



# Convention on the Rights of the Child

## Committee on the Rights of the Child

### Fifty-ninth session

16 January – 3 February 2012

## 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: Thailand

1. The Committee considered the initial report of Thailand (CRC/C/OPAC/THA/1) at its 1683rd meeting (see CRC/C/SR.1683), held on 25 January 2012, and adopted, at its 1698th meeting, held on 3 February 2012 (see CRC/C/SR.1698), the following concluding observations.

### I. Introduction

2. The Committee welcomes the submission of the State party's initial report under the Optional Protocol and the written replies to its list of issues (CRC/C/OPAC/THA/Q/Add.1) and appreciates the open, frank and constructive discussion it held with the high level and multi-sectoral delegation.

3. The Committee reminds the State party that these concluding observations should be read in conjunction with its concluding observations adopted on the third and fourth periodic reports of the State party under the Convention on the Rights of the Child (CRC/C/THA/CO/3-4) and on the initial report under the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/OPSC/THA/CO/1).

### II. General observations

#### Positive aspects

4. The Committee notes with appreciation the establishment of 18 years of age as the age for registration for active and inactive military personnel under the Military Service Act of 1954 and Defence Ministerial Regulation of 2000.

### III. General measures of implementation

#### Legislation

5. The Committee is concerned that the provisions of the Optional Protocol are not fully incorporated into domestic legislation, especially with regard to the criminalization of recruitment of children under the age of 18 years into armed forces.

**6. In light of article 6 of the Optional Protocol, the Committee urges the State party to take measures to fully incorporate the provisions of the Optional Protocol into its domestic legislation and to explicitly criminalize the recruitment of children under the age of 18 years into armed forces.**

#### Coordination

7. The Committee notes the State party's information that the National Child and Youth Development Promotion Commission is the mechanism for coordinating the implementation of the Optional Protocol. The Committee, however, refers to the concluding observations under the Convention (CRC/C/THA/CO/3-4) and is concerned that policies on child rights and their practical implementation are assigned to different agencies within the Ministry of Social Development and Human Security and elsewhere and that there is no overall coordination mechanism that is responsible for coordinating activities of all relevant State and non-State agencies under the Convention and the Optional Protocols.

**8. With reference to its concluding observations under the Convention, the Committee recommends that the State party ensure better coordination among the various agencies and committees working on developing and implementing child rights policies, including the ones that are under the Ministry of Social Development and Human Security, and designate a unit capable of providing leadership and effective general oversight for the monitoring and evaluation of activities on child rights under the Convention and its Optional Protocols across sectoral ministries and from the central to local**

government levels.

## **Dissemination and awareness-raising**

9. The Committee welcomes the translation of the Optional Protocol into Thai language and its dissemination to various agencies, including government and non-governmental agencies. The Committee is nevertheless concerned at the lack of systematic and comprehensive dissemination and awareness-raising activities in the State party on the Optional Protocol among the public, children and professional groups working with and for children.

**10. In light of article 6, paragraph 2 of the Optional Protocol, the Committee recommends that the State party ensure that the principles and provisions of the Optional Protocol are widely disseminated among the general public, children and relevant central and local authorities, by developing systematic information and education programmes.**

## **Data**

11. The Committee regrets the lack of data and statistics on many areas covered under the Optional Protocol, in particular the number of persons under the age of 18 enrolled in military schools, and refugee and asylum-seeking children who have been or may have been involved in widespread armed violence.

**12. With reference to its concluding observations under the Convention, the Committee recommends that the State party establish a comprehensive data collection system on all areas relevant for the implementation of the Convention and the Optional Protocols and use the information and statistics collected as a basis for designing comprehensive policies and programmes with respect to the protection of children affected by and involved in widespread armed violence. The Committee recommends that the State party seek the assistance of the United Nations Children's Fund (UNICEF) in this regard.**

## **IV. Prevention**

### **Voluntary recruitment**

13. While welcoming the Ministerial regulation No 2, 2554 of April 2011 which prohibits persons below the age of 18 from taking part in village defence trainings, the Committee is concerned about reports of informal association of children in a range of functions by the village defence militia- *Chor Ror Bor* in the southern border provinces, who carry out the same or similar duties as formal members. The Committee is further concerned at the lack of clarity of the applicable rules, and awareness of the rules among key officials, the lack of implementation of existing policy and procedures, and the lack of effective oversight and accountability, which has created a situation where children could be vulnerable to formal and informal association with *Chor Ror Bor*.

**14. The Committee urges the State party to take necessary measures to prevent and prohibit the informal involvement of children with the *Chor Ror Bor*. It further recommends that the State party establish effective monitoring and accountability mechanisms for key officials for both formal and informal involvement of children in village defence militias and raise their awareness of laws prohibiting such recruitment.**

### **Military schools**

15. The Committee is concerned that at undergraduate level, where the minimum age for attendance is 16 years and over, the curriculum includes military subjects, such as weapons handling, land, naval and air logistics, military disciplines, and international laws.

**16. The Committee recommends that the State party:**

- (a) Undertake a comprehensive review of all military schools under its jurisdiction with a view to ensuring their compliance with the provisions of the Optional Protocol;**
- (b) Establish a comprehensive registration system of all pupils enrolled in military schools which collects data disaggregated by sex, age, socio-economic background and geographical location, and which is centralized and regularly monitored;**
- (c) Consider regular joint monitoring of military schools by the Ministry of Education, the Ministry of Defence and the Child Protection Committees to ensure that such schools comply with the provisions of the Optional Protocol;**
- (d) Ensure a clear prohibition of training on the use of firearms in military schools for children under 18 years of age.**

## **V. Prohibition and related matters**

### **Criminal legislation and regulations in force**

17. The Committee is concerned that the State party's legislation, including the 1956 Criminal Code and Child Protection Act of 2003, does not explicitly criminalize the recruitment and/or use of persons under 18 years by armed forces, village defence militias or non-State armed groups.

**18. 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 explicitly criminalize by law the recruitment and involvement of children in armed forces, village defence militias or non-State armed groups.

## **Jurisdiction**

19. The Committee is concerned that the State party's law does not establish universal jurisdiction over the crime of unlawful recruitment of children and their use in hostilities. It regrets that jurisdiction over offences under the Optional Protocol necessitates double criminality and the extradition is subject to the existence of a treaty between the State party and the requesting State.

20. The Committee recommends that the State party provide explicitly, within the Penal Code or otherwise, for extra territorial jurisdiction over acts prohibited under the Optional Protocol, including conscripting or enlisting children into armed forces or armed groups, or using them to participate actively in hostilities, if such crimes are committed by or against a Thai national or a person who otherwise has a close link with the State party. The Committee also recommends that the State party ratify the Rome Statute of the International Criminal Court.

## **VI. Protection, recovery and reintegration**

### **Measures adopted to protect the rights of child victims**

21. The Committee is concerned about the lack of the protection of asylum-seeking and refugee children (so called "externally displaced persons"), including former child soldiers, who live in official and unofficial camps in Thailand, as well as the lack of mechanisms for identifying former child soldiers among refugees/asylum-seekers. The Committee is also concerned that in the absence of adequate identification and protection measures, child soldiers who have escaped from Myanmar could be among the populations forcibly returned to Myanmar, where they can face re-recruitment and/or detention on charges of desertion. It is particularly concerned that children in the camps are at risk of recruitment and re-recruitment by non-State armed groups from Myanmar operating inside the Thai border.

22. In light of its obligations under article 7 of the Optional Protocol, the Committee urges the State party:

- (a) To put in place a national system of data collection and registration of all asylum-seeking and refugee children under its jurisdiction;
- (b) To establish an identification mechanism for children, including asylum-seeking and refugee children, who have been or may have been involved in armed conflict abroad, and ensure that personnel responsible for such identification are trained on child rights, child protection and with interviewing skills;
- (c) To provide children who have been or may have been involved in armed conflict with appropriate assistance for their physical and psychological recovery and their social reintegration;
- (d) To immediately end any forcible returns of children who may have been, or are at risk of becoming victims of crimes under the Optional Protocol to their countries of origin;
- (e) To prevent recruitment and re-recruitment of children by non-State armed groups from Myanmar in camps inside the Thai border;
- (f) To seek technical assistance from United Nations High Commissioner for Refugees (UNHCR) and UNICEF in this regard.

### **Arrest and detention of children under emergency legislation**

23. The Committee is concerned at the reports of arrests and detention of children under the Martial Law and Emergency Decree, in the southern border provinces of the country. It is particularly concerned, that under these security-related laws, administrative detention of children is not prohibited and can last up to 30 days, where they are subjected to ill-treatment and detention in isolation or with adult detainees.

24. The Committee calls upon the State party to review its security-related laws with a view to prohibiting criminal or administrative proceedings against children under the age of 18 as well as prohibiting their detention in military detention centres. It recommends that all children under the age of 18 be handled by the juvenile justice system in all circumstances.

## **VII. International assistance and cooperation**

### **International cooperation**

25. The Committee recommends that the State party continue and strengthen its cooperation with the International Committee of the Red Cross and with the Special Representative of the Secretary-General on Children and Armed Conflict and to explore increased cooperation with UNICEF and other United Nations entities in the implementation of the Optional Protocol.

## **VIII. Follow-up and dissemination**

**26. The Committee recommends that the State party take all appropriate measures to ensure the full implementation of the present recommendations, inter alia, by transmitting them to the Head of State, the Parliament, relevant ministries and local authorities, as well as to the Child Protection Committees and Sub-Committees at central and province levels respectively, for appropriate consideration and further action.**

**27. The Committee further recommends that the initial report and written replies submitted by the State party and related recommendations (concluding observations) 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 Optional Protocol, its implementation and monitoring.**

## **IX. Next report**

28. In accordance with article 8, paragraph 2, the Committee requests the State party to include further information on the implementation of the Optional Protocol and the present concluding observations in the next periodic report under the Convention, in accordance with article 44 of the Convention.