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COMMITTEE ON THE RIGHTS OF THE CHILD

Forty-eighth session

SUMMARY RECORD OF THE 1323rd MEETING

Held at the Palais Wilson, Geneva,
on Friday, 23 May 2008, at 3 p.m.

Chairperson: Mr. ZERMATTEN
(Vice-Chairperson)

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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 Republic of Korea under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (continued) (CRC/C/OPSC/KOR/1; CRC/C/OPSC/KOR/Q/1 and Add.1)

1. At the invitation of the Chairperson, the members of the delegation of the Republic of Korea resumed places at the Committee table.
2. Ms. AIDOO noted that the information given in the report and the written replies showed that there was no disaggregation by sex, especially of child victims of commercial and sexual exploitation, prostitution and pornography, although such disaggregation was essential for developing policies and programmes that were appropriate for both boys and girls. She asked whether the collecting efforts of the various units were coordinated, and, given that ministries and their priorities were subject to change, whether the national statistical office was involved. She questioned whether splitting up the division for gender equality and family and handing family affairs to the Ministry of Health had been the most appropriate way of dealing with children's issues, since ministries of health tended to take a medical rather than a social development approach. Noting that no information had been provided on the Government's allocation of resources to implementing the Optional Protocols, she enquired whether adequate human and financial resources had been allocated, given the increasing number of relevant offences against children. She asked whether the recovery and rehabilitation programmes for child victims described in paragraphs 8 to 15 of the written replies were compulsory, whether children were admitted to institutions for corrective education and whether there was any risk of a stigma being attached to such children resulting in subsequent difficulty for their reintegration into society.
3. Mr. KRAPPMANN asked whether trafficked children entering the State party were protected from the moment they set foot on its territory. He asked why the State party had turned away two ships bringing children and parents from the Democratic People's Republic of Korea, thereby violating the Convention relating to the Status of Refugees (1951), the Convention on the Rights of the Child and the Optional Protocol, and denying the children their right to protection. Referring to reports by the media and the International Organization for Migration (IOM) regarding the practice of international arranged marriages, whereby men from the State party sought brides, often under the age of 18, in South Asian countries, paying their parents, who were often very poor, up to \$1,000 and brokers up to \$20,000, he asked what measures had been taken to ensure that girls were not sold and imported into the country.
4. Mr. CITARELLA, noting that States parties to the Optional Protocol were required to criminalize the activities that it covered but that there seemed to be no specific provision in the legislation of the Republic of Korea regarding the sale of children, asked what the consequences were if someone bought or sold a child and whether any action was taken by the judicial system.
5. The CHAIRPERSON, noting that video recording was permitted during criminal proceedings for child victims up to the age of 16, asked why it was not used in the case of children aged 16 to 18 since they were also protected by the Optional Protocol.

6. Mr. KIM Doo-hyeon (Republic of Korea), on the question of whether it was not preferable to set up a single institution to deal with child-related issues rather than to leave them to be handled by many different ministries, as was currently the case, said prior consultation with the ministries concerned would be necessary. Each ministry involved currently dealt with the relevant aspect of child-related issues, but the Government, through the Child Policy Coordinating Committee, was making efforts to streamline all of those aspects so that they could be covered by the Ministry of Health, Welfare and Family Affairs alone. The National Human Rights Commission was completely independent from the Government.

7. Teachers, social workers and those working in child-welfare facilities were required to report cases of sexual violence against children. The State party would be examining the possibility of extending that obligation to medical workers.

8. Regarding protection from prostitution over the Internet, measures had been put in place to divide Internet chat rooms into child areas and adult areas, thereby reducing the opportunities for a child to communicate with an adult through the Internet. Although children could obtain their parents' identification number in order to access the adult areas, the measures had successfully improved the overall ethical level of the Internet in the Republic of Korea. Under the revised act on information protection, illegal activities on the Internet must be reported by the relevant bodies. Television channels planned to increase the period during which child-appropriate programmes were shown.

9. A revision of the Child Protection Law was planned that year in order to cover sex trafficking, prostitution and buying and selling sex. Campaigns with the aim of preventing prostitution were planned, targeting men in their twenties and thirties. Other awareness-raising activities included textbooks aimed at preventing prostitution and the designation of 22 February 2007 as the day for the prevention of prostitution, in cooperation with civil society, and the recent launch of a campaign against child sex tourism. There were also plans to make overseas prostitution punishable.

10. Mr. CHOI Seung-nam (Republic of Korea), regarding illegal adoption, said that international adoption could be carried out only with the authorization of the Ministry of Health, Welfare and Family Affairs. Heads of adoption agencies were required to present all relevant documents to the ministry for approval. Infringement of the procedure by an agency could result in it being shut down for six months or in the adoption request being rejected. If an agency carried out an adoption without the Ministry's approval, a fine was imposed on the head of the agency. A system was therefore in place to prevent illegal adoption.

11. The National Human Rights Commission was working in cooperation with other organizations to try to find a way of achieving the difficult task of establishing one permanent organization to deal with child-related issues.

12. Ms. ORTIZ (Country Rapporteur for the Optional Protocol on the sale of children, child prostitution and child pornography) said that the reason given by the State party for not having provided data on international adoption disaggregated by age groups, namely that only adoption agencies held that information, suggested that the State still did not have sufficient control over the work of international adoption agencies and underlined the need for a central authority with sufficient power to regulate all stages of adoption, especially at the beginning when agencies

obtained children to be adopted internationally. Given that there were so many international adoptions in the Republic of Korea and given reports of some cases in which internationally adopted children from the Republic of Korea had been left without a nationality, she asked why the State party had not ratified the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption. She asked for an explanation of the State party's reservations to articles 9 and 21 of the Convention on the Rights of the Child.

13. Mr. KOTRANE asked what measures would be taken to ensure that illegal adoption would henceforth be considered to be equivalent to the sale of children, as required by the Optional Protocol, and punished accordingly rather than simply by the imposition of fines.

14. Mr. FILALI enquired as to whether the National Human Rights Commission had been involved in preparing the initial report, whether the Commission was required to present an annual report of its activities and whether its work included activities related to the Optional Protocol.

15. Mr. CITARELLA asked if legislation existed which enabled the central authorities to check the content of Internet sites and to close down those that included images or messages that were dangerous to children.

16. Mr. HONG Kwan-pyo (Republic of Korea) said that the State party was currently unable to ratify the Hague Convention because several provisions in domestic legislation contravened it, including the fact that civil law was currently being applied to intercountry adoption in the absence of a specific domestic provision. Under civil law, approval by the courts or other competent authorities was not required for domestic adoption. Although it was not easy to revise civil law in order to comply with the Hague Convention and at the same time to increase the number of domestic adoptions, ways of bringing domestic legislation in line with the Hague Convention were being examined.

17. The CHAIRPERSON, pointing out that the problem was that there were several forms of adoption which, when used abusively, could be classed as the sale of children, invited the State party to ratify the Hague Convention as part of its work in relation to the Optional Protocol.

18. Mr. CHOI Seung-nam (Republic of Korea) said that the possibility would be examined of ratifying the Hague Convention after the number of domestic adoptions had increased, since the restructuring of domestic legislation that would be required might affect the number of domestic adoptions. Illegal international adoption was not easy from an institutional point of view since dialogue with the relevant agency was required.

19. Mr. HONG Kwan-pyo (Republic of Korea) explained the intricacies of the new provisions on rape, which were applied differently depending on the age of victims, their expressed wishes, the severity of the crime, and other circumstances surrounding the perpetration of the crime.

20. In response to a question on levels of protection, he said that, on the whole, adults and children were protected equally under the law against sexual violence, but that in certain instances, special protective custody might be granted to children. Criminal laws relating to sex-related offences applied to trafficking, child prostitution, obscenity, pornography and the practices prohibited under the Optional Protocol.

21. Mr. PARFITT said that he took it that domestic legislation did not criminalize the mere possession of child pornography, but he would like clarification on that point.
22. Mr. KOTRANE, in follow-up to Mr. Parfitt's question, referred to paragraph 37 of the report contained in document CRC/C/OPSC/KOR/1, which quoted the provisions of article 244 of the Korean Criminal Law. He asked the delegation for its interpretation of the term "possess", within the meaning of article 244.
23. Mr. HONG Kwan-pyo (Republic of Korea) said that in Korean legislation mere possession of such material, even without the added element of purpose, was a crime.
24. Mr. KIM Doo-hyeon (Republic of Korea), responding to the question about the treatment of children who were victims of sex crimes, said that because of the stigma attached to sexual exploitation, victims were not compelled to undergo treatment. Local and central government authorities provided such support, free of charge, to victims of sex crimes, but the decision to accept treatment was left to the victims themselves and their families.
25. With reference to the need for preventive mechanisms, he said that the dissemination of obscene images and child pornography on the Internet was punishable, and that the Government had devised a plan to block that channel of distribution. It had also launched a campaign to strengthen public education programmes and establish effective monitoring systems to track such activity.
26. Mr. HONG Kwan-pyo (Republic of Korea) said, in response to the Committee's concerns regarding international marriages, that pursuant to recent civil law reforms, the minimum age of marriage had been raised to 18 years of age for both partners. Further legislative provisions were expected to be enacted in order to protect and integrate foreign women who were victims of sexual violence.
27. He assured the Committee that Korea's current criminal legislation was compatible with articles 4 and 8 of the first Optional Protocol with respect to jurisdiction and to the protection of the rights and interests of child victims respectively. Under the revised criminal law, the privacy and confidentiality of child witnesses were protected in court and interrogation procedures through a variety of facilities. In addition, children under 13 years of age were entitled to be accompanied by guardians or other persons in a position of trust during all phases of investigation and trial and could receive psychological counselling if necessary. Furthermore, there were prohibitions on media exposure of certain sex crimes and abductions, particularly in the case of underage children.
28. In the context of training offered to law enforcement officials and the judiciary, he explained that the Government attached great importance to the provision of extensive and regular educational opportunities to raise the level of understanding on issues relating to sexual exploitation and violence against children.
29. Mr. KOTRANE asked whether the law raising the age of marriage to 18 had already entered into force. He also wished to know how the Government regulated arranged marriages in which either partner might be under 18 years of age. Referring to Tables 3 and 4 of the written replies contained in document CRC/C/OPSC/Q/1/Add.1, he asked for clarification of the data

presented on arrests and sex offenders involved in child prostitution. Were victims of trafficking and prostitution cared for as victims or treated as perpetrators of crimes, and furthermore, was there scope for their rehabilitation?

The meeting was suspended at 4.25 p.m. and resumed at 4.45 p.m.

30. Mr. CHOI Seung-nam (Republic of Korea) said that, pursuant to the amendments to the law governing international marriages, the civil law provisions would enter into force in June 2008, after which persons under the age of 18 would not be able to enter into marriage contracts.

31. Mr. KIM Doo-hyeon (Republic of Korea) reiterated that the Act on the Prevention of Prostitution and Protection of Victims, the Child Welfare Act and the Juvenile Protection Law against Sexual Exploitation imposed an obligation on medical practitioners to report sex crimes against children and young persons to the police.

32. Mr. HONG Kwan-pyo (Republic of Korea) said that victims of trafficking and forced prostitution, irrespective of age, were not punished. Custody provisions were made in the case of children under 13 years of age who were being exploited for the purpose of prostitution.

33. Ms. KIM Min-a (Republic of Korea) said that the Act on Punishment of Arranging Prostitution and the Act on the Punishment of Sexual Crimes and Protection of Victims not only contained provisions on the definition of victims and their protection, but also established guarantees for their care, including counselling and treatment. The above-mentioned acts also contained provisions for the establishment of a wide range of support measures, implemented by central government and local authorities nationwide, including shelters, legal assistance and vocational training programmes.

34. Regarding women who migrated to the Republic of Korea in the context of international marriages, their number had increased recently and statistics showed that about 100,000 migrant women currently resided in the country, many of them victims of family violence or sexual abuse. Supporting measures were provided throughout the country. A national hotline had been established to put them in touch with the one-stop services; however, the women came from all over South-East Asia and interpretation services were not fully in place at the hotline centres. To facilitate access, more hotlines were planned and long-term migrant women were receiving training so that they could in turn serve as counsellors to other migrant women victims of family violence. One way to eliminate trafficking for the purpose of international marriage and sexual abuse was to provide multicultural programmes for Korean men.

35. Ms. AIDOO asked whether shelters were compulsory and whether there were alternatives; also whether there were separate shelters for boy and girl victims of prostitution and sexual exploitation.

36. Ms. KO Young-sook (Republic of Korea) said that shelters were not compulsory, but there were no alternative services for child victims who were unwilling to use them. Also, there were no treatment shelters for boy victims.

37. Ms. AIDOO said the data provided in the report, particularly in the tables, had not been disaggregated by gender, so that it was not possible to know whether the statistics referred only to girls, or to boys and girls together.
38. The CHAIRPERSON asked whether there was a special office responsible for preparing statistics and how data were collected.
39. Mr. KIM Doo-hyeon (Republic of Korea) said that there was more than one body in charge of preparing statistics for the report, because the information included crime-related data from the crime statistics entity and if other organizations were allowed to handle them, the issue of privacy protection would arise; therefore it was not a good idea for a single body to deal with data. Currently the statistics on crime related only to the crimes themselves and did not provide data on the victims. The whole criminal system needed to be revised in order to introduce improvements. There were plans to improve crime-related data and it would then become possible to disaggregate data by gender.
40. Ms. KO Young-sook (Republic of Korea) added that they could not collate statistics from different data sources, as they could only deal with statistics approved by victims. The data collected by the Gender Equality Ministry focused on the protection of victims, while the data on sexual crimes were managed by a different organization. In future data would be disaggregated by gender, since some of the tables in the report also included data on male victims.
41. The CHAIRPERSON said that statistics were important, not only on account of the data themselves, but because they made it possible to analyse problems, conduct research and then implement policies for children. In such a sensitive area as the sale of children, child prostitution and pornography, disaggregation by sex was a basic criterion. The issue of privacy was evidently problematic, but national policy required good data.
42. Mr. KRAPPMANN recalled his question concerning the fate of refugee children, citing the case of children and their parents from the Democratic People's Republic of Korea who had been returned on the border. The Committee wished to know why the children had been returned, as they should have been protected by the Optional Protocol or, at least, by the Convention on the Rights of the Child and international instruments on refugees. Children who came to the Republic of Korea asking for protection usually came because their rights were being violated elsewhere and the Convention called on Governments to give all children on their territory protection and assistance. It was the Government's responsibility to investigate what had happened to such children and to consider what it should offer them under the Convention. He wished to know whether those children came under the protection of the Convention only if they had legal status, or from the time they entered the country.
43. Mr. HONG Kwan-pyo (Republic of Korea) said that when child refugees arrived on the territory of the Republic of Korea, and even when they were in the process of applying for refugee status, they did not receive protection; nevertheless, humanitarian assistance was provided. It should be remembered, however, that children from the Democratic People's Republic of Korea were not treated as refugees. There was a specific act that regulated support for them to settle in the Republic of Korea. They were considered citizens and, as such, were entitled to more protection.

44. Mr. KRAPPMANN said that his question arose from an article in a German newspaper stating that asylum-seeking children and their parents had been returned to the Democratic People's Republic of Korea. It would be useful to learn why they had been returned and whether they themselves had applied to return. A Government that sent children back to another country needed to be certain that the rights of the child would not be violated there, and it would be difficult for the Government of the Republic of Korea to give that guarantee if it was returning children to the Democratic People's Republic of Korea.
45. Mr. HONG Kwan-pyo (Republic of Korea) said that measures were taken to protect the human rights of such children, because they were not considered refugees, but citizens of the Republic of Korea. It was the refugees themselves who decided whether they wished to return to the Democratic People's Republic of Korea. If their rights were being violated there, they would not want to return.
46. The CHAIRPERSON said that, although the delegation had been unable to provide definitive replies, certain important issues had been raised and discussed. The Committee would welcome further details concerning the resources allocated for implementation of the Optional Protocol.
47. Ms. ORTIZ (Country Rapporteur for the Optional Protocol on the sale of children, child prostitution and child pornography) said that the delegation might have received the impression that she had recommended that a single body should be responsible for the application of the whole Convention, including data collection, whereas she had in fact been proposing that there should be one coordinating entity. She enquired whether the data collection system had been updated in order to gather relevant data.
48. Mr. KIM Doo-hyeon (Republic of Korea) said that the Child Policy Coordinating Committee coordinated the data in collaboration with the ministries. An effort would be made to improve data collection in future. Regarding resource allocation, he wished to know whether the Committee was referring to financial or human resources.
49. The CHAIRPERSON referred the delegation to the guidelines for presenting reports, which stipulated that States parties must indicate the financial resources available for implementation of the Optional Protocol, and asked whether there was a specific budget.
50. Mr. KIM Doo-hyeon (Republic of Korea) said that the Republic of Korea had invested a considerable sum in the implementation of the Optional Protocol.
51. Ms. AIDOO said she understood that the responsibility had been transferred from the Ministry of Health to the Ministry of Gender Equality and enquired whether the funding had followed.
52. Mr. KIM Doo-hyeon (Republic of Korea) said that the central Government provided the basic funding, but the local autonomous governments contributed almost as much. Some ministries provided a part of the budget, although that was not reflected in the statistics.

53. The CHAIRPERSON asked whether the legislation of the Republic of Korea had a clear definition of the sale of children as opposed to the trafficking of children and, if applicable, how the sale of children was punished.

54. Mr. CHOI Seung-nam (Republic of Korea) said that the Child Welfare Act clearly stated that the sale or purchase of children was a punishable offence, using the definition contained in the Optional Protocol. Cases of abduction were punished under the Child Protection against Sexual Exploitation Act. In addition, the use of photographs or images to attract interest to a child was defined as the sale of a child.

55. Ms. ORTIZ (Country Rapporteur for the Optional Protocol on the sale of children, child prostitution and child pornography) thanked the delegation for their initial report and said that, despite the language difficulties, it was evident that they were very willing to discuss the issues raised by the Committee. The Republic of Korea had made a considerable effort to combat sexual exploitation, child prostitution and pornography, but the Optional Protocol challenged it to intensify those efforts in the face of the increasing violence towards children. The sale of children had been defined as a crime, but the Republic of Korea should ensure that all its laws were totally adapted to the Optional Protocol. Furthermore, the definition of a child in the different national instruments needed to be unified, and it might wish to harmonize all its legal texts into one body to facilitate implementation and evaluation.

56. Public officials working with children should receive training on the rights of the child, the principles of the Convention and the best interest of the child. Certain concepts needed to be clarified, and the police and the Attorney General's Office should be strengthened and provided with the resources and appropriate technology to unearth evidence leading to the prosecution and punishment of offenders.

57. The Republic of Korea should adopt a comprehensive policy on the rights of the child. The Child Policy Coordinating Committee's authority needed to be strengthened so that it could truly coordinate efforts to make the implementation of the Optional Protocol more effective. A national action plan was also required that included a timetable and provisions for monitoring and evaluation, with broad participation by all stakeholders, including schools, the media and child victims.

58. Regarding adoption, there appeared to be awareness that there were possibilities for abuse at both the national and international level, which could include the sale of children. Consequently, the Republic of Korea should define it as a crime if an intermediary exercised undue pressure on someone to give up their child for adoption. All adoptions should be regulated and authorized by the competent authority. The lifting of the reservation to article 21 of the Convention on the Rights of the Child and the ratification of the Hague Convention would be of great assistance in that regard.

59. Lastly, the participation of Korean children in the dissemination of the Optional Protocol and the Committee's recommendations in an accessible language was a State responsibility.

60. Mr. KIM Doo-hyeon (Republic of Korea) said that the Republic of Korea would study the possibility of ratifying the Hague Convention, and might withdraw its existing reservation. It had signed the Convention on the Rights of the Child in 1990 and, since then, the Government had developed laws and policies to promote the best interest of the child and especially the implementation of the two Optional Protocols ratified in 2004. Unfortunately, children were exposed to prostitution and sexual exploitation and their rights were sometimes violated. The Committee's recommendations would provide new insight on many issues and would be valuable in promoting the rights of the child.

The meeting rose at 5.55 p.m.