-friendly versions; and 10,500 posters illustrating the child rights situation. Training courses in children's rights and the Child Law had been held for 116 officials in 2010 and 2011.

51. **Mr. Maung Wai** (Myanmar) said that school textbooks and stationery were already provided to children at the primary level and there were plans to provide them with schoolbags and uniforms within the next two or three years. He added that the wearing of school uniforms was optional.

52. There were currently 2,396 high schools in the basic education sector and a total of 658,202 high-school students.

53. **The Chairperson** said that the duration of compulsory primary education was still unclear. A very large proportion of students seemed to drop out of the system after primary schooling. Although the wearing of a uniform was not compulsory, a child whose family was unable to afford one might prefer not to attend school. He asked whether education itself was free of charge. He understood that teachers were paid very small salaries by the State and in some cases nothing at all, so that the burden fell on students' families. Moreover, important subjects were sometimes taught for a fee after school hours. The education budget was also entirely inadequate. The Committee would be interested in hearing whether the State party had developed a strategy aimed at reversing the current situation and guaranteeing, at the very least, quality primary education for all children.

54. **Mr. Nyan Naing Win** (Myanmar) said that basic education lasted for 11 years: 5 years at the primary level, 4 at the lower secondary level and 2 at the upper secondary level. The current student enrolment figures were: 5.15 million at primary level; 2.3 million at lower secondary level; and 0.68 million at upper secondary level. Teachers' salaries were the same as those paid for other services.

55. **Ms. Lee** noted that if a child left school after five years of primary education, he or she would be only 10 or 11 years old. Would the child then be compelled to enter the labour market?

56. **Ms. Wijemanne** asked whether any action had been taken to enhance the quality of education. Tuition seemed to be based largely on rote learning with very little child participation. Although there were plans to introduce early childhood education, there seemed to be no budgetary provision for such a programme.

57. **Ms. Maw Maw** (Myanmar) said that the dropout situation was largely due to financial problems. However, the President who had assumed office in 2011 had requested international support for capacity-building in order to raise standards in the education system.

58. **The Chairperson** welcomed the ceasefire with the Karen rebels but noted that eight armed non-State actors were reportedly operating in the territory of Myanmar. Moreover, the State armed forces had allegedly recruited children, a practice that could be partly due to the fact that birth registration was not universal.

59. **Ms. Maw Maw** (Myanmar) said that underage children had been recruited by the army and non-State actors owing to human error. The Government, in collaboration with UNICEF, was currently giving high priority to the prevention of such recruitment and a plan of action was about to be adopted. The Committee could rest assured that no underage children would be recruited by the army in the future. However, a special agreement would be required to ensure that non-State actors followed suit.

60. In reply to the question about an underage soldier who had been sentenced to death for murder, she said he had apparently been 16 years of age when he committed the crime. The army, however, thought that he was 18 and had only learnt his true age after the court martial. He had therefore been accorded the right to appeal and had been released in September 2011 at the age of 21. He had attended a vocational training course with Government funding and was now employed and earning a monthly salary.

61. **The Chairperson** asked how the State party dealt with cases of adult soldiers who had been recruited before reaching the legal age of enlistment. Were they demobilized?

62. **Mr. Madi** said that the child who had been sentenced to death had clearly been recruited by the armed forces without a birth certificate. They had accepted his claim that he was 18 years of age without further investigation.

63. **Mr. Kotrane** said that the young man had reportedly been only 14 years of age at the time of recruitment.
64. **Ms. Maw Maw** (Myanmar) said that all such mistakes would be rectified once the plan of action being developed with UNICEF was implemented.
65. **Mr. Aung Tun Khaing** (Myanmar) said that the fact that no comprehensive registration system had yet been established created many problems in the areas of underage recruitment, child labour and nationality. Children had been unwittingly recruited by the army in isolated incidents at some local recruitment centres, but such incidents had always been contrary to Government policy and the practice of the armed forces.
66. **Ms. Varmah** emphasized that every child should be issued with a birth certificate at the time of registration.
67. **The Chairperson** asked what steps the State party took to demobilize children who had been recruited into the armed forces and armed groups, and whether inspections of military installations were carried out in order to identify child soldiers. It would be useful to know if the State party was cooperating with ILO in efforts to stop the recruitment of children into the armed forces and armed groups.
68. **Ms. Wijemanne** requested information on the effects of the armed conflict on children who had been internally displaced, particularly with regard to their access to health-care and education services. Information on mine-clearance programmes and mine-risk education would also be useful.
69. **Mr. Aung Tun Khaing** (Myanmar) said that the Government worked closely with UNICEF and regularly invited the United Nations country team to inspect military recruitment centres. ILO had requested the Government's cooperation to investigate underage recruitment in his country; the Government had not yet reached a decision regarding that request.
70. While the Government had concluded ceasefire and peace agreements with many national armed groups, localized conflicts continued in some remote border areas where the situation on the ground was often unclear, even to the Government. Once lasting peace had been achieved, mine-clearance and mine-risk education programmes would be conducted in all the relevant areas.
71. **Mr. Maung Wai** (Myanmar) added that the Government expected to be in a position to reach a national peace agreement in the near future.
72. **Mr. Pollar** drew the delegation's attention to article 38, paragraph 1, of the Convention, which provided that States parties undertook to respect and ensure respect for rules of international humanitarian law applicable to them in armed conflicts which were relevant to the child. In that regard, he would appreciate additional details of steps being taken to protect schools and hospitals, in order to ensure that children were protected from the effects of the conflict.
73. **Ms. Lee** asked what measures the State party was taking to eradicate the traditional practice of neck elongation, which continued to be performed in the Padaung and Kareni tribes. That practice had been shown to be detrimental to girls' health.
74. **Mr. Soe Myaing** (Myanmar) said that, despite efforts to raise awareness among those tribes, respect for that tradition continued to outweigh respect for children's rights.
75. **The Chairperson** noted that it was sometimes difficult to reconcile the obligations under the Convention with traditional practices. It was nonetheless necessary to eradicate harmful practices, which would require great effort and determination on the part of the authorities.

76. **Mr. Aung Htay Win** (Myanmar) said that working children's rights were fully protected under domestic labour law. The Ministry of Labour had been cooperating with other relevant departments, UNICEF and NGOs to uphold employment rights for children. The Child Law included provisions on occupational health and safety for working children. Ministry of Labour inspectors strove to enforce the labour laws and action plans were being drawn up to ensure that underage children were not employed. Trafficking in persons was punishable by between 10 years' and life imprisonment. The Government was currently amending domestic labour legislation to bring it into line with the Constitution, international law and the relevant ILO and United Nations conventions.

77. **The Chairperson** requested clarification on the minimum age at which a child could be employed. It would be useful to know how many labour inspectors there were nationwide, and to what extent they focused on child labour. He also wished to know how the State party monitored child labour in the informal sector, particularly in agriculture and domestic service.

78. **Mr. Myo Set Aung** (Myanmar) said that the Government was currently working with NGO partners to draw up minimum standards for working children. It was hoped to include provision for children to spend two hours a day in education, work a maximum of five hours a day, have a minimum amount of rest time and have access to social assistance.

79. **Mr. Aung Htay Win** (Myanmar) said that working children were protected under existing labour laws, details of which were provided in paragraphs 307 to 309 of the periodic report.

80. **Ms. Thein Thein Htay** (Myanmar) said that rural development was a key component of the Government's poverty reduction strategy. Committees existed at local, regional and national level to work on ways to reduce poverty and functional and situational analyses had been carried out at the community level. Since malnutrition had been identified as the main problem, it had become a cross-cutting issue to be addressed by all ministries and departments. The poverty reduction strategy now included provision for microcredit loans and the establishment of cooperatives in order to improve income generation. The Government was working with the private sector and international NGOs to introduce those arrangements.

81. **Ms. Aidoo** said that, given the huge regional disparities in the State party, it would be useful to know if the poverty reduction strategy included measures targeting particularly disadvantaged areas.

82. **Ms. Thein Thein Htay** (Myanmar) said that the Integrated Household Living Conditions Survey provided the evidence base to identify the areas that required special attention. All rural areas were also targeted by the poverty reduction strategy.

83. **The Chairperson** requested additional details on the situation of children who lived with their mothers in prison.

84. **Mr. Aung Tun Khaing** (Myanmar) said that some women who were imprisoned chose to send their children to State nurseries, where they were cared for until the woman was released. The alternative was for women with young children to send them on a daily basis to the preschool centres located in buildings that were separate from the main prison blocks.

85. **Mr. Kotrane** said that it would be useful to know what social services went into action when a mother was arrested in order to ensure that a solution was found for the care of her children.

86. **Ms. Varmah** asked if the State party had a helpline that children could call to report violations of their rights.

87. **Mr. Maung Wai** (Myanmar) said that there was such a helpline in his country.

88. **Ms. Varmah** said that, while much progress had been made in implementing the provisions of the Convention in the State party, many children there were in urgent need of help. The Government should take urgent measures to review its domestic legislation, particularly concerning the definition of the child, respect for children's views, the right to life, survival and development, birth registration and the issuance of birth certificates to all children born in the State party, and access to health services and education, particularly for minority groups.

89. **Mr. Maung Wai** (Myanmar) said that his delegation would share the Committee's questions, comments and recommendations with the relevant authorities. The Government would continue to promote the rights and well-being of children through improvements to domestic legislation. The economic sanctions to which his country had been subjected by several States were having a negative effect on the entire population, including children. Moreover, for the previous 20 years, there had been no United Nations Development Programme regular country programme and Myanmar had received no international development assistance. The people and the Government deserved generous international support and understanding to help them achieve the aim of building a democratic society and reaching a level of development on a par with other countries in the region. He urged the international community to ensure the economic sanctions were lifted as soon as possible.

The meeting rose at 5.55 p.m.