



Convention on the Rights of the Child

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COMMITTEE ON THE RIGHTS OF THE CHILD**Forty-eighth session****CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 8 OF THE OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICT****Concluding observations: The Philippines**

1. The Committee considered the initial report of the Philippines (CRC/C/OPAC/PHL/1) at its 1333rd meeting (CRC/C/SR.1333), held on 30 May 2008, and adopted at its 1342nd meeting, on 6 June 2008, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the initial report of the State party as well as the written replies to the list of issues (CRC/C/OPAC/PHL/Q/1 and Add.1), which give substantive information on the legislative, administrative, judicial and other measures applicable in the State party with respect to the rights guaranteed by the Optional Protocol. The Committee also welcomes the dialogue held with a high-level and multisectoral delegation.

3. The Committee reminds the State party that these concluding observations should be read in conjunction with its previous concluding observations adopted on the second periodic report of the State party on 21 September 2005 (CRC/C/15/Add.259), and in particular with paragraphs 75 to 78 of the document, under the section "children in armed conflict".

GE.08-43098**B. Positive aspects**

4. The Committee welcomes the information that several pieces of legislation contain provisions preventing children from being compulsorily recruited into armed forces or other armed groups as well as from directly participating in hostilities. The Committee notes with appreciation, in particular:

Republic Act 7610 (Special Protection Against Child Abuse, Exploitation and Discrimination Act)

Republic Act 9208 (Anti-Trafficking of Persons Act)

Republic Act 8371 (Indigenous Peoples Rights Act)

Republic Act 9231 (Elimination of Child Labour).

5. The Committee welcomes the fact that the State party has recently agreed to join the monitoring and reporting mechanism initiative following Security Council resolution 1612 (2005).

6. The Committee also welcomes:

The work of the Interagency Agency Committee on the Comprehensive Program on Children in Armed Conflict (IAC-CIAC);

The Memorandum of Agreement on the treatment and handling of children involved in armed conflict, which provides for rehabilitation and reintegration of these children;

The Comprehensive Program Framework for Children in Armed Conflict;

The creation, in February 2006, of the Sub-Committee on Children Affected by Armed Conflict and Displacement (SC CAACD) of the Council for the Welfare of Children, mandated to promote child welfare focusing on armed conflict and displacement.

7. The Committee further welcomes the ratification by the State party of:

The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography,

on 20 December 2001;

Convention No. 182 (1999) of the International Labour Organization (ILO) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, on 28 November 2000.

C. Factors and difficulties affecting the implementation of the Protocol

8. The Committee acknowledges that the particular geographic configuration of the State (over 7,100 islands) associated with the continuous instability caused by, inter alia, the presence of opposition armed groups create objective difficulties and challenges for the implementation of the Optional Protocol.

1. General measures of implementation

Data collection

9. The Committee welcomes the fact that the Commission on Human Rights of the Philippines and the Department of Social Welfare and Development have collected data on children in armed conflict, but regrets that these data are limited to some of the armed groups recruiting children and mostly relate to alleged cases of recruitment or use of children by armed groups when the children are arrested and referred to the Department of Social Welfare and Development.

10. The Committee recommends that the State party expand and strengthen its data collection, monitoring and reporting mechanisms, including by providing further human, financial and technical resources to enhance the data collection system of the Department of Social Welfare and Development and the Commission on Human Rights of the Philippines.

Resource allocation

11. The Committee is concerned that resources allocated for the implementation of the Optional Protocol are still inadequate.

12. The Committee recommends that the State party - taking also into account the recommendations resulting from its day of general discussion on "Resources for the Rights of the Child, Responsibility of States" held on 21 September 2007 - take all necessary measures to provide adequate human, financial and technical resources for the full implementation of the Optional Protocol.

Dissemination and training

13. The Committee notes with appreciation that some courses in human rights and domestic child protection laws were integrated into the curriculum of the Public Safety College, which is the training institution for police, but regrets that this training is not systematized and that no specific courses on the Optional Protocol are currently offered.

14. The Committee recommends that the State party ensure that all relevant professional groups, in particular military personnel, are systematically trained in the provisions of the Optional Protocol. In addition, in the light of article 6, paragraph 2, it recommends that the State party make the provisions of the Optional Protocol widely known and promoted, by appropriate means, to adults and children alike.

Independent monitoring

15. The Committee welcomes that both the Commission on Human Rights of the Philippines and the Deputy Ombudsman for the Military can accept and investigate breaches of human rights by the military. However, it notes that few cases regarding children have come to the attention of these bodies.

16. The Committee recommends that the State party provide the necessary human and financial resources to enable the Commission on Human Rights of the Philippines and the Deputy Ombudsman Office to actively monitor the compliance of the State party with the Optional Protocol, including with regard to the facilities where children may be housed, and to ensure that children can easily access these bodies in order to submit complaints.

2. Prevention

Voluntary recruitment

17. The Committee notes that the minimum age for voluntary recruitment is 18, except for training purposes. However, the Committee remains concerned that because of the difficulties in ensuring adequate birth registration in remote areas and among certain minority groups, including indigenous groups, children might be recruited under the age of 18.

18. In order to guarantee that the declaration made by the State party under article 3 of the Optional Protocol is effectively honoured, the Committee recommends that the State party establish and systematically implement safeguards to verify the age of volunteers, based on objective elements such as birth certificates, school diplomas and, in the absence of documents, medical examination to determine the exact age of the child.

19. The Committee further recommends that the State party enforce the provisions of the Indigenous Peoples Rights Act to ensure that indigenous children are not recruited by armed forces or armed groups, including vigilantes groups.

Prevention of recruitment by armed groups distinct from the armed forces of a State

20. The Committee notes that non-State armed groups have in different terms expressed their commitment to protect children and that, in general, there seems to be awareness of the minimum age requirement in the communities among adults, youth and even children. However, it notes with concern that children continue to join armed groups, both government linked paramilitary groups and other non-State opposition armed groups, mainly due to poverty, indoctrination, manipulation, neglect or absence of opportunities.

21. The Committee recommends that:

In the light of article 4 of the Optional Protocol, the State party take all feasible measures to eliminate the root causes and prevent recruitment and use of children by armed groups that are distinct from the armed forces of the State;

The State party ensure that special and adequate attention is paid to children who have been recruited or used in hostilities when entering into negotiation and talks with armed groups, especially in the area of prevention, physical and psychological recovery and social reintegration;

During ceasefire and peace negotiations all parties be made aware of their obligations under the Optional Protocol, which should form an integral part of the peace agreements.

Schools and peace education

22. The Committee notes the information that high school students, usually 15 or 16 years of age, continue to be required to undergo at least one year of Citizenship Advancement Training (CAT), (formerly known as Citizen's Army Training) as a prerequisite for graduation. The Committee is concerned that the CAT promotes militarism and is contrary to the peacebuilding education of the State party and to the spirit of the Optional Protocol.

23 . The Committee recommends that the State party, in order to continuously improve the situation of children and their development and education in conditions of peace and security, amend the CAT programme and consider abolishing its military content.

24 . The Committee further recommends that the State party, in collaboration with civil society organizations, develop and implement training programmes and campaign to promote the values of peace and respect for human rights and include the subject of peace education and human rights as a fundamental subject in the education system.

3. Prohibition

Legislation

25. The Committee notes that under several laws recruitment and use of children in hostilities is prohibited and punished with sanctions of up to 20 years of imprisonment. However, in spite of this important legislative framework, the Committee is concerned at the lack of its effective implementation, especially in conflict areas, and at the fact that so far there has been no prosecution for recruitment or use of children in armed conflict. Furthermore, the Committee is concerned that the Philippines have not ratified the Protocol Additional to the Geneva Conventions of 12 August 1949 and Relating to the Protection of Victims of International Armed Conflicts (Protocol I) and the Rome Statute of the International Criminal Court.

26 . In order to strengthen the national and international measures for the prevention of the recruitment of children by armed forces or armed groups and their use in hostilities, the Committee recommends that the State Party:

Effectively implement the existing legislation prohibiting and criminalizing the recruitment and involvement of children in hostilities;

Provide information in its next report on the number of prosecutions for recruitment or use of children in armed conflict;

Ensure and enforce extraterritorial jurisdiction for these crimes when they are committed by or against a person who is a citizen of or has other links with the State party, including by entering into multilateral and bilateral agreements for extradition;

Ensure that military codes, manuals and other military directives are in accordance with the provisions of the Optional Protocol;

Ratify the Rome Statute of the International Criminal Court as well as the Protocol Additional to the Geneva Conventions of 12 August 1949 and Relating to the Protection of Victims of International Armed Conflicts (Protocol I).

4. Protection, recovery and reintegration

27. The Committee welcomes the information on disarmament, demobilization, rehabilitation and reintegration programmes implemented in the State party, including the 2004 Action Plan on Disarmament, Demobilization, Rehabilitation and Reintegration (DDRR). While the Committee appreciates the measures adopted to ensure confidentiality and protection of children involved in these programmes, it is concerned at the information on cases where children have been exploited for propaganda purposes in breach of their right to privacy.

28. The Committee recommends that the State party continue and strengthen measures aimed at the demobilization, physical and psychological recovery and social reintegration of victims of acts contrary to the Optional Protocol, including by providing further financial resources for the development and effective functioning of these services, and notably of the DDRR programmes. The State party should also prohibit all activities which constitute arbitrary interference of the privacy of children, especially within the framework of recovery and reintegration programmes.

29. The Committee notes with appreciation the Memorandum of Agreement on the treatment and handling of children involved in armed conflict, which provides for rehabilitation and reintegration of these children, rather than their prosecution. However, it is concerned that Republic Act 7610, in its article 10, provides for the arrest and prosecution of children for reasons related to the armed conflict, though the sentence would be suspended in case of conviction. The Committee is further concerned at reports of ill-treatment of children occurring at the moment of their apprehension and/or during their deprivation of liberty.

30. The Committee recommends that the State party:

Amend Republic Act 7610 so as to ensure that children are not criminalized for the fact of having been recruited or used in hostilities;

If children in armed conflict are arrested and prosecuted for having committed a crime, trials have to strictly follow safeguards and procedures outlined in international standards on juvenile justice;

Ensure that children deprived of their liberty as a consequence of their involvement in the hostilities are treated with humanity and with respect for their inherent dignity;

Take due account of the victimization of former child soldiers in peace negotiations with opposition armed groups;

Seek legal advice from the Office of the United Nations High Commissioner for Human Rights and the United Nations Children's Fund (UNICEF) on how to integrate minimum human rights standards and a child rights perspective in the legal framework of peace negotiations, with special attention to the basic principles of truth, justice and reparations for the victims.

31. The Committee, while noting the statement made by the State party that the issue of landmines does not represent a significant problem in the Philippines, is concerned at the information that non-State armed groups continue to use victim-activated antipersonnel mines and that incidents involving the use, seizure or recovery of mines and other explosive devices continue to occur.

32. The Committee recommends that the State party provide more information in its next report on measures adopted to develop a landmine and unexploded ordnances (UXO) clearance program as well as risk education activities, including by seeking the necessary technical and financial support within a framework of international cooperation, including from United Nations agencies.

Control of arms exports

33. The Committee welcomes the various measures that the State party has put into place to control the sale, possession and export of small arms and munitions. However, the Committee is unclear whether these measures would be adequate to prevent small arms from coming into the possession of children or being sold to children or entities where the end user may recruit children.

34. The Committee recommends that laws regulating the sale and export of small arms be sufficiently strong and enforced so that they do not end up in the hands of child soldiers.

Helpline

35. The Committee notes that the child helpline Bantay-Bata is only accessible in 5 of the 17 regions of the State party.

36. The Committee recommends that the existing child helpline be expanded to all regions and be three-digit, toll free for both the helpline and the caller, and available 24 hours.

5. International assistance and cooperation

37. The Committee recommends that the State party seek from the international community further technical cooperation and financial assistance for the implementation of the Optional Protocol.

6. Follow-up and dissemination

38. 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 Ministry of Defense, the Congress and the Cabinet and to provincial authorities, where applicable, for appropriate consideration and further action.

39. The Committee recommends that the initial report submitted by the State party and concluding observations adopted by the Committee be made widely available to the public at large in order to generate debate on and awareness of the Optional Protocol, its implementation and monitoring. The State party should also consider making these concluding observations and recommendations known to armed groups that are distinct from the armed forces of the State within the framework of their ongoing talks, pursuant to article 4 of the Protocol.

7. Next report

40. In accordance with article 8, paragraph 2, the Committee requests the State party to include further information on the implementation of the Optional Protocol in its combined third and fourth periodic reports under the Convention on the Rights of the Child, in accordance with article 44 of the Convention.

