



**Convention on the
Rights of the Child**

Distr.
GENERAL

CRC/C/SR.1333
6 June 2008

Original: ENGLISH

COMMITTEE ON THE RIGHTS OF THE CHILD

Forty-eighth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 1333rd MEETING

Held at the Palais Wilson, Geneva,
on Friday, 30 May 2008, at 3 p.m.

Chairperson: Ms. LEE

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* No summary record was issued for the second part (closed) of the meeting.

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (continued)

Initial report of the Philippines under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (CRC/C/OPAC/PHL/1, CRC/C/OPAC/PHL/Q/1 and Add.1)

1. At the invitation of the Chairperson, the members of the delegation of the Philippines took places at the Committee table.
2. Ms. YANGCO (Philippines) said that since children comprised almost half of the population of the Philippines, the Government considered them its most valuable resource and attached great importance to the promotion of their welfare. Referring to the body of domestic legislation on the protection of children, described in the initial report (CRC/C/OPAC/PHL/1), she said that it had been clearly stated in existing laws that the Philippines did not permit recruitment or employment of children in its armed forces, nor did it condone wrongdoing by its personnel, especially against children. Moreover, disciplinary systems had been set up to provide sanctions for any such misconduct.
3. In response to issues raised, she drew attention to the written replies provided in paragraphs 2, 7, 12, 15, 18, and 249 to 251 of Parts I to V, and paragraphs 22, 24 and 30 of Parts VII to IX of document CRC/C/OPAC/PHL/Q/1/Add.1.
4. Mr. PARFITT (Country Rapporteur) said that the legislative initiatives adopted by the Philippines were commendable, and that they covered the best practices of most aspects of the Optional Protocol. He recalled the Committee's 2005 report on the Philippines and two recommendations encouraging the Government to pursue peace efforts and the rehabilitation of child victims of armed conflict in order to ensure that they received the basic services to which they were entitled under the Convention and the Optional Protocol. Although the Government of the Philippines had instituted programmes to treat child soldiers in a holistic manner, and had imposed harsh penalties for misconduct, many children continued to be victims of internal displacement and recruitment for military purposes. He therefore wished to know whether any charges had been brought, or convictions made, against the paramilitary or vigilante groups in local communities that recruited underage children. He was interested in knowing whether, within the framework of peace negotiations, impunity had been offered to groups that recruited child soldiers.
5. With regard to national mechanisms, he asked whether the Office of the Ombudsman or the Commission on Human Rights gave consideration to the Convention and the Optional Protocol in the execution of their daily work. He also wanted to know whether the human rights bodies could initiate investigations on abuses on their own accord, and whether any charges had been laid by the Deputy Ombudsman for the Military for breaches of domestic legislation and the Optional Protocol.
6. He asked what measures the State party had envisaged to prevent the military from using the media to exploit children who had been captured or had surrendered. In that vein, he drew attention to the fact that one intention of the Optional Protocol was to secure the rehabilitation of

child soldiers and their reintegration into their communities, yet there had been reports that they were being prosecuted in the Philippines. He was keen to know whether the Government would consider amending existing provisions to ensure that child recruits were not prosecuted, but were in fact granted social services or treated in accordance with international standards on juvenile justice.

7. Turning to the compulsory Citizenship Advancement Training (CAT) for high school students, he said that while it contained a number of laudable components, military orientation seemed to be a key focus of the curriculum. He wondered therefore how the new programme fitted in with the concept of community peacebuilding, particularly given the fact that Filipino children were exposed to a high incidence of violence resulting from internal strife.

8. He asked the delegation to comment on allegations that the Optional Protocol and its protections had not been invoked during ceasefire and peace agreement negotiations with armed groups. In addition, he asked what controls had been established to ensure that small arms did not end up in the possession of countries, armed groups or individuals that recruited child soldiers.

9. Ms. ORTIZ cited the 2003 report of the former Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, which had referred to forced recruitment and the militarization of indigenous regions by paramilitary groups, leading to considerable instability among those communities. In that context, she said she was interested in knowing the situation of indigenous children with respect to recruitment.

10. Mr. KOTRANE said that he shared the concerns expressed by the Country Rapporteur with regard to the effective implementation of the Convention and the Optional Protocol. Beyond the adoption of legislation and the creation of mechanisms, there was a need for follow-up and enforcement, and he asked whether there were special provisions in the agreements for the full demobilization and reintegration of children who had been affected in various ways by armed conflict.

11. Mr. CITARELLA said that he was interested in the status of the Convention and the Optional Protocol and the level of awareness on their provisions. In that regard, he asked about the Government's plans to disseminate the Optional Protocol throughout its territory. He further asked whether the armed groups were aware of the Optional Protocol and, if so, to what extent they adhered to its provisions.

12. Mr. POLLAR asked the delegation to elaborate on any peace agreements that might have been concluded, and more specifically, the manner in which they had been implemented. He was also interested in knowing what safeguards were provided to children who had either been captured or had surrendered to the government authorities. In addition, he noted the active role of civil society in the Philippines, and said he was interested in information on the level of coordination with NGOs, especially in terms of their participation in the overall implementation of the Convention.

13. Mr. ZERMATTEN, following up the concerns raised by the Country Rapporteur, stressed that child soldiers should be given every protection as victims of armed conflict, and that States parties had a duty to ensure that they were not treated as delinquents. He was curious to know

how their testimonies were used in criminal proceedings against the leaders of armed groups who recruited children, and whether any special status was granted to children during court and investigation procedures to ensure that they were not forced to confront the very persons who had victimized them.

14. The CHAIRPERSON underscored the influence of poverty as a factor that fuelled the willingness of persons to join paramilitary or rebel groups, and she asked what the State party was doing to address that aspect, particularly in central Mindanao, which was one of the most poverty-stricken provinces in the Philippines. She also commented on the rather serious conditions in detention centres she had observed on a visit to the Philippines two years earlier.

15. She asked whether there was a formal policy with regard to landmines, whether statistics were available on the number of children affected by them, and what action had been taken to prevent landmines that had not yet been recovered from coming within reach of children, particularly in areas where the topography had been disturbed by natural disasters and weather conditions.

16. She invited the delegation to comment on the independence of the national human rights institution, and to what extent children affected by armed conflict had access to it. In conclusion, she asked for further information on the recruitment of women and girls into active duty.

The meeting was suspended at 3.45 p.m. and resumed at 4.10 p.m.

17. Ms. HORNILLA (Philippines) said that the Office of the Ombudsman was an independent body. Under the Constitution, it had the power to investigate all offences committed by employees of the State, which included members of the military. Higher grade employees were usually investigated by the Ombudsman, whereas lower grade employees were investigated by the Prosecutor's Office.

18. Mr. FILALI asked whether the power of the Ombudsman over the military was enshrined in domestic legislation and if so in which act.

19. Ms. HORNILLA (Philippines) said that a special division, the Deputy Ombudsman for the Military, dealt with all cases concerning the military and the police.

20. Mr. PARFITT (Country Rapporteur) asked whether the Ombudsman had prosecuted any case related to the Optional Protocol and whether any child soldiers had filed complaints about treatment by the armed forces. He asked for clarification as to the roles of the Ombudsman and the Prosecutor, and whether it was the case that the Ombudsman dealt with officers and the Prosecutor with enlisted soldiers.

21. Ms. HORNILLA (Philippines) said that there had been no complaints against the military to date. In accordance with a memorandum of agreement between the Department of Justice and the Prosecutor's Office, the Ombudsman investigated a case first and referred it to the Prosecutor's Office for prosecution if required.

22. In response to questions regarding extraterritorial jurisdiction, she said that in the case of persons who committed a criminal offence against children in the Philippines and then left, a request for extradition back to the Philippines could be made. Persons who conscripted a child soldier in the Philippines and then brought the child out of the country would be prosecuted, with extradition being requested if the offender had left the Philippines.
23. Mr. PARFITT (Country Rapporteur), noting that extradition would be requested only in the case of children under the age of 15 years as required by the Rome Statute of the International Criminal Court, asked whether the offender would be extradited to the Philippines if the child was aged between 15 and 18 years.
24. Ms. HORNILLA (Philippines) confirmed that such an offender could be extradited since children aged between 15 and 18 years were still considered to be victims.
25. Ms. YANGCO (Philippines) said that army training was included in the Citizenship Advancement Training as part of the secondary school curriculum, and had nothing to do with the military. It aimed to encourage students' development of the characteristics of a good Filipino, to inform them of their duties and responsibilities as citizens and to provide them with an understanding of the national service programme and of the military, including an introduction to the military's history, structure and function and training in the skills involved in military drills.
26. Mr. FILALI asked whether the schools were run by the Department of Education only, or whether the Department of National Defence provided any input. He enquired as to who taught the military programme: a civilian, a member of the military or a military retiree. He asked if the course included education about weapons and about peace.
27. Ms. YANGCO (Philippines) said that the Department of Education ran the citizenship advancement programme and civilian teachers taught it; the role of the military was simply to supply schools with information on the evolution of military training or structure. The programme aimed to encourage children to become responsible adults.
28. Mr. CITARELLA asked whether the Citizen Advancement Training programme included education on the Convention and in particular the Optional Protocol.
29. The CHAIRPERSON reiterated the importance of the Committee members' questions so far, noting that she had grown up under a military dictatorship and knew from personal experience that education in military matters could be used as a means of recruiting children.
30. Mr. PARFITT (Country Rapporteur) asked whether the military aspect of the Citizenship Advancement Training conflicted with the curriculum on peacebuilding and with the spirit of the Convention, which was to bring up children in a situation of peace and security.
31. Ms. YANGCO (Philippines) reminded Committee members that there was no military dictatorship in the Philippines. Peace education was central to the Citizenship Advancement Training programme and the military aspect was only one subject in the fourth year, helping to teach children discipline, with the emphasis on soldiers being agents of peacebuilding and defenders of the laws of the land.

32. Mr. LEPATAN (Philippines) said that despite the fact that he had been at school and college during the period of martial law in the Philippines, he had ended up being a diplomat and a peacebuilder. The emphasis currently was on citizenship and discipline, not war.

33. Ms. YANGCO (Philippines) said that the drill exercises covered emergency evacuation procedures and that the use of arms was never introduced.

34. Mr. FILALI, noting that some aspects regarding human rights were missing from the Citizenship Advancement Training programme, asked the State party to explain why the programme included education on the military and whether good citizenship was directly linked to the military.

35. Ms. SMITH expressed the Committee's surprise that one of the three main components of the Citizenship Advancement Training programme was military orientation rather than human-rights and peace education.

36. Ms. YANGCO (Philippines) assured Committee members that, as a Filipino who had undergone the Citizen Advancement Training course, she could vouch for the fact that it did not aim at militarization but it instilled in students a love for their country. Citizenship was part of 1 of at least 10 subjects taken by students every year.

37. Mr. POLLAR noted that the Optional Protocol required States parties to ensure that an age limit on recruitment into the armed forces was imposed.

38. Ms. AL-THANI asked whether the possible negative effects of the military training programme, in terms of promoting the use of children in armed conflicts, had been assessed.

39. Mr. ROSALES (Philippines), in response to questions about the comprehensive peace process, said that the Philippine peace policy aimed to end all internal armed conflicts and to address their root causes in order to promote and protect human rights. The policy's five objectives were to sign comprehensive peace agreements with rebel groups and thereby end armed hostilities by 2010; to complete implementation of the 1986 peace agreements; to bring rebel groups into the mainstream through amnesty, reintegration and reconciliation; to rehabilitate conflict areas; and to strengthen peace and citizens' participation. The Office of the Presidential Adviser on the Peace Process coordinated all Government peace activities.

40. Mr. CITARELLA asked whether the peace agreements contained specific provisions on children in the conflict areas so as to ensure that they were not ignored.

41. Mr. PARFITT (Country Rapporteur), noting that, despite the spirit of amnesty and reconciliation, the parties to the peace process must not lose sight of the fact that they had committed offences and had abused children, asked whether children were on the agenda of the peace initiative.

42. The CHAIRPERSON, noting that services to the local community were being provided by armed groups in some regions, asked what measures were being taken in the peace agreements to ensure that services continued to be provided after the departure of the armed groups.

43. Mr. FILALI asked whether the amnesty applied to children who had been recruited by the armed forces and to children who had committed serious crimes. He asked how the State party ensured that births to female child soldiers during service were registered.
44. Ms. YANGCO (Philippines) said that there was no record so far of girls giving birth in the field. Demobilized child soldiers were handed over to the Department of Social Welfare and Development.
45. Mr. ROSALES (Philippines) said that the issue of children in armed conflict was never ignored and procedures already existed, outside the peace process, for handling children in armed conflict. Services for local communities following implementation of peace agreements were provided by local governments as part of the Government's social integration programme.
46. Ms. YANGCO (Philippines) said that the Department of Social Welfare and Development, in cooperation with local government, ensured that demobilized child soldiers were examined by a doctor, and by a psychologist if necessary, were taught basic life skills and were incorporated into the mainstream education system. The children were placed in residential care if their parents had been involved in their recruitment.
47. Mr. PARFITT (Country Rapporteur) asked whether the issue of child soldiers was discussed during the peace negotiations and whether agreements were reached in order to ensure that social services would be provided to them by either side.
48. Ms. YANGCO (Philippines) replied that the issue was being covered and specific councils at the local and national level defended children's rights during negotiations.
49. Mr. SORIANO (Philippines), on the issue of whether arms were used by children in conflict, said that the police regulated access to firearms according to a public firearms act. A police licence was required for possessing, manufacturing, importing and exporting firearms, and licence holders were not permitted to take the firearm outside their place of residence without a special police permit certifying that the holder's life was in danger. The police was active in combating illegal possession and strict regulations were in place for exporting firearms, monitored by the police at all exit points. A permit was required to transport firearms within the Philippines, and a maximum of 24 hours was permitted for the transport to take place.
50. Mr. CITARELLA asked whether child soldiers under 18 years of age, captured in possession of a firearm, were considered to be committing a crime.
51. Mr. SORIANO (Philippines) said that Philippine law stated that children under 18 years of age were exempt from criminal liability. Consequently, if children were caught with a firearm in a place where there was conflict, they were released immediately, but their arms were confiscated.
52. Mr. FILALI said it appeared that there were exceptions to that provision and wanted to know what happened if a child soldier who had participated in serious crimes surrendered or was captured.

53. Mr. SORIANO (Philippines) said that Philippine law was very specific that, in such cases, children could not be prosecuted, but had to be turned over to the Department of Social Welfare, unless they required medical or psychiatric care first.

54. Ms. YANGCO said that, even though children were not convicted of criminal offences, as part of the rehabilitation process, they were subject to alternative programmes based on a very thorough background check, a social case study of the child and his or her family, and an analysis of what had caused the child to take up arms in the first place.

55. The CHAIRPERSON said that the Committee had received reports that, in the southern Luzon area, three children were in military custody, and two of them were awaiting trial.

56. Ms. YANGCO (Philippines) said the Inter-Agency Memorandum of Agreement on the prevention and reintegration of children involved in armed conflict, a copy of which was attached to the country report, regulated the treatment of children who surrendered or were captured.

57. Mr. PARFITT (Country Rapporteur) said that the Committee had heard of children who had been captured or had surrendered and had been charged under criminal law. It would be useful to know whether a child under the age of 18 could be prosecuted if he was charged with a serious crime.

58. Ms. YANGCO (Philippines) said that the new Juvenile Justice Act dealt with the issue of children in armed conflict. If a child between the ages of 15 and 18 years committed a crime with full knowledge and intent, he was considered responsible. However, the sentence would be suspended and, under the new alternative measures, he would not be sent to a prison for adults, but rather to a rehabilitation centre, on condition that his parents or another responsible adult were capable of providing supervision.

59. Mr. FILALI asked whether the suspension of the sentence was decided by the judge and whether such a ruling was mandatory.

60. The CHAIRPERSON asked what happened if parents were not capable of affording the alternative services. Also, there were many cases of abandoned children and she would like to know whether such children were eligible for alternative rehabilitation.

61. Ms. YANGCO (Philippines) said that the parents must be capable of supervising the child and providing parental guidance, and not merely of supporting the child financially. Other services were available to both child and parents, if the latter were unemployed. If the parents could not meet the requirements, the State took over their responsibilities.

62. Ms. HORNILLA (Philippines) said that the Department of Justice had issued a circular to all Philippine prosecutors to ensure that the rights of children in conflict with the law were respected. If there was evidence that the child captured with a rebel group was acting under duress, or in the case of children in conflict with the law acting without full knowledge and intent, the prosecutor was mandated to dismiss the case. Moreover, the State had to provide children with all necessary assistance in the absence of a legal counsel of their choice.

63. The CHAIRPERSON enquired whether there had been any prosecutions or convictions for the recruitment of child soldiers, and what the Government was doing to prevent the recruitment of children by armed groups.

64. Ms. HORNILLA (Philippines) said that there had been no such prosecutions or convictions, because the Inter-Agency Committee on Children Involved in Armed Conflict prohibited the recruitment of children.

65. Mr. FILALI asked whether the recruitment of children under 18 years of age was covered by amnesty under the peace agreement.

66. Mr. LEPATAN (Philippines) said that, to date, there was no binding peace agreement, only a ceasefire and ongoing negotiations. It was therefore premature to speak about amnesty in such a case. In the Philippines, the recruitment of indigenous people into the paramilitary forces was specifically prohibited. The armed forces were a voluntary body and there was no conscription. He was aware of the 2003 report by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples but had serious doubts about its integrity, because it made certain allegations without any supporting evidence.

67. Ms. ORTIZ said that there were reports of children being killed because they were related to a member of a rebel group and she would like to know what was being done to prevent and punish such crimes. Although many families were displaced to safer areas, many others continued to be vulnerable because they remained in conflict zones. How did the Government ensure education and health-care services for the children in those circumstances?

68. Ms. YANGCO (Philippines) said the Government was intensifying an anti-poverty programme in central Mindanao and a special committee had been created with all the main agencies, headed by the President. A comprehensive programme for children had been established as well as a livelihood programme for the unemployed. Part of central Mindanao was an autonomous region, but the national Government continued to provide capacity-building and to contribute to local social welfare services.

69. The situation of the detention centres for children had been improved, because a special children's centre had been opened in Metro Manila and, as a result of the Juvenile Justice Act, which increased the age of criminal responsibility to 15 years, fewer children were being detained.

70. Mr. LEPATAN (Philippines) said that landmines were not used in the Philippines, which was a State party to two anti-landmine conventions, the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (the Ottawa Convention) and the Convention on Certain Conventional Weapons, and it reported regularly to their monitoring mechanisms. The rebel groups did use landmines, but, to date, there were no reports of the death or injury of children on that account.

71. Mr. PARFITT (Country Rapporteur) said that the Committee was pleased to see that human rights had been included on the training syllabus for the country's police and armed forces. However, the syllabus did not include anything on children's rights and the Optional Protocol, and he enquired whether it would be possible to rectify that omission.

72. Mr. FILALI asked whether the Government was taking the issues addressed in the Optional Protocol into consideration in the peace negotiations.
73. Mr. SORIANO (Philippines) said that, in collaboration with the United Nations Development Programme (UNDP), the Philippine national police were conducting training on a rights-based approach to children in armed conflict throughout the country in order to raise awareness of children's rights, policies and standards.
74. Ms. HORNILLO (Philippines) said that the criminal justice curriculum included full information on children in armed conflict and laws concerning children.
75. Ms. YANGCO (Philippines) said that the Department of Social Welfare's policy on the rehabilitation of children expressly prohibited the exposure of children to the media. Girl children were more vulnerable to risk than boys; therefore, from an early age, they attended sessions on protective behaviour. Special consideration was given to girl children engaged in the armed conflict and the Philippines national police force had a women and children's desk so that any interrogation would be conducted by a woman.
76. Ms. HORNILLO (Philippines) said that the Commission on Human Rights was an independent constitutional body, mandated to investigate ex officio all human rights violations on Philippine territory and to prosecute perpetrators.
77. Mr. FILALI asked whether the Commission duplicated the work of the Ombudsman in investigating cases of human rights violations by the military; also, whether it could demand files and information on human rights violations from the Ministry of the Interior, the Ministry of Defence or the police.
78. Ms. HORNILLO (Philippines) said that the two bodies complemented each other. The Commission investigated human rights abuses, while the Ombudsman examined the administrative and criminal aspects of such abuses. The Commission could request the files and information it required and, in the past, had recommended the suspension of several police officials.
79. Mr. PARFITT (Country Rapporteur) said that, since international treaties were automatically incorporated into Philippine law, it would be interesting to learn whether the Human Rights Commission and the Ombudsman could investigate breaches of international law, such as the Optional Protocol.
80. Ms. HORNILLO (Philippines) said that the Commission could investigate treaty violations.
81. Ms. YANGCO (Philippines) said that cases involving children were dealt with by special family courts.
82. Ms. ORTIZ said that other countries that were trying to negotiate agreements to end situations of armed conflict had been able to reach agreements benefiting children even before the full peace accords were in place.

83. Mr. PARFITT (Country Rapporteur) said that the Committee had appreciated the frankness of the answers provided by the delegation. There were still some outstanding issues, such as the compulsory training in high school and the need to consider putting children first and foremost in the peace negotiations, and to increase social services and programmes in certain parts of the country, and the Committee would address them in their concluding observations.

84. Ms. YANGCO (Philippines) said the exchange with the Committee had provided an enriching experience and the delegation would consider its suggestions in a constructive manner. Evidently, more work needed to be done, but the political will existed. The Philippine Government would continue to upgrade its legislation and its response to alleviate the situation of children in armed conflict. Its intention was to provide all Philippine children with as vibrant and peaceful a future as possible, in which their human rights were fully respected. Her delegation hoped that all relevant stakeholders would work towards this end in a genuine spirit of partnership with the Government.

85. The delegation of the Philippines withdrew.

The meeting rose at 5.30 p.m.