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STATE PARTY EXAMINATION OF INDIA'S INITIAL PERIODIC REPORT ON THE OPTIONAL PROTOCOL ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICTS

66TH SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD

26 MAY – 13 JUNE 2014

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India ratified the Optional Protocol on the Involvement of Children in Armed Conflicts (OPAC) on 30 November 2005. On 3 June 2014, the Committee on the Rights of the Child (the Committee) examined initial periodic report of India.

Opening Comments

The delegation of India was led by Mr. Shankar Aggarwal, the Secretary of the Ministry of Women and Child Development. He was supported by a substantive delegation consisting of the Joint Secretary of the Ministry of External Affairs, representatives of the Ministry of Labour, Health and Family Welfare, Home Affairs, Women and Child Development, Human Resource Development, and the Ambassador and Permanent Representative as well as other representatives of the Permanent Mission of India to the United Nations Office and Other International Organizations.

Mr. Aggarwal highlighted that India did not face either international or non-international armed conflict situation, but that a number of tensions continued to take place across the State party, mainly due to the left-wing extremism. He explained, that the government had been tackling the situation through different measures, since poverty had been identified as a major source of violence and tensions. A framework for protection and rehabilitation of children used in armed conflicts had been enacted and the 2009 Integrated Child Protection Scheme was developed with an objective to improve re-integration and well-being of children in difficult circumstances.

Note: This report is prepared at the discretion of Child Rights Connect. The content is designed to give a summary of the key discussions during the session of the Committee on the Rights of the Child but it is neither an official nor fully comprehensive report. More reports and further information can be found at www.childrightsconnect.org/index.php/publications-resources/crc#countrysum

Mr. Gehad Madi, the Coordinator of the Task Force for the OPAC, welcomed the delegation and hoped for a constructive dialogue. He also highlighted that the key objective and challenge would be the implementation of Committee's Concluding Observations on the OPAC.

General Measures of Implementation

Legislation

The Committee asked whether all offences under the OPAC had been prohibited and criminalized by domestic law. The delegation responded that OPAC had a similar status of other international covenants and treaties, such as the CRC, and that it required to be incorporated into domestic law. The 2013 Criminal Law Amendment Act was adopted with the objective to provide stringent punishment for child exploitation, including for forced recruitment and use of children in armed conflict. Finally, the delegation highlighted the important role of the 2009 Integrated Child Protection Scheme (ICPSC), which strengthened the prevention and the rehabilitation of children affected by armed conflicts.

Coordination

The Committee enquired about coordination and monitoring of the implementation of the OPAC. The delegation explained that at national level, the National Commission for Protection of Child Rights (NCPCR) and the National Human Rights Commission were the two bodies responsible for monitoring human and child rights violations. At the State level, the State Human Rights Commissions (SHRCs) as well as the State Commissions for the Protection of Child Rights (SCPCR) had been established in order to oversee the implementation of the OPAC.

Prevention

Prevention programmes and poverty reduction

The Committee asked whether programmes existed and were applied to prevent forced recruitment of children and their use in hostilities. The delegation highlighted that the best preventative measure had been the reduction of poverty and of other vulnerabilities. The 2009 ICPSC played a key role in this, by improving access to, and quality of, child protection services. It disseminated information about child rights and established structures at all levels in support to children in difficult circumstances. Moreover, the 2006 amended version of the Juvenile Justice Act, provided children with access to education, vocational training, reintegration in the family and community.

Minimum age of recruitment

The Committee asked about the minimum age of recruitment into armed forces. It also enquired about the situation of "boys orderlies", recruited into the State police and engaged in counter insurgency. The delegation explained that in order to join the army on a permanent basis, one needed to either join the National Defence Academy, or the Indian Military Academy. The minimum age to apply to the Defence and Military Academy was 17, yet after enrolment, the recruits needed to undergo a mandatory 3 years training. The pre-deployment screening was therefore taken care of by the admission requirements. According to the delegation, only trained soldiers who attained 18 years of age could be sent to operational areas. With regard to the Central Paramilitary Forces, the minimum age was 18 and, in 2014, no soldier below 18 years of age had been deployed. This minimum age for recruitment and for taking direct part in hostilities was specified in the legislations and regulations of the State party, both at national and State levels.

The delegation noted that “boys orderlies” had not been directly involved in hostilities, but acted rather as child rights advocates and monitored the situation on the ground. Finally, the delegation noted that there were instances when if a police officer was killed on duty, an honorary title could be given to his child, as a form of recognition and compensation. Nevertheless this had been a symbolic act only and was not translated into practice.

Prohibition and Related Matters

Recruitment of children into non-State armed groups

The Committee was concerned about children recruited into non-State armed groups, including in Jammu, Kashmir and Chhattisgarh. According to available data, 3000 children in left-wing extremism affected areas had been involved in the conflict. The delegation acknowledged and regretted the forced recruitment of children by non-State armed groups, especially those related to left-hand extremism. However, it stated that there were no instances of forced recruitment of children into non-State armed groups in Jammu or Kashmir. It explained that all the children involved and used in hostilities by the non-State armed groups were treated as victims and not offenders. Moreover, Section 370 of the 2013 Amended version of the Indian Criminal Code prohibited and criminalized trafficking for the purpose of exploitation. The delegation explained that trafficking, exploitation and use of children in hostilities had been very often linked. It added that forced recruitment could not be treated as an offence of exploitation only, but also as an offence of abuse. For both offences, the Penal Code provided severe sanctions, including life imprisonment.

Destruction and military use of schools

The Committee asked what measures had been taken to prevent destruction and the military use of schools in conflict-affected areas, including Jammu, Kashmir and Chhattisgarh. The delegation regretted that in some tensions-affected areas, schools had been used for military purposes by armed groups, leaving children without access to education. The government had taken a number of measures to prevent this from happening. As a matter of example in Chhattisgarh, children were provided with alternative arrangements in case of destruction of schools and a special infrastructure scheme had been provided to continue regular classes. The Civic Action Programme had also been developed in order to launch a massive civil action, providing medical care, education and development programmes in left-extremism-affected areas.

Extradition

The Committee asked more information on extradition. The delegation answered that extradition procedures had been carried out under the Extradition Act and bilateral agreements.

Protection of the Rights of Victims, Recovery and Reintegration

Child-friendly criminal proceedings

The Committee asked whether children had access to child-friendly judicial proceedings and benefited from special protection. The delegation explained that the 2006 amended version of the 2000 Juvenile Justice Act, provided children with a number of child-friendly measures in adjudication, including speedy trial and child-friendly interrogations. In relation to the identity of child soldiers, the media were not allowed to disclose any information, unless for the children’s best interest. In case of breach, criminal proceedings against the media could be conducted.

Concluding Remarks

Mr. Mezmur, the Coordinator of the Task Force for the OPAC, thanked the delegation for its responses

and clarifications that reflected the government's will of upholding its obligations.

Mr. Vivek Joshi thanked the Committee and the Rapporteurs for the dialogue. He noted that the session had been useful for the State to understand in more detail its obligations under the OPAC.