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STATE PARTY EXAMINATION OF CAMBODIA'S INITIAL REPORT ON THE OPTIONAL PROTOCOL ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICT

68TH SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD
12 JANUARY – 30 JANUARY 2015

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Cambodia ratified the Optional Protocol on the Involvement of Children in Armed Conflict (OPAC) on 21 February 2002. On 13 January 2015, the Committee on the Rights of the Child (the Committee) examined the initial and second combined reports of Cambodia.

Opening Comments

The delegation of Cambodia was led by H.E. Mr. Ith Rady, Member of the Supreme Council of Magistrates. He was supported by a delegation consisting of representatives of the Ministry of Interior (MoI), the Ministry of Economics and Finance (MoEF), the Ministry of Social Affairs, Veterans and Youth Rehabilitation (MoSVY), the Cambodian National Council for Children (CNCC) etc. and the Cambodian Embassy in Switzerland.

H.E. Mr. Ith Rady thanked the Committee for the opportunity to discuss the progress made and the main challenges in the implementation of the OPAC.

Mr. Bernard Gastaud, the Country Rapporteur for the OPAC, welcomed the delegation. He commended the State party for setting the legal age for voluntary recruitment at 18. He also recognized the efforts made, particularly in terms of human rights training of different categories of professionals.

General Measures of Implementation

Dissemination and training

The Committee noted that, though some progress had been made, human rights had not been fully understood by many sections of the population. It therefore asked whether improvements had been made in this respect. The Committee also asked about the existence

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of any awareness-raising activities among children on the Unexploded Ordnance (UXO) and the Explosive Remnants of War (ERW). With regard to UXO and ERW, the delegation assured the Committee of the State's continued commitment to demining and providing mine risk education. In 2014, 350 staff members of the Cambodian Mine Action Centre and more than 200 volunteers had attended a mine risk training in order to be able to raise awareness in the communities. In addition, the local authorities, especially in areas affected by mines, had actively supported the awareness raising campaign on mine risk. The delegation specified that, so far, 1500 households had benefited from the awareness raising campaign.

Data collection

The Committee asked the delegation to explain the State's position according to which there were no children in the national armed forces and how this related to the lack of data on children hired in the national army, demobilized and reintegrated children, refugee and asylum-seeking children and children involved in armed forces or armed groups. The delegation did not address this issue directly.

Prevention

Military schools

The Committee asked whether the State party could confirm that no children under 18 attended any kind of military schools and did not bear any weapons. It further invited the State party to clarify whether these institutions were academies with university curricula or military schools with school programmes. The delegation responded that, in order for a person to be eligible for these military schools, s/he must hold a Bachelor's degree and this criterion would effectively prevent the enrolment of under-18s.

Birth registration

The Committee reminded the State party that birth registration was critical under the OPAC and expressed concerns about the large number of children who did not possess a birth certificate. The Committee also asked if there was still a 30 day time limit for the registration of a new-born child and a fine for late registration. In relation to children in street situations, the Committee inquired whether addresses were still needed for registration purposes. The delegation acknowledged the gaps in the management of birth registration but said that a digital database had been established to facilitate the process. It, however, assured the Committee that age verification was done either through a birth certificate or the legally recognised "family books" or "residents books", which were kept by the local authorities. The delegation explained that the fine for failing to register a birth within 30 days was an incentive for higher birth registration and that there was an equity fund for vulnerable groups of people throughout the communities that could be used to pay the fine. The Committee replied that the fine could also be seen as a barrier to registration, and recommended its removal. In relation to children in street situations, the delegation said that a witness was needed to prove their age, although such cases were very rare.

Prohibition and related matters

Definition and criminalization

The Committee asked if there was a legal distinction between a birth certificate and a birth attestation. The Committee was also concerned that the Penal Code did not include the definitions of "direct participation of children in armed conflict" and "involvement in the armed forces", in accordance with the OPAC. The Committee also asked whether the State party had noted any violations of the prohibition to form armed groups. The delegation responded that the involvement of children in armed conflict was clearly stipulated in

legislation, and in particular, in the Law on the General Statute of Military Personnel, which allowed the recruitment of soldiers from the age of 18 and above. According to the delegation, not a single child under 18 was recruited into military service.

The Committee then inquired whether the recruitment of children under 18 was not only prohibited, but also criminalized and asked for the specific provision in the law stating this. It also asked if the recruitment of children under 15 was considered a war crime. The delegation responded that there was no criminalization of the recruitment of children under 18. If, however, such a case happened as a result of birth certificate falsification, the child and the responsible local authorities could be charged for falsification under the Penal Code. If the recruiters knowingly recruited a child they too could be charged as accomplices. Concerning the recruitment of children under 15, the delegation said that this did not exist in the State at this time and reiterated that, generally, any kind of offense committed against children under 18, regardless of its nature, was considered a crime. The Committee reminded the delegation that the OPAC required its State parties to criminalize the recruitment of children in military forces and concluded that, from the responses it received from the delegation, the State party still had not done this. With regard to the falsification of birth certificates for the purpose of recruitment, the Committee asked whether such cases had already occurred. The delegation responded that, since no single child had been recruited so far, there were no cases for falsification of documents for the purposes of recruitment.

The Committee asked if extraterritorial jurisdiction was conditional on the principle of double criminality. It also asked if a foreigner residing in Cambodia for a long time was subject to the State's jurisdiction for acts committed abroad. The delegation responded that any offenses committed in the State party would fall under the State's jurisdiction, regardless of the nationality of the victim or perpetrator. The delegation further clarified that extraterritorial jurisdiction was established over any offense under the OPAC concerning Cambodians, either as victims or offenders.

Protection, recovery and reintegration

The Committee was concerned about the involvement of children in armed groups following the breakout of conflict along the Khmer-Thai border. It therefore asked the delegation what measures had been taken to identify the children involved in the conflict and to ensure that they were being reintegrated into society. The delegation acknowledged that there were children wearing military uniforms along the Khmer-Thai border. However, it specified that they were not soldiers, but children of the soldiers or families living in the area and that military uniforms were easy to acquire. In 2007, in collaboration with NGOs, the government had placed more than 300 children from the conflict-affected areas in temporary safety centres which provided general and informal education, clothing, health care, psychological and other medical support. The Committee asked whether the practice of children wearing military uniforms was part of the State's tradition and expressed deep concerns that children clad in such uniforms could be considered military targets. The delegation responded that this was not a common practice or tradition. Children were wearing military uniforms out of pride for their parents who were defending the State, and the State could not separate children from their families. On the other hand, the delegation reiterated that it had taken serious actions after the Khmer-Thai border conflict broke out, referring to the evacuation of children in temporary safety centres.

With regard to mine action, the Committee was concerned over the slow progress of the mine action programme and asked whether there was a timetable with dates by which particular regions should become completely mine-free. The delegation reassured the Committee of its

commitment to clear all mine-affected areas, in cooperation with the Cambodian Mine Action Centre. The delegation also added that there were rehabilitation centres for mine victims and vocational training for children affected by mines or any other kind of disability. The delegation responded that, currently, the government was implementing a Law on People with Disabilities which included victims of remnants of war. The Disability Action Council had developed a national plan for 2014-2018 in order to provide rehabilitation and social services for people with disabilities and a special fund existed to help, currently, more than 20.000 people.

The Committee asked about child-friendly rehabilitation measures and programmes that specifically targeted children. The delegation responded that mine action issues had been introduced into the schools' curriculum. Additionally, schools for children with disabilities provided vocational training and a policy on the education and training of children with disabilities had been adopted to improve their chances to find a job.

International assistance and cooperation

In terms of arms manufacture, the Committee noted that, on the one hand, the State party's Report declared there was no manufacturing of arms and, on the other hand, in the replies to the List of Issues, it was stated that arms manufacturing might take place if companies were authorized to do so, and demanded clarification. In relation to arms manufacturing, the delegation responded that no company manufactured any kind of weapons in the State party.

Concluding remarks

Mr. Bernard Gastaud, the country Rapporteur for the OPAC, thanked the delegation for the dialogue. He recognised the progress made by the State party, particularly by setting the minimum age for recruitment at 18. The main challenge stemmed from the current legal definitions and the lack of resources. He encouraged the State party to step up the efforts as far as possible.

The head of the delegation, H.E. Mr Ith Rady, thanked the Committee for the dialogue and committed to implement its constructive comments and recommendations.