



Convention on the Rights of the Child

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COMMITTEE ON THE RIGHTS OF THE CHILD

Fortieth session

SUMMARY RECORD OF THE 1062nd MEETING

Held at the Palais Wilson, Geneva,
on Monday, 19 September 2005, at 10 a.m.

Chairperson: Mr. DOEK

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

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Second periodic report of China (CRC/C/83/Add.9; CRC/C/83/Add.9 (Parts I and II); CRC/C/Q/CHN/2; CRC/C/RESP/89; CRC/C/RESP/89 (Parts II and III); HRI/CORE/1/Add.21/Rev.2)

Initial report of China under the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/OPSA/CHN/1; CRC/C/OPSA/CHN/1/Part II)

1. At the invitation of the Chairperson, Ms. Albuquerque Ferreira, Mr. Cheng Ya'an, Mr. Costa Oliveira, Mr. dos Santos, Mr. Fisher, Ms. Huang Shu, Ms. Ip, Ms. Jin Chunzi, Mr. Kan, Ms. Lai, Ms. Lao, Ms. Li Jing, Mr. Liang Xiaofeng, Ms. Lin Shuli, Ms. Liu Quan, Mr. Ma Dong, Mr. Sha Zukang, Mr. Sun Jin, Ms. Tian Ni, Ms. Tong, Ms. Tou Wai Fong, Ms. Un, Mr. Wang Gang, Ms. Wang Yan, Mr. Wong, Ms. Michelle Wong, Ms. Wong Fong Iam, Ms. Xia Juan, Mr. Xu Hong, Ms. Yao Ying, Ms. Yeung, Ms. Zhang Lei, Mr. Zhu and Ms. Zhu Yantao (China) took places at the Committee table.

2. Mr. SHA Zukang (China) said that a number of government departments, non-governmental organizations (NGOs) and experts in child-related issues had contributed to the preparation of the second periodic report.

3. In response to the Committee's concluding observations on China's initial report, the Government had formulated the National Programme of Action for Child Development (2001-2010), which contained specific measures to improve children's health, education, legal protection and environment. A standardized system to monitor statistical data had been established, and monitoring and assessment agencies and a reporting and review mechanism were currently in place. China's criminal legislation, which had been amended in 1997, provided that the death penalty would not be imposed on offenders who were under the age of 18 when the crime was committed, or on women who were pregnant at the time of trial.

4. Since the submission of its second periodic report, China had taken a number of steps to promote and protect children's rights which had led to improvements in children's health. Funds had been allocated to support children infected with HIV/AIDS and children orphaned by that pandemic. Spending on basic education had increased, and the disparities in education among regions and between rural and urban areas had decreased. Children from poor families received allowances that enabled them to have access to compulsory education. Affirmative action had been taken to guarantee that children from ethnic minorities could fully exercise their rights. Programmes had been launched to assist children with disabilities, and financial assistance was provided to enable poor and disabled children to attend school. Some 130 rescue and protection centres provided assistance to street children. Young offenders were educated up to junior high school level and were encouraged to continue their education beyond that stage. Measures to prevent abduction and trafficking included the formulation and implementation of a series of laws and policy measures, awareness-raising campaigns and legal support for women and child victims.

5. Among the current challenges to full implementation of the Convention was the continuing disparity in child protection between urban and rural areas, and between regions. Some regions still tended to favour boys over girls. It was difficult to ensure protection of the rights of children who migrated with their parents from rural to urban areas. The Government would continue to strive to overcome those difficulties, in cooperation with the international community.
6. Mr. FISHER (Hong Kong Special Administrative Region of China) said that children and young people were the immediate priority of the Commission on Poverty, which had been established in January 2005. The Commission's aims were to identify the needs of the poor, recommend policies to prevent and alleviate poverty and promote self-reliance. The Commission encouraged community engagement, delineated responsibility between the Government, the social welfare sector and community organizations, fostered public and private sector partnerships, and mobilized social capital for poverty alleviation.
7. Government agencies provided childcare and were active in comprehensive disease prevention, health promotion and other support services. Children with special needs, such as those with physical or behavioural problems, received special treatment. Hong Kong provided nine years of free, universal education, and higher-level education was heavily subsidized.
8. The Comprehensive Child Development Service, which focused on children's development from birth to age 5, had been launched in 2005 and was currently in the pilot stage. The Service was an integrated, community-based programme that involved cooperation among government departments and other agencies to augment the services provided by the maternal and child health centres. The Service sought to improve the delivery of health, education and social services in order to ensure early identification of the special needs of children and their families.
9. The Government was currently reviewing the need for an independent monitoring mechanism for children's rights. Pending its decision, a children's rights forum had been established to provide a regular, formal platform for the discussion of matters concerning children's rights. Members would include children's representatives, NGOs and government officials. The pilot project entitled "Children's Rights Education Funding Scheme" would be initiated to finance public education projects on children's rights in the 2006/07 financial year. Those measures would provide direct interface between the Government, children and the organizations that served them, and would help raise public awareness of the rights protected under the Convention.
10. The necessary steps would be taken to ensure the application in Hong Kong of the Optional Protocol on the sale of children, child prostitution and child pornography. However, since the enactment of the Prevention of Child Pornography Ordinance in 2003, the gaps between domestic legislation and the provisions of the Optional Protocol had narrowed.
11. Mr. COSTA OLIVEIRA (Macau Special Administrative Region of China) said that Macau's legislation was in line with the main provisions of the Convention. The right to non-discrimination was strongly upheld in the Region's legal system, and a number of legal provisions specifically stated that the best interests of the child should be a primary consideration

in all actions concerning children. Children's right to life, and the State's responsibility to ensure the survival and development of children, were guaranteed by the prohibition of the death penalty, life imprisonment or imprisonment for a period exceeding 30 years. The right of children to express their views on all matters concerning them was also guaranteed by law.

12. Significant improvements in children's rights since the submission of the second periodic report included the extension of free education to 12 years, to include 2 years of pre-primary education. The number of education grants for children under the age of 18 had increased. In cooperation with NGOs, the Government was taking measures to enable children with disabilities to live with their families and to develop their capacity to live independently. The legal framework for adoption had been modernized and brought into conformity with the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption. A law had been drafted to harmonize Macau's domestic legislation with the Optional Protocol on the sale of children, child prostitution and child pornography. Measures had been taken to facilitate family reunification.

13. Ms. KHATTAB, Country Rapporteur, urged the State party to ratify the Optional Protocol on the involvement of children in armed conflict, and to extend its application, as well as the application of the Optional Protocol on the sale of children, child prostitution and child pornography, to Hong Kong and Macau. She asked whether the State party intended to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Hague conventions pertaining to children's rights. She welcomed China's withdrawal of its reservations to article 22 of the Convention, and asked what measures were being taken to enable the withdrawal by Hong Kong and Macau of their reservations to articles 32 and 37 (c). She enquired when the inconsistencies between the reporting obligations of China and the two special administrative regions would be removed. She wished to know whether NGOs and children had been involved in drafting the second periodic report.

14. She requested information on budgetary allocations; judicial decisions that applied the Convention; remedies in cases of violations of children's rights; the national strategic framework for children's rights; mechanisms to ensure the implementation of the Convention; and international cooperation on issues relating to children's rights. She expressed concern that some of the State party's domestic legislation was not in line with the Convention. She asked what measures Hong Kong would take to improve coordination of services, draft a national plan of action and ensure that sufficient resources were allocated to poverty reduction. She wondered whether Hong Kong planned to establish an independent monitoring mechanism. She was concerned that China had not established an ombudsman's office. She would appreciate further information on budgetary allocations to alternative care programmes and juvenile justice.

15. The information provided by the State party highlighted the shortcomings of its data collection system. Statistics should be provided on unaccompanied child asylum-seekers and refugees and on displaced children in China. There were discrepancies in the data provided by Hong Kong on children with sexually transmitted diseases, and no statistics had been submitted on children deprived of family care or children who did not attend school. Statistics on ethnic groups, school attendance, health service spending and programmes and services for children with disabilities should be provided for Macau. She asked how the Government planned to improve data collection.

16. Mr. FILALI, Alternate Country Rapporteur, said that China needed to establish an independent mediator or ombudsman's office. He asked what measures were being taken to ensure that children were not merely an object of protection but also a subject of rights before the law. He urged the State party to withdraw its remaining reservations to the Convention. He expressed concern that China had not established legislation to protect children's rights and legitimate interests. He wished to know whether Chinese judges considered the Convention to be a source of law.

17. Mr. KOTRANE asked whether the Government intended to hold a discussion, with the participation of NGOs, on the possible withdrawal of China's reservations to articles 32 and 37 (c) of the Convention. The Committee was concerned that the legislation in force in Hong Kong and Macau, particularly legislation on the right of children to protection against economic exploitation, their right to protection against all forms of ill-treatment, abuse and neglect, and juvenile justice, was not in line with the Convention. He asked what measures the Government would take to draft a coherent national strategy on legislative reform that took account of the provisions of the Convention and provided for a review of all domestic legislation with a view to ensuring its conformity with the Convention.

18. Mr. LIWSKI said that child protection policies required particularly careful monitoring, owing to China's complex administrative division. He asked how the State Council Working Committee on Women and Children functioned and how frequently it met. He wondered whether NGOs could propose subjects for discussion at the Working Committee's meetings, and whether the Working Committee's decisions were automatically endorsed by the State Council. He wished to know whether the government ministries dealing with children's issues drafted their own policies, or whether their policies were formulated by the Working Committee on Women and Children. He asked how planning and evaluation of the implementation of children's rights policies were carried out, and whether there was a system for monitoring the work of higher administrative bodies. He asked whether the Government was considering a review of the methods for coordinating the implementation of children's rights policies at the national level.

19. The Committee had been informed that a children's council and a commission on poverty had been established in the Hong Kong Special Administrative Region. He wished to know what the composition of those bodies was, how they operated and how they coordinated their work with that of the State Council Working Committee on Women and Children. He asked whether there was a body responsible for coordinating policies on children in the Macau Special Administrative Region and, if not, whether such a body would be established.

20. Mr. PARFITT asked what measures were being taken to establish a universally accessible and independent system for monitoring the implementation of the Convention, such as an ombudsman's or mediator's office, in accordance with the Paris Principles.

21. Mr. KRAPPMANN wished to know the objectives of the National Programme of Action for Child Development in China in the 1990s. The delegation should provide additional information on the National Children's Development Programme (2001-2010) and on its midterm review. He reiterated the need for Hong Kong and Macau to develop comprehensive plans of action for the implementation of children's rights.

22. Ms. SMITH enquired whether maximum available resources were being allocated to the implementation of the Convention. She would welcome information on efforts to ensure that the welfare system covered the rural population. She regretted that expenditure on education was unequally distributed and had not reached the recommended 6 per cent of the gross domestic product (GDP). Lastly, she asked what measures were being taken to prevent corruption, particularly corruption in the allocation of resources for children.

23. Ms. ORTIZ asked what steps were being taken to inform authorities and the public of new laws to implement the Convention, and to ensure that those laws were being applied effectively. She stressed the role of the media in disseminating information about the Convention and enquired whether the Government cooperated with the media to ensure that children could express their views.

24. Mr. ZERMATTEN asked whether NGOs were regularly involved in the implementation of the Convention, whether they were independent and whether they had participated in preparing the State party's reports to the Committee. Further information on the NGOs that were members of the State Council Working Committee on Women and Children would be useful.

25. Mr. SHA Zukang (China) said that China had ratified the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption and was giving serious consideration to the possibility of acceding to the Hague conventions on maintenance obligations, child abduction and the protection of migrant workers and their families.

26. In China, every human being under the age of 18 was considered a child. Abortion was not used as a means of family planning, and pregnant women had the right to decide whether or not to have an abortion. There were strict regulations on abortion and measures to ensure the mother's safety.

27. China would give serious consideration to the Committee's request that the Government should withdraw its reservation to article 6 of the Convention. However, owing to extremely high population growth and a number of economic and social constraints, China's family planning policy was a necessity.

28. Although no independent monitoring mechanisms had been established, many government departments received and investigated all types of complaints, including complaints relating to children's rights. State institutions that specialized in protecting children's rights had been set up. In addition, government departments dealing with public health, civil affairs and public security all had special child protection units.

29. He acknowledged the need to strengthen the role of NGOs in China's economic, social and cultural development. A number of NGOs, including the Next Generation Committee, the China National Children's Centre and the Song Qingling Foundation, played a very important role in protecting children's rights. Special efforts had been made to assist poor children, children with disabilities and children who dropped out of school. The All-China Youth Federation, the Chinese Academy of Social Sciences, the Song Qingling Foundation, the Next Generation Committee, the China National Children's Centre and the China Office of the United Nations Children's Fund (UNICEF) had participated in the preparation of the report. Special legal provisions protected the independence of NGOs.

30. The provisions of the Convention were reflected in a number of Chinese laws and regulations. International treaties took precedence over domestic law. If there were no similar provisions in domestic law, the provisions of international treaties could be directly invoked in court. The presiding judge decided whether a domestic law conflicted with provisions of an international treaty. Cases involving children's rights were usually dealt with under domestic law.

The meeting was suspended at 11:45 a.m. and resumed at 12 p.m.

31. Mr. FISHER (Hong Kong Special Administrative Region of China) said that the Hong Kong authorities had consulted with various NGOs in drafting the second periodic report. Hong Kong could not withdraw its reservation to article 22 of the Convention because it had a liberal visa regime and feared that some immigrants might take unfair advantage of the provisions of that article. Its reservation to article 37 (c) of the Convention had been motivated by the fact that some of its detention centres placed young people between the ages of 16 and 21 in the same facilities and did not separate those who were 18 and younger, as required by the Convention.

32. Hong Kong was taking steps to amend its legislation in order to implement the Optional Protocol on the sale of children, child prostitution and child pornography. Once the necessary amendments had been made, Hong Kong would request the central Government to extend the Optional Protocol to the Hong Kong Special Administrative Region.

33. The Hong Kong authorities were considering the establishment of a children's commission. That would require the reorganization of the Youth Council, which dealt with issues concerning young people between the ages of 16 and 24. In the meantime, a children's rights forum, composed of children's rights representatives, NGO representatives and government officials, had been set up. Although Hong Kong had not adopted a comprehensive plan of action for children, it had comprehensive legislation and policies on children. While the central Government had offices in Hong Kong and worked closely with the bureaux that dealt with children's issues, Hong Kong enjoyed a high degree of autonomy in formulating and implementing its policy on children.

34. Mr. COSTA OLIVEIRA (Macau Special Administrative Region of China) said that steps were being taken to improve Macau's data collection system. No information was currently available on specific cases in which the principles of the Convention had been invoked. While Macau did not have a central body to coordinate children's policies, interaction among the various officials responsible for such policies was facilitated by the fact that their offices were situated near each other.

35. While Macau was considering the possibility of drafting a plan of action and establishing an independent monitoring mechanism for children's rights, no decisions had yet been taken in that regard. A number of mechanisms had been established to inform the public about new legislation and ensure that Macau's large immigrant population were aware of its citizenship regulations.

36. Ms. LEE said that China had made enormous social and economic progress in recent years and had already achieved some Millennium Development Goals. She wondered whether China would have difficulty meeting the goals of halting and reversing the HIV/AIDS pandemic, promoting gender equality and providing safe drinking water to its rural population.

37. She was concerned that the one-child policy would have a negative impact on children in China, particularly girls and children with disabilities. She asked what steps the Government planned to take to ensure that girls born in China were not abandoned, were registered at birth and received the health and education to which they were entitled. The delegation should provide additional information on selective abortions based on the sex of the foetus.

38. She wished to know the reasons for the alarmingly high suicide rate of Chinese women, and wondered whether it reflected negative attitudes towards women and girls in Chinese society. The Government needed to take a more decisive approach to the problem of HIV/AIDS, which had become a reality in China.

39. She requested additional information concerning children with disabilities, including how the Government defined them and what efforts it was making to integrate them into mainstream education. She was concerned at reports of discrimination against children with disabilities and their abandonment. Certain practices, such as allowing couples to have a second child if the first child had a disability, appeared to reflect the general attitude that children with disabilities were less than full members of society. She wished to know the reasons for the disproportionate number of children with disabilities in rural areas.

40. With regard to Hong Kong, the delegation should provide information on children with mental disabilities and describe efforts to make higher learning accessible to students with disabilities. She wished to know why there had been a reduction in the disability allowance provided by Hong Kong's Comprehensive Social Security Assistance Scheme and how that reduction would affect families of children with disabilities.

41. She was concerned that compulsory education did not appear to be free. China's current policy, which required education to be funded from local budgets, disadvantaged poor areas with insufficient revenue. She enquired whether China had achieved the goal of allocating 4 per cent of its GDP to education. The one-child policy and the hukou system posed obstacles to the right to education of some of China's most vulnerable children, including girls, second and third children, migrant children and children from ethnic minorities. She wished to know what measures the Government was taking to ensure that all children in China received free compulsory education. She enquired whether the statistics on enrolment in primary schools applied to all children in China.

42. She wished to know whether there were adequate childcare facilities in Macau and whether economic assistance was provided to low-income families. The delegation should comment on the high teacher/student ratio for pre-primary schools in Macau and in rural areas of mainland China. She requested additional information on the incorporation of human rights modules in school curricula.

43. Ms. AL-THANI wished to know what steps were being taken to address disparities between urban and rural mortality rates. She requested information on the number of births that were attended by professionals, including births that took place at home and in rural communities. She asked whether there were discrepancies between urban and rural births attended by professionals.
44. The delegation should provide information on measures being taken in China to address malnutrition and obesity among children, as well as on the China Mother's Milk Promotion Plan. She wished to know how the Government planned to prevent incidents such as the one in which counterfeit infant formulas had caused the death of a large number of babies.
45. She requested information on mental health and on the most serious communicable diseases in China. She enquired whether there were specific programmes for adolescents in the areas of reproductive health, health education and substance abuse. She wished to know how cases of HIV/AIDS were handled and whether young people could obtain free and confidential testing and advice.
46. The delegation should provide updated maternal mortality rates for Hong Kong and indicate what was being done to promote breastfeeding among working mothers. She enquired whether malnutrition and obesity among children were problems in Hong Kong. She asked what was being done to address the fact that chicken pox, viral hepatitis and tuberculosis were endemic to Hong Kong. She requested information on efforts to deal with early pregnancies and abortions, and on the increasing incidence of sexually transmitted diseases.
47. She asked what measures had been taken to address the problem of suicide among young people. She wished to know the incidence of HIV/AIDS in Macau and what steps were being taken to deal with chicken pox. The delegation should describe the local custom in Macau that discouraged breastfeeding after the first month of life. She asked whether Macau had targeted programmes to deal with adolescent mental health. Although there were no cases of HIV/AIDS in Macau, she enquired whether Macau had continued to promote public awareness of the disease.
48. Mr. LIWSKI asked whether primary health care continued to be the main strategy of the Chinese health system. He wondered whether Government investments in medical technology and infrastructure in large urban areas had affected the quality and coverage of primary health care in rural areas. He enquired what steps were being taken to improve access to health and to promote community participation in the organization of local health-care facilities. He wished to know what results had been achieved by the Student Health Service and asked how Macau coordinated its health system with the central Government's primary health strategy.

The meeting rose at 1 p.m.