



Convention on the Rights of the Child

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Committee on the Rights of the Child

Concluding observations on the initial report of China submitted under article 8 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, adopted by the Committee at its sixty-fourth session (16 September–4 October 2013)

1. The Committee considered the initial report of China (CRC/C/OPAC/CHN/1) at its 1835th meeting (see CRC/C/SR.1835), held on 27 September 2013, and adopted at its 1845th meeting, held on 4 October 2013, the following concluding observations.

I. Introduction

2. The Committee welcomes the submission of the State party's initial report and its written replies to the list of issues (CRC/C/OPAC/CHN/Q/1/Add.1), and appreciates the constructive dialogue held with the multisectoral delegation.

3. The Committee reminds the State party that the present concluding observations should be read in conjunction with the concluding observations on the State party's combined third and fourth periodic reports under the Convention (CRC/C/CHN/CO/3-4), adopted on 4 October 2013.

II. General observations

Positive aspects

4. The Committee welcomes the revision of the Law of the People's Republic of China on the Protection of Minors in December 2006 and in October 2012.

5. The Committee further welcomes the progress achieved in the adoption of national plans and programmes to facilitate the implementation of the Optional Protocol, including the adoption in July 2011 of the National Programme for Child Development (2011-2020) for mainland China.

III. General measures of implementation

Legislation

6. The Committee regrets that the Law of the People's Republic of China on National Defence does not explicitly criminalize recruitment of children up to 18 years.

7. **The Committee recommends that the State party consider amending the Law on National Defence to criminalize recruitment and involvement of children under the age of 18 years in the Armed Forces.**

Independent monitoring

8. The Committee is concerned about the absence of an independent national human rights institution in line with the principles relating to the status of national institutions (the Paris Principles) to regularly monitor progress in the fulfilment of child rights under the Optional Protocol and to receive and address complaints from children.

9. **In the light of its general comment No. 2 (2002) on the role of independent national human rights institutions in the promotion and protection of the rights of the child and of the recommendations made by several United Nations human rights bodies on the necessary establishment of an independent national human rights institution in line with the Paris Principles, the Committee urges the State party to establish an independent mechanism to monitor the fulfilment of rights under the Optional Protocol and to deal with children's complaints in a child-friendly and expeditious manner.**

Dissemination and awareness-raising

10. **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 their families.**

Training

11. The Committee regrets that the training programmes for members of the Armed Forces and relevant professional groups dealing with children do not fully cover the provisions of the Optional Protocol.

12. **The Committee encourages the State party to provide training on the Optional Protocol to all members of its Armed Forces, in particular personnel dealing with children, authorities working for and with asylum-seeking and refugee children, the police, lawyers, judges, military judges, medical professionals, social workers and journalists.**

Data

13. The Committee regrets the absence of information on the measures taken to establish a central data collection system in the State party — mainland China, Hong Kong, China, and Macao, China — to register all children within its jurisdiction who may have been recruited or used in hostilities.

14. **The Committee recommends that the State party establish central data collection systems in mainland China, Hong Kong, China, and Macao, China, to identify and register all children within its jurisdiction who may have been recruited or used in hostilities abroad, or detained or maimed. The Committee also recommends that the State party ensure that data on refugee and asylum-seeking children who**

have been victims of such practices are properly collected. All data should be disaggregated by, inter alia, sex, age, nationality, ethnic origin and socioeconomic background.

IV. Prevention

Voluntary recruitment

15. The Committee expresses concern that the Military Service Law of the People's Republic of China allows voluntary recruitment of children below the age of 18 years into the active military service. It regrets that the State party does not intend to raise the age of voluntary recruitment to 18 years. In addition, while the minimum voluntary enlistment age in the State Party is reported to be 17 years, its binding declaration in respect of the Optional Protocol, made at the time of accession, appears to contain a contradictory statement that citizens who have not yet reached 17 years by 31 December of a given year may be recruited for active service.

16. The Committee is also concerned about:

(a) The high number of total recruits under 18 years enrolled in the Armed Forces; and

(b) The absence of policy and practice to ensure that children under 18 years are not involved in participation in hostilities.

17. **The Committee recommends that the State party review and raise the age for voluntary recruitment into the Armed Forces to 18 years in order to promote and strengthen the protection of children through an overall higher legal standard. It further recommends that the State party:**

(a) **Provide in its next periodic report information on the number and percentage of recruits under 18 years of age, if any, to the Armed Forces, as well as on the reported cases of recruitment irregularities, the nature of the complaints received and sanctions undertaken; and**

(b) **Explicitly prohibit the deployment of children under 18 years to areas where they may be at risk of indirect or direct participation in hostilities. The Committee further recommends that until such policy reform is undertaken, the State party put in place effective safeguards, including policies to ensure that children under 18 years are effectively screened before deployment to situations of armed conflict.**

Age verification procedures

18. While noting that the State party has established procedures to verify the ages of incoming recruits, the Committee remains concerned at the low level of birth registration, especially among migrant children, in the State party, which may impact on the effectiveness of these procedures.

19. **The Committee underlines the importance of birth registration as a measure to prevent recruitment of underage children, and recommends that the State party continue and strengthen its efforts to establish a free national birth registration system for all children, including migrant children.**

Military training

20. The Committee is concerned that military training is included in the mainstream education curriculum and schools provide compulsory military education and training activities, including various levels of exposure to the handling of firearms, for all children under 18 years.

21. The Committee recommends that the State party exclude military training from the general education curriculum and take measures to ban military training with the use of firearms for children under the age of 18 in the mainstream education curriculum and schools.

Military schools

22. The Committee notes that the State Council and the Central Military Commission are allowed to recruit 17 year-old students graduating from ordinary high schools on a voluntary basis. The Committee is, however, concerned that:

(a) Although the enrolment plans, specifically aimed at enrolling young students in military colleges and schools, are approved by the Ministry of Education and the General Political Department of the People's Liberation Army, each military college or school sets up its own educational curriculum and military training programmes;

(b) No concrete information on the curriculum and military training activities — in particular regarding the handling of firearms — in military schools is provided;

(c) Children in military colleges and schools lack access to an independent complaints mechanism.

23. The Committee recommends that the State party:

(a) **Ban military-type training — including on the use of firearms — for children and ensure that any military training for children takes into account human rights principles, and that the educational content is approved and periodically monitored by the Ministry of Education;**

(b) **Provide in its next periodic report data, disaggregated by sex, age, nationality, ethnicity and socioeconomic background, on children enrolled in military colleges, vocational colleges and schools, as well as on the types of activities they carry out; and**

(c) **Set up independent and gender-sensitive mechanisms for complaints and investigation that are accessible to children in military colleges and schools, in order to monitor the welfare of and investigate complaints by children in such programmes.**

Human rights and peace education

24. The Committee regrets that human rights and peace education, as well as knowledge on the Optional Protocol, is not specifically incorporated as a mandatory part of the primary and secondary school curricula and in teacher training programmes.

25. With reference to its general comment No. 1 (2001) on the aims of education, the Committee recommends that the State party, in the context of its education reform, consider including peace education in school curricula at all levels, with special reference to the crimes covered by the Optional Protocol.

V. Prohibition and related matters

Criminal legislation and regulations in force

26. The Committee expresses concern that the national legislation, including the Law of the People's Republic of China on National Defence, does not prohibit and criminalize the recruitment or use in hostilities of children under the age of 18 years by non-State armed groups. In addition, the Committee regrets that the State party's legislation does not contain an explicit provision defining recruitment and use of children under 18 years in the national Armed Forces in war or peace time as a crime.

27. The Committee notes the information provided by the State party that there are no privately operated military-security corporations in China. Nevertheless, the Committee is concerned by the absence in domestic legislation of provisions on criminal liability of private security services or companies.

28. The Committee recommends that the State party explicitly prohibit and criminalize the recruitment or use in hostilities of children under the age of 18 in the Armed Forces of the State party and in non-State armed groups.

(a) Amend the Law on National Defence in order to criminalize the recruitment and use of children up to the age of 18 years by non-State armed groups;

(b) Undertake a comprehensive review of all legislation affecting children, including the Criminal Code, with a view to swiftly amending the legislation to explicitly criminalize the recruitment and use of persons under 18 years of age in the national Armed Forces, non-State armed groups and security companies; and

(c) Ratify the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (1997) and the Rome Statute of the International Criminal Court.

Extraterritorial jurisdiction

29. The Committee notes the information provided by the State Party about the possibility of establishing extraterritorial jurisdiction in cases of recruitment or involvement in hostilities of a child under the age of 18 years. However, it regrets that the law does not provide for extraterritorial jurisdiction for all the offences covered by the Optional Protocol, in particular the recruitment or use in hostilities of children under the age of 18.

30. The Committee recommends that the State party take all necessary steps to ensure that domestic legislation enables it to establish and exercise extraterritorial jurisdiction over all offences under the Optional Protocol, including the recruitment and use in hostilities of children under the age of 18.

VI. Protection, recovery and reintegration

Measures adopted to protect the rights of child victims

31. The Committee is deeply concerned that asylum-seeking and refugee children, especially those who may have been recruited or used in hostilities abroad, continue to be routinely arrested and detained in detention facilities, especially in Hong Kong, China. The Committee is also concerned about the absence of official statistics and data on asylum-seeking and refugee children in the State party — mainland China, Hong Kong, China, and Macao, China — and at the lack of procedures to identify children under its jurisdiction who may have been recruited or used in hostilities in other countries.

32. In the light of its obligations under article 7 of the Optional Protocol, the Committee urges the State party to, in all areas under its jurisdiction:

(a) Cease the administrative practice, especially in Hong Kong, China, of detaining asylum-seeking and refugee children, including those who may have been recruited or used in hostilities abroad;

(b) Establish a mechanism for identifying 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 child-friendly interviewing skills;

(c) 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; and

(d) Establish a system to ensure data collection and registration of all asylum-seeking and refugee children in all areas under its jurisdiction.

VII. International assistance and cooperation

Arms export and military assistance

33. While noting that article 5 of the Regulations on the Administration of Firearms Exports establishes the principles relating to the export of firearms by the State party, the Committee is deeply concerned that the State party actively exports firearms, including small arms and light weapons, to countries where children are known to be, or may potentially be, recruited or used in armed conflict and/or hostilities. The Committee regrets that the State party does not have any specific legislation to restrict the sale of arms to such countries. While the Committee notes the information in the State party's report about its active participation in Security Council deliberations in support of the implementation of the Optional Protocol, it envisages the possibility of the State party undertaking this role in a more consistent and child rights-focused manner.

34. **The Committee urges the State party to enact and apply a full prohibition on firearms exports, including small arms and light weapons, as well as on any kind of military assistance to countries where children are known to be, or may potentially be, recruited or used in armed conflict and/or hostilities. The Committee also recommends that the State Party use its permanent position in the Security Council in a more consistent and child rights-focused manner to promote the implementation of the Optional Protocol in all States parties.**

VIII. Ratification of the Optional Protocol on a communications procedure

35. **The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.**

IX. Follow-up and dissemination

36. **The Committee recommends that the State party take all appropriate measures to ensure the full implementation of the present recommendations by, inter alia, transmitting them to the Head of State, the Parliament, relevant ministries, the**

Supreme Court and local authorities for appropriate consideration and further action.

37. The Committee recommends that the initial report and written replies to the list of issues submitted by the State party, as well as the present 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.

X. Next report

38. 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 recommendations in the present concluding observations in its next combined fifth and sixth periodic report, to be submitted no later than 31 March 2019.
