



# Convention on the Rights of the Child

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## Committee on the Rights of the Child Sixty-second session

### Summary record of the 1760th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 16 January 2013, at 10 a.m.

*Chairperson:* Mr. Zermatten

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*The meeting was called to order at 10 a.m.*

**Consideration of reports submitted by States parties** *(continued)*

*Second periodic report of the United States of America on 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 (CRC/C/OPSC/USA/2; CRC/C/OPSC/USA/Q/2; CRC/C/OPSC/USA/Q/2/Add.1)*

1. *At the invitation of the Chairperson, the delegation of the United States of America took places at the Committee table.*
2. **Ms. King** (United States of America) said that the Government of the United States of America welcomed the opportunity to present its second periodic report on 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. She introduced the members of the delegation.
3. **Mr. Koh** (United States of America) said that the report under consideration and the written replies to the list of issues had been prepared in conjunction with civil society. He explained that, although the United States of America had not yet ratified the Convention on the Rights of the Child, it accorded no less importance to the Convention's objectives and principles than signatory countries, as the numerous laws protecting the rights of the child adopted at both the federal and the state levels demonstrated. The three principal lines of action in the fight against trafficking in children were prevention, victim protection and prosecution. In those areas, the federal Government had established partnerships with public authorities at the state and municipal levels as well as with civil society.
4. With regard to the involvement of children in armed conflict, it should be noted that no child under 17 years old could be recruited into the army and that the United States of America did not send minors to the front line. The Government of the United States also supported reintegration programmes for former child soldiers in all parts of the world. It shared the view that the use of children in armed conflict should be outlawed in the strongest possible terms and that war criminals such as Joseph Kony should be brought to justice and punished.
5. **Mr. CdeBaca** (United States of America) said that, in order to combat the exploitation of children more effectively, the United States had drawn up a comprehensive strategic action plan designed to reinforce the services available for victims of human trafficking both overseas and on United States territory. The plan placed particular emphasis on training for police and immigration officers, public prosecutors and judges, among others, the aim being to teach them how to identify cases of trafficking and meet the needs of victims.
6. The State could not fight the scourge alone. For that reason, the action plan envisaged partnerships with civil society and the private sector. The Government also encouraged research and innovation in the prevention of trafficking in children for the purposes of sexual exploitation and the provision of support for victims.
7. **Ms. Maurás Pérez** (Country Rapporteur), after reviewing the progress made by the State party since the submission of its initial report in 2008, asked whether the sale of children was an autonomous offence, separate from the offence of trafficking. She would particularly like to know whether the sale of children — and not just their sale for purposes of prostitution, pornography or adoption — was punishable under national law. She was concerned that victims of trafficking were often still treated as offenders rather than victims.

8. She would also like to know whether the State party planned to include a better definition of the offences covered by the Optional Protocol in the Trafficking Victims Protection Act and, in particular, to separate the offence of trafficking from the offence of sale and prostitution and to make a clear distinction between child and adult victims. She asked whether the 2011 Refugee Protection Act, which would provide protection for child refugees and asylum seekers, was due to enter into force in the near future, whether the State party planned to improve the system used to collect trafficking data, and whether it had plans for raising awareness of the Protocol's provisions among the public in general and children in particular.

9. She also enquired whether the State party planned to formulate new preventive programmes, to establish safe harbours for victims of trafficking and prostitution, to regulate the work of undocumented children of 16 years of age or above, who were often subjected to extremely hazardous working conditions in the agricultural sector, and to close the legal lacunae surrounding adoptions. Lastly, she asked the delegation to indicate whether the State party envisaged ratifying the Convention in the near future.

10. **Ms. Lee** asked whether it was possible for a couple who wished to adopt to go to a country that was not a signatory of the Hague Convention and bring a child into United States territory under the visa waiver programme prior to his or her adoption in the United States, and whether they could be sanctioned under United States law for proceeding in that manner.

11. **Mr. Madi** wished to know whether the State party had any plans to establish shelters for child victims of sexual exploitation.

12. **Ms. Sandberg** asked whether the State party had an independent national human rights institution tasked with overseeing the protection measures envisaged under the Optional Protocol.

13. **Mr. Kotrane** asked whether the State party could envisage ratifying the third Optional Protocol to the Convention on the Rights of the Child if it were to become a party to the Convention. He would also like to know: whether forcing a child to work was an offence subject to prosecution under the Criminal Code; whether the State party intended to broaden the definition of "pornographic materials", which was currently limited to visual representations of acts of child pornography; and whether simple possession of such materials was punishable by law. He would appreciate a more precise response to question No. 31 of the list of issues concerning the case of a young Guatemalan girl who had reportedly been kidnapped with a view to her adoption in the United States. Lastly, he asked whether, in the State party, the Optional Protocol constituted a sufficient basis for extradition.

14. **Ms. Wijemanne** would like to know whether the State party kept a database of child victims of sexual exploitation, what preventive programmes had been implemented and whether a special police unit had been established to combat sexual exploitation and child pornography.

15. **Ms. Al-Asmar** asked whether parents, teachers and legal professionals received instruction in the Optional Protocol's provisions.

16. **Mr. Koompraphant** asked what measures had been adopted to identify unaccompanied foreign minors who were likely to have been victims of sexual exploitation and whether United States law was applicable in cases where child pornography was produced in another country.

17. **The Chairperson** asked whether the State party took account of the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime and whether audio or video recordings of children's testimonies were commonly used. He also asked whether

using the Internet to solicit sex was a criminal offence and whether the State party intended to ratify the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (the Lanzarote Convention).

18. **Ms. Nores de García** asked what measures had been adopted to combat sex tourism.

*The meeting was suspended at 11.00 a.m. and resumed at 11.20 a.m.*

19. **Mr. Koh** (United States of America) explained that the fight against the sexual exploitation of children, including the sale and trafficking of children, was built on four cornerstones (the four Ps): partnership, prevention, prohibition/prosecution and protection. The United States did not have a national human rights institution per se but had several decentralized institutions working in close cooperation at the state level. In addition, a children's ombudsman had been appointed in nearly 30 states. As regards ratification of the Optional Protocol that established a procedure for submitting communications, it should be noted that children already had the possibility of submitting individual complaints under national law. The Optional Protocol could not serve as a basis for extradition; the double criminality requirement must be satisfied in order for proceedings to be initiated against the perpetrator of an offence under the Protocol.

20. **Mr. CdeBaca** (United States of America) emphasized that cooperation and the sharing of information on the sexual exploitation of children, especially via the President's Inter-agency Task Force to Monitor and Combat Trafficking, were crucial. Under United States law, the generic term "trafficking in persons" was defined as any offence covered by the Palermo Protocol, whether or not transportation of the victim was involved. The concept of forced child labour included cases of exploitation in which children worked under duress in conditions of servitude, with or without financial compensation. That definition included cases in which children were exploited in agriculture or by begging networks. Furthermore, all work considered hazardous, particularly work in the agricultural sector, was prohibited for minors aged under 18 years old. The Department of Labour was working to increase the number of labour inspectors and reinforce their training in prevailing laws on the protection of victims of trafficking and violence. In a recent case, a man had been sentenced to a prison term of more than 50 years for having exploited two young boys for prostitution purposes. Under the oversight of the Federal Bureau of Investigation (FBI), a large-scale programme to collate and cross-check data on cases of sexual exploitation of children in the United States had been initiated at the beginning of 2013. The data would be fed into a central database. In addition, around a dozen states had adopted laws to protect victims of sexual exploitation. A project to identify vulnerable minors and provide them with pre-emptive assistance that had been piloted in Dallas under the oversight of the Department of Justice had yielded good results and was due to be replicated in other cities.

21. **Mr. Cardona-Llorens** asked why the State party did not expressly criminalize the sale of children, in line with the Optional Protocol.

22. **The Chairperson** asked for further information about coordination between the different agencies involved in fighting the offences covered by the Optional Protocol.

23. **Ms. Gannon** (United States of America) said that the Department of Justice had launched the Project Safe Childhood initiative to combat the sexual exploitation of children on the Internet in 2006. In May 2011 the project had been expanded to include all federal offences involving the exploitation of minors. In December 2012 the United States Attorney General and the European Commissioner for Home Affairs had launched the Global Alliance against Child Sexual Abuse Online. Every year the Department of Justice organized comprehensive training for police officers to increase their knowledge of the trafficking problem and strengthen victim support mechanisms. Conscious of the need for

improved cooperation between federal and state investigators, the Department of Justice oversaw the work of the Internet Crimes Against Children (ICAC) task forces, which worked in conjunction with the Federal Bureau of Investigation, the Department of Homeland Security and other stakeholders. The Department of Justice also monitored Internet file-sharing sites very closely.

24. Possessing, transferring and producing child pornography were offences at both the federal and state levels and could be tried either in federal or state courts, depending on their seriousness. Visual and audio representations of child pornography were punishable under anti-pornography legislation, while audio-only materials and drawings were covered by anti-obscenity laws. Using the Internet to solicit minors for sex was thenceforth punishable by a prison term of 10 years, compared with 5 years previously. Large-scale campaigns to raise awareness among parents, children and teachers were also organized to combat all forms of online intimidation and exploitation of minors. The National Centre for Missing and Exploited Children kept a detailed database of victims of child pornography and guided them towards appropriate rehabilitation and support services.

25. **Mr. Koh** (United States of America) said that the offences covered by the Optional Protocol, including the sale of children for the purposes of involuntary servitude, were punishable at the federal and state level.

26. **Ms. Hill** (United States of America) said that, within the framework of the Blue Campaign, the Department of Homeland Security worked with NGOs and the private sector to combat international trafficking and provide support services for victims. Unaccompanied foreign minors who entered United States territory received special treatment and immigration officers were trained to identify cases of trafficking. The Intercountry Adoption Universal Accreditation Act, adopted in January 2013, established a very strict procedural framework for intercountry adoptions which was applicable to countries that were not parties to the Hague Convention. Conscious of the risk of children being sold for adoption purposes, the United States authorities refused any accreditation application that appeared suspicious. Birth mothers abroad could receive financial compensation of a reasonable amount to cover expenses related to prenatal care but could not commit to giving up their child prior to the birth.

27. **The Chairperson** asked what was meant by “a reasonable amount” and expressed concern about the potential for abuse inherent in that policy.

28. **Ms. Herczog** expressed concern about the existence of procreative tourism.

29. **Mr. Kotrane** asked whether any individual or legal entity had ever been prosecuted for improperly inducing consent for an adoption.

30. **Mr. Koh** (United States of America) emphasized that the sale of children was prohibited by law and that surrogacy arrangements were closely monitored by the authorities.

31. **Ms. King** (United States of America) said that the National Association of Attorneys General had launched an anti-trafficking initiative named Pillars of Hope which was built on four pillars: data collection, public awareness-raising, victim protection and procedural improvement. The activities of the Internet Crimes Against Children (ICAC) Unit of the Office of the New Mexico Attorney General were part of the programme of actions to prevent child pornography and combat trafficking overseen by the Department of Justice.

32. **Ms. Cortez Masto** (United States of America) said that the Office of the Nevada Attorney General attached great importance to working with all stakeholders, and particularly with private donors, to fight the trafficking of children, including trafficking for the purposes of sexual exploitation, and to sensitize children, from the fifth grade onwards,

to the dangers of the Internet, cyberharassment and sending sexually explicit messages or images (“sexting”). Several bills to improve services for trafficking victims, to increase penalties for the perpetrators of trafficking offences and to establish safe harbours were currently being considered.

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33. **Ms. Lee** (Country Rapporteur) asked whether the United States of America intended to withdraw the declaration made at the time of ratification that was equivalent to a reservation to the first article of the Optional Protocol, to conduct an independent investigation into cases of arbitrary detention of children in Bagram (Afghanistan) and Guantanamo (Cuba), and to remove the presidential waiver provision from the Child Soldiers Prevention Act. She would also like to know whether those responsible for the deaths of hundreds of children in air strikes in Iraq and Afghanistan had been brought to justice and whether measures had been adopted to prevent the indiscriminate use of force. Referring to paragraphs 4 and 5 of the written replies, she asked how “hazardous duty pay” and “imminent danger pay” areas were distinguished from conflict zones. She would also like information about the action taken to involve parents in the army recruitment process from the early stages and about the considerable number of high school students who joined the armed forces after participating in the Junior Reserve Officers’ Training Corps programme.

34. **Ms. Al-Shehail** asked about the authorities’ efforts to raise awareness of the Optional Protocol’s provisions among the general population and people working for and with children and about the measures envisaged to improve protection for children involved in armed conflicts through the exercise of extraterritorial jurisdiction.

35. **Mr. Pollar** would like to know what measures had been taken to prohibit the recruitment of children by non-State actors in places under the jurisdiction of the United States of America and whether the United States authorities negotiated children’s non-participation with the non-States parties to a conflict.

36. **Mr. Madi** asked about the follow-up action taken in relation to the killing of 16 Afghan civilians, including 9 children, in March 2012 by a United States Army sergeant in a state of depressive breakdown, about the length of the army recruitment process for minors aged 17 years old, and about the protection given to children who had participated in hostilities as members of non-State armed groups. Since those children were often deemed to be terrorists, they were barred from claiming asylum or other forms of protection. He would also like information about the legal framework governing the activities of private security companies.

37. **Ms. Al-Asmar** asked whether human rights instruction and peace education were included in school curricula.

38. **Ms. Wijemanne** said that she would like to know whether, in areas where the United States Armed Forces were engaged, there was an independent monitoring mechanism to which children who had been involved in hostilities, even if indirectly, could report any coercion they might have suffered. She also asked whether, when children were killed or wounded in attacks, those responsible were held to account and whether, in conflict zones, measures had been adopted to prevent children from entering areas of combat.

39. **Ms. Varmah** asked at what age pupils enrolled in the Junior Reserve Officers’ Training Corps programme learned how to use firearms.

40. **Mr. Gastaud** asked whether the United States of America and Afghanistan had joint responsibility for the judicial proceedings concerning the approximately 200 children who had been placed in detention in Afghanistan. He would also like to know whether children who had been involved in non-State forces could file an administrative or judicial appeal if their asylum request was rejected.

41. **The Chairperson** asked whether the International Committee of the Red Cross or any other humanitarian organizations had access to the children held in detention.

*The meeting rose at 1 p.m.*